

DATED

20 August

2025

WIRRAL BOROUGH COUNCIL (1)

AS AUTHORITY

AND

PROFESSIONAL CARERS (WIRRAL) LTD (2)

AS CONTRACTOR

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CONTRACT FOR THE

PROVISION OF CARE AND SUPPORT AT  
HOME SERVICE MOBLIE NIGHTS  
SERVICE DN765801

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**SECTION A**  
**THE PARTICULARS**

This Contract is made on

2025

## **PARTIES**

- (1) **WIRRAL BOROUGH COUNCIL** of Town Hall Brighton Street Wallasey CH44 8ED (“the **Authority**”); and
- (2) **PROFESSIONAL CARERS (WIRRAL) LTD** registered in England and Wales with Company Number 07617005 whose registered office is at 221 Seaview Road, Wallasey, Wirral, England, CH45 4PD (“the **Contractor**”).

## **BACKGROUND**

- (A) The Authority must exercise a number of community care functions and duties. In order to satisfy these obligations and to meet other needs which it has power to do so, the Authority wishes to secure the provision of the Services and the Contractor wishes to provide the Services.
- (B) The Parties have agreed for the Contractor to provide the Services in accordance with the terms and conditions of this Contract.

## **IT IS AGREED**

### **A1. CONTRACT**

A1.1 This Contract comprises of:-

- a) these Particulars (Section A);
- b) the General Terms and Conditions (the General Conditions) (Section B); and
- c) the Contractor’s response to the Authority’s invitation to tender ref DN765801

as completed and agreed by the Parties and as varied from time to time in accordance with clause B21 (Variations) of the General Conditions (“this Contract”).

### **A2. INTERPRETATION**

- A2.1 This Contract shall be interpreted in accordance with Schedule H (Definitions and Interpretation), unless the context requires otherwise.
- A2.2 The terms and conditions of the contract as stated herein override any terms and conditions specified by the Contractor in submitting his tender.
- A2.3 If there is any conflict or inconsistency between the provisions of this Contract, such conflict or inconsistency must be resolved according to the following order of priority:-
  - a) Section B; and
  - b) Section A

### **A3. COMMENCEMENT AND DURATION**

- A3.1 This Contract shall take effect on the date it is executed by or on behalf of the Parties (“the Commencement Date”).

- A3.2 The Contractor shall, subject to having satisfied the Conditions Precedent where applicable, provide the Services from 01 September 2025 (“the Service Commencement Date”).
- A3.3 This Contract shall expire automatically on 31 August 2028 (“the Expiry Date”), unless it is extended or terminated earlier in accordance with the provisions of this Contract.
- A3.4 The Authority may require the Contractor to offer to provide services under this contract for up to 2 further periods in blocks of 12 months from the automatic expiry date of 31 August 2028, by serving written notice on the Contractor not less than 4 months before such date. The Contractor shall indicate it accepts the Contract extension offered within 1 month of such notice or such longer period as the Authority may agree with the Contractor. If the contract is so extended then the Contractor shall continue to supply such services on the terms and conditions of this contract.

#### **A4. REPRESENTATIVES**

- A4.1 The person set out below is authorised from the Commencement Date to act on behalf of the Authority on all matters relating to this Contract (“the Authority Representative”).

Title: [REDACTED] Assistant Director Integrated Services & Commissioning

Contact Details: Wirral Borough Council, PO Box 290, Brighton Street, Wallasey CH27 9FQ

- A4.2 The person set out below is authorised from the Commencement Date to act on behalf of the Contractor on all matters relating to this Contract (the Contractor Representative).

Name: [REDACTED]

Title: Director

Contact Details: Professional Carers (Wirral) Ltd, 221 Seaview Road, Wallasey, Wirral, CH45 4PD

- A4.3 The Contractor may replace the Contractor Representative and the Authority may replace the Authority Representative at any time by giving written notice to the other Party. In addition, all delegates duly appointed by the Authority Representative are authorised to act on his behalf.

#### **A5. NOTICES**

- A5.1 Any notices given under this Contract shall be in writing and shall be served by hand or post (and in the case of notice on the Contractor by e-mail) by sending the same to the address for the relevant Party set out in clause A5.3.

