

INSPIRED

# Energy Assurance Services icw. Hosted Energy Management Software

Proposal for London  
Borough of Lewisham

P002100

10/12/2025

V3.0



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# 1. Executive summary

London Borough of Lewisham currently use software from Systemslink to manage your utilities data. The *Energy Manager* platform helps you monitor your usage and control your spend. It centralises and streamlines your data collection process and offers dynamic reporting to put you in command of your utilities.

You are responsible for maintaining your data and managing your billing, which can present a significant administrative challenge. Because Systemslink is a member of the Inspired group of companies, we can relieve this burden of administration by providing expert resource to manage data on your behalf.

Inspired propose to provide London Borough of Lewisham with a fully managed energy assurance service. We will maintain your portfolio data, manage and validate your utility invoices, and liaise with your suppliers to resolve any issues. Systemslink will continue to support your use of *Energy Manager*, and you will retain full access to your data.

This service will be delivered by Inspired's energy assurance specialists. It will not impact your contractual relationship with Systemslink. Your data is already securely hosted by Systemslink, so there will be no change in how you access it via *Energy Manager*.

## 1.1. Our understanding of your situation

Inspired understand that you need:

- › Continued access to energy management software with the capability to record and report on your utility portfolio and usage.
- › Support with utility data management, bill validation and bureau services, including end-to-end cost recovery and change of tenancy management.
- › You require a compliant route to market and you can direct award Inspired via PFH's Decarbonisation and Retrofit framework on lot 13 (Energy Bureau Services)

## 1.2. How we will meet your needs

You have recently transferred to a hosted *Energy Manager* solution provided by Systemslink. Your data will be secured in accordance with ISO27001 standards. You will continue to have direct user licenses for the system, and unlimited logins for our online *UNIFY* platform.

The benefits of a hosted system include no third-party licensing costs and no ongoing maintenance charges. We regularly deploy software updates at no additional charge.

Inspired will take control of maintaining your energy data. We will obtain your utility invoices directly from your suppliers and validate them for you using *Energy Manager*. We will establish a process for invoice management to ensure that you meet your payment terms and only pay for the energy you use. When combined with the expertise of our dedicated Assurance Analysts, you will have the most robust bill validation possible.

We will manage your billing queries using proprietary software. You will have access to query records and cost recoveries via our online *Query Management Portal*. We will action changes of tenancy on your behalf and manage all supplier correspondence.

You will get a named Inspired Account Manager to manage our relationship and act as your primary point of contact. Our Account Managers are industry professionals and can provide support and guidance on a wide range of utilities issues. A specialist Assurance Analyst will manage your data, carry out bill validation, and raise supplier queries for you.

London Borough of Lewisham will also be able to call on Inspired's expertise in a wide range of disciplines to support your energy and sustainability strategies. With over 700 staff across energy procurement, accounting, efficiency, and ESG services, we have the resource to overcome any utilities management challenge.

## 1.3. Why Inspired?

Inspired is ideally placed to offer London Borough of Lewisham a fully managed energy assurance service because:

We have straightforward access to your utilities data	Inspired are expert users of <i>Energy Manager</i> and our relationship with Systemslink mean we can easily take on the management of your data. You will not have to transfer to another system or provider.
We have over 20 years' experience of energy assurance	We validate two million invoices every year. We have dealt with every possible billing scenario and understand the complexities of utility invoicing. You can rest knowing that we will take proper care of your bills.
We can recover more money for you	Last year alone, we recovered over £38 million for our clients. Our tenacity and expertise mean that we can consistently achieve favourable outcomes to billing errors and overcharging for you.
We can achieve a better service from your suppliers	With 275,000 meters under active management, we command attention. We will leverage our position and established industry relationships to hold your suppliers to account for their service.
We have the resource to manage your utilities more efficiently	Our dedicated specialists and proven processes make managing your utilities straightforward. We will take on the burden of administration and let you focus on your business, not your billing.
We are the UK's number one energy consultancy	Inspired has been ranked first amongst commercial energy advisors since 2018 by leading energy market research agency Cornwall Insight. You can have confidence in your choice of provider.

## 1.4. Proposed fees

We propose an annual fee of £68,082 to deliver our services. We offer a fee warranty so you know exactly how much you will be paying. We also offer additional optional services.

## 2. Our solution in depth

For most businesses, utilities are one of the biggest indirect costs. But complex charging structures can mean that up to one in three utility invoices contain errors. Determining what you truly owe is a challenging process that can tie up internal resources, incur late payment charges, or even result in disconnections.

Our energy assurance service will eliminate these issues by applying our specialist expertise and proven processes to your utilities portfolio. By taking control of your invoices, we will

### 2.1. Data management

London Borough of Lewisham will retain access to your utilities information in a hosted environment. Inspired will continue to use *Energy Manager* to store your portfolio, invoice, and meter data. We will take responsibility for updating your records and will establish a process so you can quickly inform us when things change.

Inspired will carry out a thorough onboarding process as part of assuming management of your energy database. A number of checks and balances will be carried out, which will extend to verifying information with the utility suppliers. This would be including, but not limited to – property portfolio, supply point and meters, utilities contracts, utility accounts, cost coding, property coding, MOP / DCDA information and contract, and reporting groups.

We will carry out monthly integrity checks on your data to identify any missing or erroneous information. We regularly cleanse and cross check portfolio data with multiple sources including third-party industry databases to verify its accuracy.

You will keep your logins to *Energy Manager* and Inspired's online *UNIFY* platform. Systemslink will continue to provide user support, manage your stakeholder's access to these systems, and communicate changes or updates to the software.

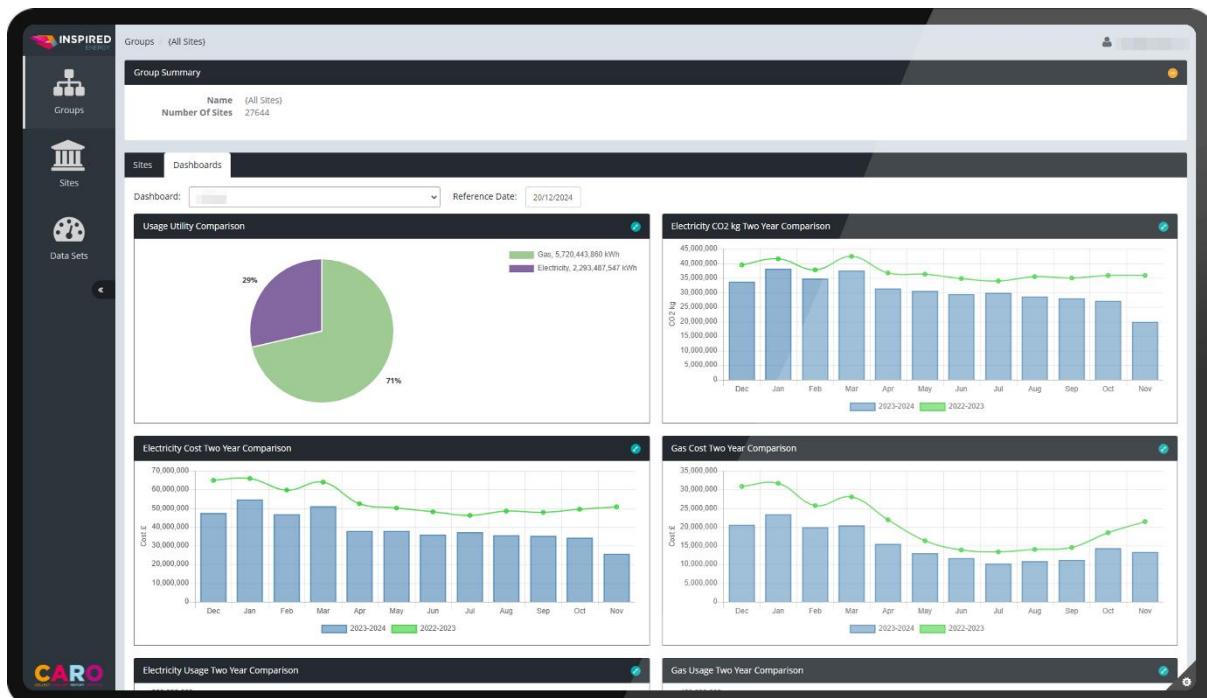


Figure 1 - Consumption data shown via *UNIFY*.

## 2.2. Bill validation

Inspired will take care of the collection and management of your utility invoices. We will import your bills into your *Energy Manager* software and validate them. *Energy Manager* conducts over 120 individual checks on every bill to pinpoint errors in individual charges. Each failure is highlighted by the system for investigation by our Assurance Analysts.

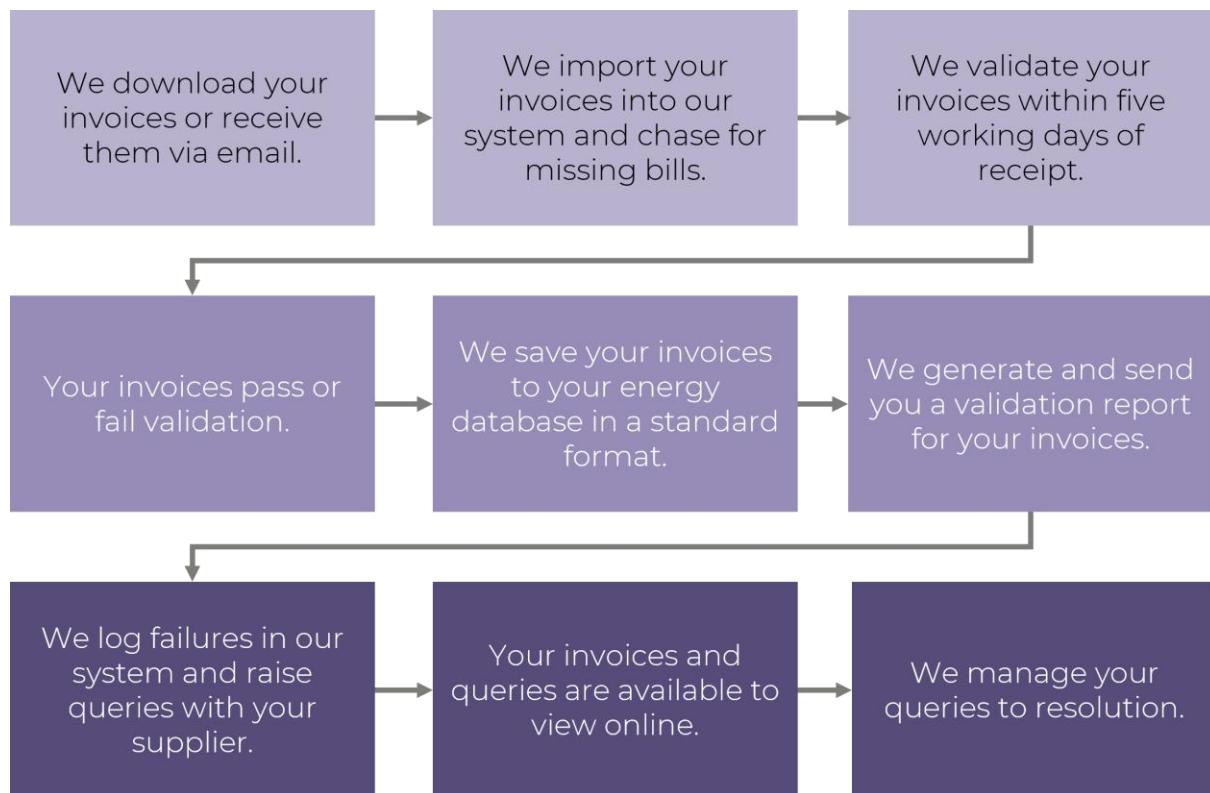


Figure 2 - Inspired's bill validation process step by step.

To keep you informed, we will send you a monthly batch report showing the site and meter details of all invoices validated with cost totals, along with our commentary against any invoice that may require querying with your supplier. You can use this information to allocate and pay your bills. We target a validation time of five working days from receipt, so you will always meet your payment terms.

## 2.3. Cost recovery

Where we identify billing errors, we will raise queries directly with your suppliers and manage them to resolution. We aim to resolve queries within one billing cycle to minimise their impact on your budgeting and cash flow. Should a query result in a refund, we will request this is paid back to you to reduce outstanding balances and credit issues.

You will be able to view your outstanding and resolved queries via our online *Query Management Portal*. Summary dashboards display an overview of your queries so you can monitor trends and exceptions. You can drill down into the details of each query, including the actions we and your suppliers have taken, and who the issue is waiting on. The portal also displays actual and anticipated savings information so you can judge the value of queries.