- A5.2 Notices:-

- a) by post and correctly addressed shall be effective upon the earlier of actual receipt, or 2 Business Days after mailing (in the case of first class post) or 5 Business Days (in the case of second class post); or
- b) by hand shall be effective upon delivery; or
- c) from the Authority by e-mail transmission effective upon transmission at the time transmission is complete or if such time is after 5 pm on a Business Day then at 9 am on the next Business Day.

A5.3 For the purposes of clause A5.2, the address for service of notices on each Party shall be as follows:-

a) For the Authority:-

Address: Wirral Borough Council, PO Box 290, Brighton Street, Wallasey  
CH27 9FQ  
For the attention of: Head of Legal Services  
Reference: RSN/12660904 DN765801

b) For the Contractor:-

Address: Professional Carers (Wirral) Ltd, 221 Seaview Road, Wallasey,  
Wirral, CH45 4PD  
For the attention of: [REDACTED]

A5.4 Either Party may change its address for service by serving a notice in accordance with this clause A5.

A5.5 Notice by e-mail from the Contractor shall not be effective.

#### **A6. ENTIRE CONTRACT**

This Contract constitutes the entire agreement and understanding of the Parties and supersedes any previous agreement between the Parties relating to the subject matter of this Contract, except for any contract entered into between the Authority and the Contractor which relates to the same or similar services to the Services and is designed to remain effective and is in fact effective until the Services are provided under this Contract.

#### **A7. COUNTERPARTS**

This Contract may be executed in counterparts each of which when executed and delivered shall constitute an original but all counterparts together shall constitute one and the same instrument. No counterpart shall be effective until each Party has executed at least one counterpart.

**IN WITNESS WHEREOF the Parties have signed this Contract on the date shown below**

THE COMMON SEAL of )  
WIRRAL BOROUGH COUNCIL )  
was hereunto affixed )  
in the presence of )



[Redacted Signature]  
Authorised Officer

NUMBER IN SEAL BOOK: 660968

Executed as a deed by  
PROFESSIONAL CARERS (WIRRAL) LTD  
acting by

[Redacted Signature]

[Redacted Signature] - Director

Witness

[Redacted Signature]

[Redacted Signature] - Director

**SECTION B**  
**GENERAL TERMS AND CONDITIONS**

## **B1. SERVICES**

- B1.1 The Contractor shall provide the Services in accordance with the Service Specification in Schedule A (*Service Specifications*), including any service limitations set out in them, and in accordance with the provisions of this Contract.
- B1.2 The Contractor shall satisfy any Conditions Precedent set out in Schedule B (*Conditions Precedent*) prior to commencing provision of the Services.
- B1.3 The Authority does not oblige itself to buy any volume of Services nor make any referrals. Any estimates of volumes provided prior to this Contract being entered into were for general information only.

## **B2. SERVICE AND QUALITY OUTCOMES INDICATORS**

- B2.1 The Contractor must carry out the Services in accordance with the Law and Good Industry Practice and must, unless otherwise agreed (subject to the Law) with the Authority in writing:-
- a) Ensure that sufficient, instructed and competent staff are available to provide services to all sections of the community including those who do not speak English.;
  - b) All contractors for the supply of goods and services will uphold the principles of sustainable development and comply with all environmental legislation, to include but not be limited to the Environmental Protection Act 1990;
  - c) comply, where applicable, with the registration and regulatory compliance guidance of CQC and any other Regulatory Body;
  - d) Respond, where applicable, to all requirements and enforcement actions issued from time to time by CQC or any other Regulatory Body;
  - e) consider and respond to the recommendations arising from any audit, death, Serious Case report or Service User Safety Incident report;
  - f) comply with the recommendations issued from time to time by a Competent Body.

## **B3. SERVICE USER INVOLVEMENT**

- B3.1 The Contractor shall engage, liaise and communicate with Service Users, their Carers and Legal Guardians in an open and clear manner in accordance with the Law, Good Industry Practice and their human rights.
- B3.2 The Contractor must carry out Service User surveys (and Carer surveys) at least once in every period of 12 months and shall carry out any other surveys reasonably required by the Authority in relation to the Services. The form and method of reporting such surveys shall be agreed between the Parties in writing from time to time and if not agreed then in such form as is consistent with Good Industry Practice
- B3.3 The Contractor must review and provide a written report to the Authority on the results of each survey carried out under clause B3.2 and identify any actions reasonably required to be taken by the Contractor in response to the surveys. The Contractor must implement such actions as soon as practicable. If required by the Authority, the Contractor must publish the outcomes and actions taken in relation to such surveys.



#### **B4. EQUITY OF ACCESS, EQUALITY AND NO DISCRIMINATION**

- B4.1 In discharging its obligations under this contract, the Contractor will comply with all applicable Acts of Parliament, Regulations, Orders, Directives, Statutory Guidance, Codes of Practice and Byelaws that are in force or may come into force during this contract.
- B4.2 Without prejudice to, or limitation of, its obligations under Clause B4.1, the Contractor shall comply with the following requirements in discharging its obligations under this contract
- B4.3 The Contractor shall not discriminate directly or indirectly against any person the grounds of gender, gender re-assignment, marriage or civil partnership, pregnancy or maternity sexuality, age, religion and belief, colour, race, nationality, national or ethnic origin, contrary to the Equality Act 2010
- B4.4 The Contractor shall ensure that it complies with the requirements of the Equality Act 2010 in carrying out its obligations under this contract and carries out at its own cost and expense all such acts and things as are necessary to ensure that the Council is not placed in breach of any requirements imposed on it by the Equality Act 2010
- B4.5 The Contractor shall notify the Council as soon as it becomes aware of any complaint or proceedings against the Contractor alleging any breach of the Equality Act 2010 or any investigation of the Contractor's performance of this agreement. In the event of any such complaint, proceedings or investigation the Contractor will co-operate fully and promptly with the body undertaking the investigation or bringing the proceedings, and will indemnify the Council against all costs, charges and expenses (including legal and administrative expenses and any compensation that the Council is required to pay) arising out of such investigation of proceedings.

#### **B5. STAFF**

- B5.1 At all times, the Contractor must ensure that:
- a) each of the Staff is suitably qualified and experienced, adequately trained and capable of providing the applicable Services in respect of which they are engaged;
  - b) there is an adequate number of Staff to provide the Services properly in accordance with the provisions of the applicable Service Specification and shall conduct regular reviews of staffing levels and resources and in planning take account of increased demand and winter pressures, bank holidays and school holidays;
  - c) where applicable, Staff are registered with the appropriate professional regulatory body;
  - d) ensure there is continuity in relation to a Service user and Staff assigned to them in accordance with the Specification and

e) the Contractor has procedures and guidance for Staff that will safeguard vulnerable adults in receipt of Services and disciplinary policies and procedures that reflect the importance of safeguarding vulnerable adults in receipt of Services and their families. Written guidance must be provided to all staff, which explicitly states that staff are not allowed to:-

- Act as appointees
- Act as executors or witness to the Service Users will or other legal documents
- Borrow from or loan money to the Service User
- Receive money or any gifts from the Service User without informing his/her manager; as a guide it is acceptable for Staff to receive small token gifts from a Service User, e.g. at Christmas or where refusal would particularly offend. The reporting of such gifts is essential and must be recorded by the Contractor.
- Use the Service Users phone or other devices to make or receive calls except for urgent calls relating to the Service Users welfare or for the purpose of electronic monitoring.
- Take members of their own family or friends to the Service User's home

B5.2 The Contractor must have in place adequate systems for training and development of staff seeking and recording specialist professional advice and must ensure that every member of Staff involved in the provision of the Services receives proper and sufficient continuous professional and personal development, training and instruction each in accordance with Good Industry Practice and the standards of any applicable relevant professional body.

B5.3 Subject to clause B5.4, before the Contractor engages or employs any person in the provision of the Services, or in any activity related to, or connected with, the provision of the Services, the Contractor must without limitation, complete:-

- a) the Employment Checks; and
- b) such other checks as required by the DBS.