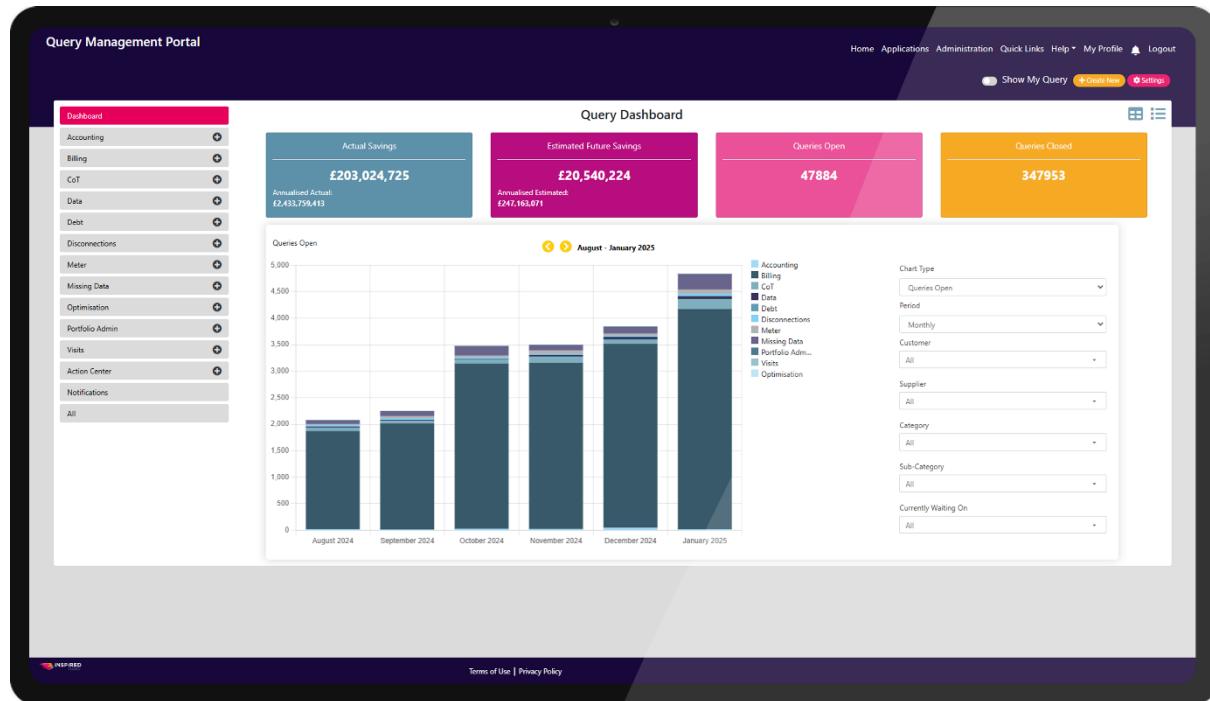


Figure 3 - Query Management Portal showing summary dashboard.

## 2.4. Bureau services

Inspired's energy assurance service is holistic. We will manage all correspondence from your supplier, including dealing with payment reminder notices and late payment charge issues. We will action changes of tenancy when you move in or out of a property so the change in responsibility is correctly reflected in your billing and data.

We know how suppliers work and can often achieve faster resolutions to issues than clients working alone. We will hold your suppliers to account for their service and meet with them as required to escalate any concerns you may have.

To support bill validation and reporting, we will also manage your meter profile data. We will obtain half-hourly and AMR interval data from your meter operator and/or data collector and upload it to *Energy Manager* for analysis. Detailed integrity checks will identify any missing or estimated profiles, and we will investigate issues directly for you.

## 2.5. Budgets & Accruals

**Budget reporting:** Our detailed, evidence-based budget forecasts are an invaluable means to set internal energy budgets. Budget creation typically takes 8 weeks working in collaboration with you. We'll then give you 24/7 access to your annual budget via our web portal, *Unify*.

**Accrual reporting:** A bespoke report that generates costs and consumption per supply for the accrued period, based on the consumption data held on our databases and provided to us by your supplier. We combine the supplies by site and group to match your reporting structure and send you accrual reports showing totals by supply prior to billing.

## 2.6. Reporting

A key benefit of managing your utilities data is the ability to report on your actual costs and consumption. Inspired will provide London Borough of Lewisham both delivered reports and on demand access to online reporting tools.

You will have access to *UNIFY*, Inspired's online utilities management platform. *UNIFY* brings together a selection of apps – such as our *Query Management Portal* – to help you monitor and control your utilities data. We will provide you with unlimited logins to this system so you can effectively distribute your data throughout your organisation.

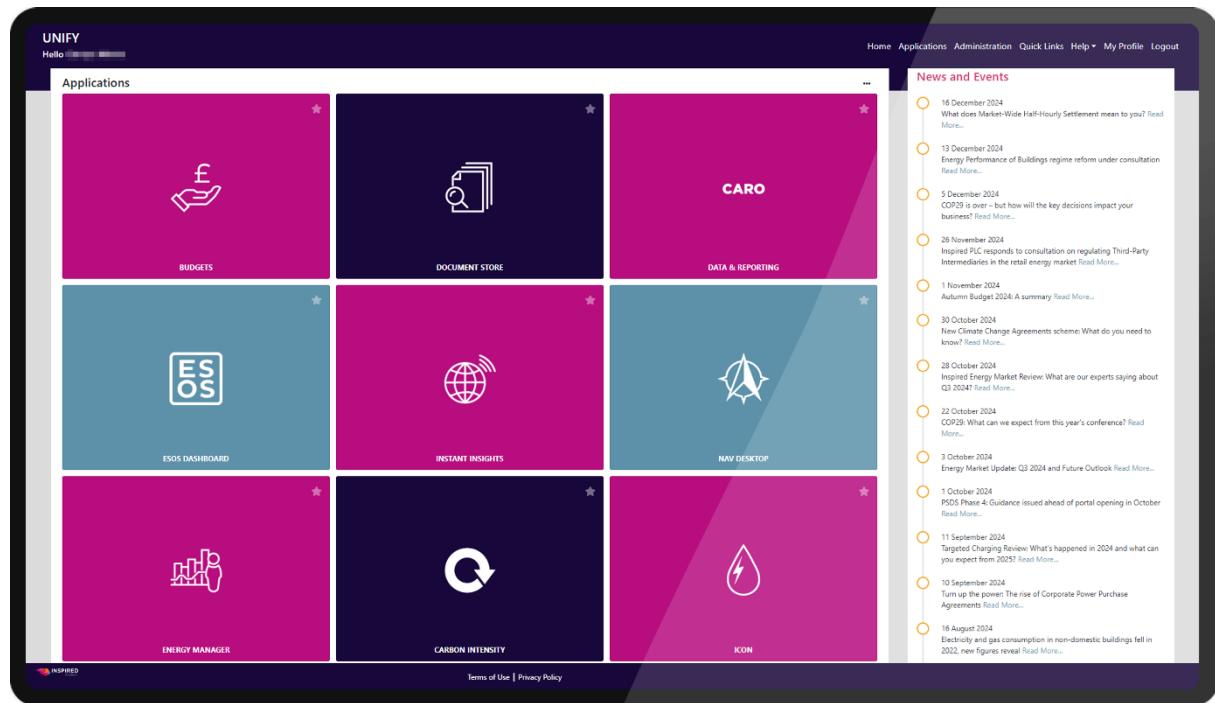


Figure 4 - UNIFY home screen showing available apps and activity feed.

CARO (collect, analyse, report, optimise) is the main reporting app in *UNIFY*. It acts as a front end for *Energy Manager* and contains a wealth of day-plus-one cost and consumption data about your portfolio. Its simple interface controls a power suite of energy management tools.

Via CARO, you can view and report on your energy data. It presents your utility assets and invoice information as held in your *Energy Manager* database and offers a wide range of analytics dashboards and reports to interrogate your data.

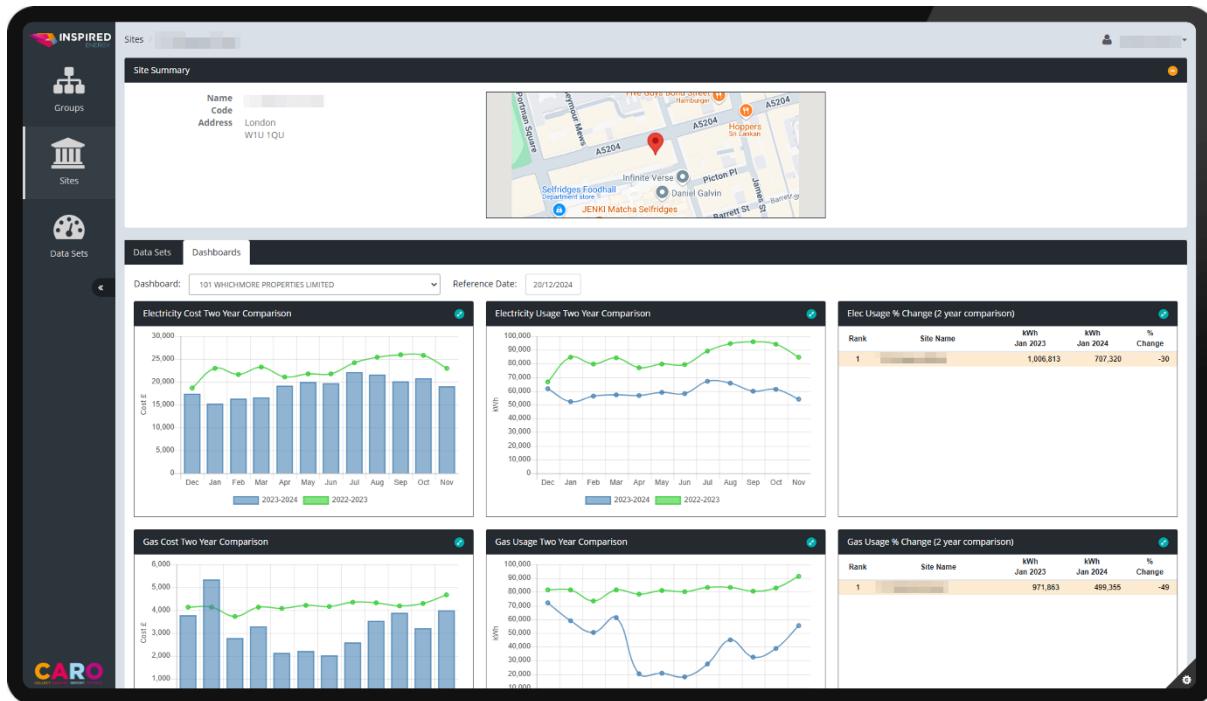


Figure 5 - CARO site dashboard showing customisable reporting widgets.

## 3. Fees & acceptance

### 3.1. Client portfolio

We have based our fees on the following portfolio data:

Corporate Portfolio	Number of meters
Electricity	448
Gas	345
Water	220

### 3.2. Fee schedule

Service	Fee per annum
Energy Accounting & Bureau Services, including Pre-Payment Validation	£24,962
Hosted Energy Manager Software – Licensed directly with Systemslink	Under contract with Systemslink

### 3.3. Fee notes

#### Quotation Specifics

Our Pre-Payment validation fee has been quoted on the understanding that the client will be in receipt of a single electronic file per utility.

#### Fee Validity

Prices quoted in this proposal are valid for 60 days from the date of issue.

#### Fee Assurance

We have made every effort to understand your requirements correctly and have priced our solution based on this understanding. Our pricing reflects the substantive resources of a PLC to give you the assurance that our solution is robust, thorough, and sustainable.

#### Fee Warranty

It should be noted that not all fees from energy advisors are comparable as some can contain hidden payments from utility suppliers and third parties in relation to your supply contracts. Considering this, Inspired makes the following warranty:

*"We warrant not to receive any undeclared payments of commercial gain from any utility suppliers and third parties, either directly or indirectly in relation to our services to you. We further warrant that the fees set out in this proposal are the only fees we will receive in relation to our services to you. We warrant that we will declare if we receive remuneration from a utility supplier or third party for a service to you at any time in the future."*

*"We warrant that on successful placement of your utility supply contracts, and as soon as reasonably practicable, we will arrange for the successful utility suppliers to send you an official communication confirming what our remuneration is from those utility supply contracts. We further warrant that we do not own, have an investment in or have substantive control of the successful utility supplier".*

### 3.4. Client acceptance form

Service Provider:	Inspired Energy Solutions Ltd, a company incorporated and registered in England & Wales (registered number 04005541), whose registered office is at Calder House, St Georges Park, Kirkham, Lancashire, United Kingdom, PR4 2DZ. (Service Provider)	
Client:	London Borough of Lewisham, an organisation and registered in England & Wales, whose registered office is at Laurence House, 1 Catford Road, London, SE6 4RU. (Client)	
Primary Contact:	Name:	Chris Little
	Job Title:	Energy Manager
	Email:	christopher.little@lewisham.gov.uk
	Phone:	02083 143 847
Finance Contact:	Name:	TBC
	Job Title:	
	Email:	
	Phone:	
This Agreement, comprising the Proposal, Client Acceptance Sheet and Terms and Conditions (Appendix 1), describes the terms on which the Service Provider has agreed to provide the below Services.		
Client Portfolio:	Based on information stated in the Proposal	
Scope:	Based on information stated in the Proposal	
Fees Payable by the Client:	£24,962 per annum, invoiced quarterly in advance	
Initial Term:	Start Date: 01/01/2026	End Date: 31/12/2028
Payment Method:	Direct fee invoiced in advance on a quarterly basis. Invoices subject to VAT and payable within 30 days.	
Purchase Order Number	To be provided by Client where applicable for Direct Fee.	
Agreement & Document Structure	<p>This Agreement is made up of three documents:</p> <ol style="list-style-type: none"> <li>1. Proposal document and the Client acceptant form.</li> <li>2. Appendix 1 – Group-General-Terms &amp; Conditions LBL.</li> <li>3. Appendix 2 – General Terms and Conditions</li> </ol> <p>The parties agree that the Proposal document and Client Acceptance form and Appendix 1 – Group-General-terms &amp; Conditions LBL set out in this Agreement shall take precedence over Appendix 2 – General Terms and Conditions. The Client's terms and conditions (Appendix 2), as provided, shall apply only to the extent they do not conflict with Service Providers terms. In the event of any inconsistency or conflict between the two sets of terms, the Service Providers terms shall prevail.</p>	
The Client understands that this Agreement shall not be binding on the Service Provider until it has been signed on its behalf.		
Signature for the Client: <i>Christopher W. Little</i>	Date of Agreement: <b>17 December 2025</b>	
Name (Block Capitals): <b>CHRISTOPHER W. LITTLE</b>	Position: <b>Energy Manager</b>	
Signature for Inspired Energy Solutions Ltd:	Date of Agreement:	
Name (Block Capitals):	Position:	

## 4. Make an Inspired choice

Inspired PLC provides market-leading commercial energy and sustainability advisory services, helping businesses optimise operations, achieve net-zero, and thrive in a future low-carbon economy.

### How we help

Founded in 2000, we became the first publicly quoted energy advisor following our successful AIM debut in 2011.

With a team of over 700 utility experts and £3bn in costs under management, we support businesses across all sectors. Our 13% market share in the UK and Ireland demonstrates our scale, expertise, and ability to help organisations navigate their energy and sustainability challenges.

### Our purpose

Every business faces unique challenges, and over 3,500 organisations trust Inspired as their partner to solve them. We provide practical solutions to support our clients' improvement of cost control, reduction of energy consumption and carbon emissions, and assurance of regulatory compliance — challenges we call the 4Cs. Through our four service divisions, we provide the strategic support businesses need to manage risk, improve efficiency, and drive long-term value.

### Leading by example

Our accreditations reflect our commitment to quality, consistency, and sustainability.

Since 2020, we've proudly held the London Stock Exchange's Green Economy Mark, recognising our environmental and strategic advice. Additionally, we've maintained our position as the leading industrial and commercial energy advisor in Cornwall Insight's rankings since 2018.

We also recognise our own responsibility in the UK's climate transition — which is why we are committed to reaching net-zero before 2050. In 2023, we advanced our ESG strategy, moving our Scope 1 & 2 net-zero target from 2035 to 2030. The steps we've taken on our own decarbonisation journey ensure we're well-positioned to help others succeed in a low-carbon economy.

Today's partner for a better tomorrow.



G R E S B



CDP  
DISCLOSURE INSIGHT ACTION

DISCLOSURE INSIGHT ACTION

TCFD

TASK FORCE ON CLIMATE-RELATED FINANCIAL DISCLOSURES



# Appendix 1 – General Terms & Conditions

## 1. Introduction

These terms and conditions govern the Services (and any Additional Services) provided by the Service Provider to the Client under the Agreement.

## 2. Definitions and Interpretation

2.1 In the Agreement, the following terms have the following meanings, unless the context otherwise requires:

### **Additional Services**

any Services, other than Services falling within the scope of the Proposal that the Service Provider agrees to perform for Client from time to time.

### **Agreement**

the Agreement for the supply of Services by the Service Provider to the Client, consisting of these Terms & Conditions and the Proposal.

### **Analysis Savings**

has the meaning given to it in clause 5.7.

### **Client**

the entity identified as the 'client' in the Proposal, for whose benefit the Services as specified in the Proposal or otherwise notified by the Service Provider, will be provided.

### **Data**

any data or information, in whatever form that is created or shared by a Party during the course of the Agreement.

### **Documents**

any and all documents, images, graphics or software that are created or shared by a Party during the course of the Agreement.

### **Intellectual Property Rights**

any and all present and future copyrights and related rights, domain names, registered designs, patents, trademarks, service marks, design rights, (whether registered or unregistered), , rights to extract or re-utilise data, database rights, rights in computer software, trade secrets and rights of confidence, including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

### **Inspired Group**

the Service Provider, its subsidiaries or holding companies from time to time and any subsidiary of any holding company from time to time.

### **Party/Parties**

the Service Provider or the Client (as the context requires)/both the Service Provider and the Client.

### **Proposal**

the written proposal and any attached schedules or other attachments to such proposal, issued by the Inspired Group entity identified in such proposal.

### **Service Provider**

the member of the Inspired Group that is identified in the Proposal as the provider of the Services.

### **Services**

the Services to be provided by the Services Provider, to the Client, as described in the Proposal.

- 2.2 A reference to legislation or a legislative provision:
  - (i) is a reference to it as amended, extended or re-enacted from time to time; and
  - (ii) shall include all subordinate legislation made from time to time under that legislation or legislative provision.
- 2.3 Any words following the terms **including, include, in particular, for example**, or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 2.4 A reference to writing or written includes email, but not facsimile.

- 2.5 Unless a change to these Terms and Conditions is specially referenced in the Proposal, if there is any conflict or ambiguity between the terms of these Terms and Conditions and the Proposal, a term contained in these Terms and Conditions shall have priority over one contained in the Proposal.

### **3. Agreement and Services**

- 3.1 The Agreement is entered into between the Service Provider and the Client, on signature of the Proposal by the Client.
  - 3.1.1 Where the date of signature is after the start date specified in the Proposal, the Service Provider will not be liable for any delays, costs or omissions prior to the date of signature, or any delays to services resulting from a postdated acceptance.
  - 3.1.2 Any activity, commencing after the start date of this Agreement, relating to the hedging or energy prices or placing of energy procurement contracts, where the supply start date is on or after the start date of this Agreement, will be deemed to have been carried out under the terms of this Agreement, unless and until a subsequent agreement is entered into by the Parties as appropriate, and expressly is not carried out under the terms of any previous agreements between the two Parties.
- 3.2 The Service Provider warrants that all Services agreed to will be provided with reasonable skill and care within a reasonable timescale. Client agrees that, given the nature of the Services, timescales deadlines and results cannot always be guaranteed, and any timescales, projections or deadlines are estimates; however, the Service Provider will use reasonable endeavours to meet any estimates and where it is unable to do so it shall update the Client accordingly.
- 3.3 Client acknowledges that the Service Provider will require Client's assistance to provide the Services, including providing access to relevant information (including site and metering information, accurate forecast energy demands and any other relevant documentation and records), personnel and/or premises and answering queries raised by the Service Provider. Client agrees that it shall on request from the Service Provider, provide the Service Provider with all such assistance and access as it may reasonably require to enable it to perform the Services efficiently and shall not do anything to prevent the Service Provider from providing the Services.
- 3.4 The Client agrees that if the Service Provider is unable to perform its obligations due to a failure of the Client to meet its agreed obligations as set out in Clause 3.3 then the Service Provider shall not be considered in default as a result.

### **4. Personnel**

- 4.1 The Service Provider may, in order, to deliver the Services, engage sub-contractors as required to meet the Client's requirements, provided that the Service Provider shall be liable for the acts, omissions, defaults or neglects of each sub-contractor and its employees and agents in all respects as if they were the acts, omissions, defaults or neglects of the Service Provider, its agents or employees. The Client hereby consents to the use of such sub-contractors.

### **5. Fees & Payment**

- 5.1 Where fees are invoiced directly to the Client:

- 5.1.1 The Client shall pay the fees set out in the Proposal for the provision of the Services plus any applicable VAT.
- 5.1.2 If the fees set out in the Proposal are not inclusive of expenses, the Client shall pay the Service Provider reasonable expenses, charged at cost, incurred in providing the Services. Any such expenses shall be agreed between both Parties in advance.
- 5.1.3 The Client shall pay the Service Provider invoices within 30 days of receipt.
- 5.2 Where fees are recovered on the supply invoices, the Service Provider warrants that fees paid will be the only fees received in respect of the Services, and it will not claim or accept any additional commission from energy suppliers for the same service.
- 5.3 Where fees are recovered on the supply invoices, the Service Provider reserves the right to reconcile any under recovery of expected fees due to reductions in the Client's utility consumption.
- 5.4 The Service Provider reserves the right to increase its fees should the portfolio, as set out in the Proposal, increase by more than 5%. Any such fee variation shall be proportionate to the increase in the Client portfolio and remaining term.
- 5.5 The Service Provider will increase the fees in line with the prevailing rate of RPI on the 1<sup>st</sup> August each year.
- 5.6 If during the term of this Agreement, any legislative or regulatory changes occur which require the Service Provider to perform additional Services, then the Service Provider reserves the right to amend the fees. Any such change in Services and fees will be set out and agreed in writing by both Parties to be valid. Until such fees are agreed the Service Provider will be under no obligation to deliver the Additional Services.
- 5.7 If during the term of this Agreement, the Service Provider become aware of further opportunities to reduce the Client's energy-related costs, either by way of refund and/or ongoing reduction in costs that would have otherwise been incurred by the Client ("Analysis Savings"), the Client authorises the Service Provider to take action to implement the Analysis Savings providing that the Client has the right to reject in writing such Analysis Savings prior to implementation. Where Analysis Savings identified by the Service Provider are implemented by the Service Provider or the Client directly, the fee due will be in line with the terms set out in the Proposal, such fees to be invoiced directly to the Client.
- 5.8 The Parties may, from time to time, agree for the Service Provider to perform Additional Services for the Client. Such Additional Services may be subject to additional fees which will be set out and agreed in writing by both Parties to be valid.
- 5.9 If the Client fails to make a payment due to Service Provider by the due date, then, the Client shall pay interest on the overdue sum from the due date until payment, whether before or after judgment. Interest under this 5.9 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

## 6. Intellectual Property

- 6.1 Subject to clause 8.6, each Party grants the other Party an irrevocable, perpetual, non-exclusive, royalty free licence to copy and use in connection with the Services all Documents and Data in which it has Intellectual Property Rights but this licence is not to extend to:
  - 6.1.1 copying or using those Documents and Data other than in connection with the Services;
  - 6.1.2 granting any other person, or third party the right to copy or to use those Documents and Data without the prior written permission of the relevant Party; or
  - 6.1.3 selling, transferring or otherwise disposing of, or granting rights in those Documents and Data.
- 6.2 Each Party will retain an exclusive interest in and ownership of its Intellectual Property Rights, including those Intellectual Property Rights developed before this Agreement, developed outside the scope of this Agreement or during the course of the Agreement.

## 7. Confidentiality

- 7.1 The Parties acknowledge that confidential information may be exchanged between the Parties to facilitate delivery of the Services. Both Parties agree to treat and safeguard the confidential

information as private and confidential, and not to disclose it to any third party without the prior written consent of the other Party.