B5.4 Subject to clause B5.5, the Contractor may engage a person in a Standard DBS Position or an Enhanced DBS Position (as applicable) pending the receipt of the Standard DBS Check or Enhanced DBS Check or Enhanced DBS & Barred List Check (as appropriate) with the agreement of the Authority.

B5.5 Where clause B5.4 applies, the Contractor will ensure that until the Standard DBS Check or Enhanced DBS Check or Enhanced DBS & Barred List Check (as appropriate) is obtained, the following safeguards will be put in place:-

- a) an appropriately qualified and experienced member of Staff is appointed to supervise the new member of Staff;
- b) wherever it is possible, this supervisor is on duty at the same time as the new member of Staff, or is available to be consulted;
- c) the new member of Staff is accompanied at all times by another member of staff, preferably the appointed supervisor, whilst providing services under this Contract; and
- d) any other reasonable requirement of the Authority.

B5.6 The Contractor must on written request of the Authority and in any event within 20 Business Days of that request (unless otherwise agreed in writing), provide the Authority with all

information on the Staff engaged in the provision of the Services, including all employee liability information that would be relevant.

- B5.7 The Contractor shall indemnify and keep indemnified the Authority and any Successor Contractor against any Losses incurred by the Authority and/or the Successor Contractor in connection with any claim or demand by any transferring employee under TUPE. The Contractor shall be liable for and indemnify and keep indemnified the Authority against any failure to meet all remuneration, benefits, entitlements and outgoings for the Transferring Employees, and any other person who is or will be employed or engaged by the Contractor in connection with the provision of the Services, including without limitation, all wages, holiday pay, bonuses, commissions, payments of PAYE, National Insurance contributions, pension contributions, termination costs and otherwise from and including the date of Relevant Transfer.
- B5.8.1 The Contractor must on written request of the Authority and in any event within 20 days of that request (unless otherwise agreed in writing), provide the Authority with the Contractor's Provisional Staff List and the Staffing Information. In the case where notice has been served to terminate this Contract or it has in fact terminated the Contractor must supply the information to the Authority within 7 days of request or at the Authority's direction to any prospective or actual third party supplier.
- B5.8.2 The Authority shall be permitted to use the Contractor's Provisional Staff List and information regarding the Staff supplied to the Authority for informing any tenderer or prospective replacement Contractor for any services which are substantially the same type of service (or part of them) as the Services.
- B5.8.3 Upon reasonable request by the Authority the Contractor shall update the Contractor's Provisional Staff List and provide the Authority or at the request of the Authority the successful tenderer who has been approved by the Authority with access upon reasonable notice and at reasonable times in working hours to such employment records (and provide copies of them) as the Authority reasonably requests and employee liability information under Regulation 11 of TUPE for such of the Staff who will be transferred to any supplier pursuant to TUPE on expiry or termination of this Contract
- B5.8.4 Where notice has been given by the Authority and in addition in the last 6 months of this Contract the Contractor shall not alter the terms and conditions of employment of any employees under this Contract other than to make wage or salary awards which are in line with those offered generally to employees of a similar status within the Contractor's workforce as required by law nor shall the Contractor recruit an employee after notice of termination has been given by the Authority or in the last 6 months of this Contract who would, if recruited be employed in or assigned to (whether wholly or partly) the performance of the Services unless the Contractor has the Authority's prior written consent.
- B5.8.5 If TUPE applies as a result of the termination of the Services or this Contract and the award of contract to another party or otherwise then the Contractor shall indemnify the Authority against each and every cost, claim. Liability, expense or demand whatsoever, and howsoever arising incurred suffered or payable by the Authority including without limitation all legal expenses and other professional fees (together with any VAT on them) arising from any act or omission of the Contractor or any event or circumstance occurring on or before termination of this Contract and whether relating to an employee who transfers by way of TUPE or any other person employed or formerly employed by the Authority or the Contractor for which it is alleged the Authority or any other party may be liable by virtue of this Contract or TUPE.