- 7.2 This clause does not apply to information which at the date of the Agreement or subsequently becomes publicly known, or information already in the possession of either Party before the execution of this Agreement.
- 7.3 Where the Client is a public authority which is subject to the Freedom of Information Act 2000 (the FOIA):
  - 7.3.1 the Client shall promptly inform the Service Provider if it receives a request under the FOIA (a Request) which may lead to it disclosing the Service Provider's confidential information (unless prohibited to do so by law);
  - 7.3.2 where and to the extent that the Service Provider request that it does so, the Client shall use all reasonable endeavours to avoid disclosing the Service Provider's commercially sensitive information, including relying on any exceptions provided for by the FOIA, it being acknowledged that the provision of this clause 7.3.2 do not override the Client's duties under the FOIA;
  - 7.3.3 subject to clauses 7.3.1 and 7.3.2, the Client may make any disclosures it is required to make by the FOIA notwithstanding the other provisions of this clause 7.3; and
  - 7.3.4 The Service Provider (at the Client's expense) provide all such assistance in complying with the Request as the Client may reasonably request.

#### 8. **Term & Termination**

- 8.1 This Agreement shall start on the date specified in the Proposal and shall continue until the latter of
  - 8.1.1 expiry of the initial term of this Agreement (as set out in the Proposal); or
  - 8.1.2 the end of any third-party supply agreement proposed by the Service Provider and accepted by the Client, under the Services of this Agreement; or
  - 8.1.3 where the initial term of this Agreement has expired and Services continue to be rendered, the next anniversary of this Agreement provided that 6 months' prior written notice of termination has been provided.
- 8.2 Either Party shall be entitled to terminate the Agreement immediately by written notice to the other if the other:
  - 8.2.1 commits a material breach of the Agreement which, if capable of remedy, it fails to remedy within 30 days of receipt of notice of the breach requiring remedy of the same; or
  - 8.2.2 makes an arrangement with or enters a compromise with its creditors, becomes the subject of a voluntary arrangement, receivership, administration, liquidation or winding up, is unable to pay its debts or otherwise becomes insolvent or suffers or is the subject of any distress, execution, event of insolvency or event of bankruptcy or any other similar process or event, whether in the United Kingdom or elsewhere.
- 8.3 Should an event that prevents the performance of the Services and which is beyond the control of the Service Provider (including but not limited to strikes, insurrection or riots, regulations of any civil or military authority, fire, embargoes, etc.), continue for a period of more than 30 days then the Service Provider may terminate this Agreement without further notice.
- 8.4 The Client acknowledges this is a fixed-term Agreement where costs are not evenly distributed and therefore:
  - 8.4.1 If during the term of this Agreement, legislative or regulatory changes occur, such that any, or all of the Service(s) envisioned under this Agreement are, in the reasonable opinion of the Service Provider, no longer deliverable or appropriate, then:
    - 8.4.1.1 by Notice, the Service Provider will no longer be obliged to deliver the affected Service; and
    - 8.4.1.2 failing agreement to 8.4.1.1 above, in addition to any fees already paid, an administration fee equal to 50% of future fees that could have reasonably been expected to be due for that affected Service or those affected Services under this Agreement to have been payable to the Service Provider at the time of entering into the Agreement,

will be due and payable by the Client in recognition of knowledge and know-how, work already undertaken and planned.

8.4.2 If during the term of this Agreement Client circumstances or needs change such that any, or all of the Service(s) are no longer required, then:

8.4.2.1 by mutual agreement, the balance of future fees that could have reasonably been expected to be due for that affected Service or those affected Services under this Agreement may be offset against alternative Service(s) to be provided by the Service Provider under a new Agreement for additional Products or Services not already provided by the Service Provider; or

8.4.2.2 failing agreement to 8.4.2.1 above, in addition to any fees already paid, an administration fee equal to 100% of future fees that could have reasonably been expected to be due for that affected Service or those affected Services under this Agreement to have been payable to the Service Provider at the time of entering into the Agreement, will be due and payable by the Client in recognition of knowledge and know-how, work already undertaken and planned.

8.5 On expiry or termination of this Agreement for whatever reason:

8.5.1 the Client shall pay to the Service Provider all the Service Provider's undisputed outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Service Provider may submit an invoice for Services up to date of termination subject to it not being in breach of this Agreement, which shall be payable within 30 days;

8.5.2 termination of the Agreement shall not affect any of the Parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination; and

8.5.3 any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

8.5.4 in the event any further cost is incurred by the Service Provider for Services delivered following termination, such costs will be invoiced to the Client and payable as per payment terms in 5.1.3.

8.6 The Client shall return or destroy all of the Service Providers documentation containing the Service Providers Intellectual Property, other than where the Service Providers Intellectual Property is vested in the Services of the Agreement in which case, the Client shall be entitled to continue to use and benefit from the Service Providers Intellectual Property in the Services under an irrevocable, perpetual, non-exclusive, royalty free licence to use for their own purpose.

## 9. Compliance

9.1 Data Protection. Each Party agrees that in its performance of the obligations in this Agreement it shall comply with the provisions of the GDPR. The Service Provider shall process personal data in accordance with the provisions of the data processing statement found at <https://inspiredplc.co.uk/policies/>

9.2 Anti-Bribery. The Service Provider shall comply with the applicable laws and standards in accordance with the statement found at <https://inspiredplc.co.uk/policies/>

9.3 Modern Day Slavery. The Service Provider shall comply with the applicable laws and standards in accordance with the statement found at <https://inspiredplc.co.uk/policies/>

## 10. Limitation of Liability

10.1 Nothing in the Agreement shall exclude or limit either Party's liability for (i) fraud or other criminal act, (ii) personal injury or death caused by the negligence of its employees in connection with the performance of their duties hereunder or by defects in any product supplied in connection with the Services, (iii) any other liability that cannot be excluded by law.

10.2 Subject to Clause 10.1, in no event shall either Party be liable for any (i) lost profits, (ii) loss of anticipated savings, (iii) loss of revenue, (iv) loss of use or facility or (v) any indirect or consequential loss. Such liability is excluded whether such losses were reasonably foreseeable or actually foreseen.

10.3 Except as provided above in Clause 10.1, the Service Provider's maximum aggregate liability to the Client for any cause whatsoever will be for direct costs and damages only, and will be limited to the lesser of £100,000 or a sum equivalent to 100% of the Fees paid and payable by the Client for Services that were the cause of the claim.

10.4 All analysis, advice, and recommendations are provided "as is" and the Client should satisfy themselves of the suitability of any recommendations. Under no circumstances will the Service Provider be liable for:

10.4.1 The impact of any market movements as a consequence of actions taken or not taken by either Party.

10.4.2 Any acts or omissions of the Client's existing or future energy supplier, whether such acts or omissions were reasonably foreseeable or actually foreseen.

10.5 The Service Provider does not provide legal advice. The Client should satisfy themselves that any contracts they enter on the advice of the Service Provider meet their required legal drafting, engaging a qualified legal practitioner as they deem appropriate.

## 11. **Insurances**

11.1 The Service Provider shall at all times effect and maintain with a reputable insurer adequate insurance cover as may be reasonably required for the provision of the Services, which will be available for review by the Client at the Client's request.

## 12. **Non-Solicitation**

12.1 Without in any way restricting the right of an employee freely to accept employment and change employment, both Parties agree that if they directly induce an employee of either Party to enter its services at any time while Services are being provided under this Agreement or during a period of six months thereafter then the liable Party shall pay to the affected Party a sum equal to 100% of the gross annual salary of the said employee, such sum being a genuine pre-estimate of the cost of the disruption that such inducement would cause to the efficient conduct of the Party's business.

## 13. **Force Majeure**

13.1 Neither Party is responsible for failure to fulfil its obligations hereunder due to causes beyond its reasonable control that directly or indirectly delay or prevent its timely performance hereunder. Dates or times by which each Party is required to render performance shall be postponed automatically to the extent that the Party is delayed or prevented from meeting them by such causes.

## 14. **Dispute Resolution, Law & Jurisdiction**

14.1 Each Party hereby irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any disputes of whatever nature arising out of or relating to the Agreement. Nothing in the Agreement shall limit either Party's right to seek injunctive relief. The Agreement shall be governed by English law.

## 15. **General**

15.1 The Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, Terms of Business, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each Party acknowledges and accepts that, in entering into this Agreement, it has not relied upon any representation, undertaking or promise except as set out in this Agreement.

15.2 The Client waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Client that is inconsistent with the Agreement.

15.3 The Service Provider may assign its interest in this Agreement to another party at any time, provided that in the event of an assignment, the incoming party shall assume responsibility for all the rights, obligations and duties of the Agreement.

15.4 Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Agreement.

- 15.5 Execution in counterparts/facsimiles. The Agreement may be executed by email and/or the Parties hereto may sign the same instrument, or each Party hereto may sign a separate counterpart or counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.
- 15.6 Notices under this Agreement shall be in writing and shall be deemed duly given (i) if emailed to a duly appointed representative on the date of such delivery, or (ii) if mailed on the third business day after the date postmarked. Addresses and emails for notice to either Party are as shown on the signature page of this Agreement, or as subsequently modified by written notice.
- 15.7 The Client grants the Service Provider the non-exclusive right to use its name and/or logo in publicity material.
- 15.8 If any provision of the Agreement is adjudged by a court of competent jurisdiction to be invalid, void, or unenforceable, the Parties agree that the remaining provisions shall not be affected thereby, and that the remainder shall remain valid and enforceable. No waiver by either Party of any term hereof shall constitute a waiver of any such term in any other case whether prior or subsequent thereto. No single or partial exercise of any power or right by either Party shall preclude any other or further exercise thereof or the exercise of any such power or right under the Agreement. The Agreement may not be changed, modified, amended, released or discharged except by a subsequent written agreement or amendment executed by duly authorised representatives of the Service Provider and the Client. The rights and obligations of the Parties hereto shall be limited to those expressly set forth herein.
- 15.9 The Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.



# Appendix 2 - General Terms and Conditions

**General:** For the purposes of this Appendix 2, any references to the “Council” are to have the same meaning as the “Client” from the meaning in the Proposal document and Client acceptance form, and Appendix 1 – Group-General-Terms & Conditions LBC. Likewise, any references to the “Provider” and “you” are to have the same meaning as the “Service Provider” in the Proposal document and Client acceptance form, and Appendix 1 – Group-General-Terms & Conditions LBC.

## 1 Overall Aim

1.1 The Council and the Provider are both committed to providing service users with high quality Services at a fair price and we recognise the need for continuous improvement in economy, efficiency and effectiveness and aim to work together in a spirit of co-operation with a view to ensuring best value is achieved.

## 2 Provision of the Services - Your Obligations

2.1 You agree that you will provide the Services in accordance with the terms of this Agreement and any reasonable requests of the Council. You will comply with all relevant Legislation, government best practice and standards and Council Rules including in particular:

2.1.1 The Equality Act 2010, (and insofar as they remain in force - the Race Relations Act 1976 (as amended), the Race Relations (Amendment) Act 2000, the Sex

Discrimination Act 1975, the Disability Discrimination Act 1995, the Disability Discrimination Act 2005) and all relevant codes of practice issued by the Equality and Human Rights Commission or comparable body;

2.1.2 The Health and Safety at Work Act 1974 in order to protect the health and safety of your personnel and those of the Council and all other people and to adopt safe methods of work;

- 2.1.3 The Modern Slavery Act 2015 and any other applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force.
- 2.2 In so far as relevant for the Services, you will co-operate with the Council in ensuring our compliance with our obligations under the Counter-terrorism and Security Act 2015 (CTSA15) and in particular our obligation under s26 to have due regard to the need to prevent people from being drawn into terrorism in the exercise of our functions (the “Prevent duty”). You will comply with any CTSA15 policy produced by the Council, ensure appropriate frontline staff have appropriate training, ensure that any Council-owned venues and resources involved in the provision of the Services do not provide a platform for extremists and are not used to disseminate extremist views and use filtering solutions on any IT equipment made available to the general public under this contract which limit access to terrorist and extremist material.
- 2.3 You will provide the Services in a good, safe and competent manner and free from dishonesty and corruption and in a manner which is not, and is not likely to become, injurious to health or detrimental to the environment or the image and reputation of the Council and will ensure that the Council’s interests are protected at all times.
- 2.4 You will operate an equal opportunities policy which complies with the practical guidance and recommendations contained in the Equalities and Human Rights Commission codes of practice.
- 2.5 You will support and assist the Council in compliance with our obligations under Best Value, the Human Rights Act 1998 and any obligations imposed by any external funder of these Services.

### **3 Payment and Invoicing**

- 3.1 We will pay the Fee to you in accordance with the Payment Periods set out in the Specific Terms.
- 3.2 At each Payment Period you will give the Authorised Officer an invoice recording all time spent, work done and the Fee due. The Authorised Officer will consider and verify the invoice in a timely fashion and without undue delay and we will pay any undisputed invoice within 28 days of verification by the Authorised Officer.
- 3.3 The Council will notify you as soon as possible if we become aware acting reasonably that any of the Services are not being provided in accordance with this Agreement and you will be given a reasonable period to rectify the position. If rectification does not occur within the period specified, the Authorised Officer will not make a payment in respect of those Services identified on any invoice and will give you written reasons.

- 3.4 If the Council makes a payment late you may claim interest on that late payment at 4% above the current basic rate of the National Westminster Bank PLC for the unpaid period.
- 3.5 We will pay VAT on the Fee at the appropriate rate upon receipt of a formal VAT invoice.
- 3.6 If the Council and the Provider agree to vary or extend this Agreement any additional Fee or applicable hourly rates will be agreed between us and set out in writing before any additional services are provided.
- 3.7 The Provider must include requirements to the same effect as clause 3.2 and this clause 3.7 within any sub-contract entered into for the provision of all or part of these Services.

#### **4 Staff**

- 4.1 The Providers' Representative appointed by you is identified in the Specific Terms. They are your authorised representative and are entitled to act on your behalf and receive any notices or information regarding these Services from the Council. They should be reasonably contactable by the Authorised Officer and able to attend meetings. Any change in your Representative must be immediately notified to the Council in writing and any replacement Representative must have equivalent experience and qualifications.
- 4.2 If you have identified specific staff to provide these Services, those staff shall not be changed without getting our prior agreement, not to be unreasonably withheld, and confirming that their replacements have equivalent skills and experience by supplying copies of their CVs. There must be a sufficient number of appropriately trained and skilled staff and supervisors available at all times. You will use reasonable endeavours to ensure that all members of your staff are properly and sufficiently qualified, reference checked, competent, skilled, honest and experienced to carry out these Services, and at all times exercise proper care in the execution of their duties and tasks.
- 4.3 If relevant to the Services, you must carry out all appropriate checks with the Disclosure and Barring Service and any other relevant statutory checks on all staff or potential staff who are to provide these Services to ensure they are fit and suitable to provide the Services. If having carried out such checks, you are unsure as to the fitness or suitability of a particular person to provide these Services, you will discuss the matter, on an anonymised basis with the Authorised Officer and agree the course of action to be taken.
- 4.4 You must take prompt appropriate disciplinary action against any employee who is engaged or is alleged to be engaged in gross misconduct.

- 4.5 All your employees providing these Services shall provide information in accordance with the Rehabilitation of Offenders Act 1974 and the Rehabilitation of Offenders Act (Exceptions) Order 1975 about convictions which would otherwise be spent.
- 4.6 The Council may reasonably require you in writing to remove any member of staff employed or used by you to provide the Services. Upon receiving such notification you will ensure that the specified person is removed and replaced as soon as possible, and in any event not later than the period of time set out in the Specific Terms after notification. The Council shall not be liable to you or to the specified person in respect of any costs, expenses, liability, loss or damage caused by this removal.
- 4.7 Unless in response to an openly advertised recruitment process, during this Agreement, and within 12 months of its termination, neither party shall approach or make offers of employment to or engage any member of each other's staff engaged or employed in connection with this Agreement without having first obtained the written consent of the other.

#### 4.8 **LONDON LIVING WAGE**

- 4.8.1 For the purposes of this clause:

**the London Living Wage:** shall mean the most recently identified London Living Wage hourly figure (or equivalent set figure(s)) published from time to time by the Greater London Authority or any successor body with responsibility for setting this figure,

- 4.8.2 You will:

- ensure that all staff employed or engaged by you (or your subcontractors) to provide the Services are paid an hourly rate which is equal to or exceeds the London Living Wage;
- provide to the Council such information concerning the London Living Wage and the performance of your obligations under this clause 4.8 as we may reasonably require and within the deadlines we reasonably impose;
- co-operate and provide all reasonable assistance to the Council in monitoring the effects of the London Living Wage including without limitation assisting the Council in conducting surveys and assembling data in respect of the effect of payment of London Living Wage to Relevant Staff.

- 4.8.3 For the avoidance of doubt, any breach by you of this clause 4.8 may be a material breach in relation to which the Council is entitled to rely upon its termination rights under this Agreement.
- 4.9 This Agreement is a contract for the provision of services and nothing in this Agreement is intended to create any employment relationship between the Council and the Provider or any of your employees or authorised representative who are entitled to act on your behalf.

## 5 Information

- 5.1 **Information from the Council** - We will supply you without charge and within a reasonable time all necessary and relevant information and shall give you reasonable assistance required to carry out the Services.
- 5.2 **Final Report** – If required by the Specification you will provide us with a final project report at the end of the Period of Appointment (in a format to be agreed by both parties) with supporting documentation (monitoring forms for participants etc) to enable us to monitor the provision of the Services and the achievement of any agreed outputs and outcomes.
- 5.3 **Confidential Information** – Neither party will, whether during or after this appointment, disclose or allow to be disclosed to any person (except on a confidential basis to professional advisers, provided any professional advisers is not a competitor of the Provider who offers the same or similar services) any confidential information acquired in the course of carrying out duties under this Agreement, except as may be required or permitted by law.
- 5.4 **Monitoring** - You will operate effective systems to monitor and report back on the performance of the Services to the Council (a) in a format and timetable to be agreed at the Start Date. OR (b) in accordance with the specific requirements identified in the Specific Terms.
- 5.5 **Inspection** – During the Period of Appointment and for six years afterwards, you will give to the Council, the Council's auditors, provided any auditor is not a competitor of the Provider providing the same or similar services, the District Auditor and the Local Government Ombudsman such information, explanations and access to and copies of any documents as may reasonably be required to satisfy themselves as to your compliance with the terms of this Agreement.
- 5.6 **Co-operation** – You will, in performing your obligations under this Agreement, liaise with and co-operate with all officers of the Council and other contractors appointed to undertake duties on behalf of the Council. You shall comply with all reasonable instructions issued by the Authorised Officer.

- 5.7 **Complaints handling** - You will deal with any complaints promptly, courteously and efficiently and will notify the Council in writing of all complaints received and the steps you have taken in response to them.
- 5.8 **Publicity** - You may not undertake any publicity or place any advertisement referring to the Council without our prior written agreement.
- 5.9 **Copyright** - All copyright or other intellectual property rights in all work created or produced by you under this Agreement shall be your property. You hereby grant the Council, and/or any third party which performs services on behalf of the Council a non-exclusive, perpetual, transferable, royalty free licence to use such work for Council business that is reasonably related to the Services. You warrant that any document or design produced by you under this Agreement is your original work which does not infringe the copyright, design right, moral right or any other rights of any third party, and that no claims of such infringement have been made or are the subject of litigation actual or threatened.

#### 5.10 **Data Protection**

- 5.10.1 For the purposes of this clause

**Data Protection Legislation:** means (i) the General Data Protection Regulations (GDPR), (ii) the Data Protection Act 2018 (iii) all applicable law about the processing of personal data and privacy;

- 5.10.2 Both parties undertake that we will comply with our respective obligations under the Data

Protection Legislation as and when the same are applicable to this Agreement. This clause 5.10 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

- 5.10.3 Each party undertakes to the other that we will not knowingly place the other in breach of that other party's obligations under the Data Protection Legislation.

#### 5.11 **Information Requests**

- 5.11.1 You accept that the Council is obliged to comply with information legislation including the Freedom of Information Act 2000 and Code of Practice, Environmental Information Regulations 2004, Aarhus Convention and Local Audit and Accountability Act 2014. You will assist the Council to comply with our obligations under this information legislation. This includes helping the Council comply with our obligation to respond to requests for information within statutory deadlines; and providing information to the Council where the Council requests.

5.11.2 The Council is entitled to disclose information unless we believe that the information is exempt or excluded under the legislation or the legislation does not apply. For example where information is provided in confidence; the information is a trade secret; or where release is likely to prejudice commercial interests. The Council will decide, acting reasonably, whether information requested is to be disclosed or not. The Council will where reasonably practicable consult you and will consider any representations made you. The Council shall not be liable for any loss or other detriment caused by the disclosure of any information.

## **6 Insurance, Indemnity and Liability**

- 6.1 You must maintain a comprehensive policy or policies of insurance to cover your liability under this Agreement and will give us appropriate evidence of the insurance policy or policies upon written request of at least the minimum amount set out in the Specific Terms.
- 6.2 Both parties shall be responsible for and shall release and indemnify the other on demand from and against all liability which may arise out of, or in consequence of the performance or non- performance of their obligations under this Agreement or their your negligence or a breach by them of their obligations under this Agreement for:
  - 6.2.1 death or personal injury
  - 6.2.2 any other liability that cannot be excluded by law
  - 6.2.3 actions, claims, demands, costs, charges and expenses (including legal expenses on an indemnity basis)
- 6.3 Nothing in this Agreement shall exclude or limit either Party's liability under clauses 6.2.1 and 6.2.2
- 6.4 Subject to clauses 6.2.1 and 6.2.2, neither part shall be liable for an indirect or consequential losses, loss of use or facility, lost of revenue, or loss of anticipated savings.
- 6.5 Except as provided in clause 6.3, both parties maximum aggregate liability to the other for any cause whatsoever will be for direct costs and damages only and will be limited to the lesser of £100,000 or a sum equivalent to 100% of the Fees paid by the Council to the Provider that were the cause of the claim.
- 6.6 In the provision of the Services, neither Party will be responsible or obliged to indemnify the other direct loss, cost and expense caused by the conduct of a "Third Party". Third Party" being defined as "any energy supplier, data collector of energy data, date aggregator of any data, any energy metering provider".

## **7 Dispute Resolution**

- 7.1 We will both endeavour to resolve any disputes by discussion and agreement. If any dispute can not be resolved by the Providers' Representative and the Authorised Officer within five (5) working days, the matter shall be referred to more senior officers or managers representing both parties. If the dispute is not resolved within ten (10) working days, either party may refer the dispute to mediation in accordance with the current Model Mediation Procedure of the Centre for Effective Dispute Resolution (CEDR).
- 7.2 If a dispute is referred to CEDR the parties shall co-operate fully with any mediator appointed and will bear their own costs and one half of the fees and expenses of the mediation (unless a different agreement is reached in the mediation).
- 7.3 Neither party may start legal proceedings until any mediation is complete, abandoned or fails to resolve the dispute.
- 7.4 In the event that this Agreement is or is deemed to be a construction contract within the meaning of the Housing Grants Construction and Regeneration Act 1996, then if either party shall refer any dispute to adjudication, the adjudication shall be carried out pursuant to the TeCSA Adjudication Rules.

## **8 Termination**

- 8.1 This Agreement will end on the completion of the Period of Appointment unless terminated early in accordance with Condition 8 or extended by agreement of both parties.
- 8.2 The Council may by written notice having immediate effect terminate this Agreement, or part thereof, if you:
  - 8.2.1 suffer any distress or execution to be levied, commit an act of bankruptcy, make any composition or arrangement with creditors, have a receiver appointed or go into liquidation; or
  - 8.2.2 any employee or any other person acting on your behalf has offered, given or agreed to give any gift or consideration of any kind as an inducement or reward for doing or not doing something or for showing favour or disfavour in relation to this or any other agreement with the Council; or shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, or shall have offered or given any fee or reward to any officer of the Council which if accepted is or would be an offence contrary to s.117 Local Government Act 1972 or any amendment or re-enactment thereof; or
  - 8.2.3 make any fraudulent claims; or

8.2.4 are in serious, persistent or material breach, provided any breach is not caused by a Third Party, of any part of this Agreement or failing in the provision of all or any part of the Services.

8.3 The Provider may terminate this Agreement by giving the Council not less than one month written notice if the Council fails to pay the Fee in accordance with Condition 3 on three separate occasions during the Term.

8.4 If the Provider is, in the reasonable view of the Council, in breach of its obligations, the Council may, acting reasonably, require repayment of the whole or part of the Fee (such part to be pro-rata to the extent of breach) in addition to its other remedies, and the Provider must immediately repay the sum demanded which shall be recoverable as a debt.

8.5 On the early termination of this Agreement, the Council will pay you a fair and reasonable proportion of the Fee for the Services which you have provided (less any amounts previously paid). If you have already received payment for Services which have not been provided, you will immediately repay those sums to the Council. Where this Agreement is terminated under Condition 8.2 the Council may claim from you any additional costs incurred by providing the Services ourselves or arranging for someone else to provide them.

8.6 Where this contract is terminated by notice under Clause 8.3, or by you under Clause 8.4, you may submit a written claim, with such evidence as is reasonably necessary, to the Council for your reasonable direct costs of early termination. You are however under a duty to take all reasonable steps to mitigate any loss incurred.