- B5.8.6 The Contractor shall indemnify and keep indemnified the Authority and any Successor Contractor in respect of each and every and any cost claim, liability, expense or demand arising from any act or omission of the Contractor in relation to its obligations under TUPE and/or or in respect of any compensation payable under Regulation 12 of TUPE.
- B5.8.7 The parties agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to this clause B5.8 to the extent necessary to ensure any Successor Contractor shall have the right to enforce the obligations owed to and indemnities given to Authority by the Contractor under this clause B6.8.
- B5.8.8 Notwithstanding clause B5.8.7 above it is expressly agreed that the parties may by agreement vary or rescind the terms of this clause B5.8 notwithstanding that such rescission or variation may extinguish or alter that person's entitlement under it.
- B5.9 Exit Provisions
- B5.9.1 Where the identity of the deliverer of any of the Services changes this may constitute a Relevant Transfer for the purposes of TUPE and the contracts of employment of any Transferring Employees shall transfer.

## **B7. CHARGES AND PAYMENT**

- B7.1 Payment of the Contractor is set out in Schedule D.

## **SERVICE IMPROVEMENTS AND BEST VALUE DUTY**

- B8.1 The Contractor must to the extent reasonably practicable co-operate with and assist the Authority in fulfilling its Best Value Duty.
- B8.2 During the term of this Contract at the reasonable request of the Authority, the Contractor must:-
- a) demonstrate how it is going to secure continuous improvement in the way in which the Services are delivered having regard to a combination of economy, efficiency and effectiveness and the Parties may agree a continuous improvement plan for this purpose;
  - b) implement such improvements; and
  - c) where practicable following implementation of such improvements decrease the price to be paid by the Authority for the Services.
- B8.3 If requested by the Authority, the Contractor must identify the improvements that have taken place in accordance with clause B8.2, by reference to any reasonable measurable criteria notified to the Contractor by the Authority.

## **B9. SAFEGUARDING CHILDREN AND VULNERABLE ADULTS and WHISTLEBLOWING PROCEDURES**

- B9.1 The Contractor shall adopt safeguarding policies and procedures that comply with the Authority's safeguarding policy as amended from time to time.

- B9.2 At the written request of the Authority and by no later than 5 Business Days following receipt of such request, the Contractor must provide evidence to the Authority that it is addressing any safeguarding concerns.
- B9.3 If requested by the Authority, the Contractor shall participate in the development of any local multi-agency safeguarding quality indicators and/or plan.
- B9.4 Contractors will ensure all staff engaged in delivery of the Services are aware that they have a duty to report any suspicions, allegations, observations or disclosures of abuse to their line manager within 1 hour, or if the line manager is likely to be unavailable within timescale, directly to the Authority or its appointed agent or contractor on such number as notified from time to time.
- B9.5 Contractors will remove from delivery of Services any person against whom an allegation of abuse is made until such time (if at all) as such allegation is investigated and all appropriate measures following such investigation taken effect.
- B9.6 The Contractor must have a confidential reporting procedure allowing Staff and others to raise matters concerning possible malpractice on a confidential basis that protects so far as practicable that member of Staff being identified. In addition the Contractor must give all employees a copy of the Council's policy relating to Whistleblowing and expressly advise them and remind them at least annually that the policy exists and encourage Staff to raise serious concerns with the Authority.

#### **B10. INCIDENTS REQUIRING REPORTING**

- B10.1 The Contractor shall comply with the requirements and arrangements for notification of deaths and other incidents to CQC in accordance with CQC Regulations and if CQC registration is not required or is no longer relevant the Contractor shall notify a Serious Case to any Regulatory Body as applicable, in accordance with the Law.
- B10.2 If the Contractor gives a notification to the CQC or any other Regulatory Body under clause B10.1 which directly or indirectly concerns any Service User, the Contractor must send a copy of it to the Authority within 5 Business Days.
- B10.3 The Parties must comply with the arrangements for reporting, investigating, implementing and sharing the Lessons Learned from Serious Cases, Service User Incidents and non-Service User safety incidents that are set out in Schedule E or as otherwise agreed between the Contractor and the Authority.
- B10.4 Subject to the Law, the Authority shall have complete discretion to use the information provided by the Contractor under this clause B.10 and Schedule E.
- B10.5 All Serious Incidents and other incidents as set out in Schedule E must be reported to the social worker allocated the case by telephone, same day or within the next working day (and confirmed in writing within 2 working days).