8.7 On termination of this Agreement you will give to the Council all correspondence, documents, specifications, papers and property belonging to us that are in your possession and promptly provide such reasonable assistance as the Council may require to ensure an orderly transfer of responsibility to make sure that the Services can be performed by the Council (or such other person appointed by the Council) in the manner and to the standards set out in this Agreement.

8.8 Termination of this Agreement shall be without prejudice to either party's rights or remedies in respect of any default or breach of contract, which may have risen prior to the date of termination.

## 9 Miscellaneous Provisions

- 9.1 **Assignment and Subcontracting** – Neither party will assign or sub-contract any of their obligations under this Agreement without the prior written agreement of the other which will not be unreasonably withheld.
- 9.2 **Notices** - Any notice or other communication given under this Agreement shall be in writing and may be delivered or sent by first class prepaid post or (subject to clause 9.2.4) by email to the address or email address notified by either party for this purpose. Unless the contrary is proved, any such notice or communication shall be deemed to have been given to and received by the addressee:
  - 9.2.1 if delivered, at the time it is left at the address of or handed to a representative of the party to be served;
  - 9.2.2 if sent by post, 2 working days following the date of posting;
  - 9.2.3 if sent by email, at the time of transmission.

9.2.4 Notices in relation to breach of contract and termination may not be served by email.
- 9.3 **Waiver and cumulative rights** - No failure or delay by either party to exercise any right, power, privilege or remedy under this Agreement shall operate as a waiver. All such rights, powers, privileges and remedies are several and cumulative and are not exclusive of each other or of any other rights or remedies otherwise available at law or in equity.
- 9.4 **Whole contract** - This Agreement contains the full and complete understanding between the parties and supersedes all prior arrangements and understandings, whether written or oral, relating to the subject matter of this Agreement. It may not be varied except in writing, signed by both parties.
- 9.5 **Severance** - If any provision of this Agreement is declared by any judicial or other competent authority to be voidable illegal or otherwise unenforceable it shall not affect any other provision of this Agreement which shall remain in full force and effect.
- 9.6 **Continuation of obligations** - Any provisions which are necessary to give full efficacy to the Agreement shall survive the expiry or termination of the Agreement. Where there is any doubt or ambiguity the benefit of that doubt or ambiguity will be given such as to construe the provision in question as surviving the expiry or termination.
- 9.7 **Agency** – You are not and shall in no circumstances hold yourself out as being a servant or agent of the Council.

- 9.8 **Contracts (Rights of Third Parties) Act 1999** - Notwithstanding any other provisions of this Agreement nothing in this Agreement confers or purports to confer any right to enforce any of its terms on any person who is not a party to it.
- 9.9 **Governing Law** - This Agreement shall be governed by and construed in accordance with the laws of England and the parties irrevocably submit to the exclusive jurisdiction of the courts of England.



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# **Sustainable Procurement Code of Practice**

**For all organizations who wish  
to contract with the Council**

**Procurement Team**

4<sup>th</sup> Floor

Laurence

HouseCatford

London SE6 4RU

[Lewisham.Procurement@lewisham.gov.uk](mailto:Lewisham.Procurement@lewisham.gov.uk)

July 2023

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## 1. Introduction

### 1.1 The Council's Codes of Conduct

1.1.1 The Council is committed to the highest standards of behavior in public life. To promote this commitment, the Council has adopted two Codes of Conduct, one applying to members of the Council and one applying to its staff. These Codes are available on the Council's website.

1.1.2 If you believe that a member of the Council's staff has breached the Employee Code of Conduct, please report it to the Council; we treat all complaints under this Code very seriously and will investigate any allegation received. Details of the Council's Complaints Procedure can be found at:

<https://lewisham.gov.uk/mayorandcouncil/complaints-and-feedback/corporate-complaints-procedure>.

1.1.3 If you believe that a councillor has breached the Member Code of Conduct, then those complaints should be referred to: The Monitoring Officer, London Borough of Lewisham, Town Hall, Catford, London SE6 4RU (Telephone number 020 8314 3107, e-mail address: [monitoring.officer@lewisham.gov.uk](mailto:monitoring.officer@lewisham.gov.uk)). Information about the Council's ethical standards can be found [here](#).

1.1.4 The Council has also adopted a whistleblowing policy to deal with allegations of malpractice or misconduct by its members, staff or contractors. The whistleblowing policy is available [here](#). The policy is publicized throughout the borough and can be used by anyone with a complaint if they feel that other available channels for raising concerns would be inappropriate, or if they fear repercussions.

1.1.5 The Council's Head of Law is responsible for dealing with allegations raised under this procedure. If you have any query about the whistleblowing policy, or the Member and Employee Codes of Conduct please contact: Jeremy Chambers, London Borough of Lewisham, Town Hall, Catford, London SE6 4RU. E-mail address [jeremy.chambers@lewisham.gov.uk](mailto:jeremy.chambers@lewisham.gov.uk)

### 2. 1.2. Sustainable Procurement Code for Contractors, Suppliers and Service Providers

1.2.1 As well as the Codes of Conduct adopted for members of the Council and its staff, the Council has established this Sustainable Procurement Code for Contractors, Suppliers and Service Providers under specific powers set out in its Standing Orders.

1.2.2 Getting procurement right is crucial for achieving the Council's vision to make Lewisham the best place in London to live, work and learn, and in particular to meet

its priority to secure best value public services. Sustainable procurement that properly takes into account social, economic, and environmental considerations can also help the Council meet wider objectives, offer opportunities for local businesses and regeneration, and minimize administrative costs.

1.2.3 We will only do business with responsible suppliers and contractors; organizations who treat their staff and sub-contractors well, who understand the nature of the products and materials they are supplying, and who recognise their responsibility to protect the environment and foster good relations with local communities.

1.2.4 We expect our suppliers to conduct their relationship with us and any of our clients, partners, and other suppliers in compliance with our core principles of sustainability:

- Social considerations – ensuring that products and services are sourced and produced responsibly, under a set of internationally acceptable social and ethical guidelines and standards.
- Environmental considerations – maximising resource and energy efficiency in the manufacturing and supply process in order to minimise environmental impacts.
- Economic considerations – delivering outstanding value for money over the lifetime of the contract.

These principles apply to both suppliers' activities and, where appropriate, to their downstream supply chain.

1.2.5 All contractors, suppliers and service providers will be expected to satisfy the Council of their ability to comply with the Code before they are considered for any contract to be let. Contractors, suppliers and service providers will also be expected to comply with this Code during the currency of a contract and failure to do so could result in the termination of the contract and the imposition of restrictions on the opportunity to tender for future Council contracts.

1.2.6 The Council may in certain exceptional cases give exemptions from certain requirements of this Code where the size or nature of the contract or contractor, supplier or service provider does not warrant its fullest application.

1.2.7 This Code applies to all persons working on any Council contract and the main contractor, supplier or service provider cannot avoid responsibility by sub- contracting out the whole or part of the work. All references to a contractor, supplier or service provider therefore apply equally to sub-contractors.

### **3. 2. Conditions**

#### **4. 2.1 Sustainable Procurement Principle 1: Social Considerations**

Ensuring that products and services are sourced and produced responsibly, under a set of internationally acceptable social and ethical guidelines and standards.

### **2.1.1 Animal Welfare and Testing**

Where products are likely to have been tested on animals, suppliers, contractors and service providers should seek advice from Lewisham Council before supplying them. Suppliers, contractors and service providers should also ensure high standards of animal welfare both for animals that are raised for meat and dairy products, and for animals used for work and transport.

Contractors, suppliers and service providers should seek to ensure that all hides used in their products, including packaging, are a by-product of the food industry.

Lewisham Council will not procure or license products that make use of any fur, skins, food or food ingredients of plant or animal origin (including fish) of any species specified in the International Union for Conservation of Nature [IUCN Red List of Threatened Species](#).

### **2.1.2 Apprenticeships and Work Placements**

The Council is committed to improving opportunities for residents, both young people and adults, to obtain apprenticeships and work placements to gain work skills and increase their opportunity of obtaining permanent employment. In pursuance of this commitment, it requires contractors, suppliers and service providers to:

- use its best endeavors to provide work placements and apprenticeships for young people and adults resident within the Borough during the currency of any contractor agreement;□
- comply with and deliver its obligations under any contract or agreement in a manner which is consistent with achieving the key performance indicators relating to any arrangements for apprenticeships and employment related social benefits; and assess its performance in relation to this requirement throughout the currency of any contract or agreement and report to the Council on a regular basis. Frequency and format to be agreed with the Council.□

### **2.1.3 Bribery, Gifts and Inducements**

Lewisham has, as a result of the enactment of the Bribery Act 2010, produced an [Anti- Fraud And Corruption Policy Sept 2016](#) which covers its elected Members, officers as well as its contractors. The policy requires that contractors, suppliers and service providers act honestly and with integrity at all times.

Our contract documents have been changed to include anti-bribery terms and conditions, and we are requesting that our contractors, suppliers and service providers adopt a similar approach with any sub-contractors.

Whilst the Council will always consider the facts of every individual case, if it is proven to its satisfaction that any such fee or reward is offered then any contract the contractor, supplier or service provider has with the Council is likely to be terminated and damages sought from the contractor, supplier or service provider. In addition, the contractor, supplier or service provider concerned will almost certainly be removed from any Council Approved List, Preferred List, Framework, Select or Tender List for which the organisation is being considered or has been approved.

#### **2.1.4 Community Benefits**

Local authorities have a duty under the Public Services (Social Value) Act 2010- 12 to consider how they might use public service contracts to improve the economic, social and environmental well-being of our communities. The Act requires us to take a wider range of factors into account when determining the 'value' element of value for money.

Lewisham Council expects all its suppliers, contractors and service providers to have an understanding of how their activities impact on local communities and to make positive contributions and investments in their local and wider community

e.g. providing appropriate employment, training and business opportunities or enhancing the local environment.

The Council's four key Social Value Objectives are as followed:

- Core Commitments□
- Employment and Skills□
- Economy and Growth□
- Environment, Community and Place□

For further information about Social Value at Lewisham Council, please visit the following links:

- [London Borough of Lewisham Social Value Policy for Procurement](#)□

#### **2.1.5 Data Protection**

The General Data Protection Regulation (EU) 2016/679 (GDPR) is a regulation in EU law on data protection and privacy in the European Union (EU) and the European Economic Area (EEA). It also addresses the transfer of personal data outside the EU and EEA areas.

All contracted organisations shall notify to the Information Commissioners' Office where they fulfil the criteria laid out under the terms of the General Data Protection Regulations (GDPR) 2018. This does not infer that any Processing organisation is the Controller of the information defined within the contractual agreement.

All organisations are required to name an individual responsible for compliance in relation to GDPR with that organisation.

All organisations are to abide by the principles of GDPR as prescribed by Schedule.

Where personal information is to be shared with the contracted organisations this shall only be done so securely and incorporating (where appropriate) an information sharing protocol.

For further information please see:

[Guide to the general data protection regulation](#)

[Lewisham Data Protection Policy](#)

#### **2.1.6 Equality and Diversity**

The Council believes that the diversity of its population and workforce is one of its greatest strengths. Equality of opportunity and freedom from discrimination are fundamental rights and this Council has a duty to exercise leadership to promote these rights.

Contractors, suppliers and service providers must not treat any person less favorably than another person because of his or her race (including ethnic or national origins, colour and nationality, age, disability, gender (including gender reassignment, pregnancy and maternity), religion or belief, or sexual orientation in any recruitment, training, promotion, delivery of goods, provision of services or undertaking of works.

Contractors, suppliers and service providers must follow best practice and comply with all legislation in relation to equality and diversity and be consistent with Lewisham's Single Equality Framework 2020- 2024.

Contractors, suppliers and service providers will provide the Council on request with copies of:

- Instructions to those concerned with recruitment, promotion and training.
- Equality & Diversity policies, procedures and other documents available to employees, recognized trade unions or other representative groups of employees. □ Recruitment advertisements or other literature.□

In order to assist the Council in its objectives under the Equalities Framework for Local Government (EFLG), contractors, suppliers and service providers must demonstrate that they have an understanding and commitment to the

principles and practice of equality in the services they provide. They must also regularly review their services and access to them to ensure they continue to be appropriate and accessible to Lewisham's diverse communities.

Further information on Equality and Diversity can be found at:

<http://www.equalityhumanrights.com/>

[Single Equality Framework](#)

#### **2.1.7 Fairtrade**

The Council wishes to encourage contractors, suppliers and service providers engaged to work for the Council to show a commitment to fairtrade. The Council is committed to Lewisham achieving and maintaining "Fairtrade Borough" status by meeting the five goals necessary to become a designated Fairtrade Borough.

Further information on Fairtrade can be found at: <http://www.fairtrade.org.uk>

#### **2.1.8 Freedom of Information**

It is important to note that information supplied to the Council during the tender and evaluation process may be available to the public under the terms of the Freedom of Information Act 2000 (FOIA).

Whilst the Council will take into account the position of the parties in question, it is ultimately the responsibility of the Council to decide what information should or should not be released under FOIA. This includes any information subsequently included in the contract.

To make a request please email our Corporate FOI

Team, [freedom.information@lewisham.gov.uk](mailto:freedom.information@lewisham.gov.uk) .

You must include:

- what information you are requesting□
- your name and address or email address so we can reply.□

Please see [here](#) for further information.

#### **2.1.9 Health and Safety**

All contractors, suppliers and service providers must provide the Council with a copy of their health, safety and welfare policies and procedures. In assessing the adequacy of these documents the Council will take into account the nature of the work, supply or service to be undertaken, and the size of the contractor, supplier or service provider.

Contractors, suppliers and service providers must keep copies of their health and safety policies and procedures on site and at all locations from which the contractor, supplier or service provider operates and the policy must be practiced and subject to regular review.

All contractors, suppliers and service providers must comply with the Health and Safety at Work Act 1974 and such other specialised safety regulations and/or insurance requirements that may apply to the type of work, service or supply involved.

Further information on Health and Safety can be found at: <http://www.hse.gov.uk>

### **2.1.10 Labour Practices and Modern Slavery**

Contractors, suppliers and service providers will take appropriate steps to ensure that all locations used in the manufacture and supply of products/services to Lewisham Council meet the provisions of the [Ethical Trading Initiative \(ETI\) Base Code](#), which should include consideration to local initiatives such as the London Living Wage where relevant.

Where contractors, suppliers and service providers intend to use temporary/agency staff they should seek to ensure that any labour providers supplying such staff are members of the Recruitment and Employment Confederation (REC) and, if relevant, are licensed by the Gangmasters and Labour Abuse Authority (GLAA).

Lewisham Council is clear about its zero tolerance approach to modern slavery and human trafficking in all its forms, and requires all organisations in receipt of public monies to provide assurance that all persons working for them or within their supply chain are doing so in full compliance with the act. All contractors, suppliers and service providers will be required to confirm that throughout the contract term they will adhere to the Council's principles and practices with regards to the identification and eradication of human trafficking and modern slavery as set out in its annual Modern Slavery and Human Trafficking Statement, regardless of whether the Modern Slavery Act 2015 applies or not.

### **2.1.11 Lobbying**

Contractors, suppliers or service providers must not lobby or canvass either a member or an employee of the Council in an endeavor to obtain a contract. In addition, all contractors, suppliers and service providers will be required to disclose at the time of tendering the nature of any relationship with an employee or a member of the Council.

### **2.1.12 Local Employment, Local Business**

Contractors, suppliers and service providers engaged to work for the Council must show commitment to the borough, its residents and businesses.

Where it is necessary for employees to be recruited to work on Lewisham contracts, contractors, suppliers and service providers must use best endeavours to appoint Lewisham residents. This can be expedited by notifying the Council of job vacancies in advance of general advertisement, who will offer assistance with publicising the role locally.

Where a part or the whole of the awarded contract is subcontracted, contractors, suppliers and service providers must use best endeavours to appoint a business based in Lewisham borough. This can be expedited by notifying the Council of subcontract work packages available, who will offer assistance with finding suitable local businesses to be included in the tender process. It is acknowledged that where contracts being let are above threshold in value requiring compliance with the Public Contracts Regulations (2015), the Council is constrained from imposing requirements upon bidders to use local labour in such a way that it breaches EU principles guaranteeing the free movement of workers and the right to equal treatment in respect of access to employment. However, this should not be taken to avoid the recruitment of local labour where no breach of these rules would occur and the Council will expect all its contractors to take positive steps to recruit local labour and help towards the sustainability of the local economy where it is able to do so lawfully.

### **2.1.13 London Living Wage**

The Council supports the establishment of the London Living Wage, set at a level calculated by the Greater London Authority Living Wage Unit to avoid poverty wages being paid in capital.

Local authorities have a duty under the Local Government Act 2003 to obtain best value in the procurement of works, services and supplies and to secure continuous improvement in the way they carry out their functions, having regard to a combination of economy, efficiency and effectiveness.

This means that when procuring contracts, the Council will, on a case by case basis, weigh up the costs of the contract against the benefits of fair employment terms for contractors 'employees and any resulting benefit to the Council.

There is scope for giving some weight at the tender evaluation stage to the attitude of contractors, suppliers and service providers to fair employment clauses including the London Living Wage within the parameters of the Council's fiduciary duty to tax payers and obtaining best value. Each case will

be considered separately and flexibly, with any impact on costs fully assessed and justified.

Further information on the London Living Wage can be found [here](#).

## **5. 2.2. Sustainable Procurement Principle 2: Environmental Considerations**

Maximising resource and energy efficiency in the manufacturing and supply of goods and services in order to minimise environmental impacts

### **2.2.1 Carbon Emissions**

In 2019 Lewisham was one of the first local authorities in London to declare a 'climate emergency'. Our Climate Emergency Action Plan was agreed by Mayor and Cabinet on 11 March 2020 and sets out our ambition for the borough of Lewisham to be carbon neutral by 2030. Since then, Lewisham Council has also signed up to the UK100 "Net Zero Local Leadership Pledge", alongside over 40 other local leaders, to reach zero carbon before national government.

Lewisham Council is committed to reducing CO<sub>2</sub> emissions from our own operations and we are keen to manage and reduce the overall carbon footprint of our supply chain. We require contractors, suppliers and service providers to support us in achieving this goal.

Contractors, suppliers and service providers are required to report their carbon footprint publicly and demonstrate a commitment to carbon reduction in their own operations and through the products and services they deliver.

### **2.2.2 Construction and Maintenance**

Lewisham Council is committed to building to the highest possible sustainability standards meeting, and where possible, exceeding the requirements set by government.

Contractors commissioned to refurbish Council buildings will follow building regulations (where applicable) and when constructing new buildings will follow recommendations in Lewisham's Core Strategy as far as possible and seek advice from relevant experts (e.g. the Sustainable Resources Group or Planning).

### **2.2.3 Energy Supply**

When we buy energy direct from the supplier, we prefer green electricity sources (renewable energy sources such as wind, wave, tidal and solar power and the most efficient traditional combined heat and power) and we avoid

nuclear power. The Council also uses alternative renewable fuels such as wood-pellets and biodiesel where these are practical and there is no compromise of wider environmental considerations such as air quality and biodiversity. We would encourage contractors, suppliers and service providers to do the same, particularly in relation to any energy consumed as a result of delivering services to the Council.

#### **2.2.4 Energy Efficiency**

Lewisham Council is committed to reducing the environmental impact of its supply chain and expects its contractors, suppliers and service providers to demonstrate a commitment to doing this. The Council requires contractors, suppliers and service providers to report on their carbon footprint publicly and to have processes in place which allow them to do this. Contractors should prioritise and take positive action to reduce energy consumption and deliver energy efficient services.

#### **2.2.5 Environmental Management**

Contractors, suppliers and service providers will make every effort to limit the environmental impact of their business operations and will have appropriate programs in place to help achieve this objective, which includes the preparation of Environmental Management Plans where appropriate.

Activities to help limit environmental impact may include using raw materials from sustainable sources, managing waste and resources in an environmentally responsible manner, minimizing impact on local air quality, minimising noise, minimising their water and energy usage and using clean energy.

#### **2.2.6 Food**

Where food products are supplied, the supplier or contractor should ensure that the following standards of environmental protection are maintained:

- Eggs are from cage-free hens
- All fish and seafood must come from sustainable sources and have Marine Stewardship Council (MSC) (*or equivalent*) certification.
- Meat and dairy products are from farms which satisfy UK welfare standards
- No GM ingredients are used

Lewisham Council encourages its contractors, suppliers and service providers to source UK and seasonal products where possible.

Lewisham Council is committed to encouraging and promoting healthier, lower- sugar choices. In 2016 the Council signed up to the national Sugar Smart campaign, this campaign encourages the reduction in the amount of

sugar in our diets by raising awareness of the issues around consuming too much sugar and providing an environment in which it is easier to make a healthier and less sugary choice.

We are working with local businesses, schools, children's centers, hospitals and other organisations to promote healthier, lower-sugar alternatives and to limit less healthy choices. All contractors are encouraged to promote healthy lifestyles and diets.

Lewisham is a Fairtrade borough and we expect suppliers to work with us in offering value for money, certified Fairtrade products.

### **2.2.7 Materials, Plant, Equipment and Machinery**

All materials, plant, equipment and machinery used on Council contracts must comply with the specification(s) in the contract documents or if none is so specified, the most suitable materials, plant, equipment and machinery reasonably obtainable. Where a British Standard or equivalent international standard applies then materials, plant, equipment and machinery that meet the latest standard must be used.

### **2.2.8 Resources and Biodiversity**

Lewisham Council considers the impact on biodiversity when we buy products or services, and aim to minimise damage to habitats and support their development.

When we buy timber and wood-derived products, we will comply with the EU Timber Regulation 2010 (as amended) and conduct due diligence to ensure that products covered by the regulation are from a legal and sustainable source. We will only trade with suppliers that are compliant with the regulation (members of the Timber Trade Federation) and whose products are covered by a government approved certification scheme, preferably the Forest Stewardship Council (FSC).

Further information can be found:

[Lewisham Sustainable Timber Policy](#)

### **2.2.9 Restricted Substances and Materials**

The Council considers that all asbestos, including waterborne asbestos, is potentially dangerous and that there is no safe limit of exposure. Accordingly, the Council has banned the use of all asbestos products in the construction of any new Council building or in any alterations done to existing buildings. It is the Council's policy that the removal of asbestos and related products is undertaken by specialist contractors licensed for the purpose by the Health and Safety Executive. If any asbestos is discovered by a contractor, other than

a licensed one, during the course of contract, work must cease immediately and the Supervising Officer must be contacted for advice.

We will not use chlorofluorocarbons (CFCs), hydro chlorofluorocarbons (HCFCs), persistent organic pollutants (POPs), and chemicals that the European Union classifies as substances of very high concern, or other harmful chemicals.

We will avoid using 'volatile organic chemicals' ('VOCs' - which can be present in goods such as paint and cleaning substances), formaldehyde and harmful pesticides as far as possible, and will use artificial fertilisers as little as possible.

Contractors, suppliers and service providers will seek to avoid supplying products, services or packaging which includes any legally restricted substances and materials included in [Directive 2002/95/EC](#) on the restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS) (as amended), and [Regulation No 1907/2006](#) on chemicals and their safe use that deals with the Registration, Evaluation, Authorisation and restriction of Chemical substances (REACH) (as amended).

Contractors, suppliers and service providers will, as far as is possible, minimise the concentrations of heavy metals and brominated fire retardants in products and packaging being supplied.

We will review these principles regularly to make sure that they are in line with any

## **2.2.10 Travel and Transport**

Lewisham Council prefers options that reduce the need for products to be transported and we expect our contractors, suppliers and service providers to use low or zero emission transport modes.

All vehicles used in the road for the transportation of products must comply with the requirements of the both the London Emission Zone (LEZ) and the Ultra Low Emission Zone (ULEZ). When awarding transport related contracts the Council will give preference to organisations that are members of the Fleet Operator Recognition Scheme (FORS).

Contractors, suppliers and service providers will aim to optimise transport efficiency and/or minimise transport distances.

For further information please see:

[London Low Emission Zone \(LEZ\)](#)

[London Ultra Low Emission Zone](#)

(ULEZ)  
Fleet Operator Recognition Scheme (FORS)

### **2.2.11 Waste and Recycling**

Lewisham Council will avoid, where possible, using products that cannot be reused, recycled or composted.

Contractors, suppliers and service providers should have regard to the “Waste Hierarchy”, which details the five steps for dealing with waste, ranked according to environmental impact, that should be followed, starting with Prevention, then Preparing for re-use, Recycling, Other recovery and as a last resort Disposal.

Contractors, suppliers and service providers should have regard to the “Proximity Principle” in that waste should be disposed of (or otherwise managed) close to the point at which it is generated.

Contractors, suppliers and service providers will support Lewisham Council in its ambition to being a ‘Zero Waste’ Authority by reducing the amount of waste it sends to landfill and achieving high, re-use, recycling and composting rates. Where contractors, suppliers and service providers are providing goods or services which are likely to generate waste, the expectation is that they will have a strategy in place to minimise the amount of waste which is likely to be generated, re-use materials wherever possible and maximise recycling and composting.