## **B11. CONSENT**

- B11.1 The Contractor must publish, maintain and operate a Service User consent policy which complies with Good Industry Practice and the Law.

## **B12. SERVICE USER RECORDS**

- B12.1 The Contractor must create, maintain, store and retain Service User records:-

- a) appropriate to the Services being provided and only as necessary for that purpose;
- b) as required by Law; and
- c) in a form required by the Authority from time to time and if none required then in such form as is consistent with Good Industry Practice

for all Service Users for the periods of time required by Law and securely destroy them in accordance with any applicable Law (and if none, then not less than six (6) years).

- B12.2 The Contractor must:-

- a) use Service User records solely for the execution of the Contractor's obligations under this Contract and its obligations to the Service User; and
- b) give each Service User full and accurate information of the Services rendered to them.

## **B13. INFORMATION AND POLICIES**

- B13.1 The Contractor shall maintain policies in accordance with the Law and Good Industry Practice on the matters set out in the Specification.

- B13.2 In addition to the information required under clause B13.1, the Authority may request from the Contractor any other information it reasonably requires in relation to this Contract and the Contractor must deliver such requested information in a timely manner.

## **B14. EQUIPMENT**

- B14.1 The Contractor must provide and maintain at its own cost (unless otherwise agreed in writing) all Equipment necessary for the supply of the Services in accordance with any required Consents and must ensure that all Equipment is fit for the purpose of providing the applicable Services.

## **B15. TRANSFER OF AND DISCHARGE FROM CARE OBLIGATIONS**

- B15.1 The Contractor must comply with any protocols applicable to the transfer or transition of Service Users between care and health services that apply in the wider health economy and if none expressly set out then in accordance with Care Protocols agreed by the Parties from time to time or if not agreed as set out by the Authority.

## **B16. COMPLAINTS**

- B16.1 The Contractor must at all times comply with the relevant regulations for complaints relating to the provision of the Services.
- B16.2 If a complaint is received about the standard of the provision of the Services or about the manner in which any of the Services have been supplied or work has been performed or about the materials or procedures used or about any other matter connected with the performance of the Contractor's obligations under this Contract, then the Authority may take any steps it considers reasonable in relation to that complaint, including investigating the complaint and discussing the complaint with the Contractor, CQC or/and any Regulatory Body. Without prejudice to any other rights the Authority may have under this Contract, the Authority may, in its sole discretion, uphold the complaint and take any action specified in clause 0 (*Defaults and Failure to Supply*).
- B16.3 The Contractor must have a complaints process as provided for in the Specification

#### **B17. SERVICE REVIEW**

- B17.1 Schedule G sets out the Key Performance Indicators and Subsidiary Performance Indicators which shall be used to measure the performance of the Services and Social Value commitment by the Contractor.
- B17.2 The Contractor must by no later than 5 Business Days from the last day of each financial quarter of this Contract deliver to the Authority a Service Quality Performance Report against the factors set out in Schedule G (*Service Quality Performance Report*). The report is to be submitted in the format agreed with the Authority from time to time, data is broken down by calendar month.

#### **B18. REVIEW MEETINGS**

- B18.1 The Parties must review and discuss Service Quality Performance Reports and monitor performance of the Contract in line with the KPIs provided in clause B17, and consider any other matters reasonably required by either Party at Review Meetings which should be held in quarterly or such other periods as the Authority may from time to time request.