Contractors, suppliers and service providers should also maximise the use of recycled content in products and packaging. Contractors, suppliers and service providers must retain information on the recycled content associated with products and packaging supplied. They may need to make this information available, upon request, to Lewisham Council.

Contractors, suppliers and service providers must adhere to relevant legislation for the removal and disposal of waste and recyclable materials. The Council will require contractors to prove that such arrangements have been made.

### **2.2.12 Waste Electrical and Electronic Equipment (WEEE)**

Any business that manufactures, rebrands and sells or imports electrical or electronic equipment, referred to as a ‘Producer’, has obligations under the Waste Electrical and Electronic Equipment Regulations 2006 (as amended).

Where electrical or electronic equipment or components are supplied, the supplier or contractor will determine the extent to which the Regulations apply and comply at their expense. In addition, where required they will take back

such items when they are no longer required by Lewisham Council (where feasible) for subsequent reuse, recycling, recovery or remanufacture (in order of priority). Contractors, suppliers and service providers should provide Lewisham Council, upon request, with all necessary information about how items have been dealt with. Items of electrical or electronic equipment will also need to comply with the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2008 (as amended).

For further information please see:

[Waste Electrical and Electronic Equipment Regulations](#)

#### **2.2.13 Water**

Lewisham Council is committed to the efficient use of water in the delivery of its services to the borough and utilises the most efficient water consuming equipment and services wherever possible. The Council manages and monitors the use of water to reduce the risk of water leakage on any long term basis.

Lewisham Council expect all organisations contracting with the Council to minimise their use of water and promote the use of water efficient equipment and services wherever possible.

### **6. 2.3 Sustainable Procurement Principle 3: Economic Considerations**

Delivering outstanding value for money over the entire lifetime of the contract.

#### **2.3.1 Best Value**

The Local Government Act 1999 places a duty of Best Value on local authorities to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. Lewisham has added equality, environmental impact and electronic service delivery to these measures of continuous improvement.

Contractors, suppliers and service providers will take reasonable steps to co-operate with and assist the Council in fulfilling this duty, in particular to secure continuous improvement in the provision of works, supplies and services.

#### **2.3.2 Bonding**

The Council requires all contractors, suppliers and service providers to provide sufficient bond or surety for contracts where it is deemed appropriate. The Council will normally require contractors, suppliers or service providers

to obtain a bond through its nominated bonding agent to the value of 10% of the contract value, but may in appropriate circumstances accept a nomination by the contractor, supplier or service provider or a cash deposit in lieu of a bond.

### **2.3.3 Business Continuity**

Under the Civil Contingencies Act (2004) Local Authorities have a legal duty to ensure there are robust business continuity arrangements in place throughout the organisation, as well as promoting it to the wider business community. As part of this legal obligation, the Council is responsible for ensuring that all key suppliers and contractors have robust business continuity arrangements that dovetail into their own contingency arrangements.

Contractors, suppliers and service providers business continuity arrangements should cover range of issues such as loss of primary and backup sites, loss of staff, loss of ICT and phone lines, loss of utilities, loss of their own suppliers, loss of specialist equipment, dealing with increase in demand and any other issues that would affect the ability of the business to function and provide a pre-agreed recovery time objectives and minimum level of service to the Council. The Council requires that their plans are submitted as part of the tendering progress together with documented evidence that training takes place regularly and plans are reviewed and tested at least annually.

All contracts with contractors, suppliers and service providers will have a special condition business continuity clause placed by the Council which reinforces the above requirement.

If the Authority requires an additional test of the Business Continuity Plan, it shall give the contractor written notice and the contractor shall conduct the test in accordance with the Authority's requirements and the relevant provisions of the Business Continuity Plan. Following each test, the contractor shall send to the Authority a written report summarising the results of the test and shall promptly implement any actions or remedial measures which the Authority considers to be necessary as a result of those tests.

The contractor shall undertake regular risk assessments and/or business impact analysis in relation to the provision of the services not less than once every twelve months and shall provide the results of, and any recommendations in relation to those risk assessments or business impact analysis to the Authority promptly in writing following each review.

Further information on Business Continuity can be found at:  
<http://www.cabinetoffice.gov.uk/content/business-continuity/>

### **2.3.4 Collusive Tendering**

Contractors, suppliers or service providers must not collude with another in the pricing or submission of any tender. Collusive tendering in the form of bid-rigging, price fixing and market sharing is illegal and the Council is alert to this type of conduct. If such collusion is proven to the satisfaction of the Council then the contractor, supplier or service provider concerned will be removed from any Council Approved List, Preferred List or Framework Agreement and any contracts obtained by such methods may be terminated by the Council.

### **2.3.5 Considerate Constructor Scheme**

All construction or refurbishment contracts/projects in excess of £100,000 or 6 weeks in duration must be registered with the Considerate Constructor Scheme (CCS) and all contractors working on these projects need to adhere to the rules of the scheme. The registration must be undertaken by the principal contractor, who should detail on the CCS documentation the name and contact details of the Lewisham principal contact for each project. Costs of the scheme are to be met by the contractor.

Further information on CCS can be found at:

<http://www.considerateconstructorsscheme.org.uk>

### **2.3.6 Financial Viability**

The Council will require contractors, suppliers or service providers to provide copies of audited accounts, auditors and directors' reports or latest management accounts in order that financial viability may be assessed.

The Procurement Team carry out company credit checks and risk ratings on all potential suppliers using the credit rating service, CreditSafe, to monitor the financial viability of suppliers. CreditSafe alerts may be raised due to a negative and significant change in the risk rating.

Lewisham uses the rating to indicate the level of financial risk the business poses and is a good indicator of financial stability, the possibility of the business defaulting on a loan or not paying their creditors. A failure score below 29 indicates a maximum risk.

Failure/Risk Score	1-29	30-50	51-70	71-100
Impact	<b>Significant level of risk</b>	<b>Average to High Risk</b>	<b>Low Risk</b>	<b>Minimal Risk</b>

Contractors, suppliers and service providers will be subject to a periodical review of their financial situation and must satisfy the Council of their continuing financial capability to resource any prospective contracts.

### **2.3.7 Fraud and Corruption**

Please see the Council's [Fraud And Corruption Policy](#) Statement for a summarised description of fraud and corruption and the Council's aims and initiatives to fight the problem.

Where fraud and corruption is found to occur, in any form, it will be dealt with rigorously in a controlled manner in accordance with the principals of Lewisham's [Anti-Fraud and Corruption Team Prosecutions And Sanction Policy](#). It will be investigated fully and the London Borough of Lewisham will prosecute all offenders where appropriate including members, employees, contractors and external partners and members of the public, in accordance with this policy.

The Council expects all of its contractors, suppliers, agents, partner organisations and individuals, to act with honesty and integrity. Client officers will be responsible for monitoring their actions and for ensuring that their terms of reference, agreements and/or contracts include a clause to the effect that contractors, suppliers and service providers must abide by the Council's Fraud Policy and co-operate with fraud investigations by Council officers.

Agency employees engaged by the Council are bound by the same rules as direct Council employees and are expected to uphold those principles contained in the Code of Conduct. Failure to do so will result in termination of their engagement.

### **2.3.8 Insurances**

All contractors, suppliers and service providers employed by the Council must maintain such insurance policies as are necessary to cover any liability which may arise under the contract.

For contractors, suppliers and service providers wishing to tender for contracts, the following policies will be required as a minimum:

- Public Liability with a minimum indemnity limit of £5m in respect of each and every claim
- Employers' Liability with minimum indemnity limit of £5m in respect of each and every claim
- Professional Negligence insurance with a minimum indemnity limit of £2m in annual aggregate

The insurance policies must be maintained with reputable insurers and approved by the Council. The Council may in certain circumstances amend the required level of cover where a risk assessment of a contract indicates such a level is appropriate.

### **2.3.9 Prompt Payment**

All contracts will require contractors, suppliers and service providers to pay their sub- contractors, through the supply chain, within 30 days from receipt of an undisputed invoice(where no other reasonable mutually agreed terms exist).

All contractors, suppliers and service providers will be required to provide consolidated electronic invoices on a weekly/monthly basis and in addition will be required to accept payment by Government Procurement Card in those instances where supplies (under monthly total of £5k) are made ancillary to the main contract.

The Council is committed to the [Prompt Payment Code](#), to which it has become an Approved Signatory. Contractors, suppliers and service providers engaged to work for the Council are encouraged to adopt the Code throughout their own supply chains.

### **2.3.10 Quality Management**

Whilst it is not a requirement for contractors, suppliers or service providers to be formally Quality Assured with an accredited certification body, it is a requirement that organisations have a quality management system in place that is at least to the standard of the ISO 9000 series (or equivalent). Please see [here](#) for details of ISO 9000 standards.

### **2.3.11 Sub-Contracting**

Any contractor, supplier or service provider wishing to sub-contract must submit the name of the sub-contractor to the Council for approval. The main contractor, supplier or service provider will be responsible as far as practicable for the compliance with this Code by any sub-contractor employed on a contract and the contractor, supplier or service provider must enforce its provisions against the subcontractor if necessary.

When seeking written permission from the Council to sub contract, the main contractor must satisfy the Council of the intended sub contractor's competence and provide written evidence of having assessed the sub-contractor in the following areas:

- experience in the type of work to be done;
- health and safety policies and practices;
- recent health and safety performance (number of accidents etc);
- qualifications and skills;
- safety method statement;
- health and safety training and supervision provided;
- arrangements for consulting the workforce;
- any independent assessment of their competence;
- memberships of a relevant trade or professional body; or
- whether they or their employees hold a 'passport' in health and safety training.
- Modern Slavery statement as required section 54 of the Modern Slavery Act 2015.

The degree of competence required will depend on the work to be done, and the level of risk involved.

The Council will treat a breach of this Code by a sub-contractor as if it were a breach by the main contractor, supplier or service provider and will be entitled to take action against the main contractor, supplier or service provider accordingly.

The main contractor, supplier or service provider must make it a requirement in any sub- contract that the sub-contractor complies with this Code and the main contractor, supplier or service provider must supply a copy to the sub-contractor.

### **2.3.12 Technical Competence**

The Council will satisfy itself of a contractor's, supplier's or service provider's technical competence and ability to undertake work for which they may be considered. In assessing such suitability, account will be taken of similar work undertaken recently, the size and qualifications of the contractor's, supplier's or service provider's workforce relevant to its ability to resource the particular type of work, and accreditation under any regulatory registration schemes. The contractor, supplier or service provider must provide such relevant information and reasonable access for the Council to assess such suitability.

### **2.3.13 Transfer of Undertakings (Protection of Employment) Regulations**

The Transfer of Undertakings (Protection of Employment) Regulations [or 'TUPE'], provide that, if an undertaking is transferred by one employer to another, the staff of the undertaking are

- a) entitled to employment by the new employer, with the same conditions of service as before,

- b) not entitled to redundancy payments from their old employer. The Regulations (as amended by the Trade Union Reform & Employment Rights Act 1993) incorporate into UK law the EC Acquired Rights Directive.

The TUPE Regulations will not apply to all Council contracts, but where they do, contractors, suppliers and service providers will be expected to make provision for their implementation in any tenders. Please find more information on TUPE [here](#).

Under the Local Government Pension Scheme (Amendment etc) Regulations 1999, the Scheme is modernised to allow the entry of specific types of employers by means of admission agreements. This entry 'Admitted Body Status' may be available to companies bidding for Council contracts, and allows the transferred staff to maintain their current pension arrangements.

The Council supports admissions to the LGPS on a pass-through basis and has a pass-through policy and draft admission agreement available where required. Where staff are in the Local Government Pension Scheme, tenderers should seek their own independent professional advice in these cases.

## 7.

### **3. Enforcement of the Code**

**3.1** The Council will seek to ensure that all contractors, suppliers and service providers whom it employs take full account of the code in the delivery of goods and services.

**3.2** Contractors, suppliers and service providers shall ensure that the applicable provisions of the Sustainable Procurement Code of Practice are appropriately communicated to all members of their supply chain at tender stage and reinforced with those who are appointed as subcontractors.

**3.3** Any duly accredited representative(s) of the Council will have the contractual right at all reasonable times to enter any site, depot, workshop or office of the contractor, supplier or service provider (or the sub-contractor if appropriate) to ascertain whether or not this Code is being complied with. During any such visit the representative(s) may be accompanied by the contractor, supplier or service provider or their representative(s).

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