#### **B19. CO-OPERATION**

- B19.1 The Parties must at all times act in good faith towards each other.
- B19.2 The Contractor must co-operate fully and liaise appropriately with:-
- a) the Authority;
  - b) any third party Contractor which the Service User may be transferred to or from the Contractor;
  - c) any third party Contractor which may be providing care to the Service User at the same time as the Contractor's provision of the relevant Services to the Service User;
- in order to:-
- d) ensure that a consistently high standard of care for the Service User is at all times maintained;

- e) ensure a co-ordinated approach is taken to promoting the quality of Service User care across all pathways spanning more than one Contractor;
- f) achieve a continuation of the Services that avoids inconvenience to, or risk to the health and safety of, Service Users, employees of the Authority or members of the public.

## **B20. WARRANTIES AND REPRESENTATIONS**

B20.1 The Contractor warrants and represents that:-

- a) It has full capacity and authority to enter into this Contract and all necessary Consents have been obtained and are in full force and effect;
- b) its execution of this Contract does not and will not contravene or conflict with its constitution, any Law, or any agreement to which it is a party or which is binding on it or any of its assets;
- c) in entering this Contract it has not committed any Fraud;
- d) all reasonably material information supplied by it to the Authority during the award procedure leading to the execution of this Contract is, to its reasonable knowledge and belief, true and accurate and it is not aware of any material facts or circumstances which have not been disclosed to the Authority which would, if disclosed, be likely to have an adverse effect on a reasonable public sector entity's decision whether or not to contract with the Contractor substantially on the terms of this Contract; and
- e) No proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge are any such proceedings or other steps threatened) for the winding up of the Contractor or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Contractor's assets or revenue.

B20.2 The Authority warrants and represents that:-

- a) it has full power and authority to enter into this Contract and all necessary approvals and consents have been obtained and are in full force and effect; and
- b) its execution of this Contract does not and will not contravene or conflict with its constitution, any Law, or any agreement to which it is a party or which is binding on it;

B20.3 The warranties set out in this clause B20 are given on the Commencement Date and repeated on every day during the term of this Contract.

## **B.21 VARIATIONS**

B21.1 This Contract may not be amended or varied other than in accordance with this clause B21.

B21.2 No Variation to this Contract will be valid or of any effect unless agreed in writing by the Authority Representative (or his nominee) and the Contractor Representative (or his nominee) in accordance with clause A5 (*Notices*).



## **B22. ASSIGNMENT AND SUB-CONTRACTING**

- B22.1 The Contractor must not assign, transfer, charge delegate or subcontract or otherwise deal with any of its rights or obligations under this Contract.
- B22.2 The Authority may assign, transfer, novate or otherwise dispose of any or all of its rights and obligations under this Contract without the consent of the Contractor.

## **B23. AUDIT AND INSPECTION**

- B23.1 The Contractor must comply with all reasonable written requests made by CQC, the National Audit Office, any Authorised Person and the authorised representative of the Local HealthWatch for entry to the Contractor's Premises and/or the premises of any Sub-contractor or such other premises as may be relevant for the purposes of auditing, viewing, observing or inspecting such premises and/or the provision of the Services, and for information relating to the provision of the Services. The Contractor may refuse such request to enter the Contractor's Premises and/or the premises of any Sub-contractor on a temporary basis where it would adversely affect the provision of the Services or, the privacy or dignity of a Service User.
- B23.2 Subject to Law and notwithstanding clause B23.1, an Authorised Person may enter the Contractor's Premises and/or the premises of any Sub-contractor without notice for the purposes of auditing, viewing, observing or inspecting such premises and/or the provision of the Services. During such visits, subject to Law and Good Industry Practice (also taking into consideration the nature of the Services and the effect of the visit on Service Users), the Contractor must not restrict access and must give all reasonable assistance and provide all reasonable facilities to the Authorised Person.
- B23.3 Within 10 Business Days of the Authority's reasonable request, the Contractor must send the Authority a verified copy of the results of any audit, evaluation, inspection, investigation or research in relation to the Services, or services of a similar nature to the Services delivered by the Contractor, to which the Contractor has access and which it can disclose in accordance with the Law.
- B23.4 The Authority shall use its reasonable endeavours to ensure that the conduct of any audit does not unreasonably disrupt the Contractor or delay the provision of the Services.
- B23.5 To facilitate performance monitoring and customer care the Contractor must maintain a suitable office accessible for all Service Users and carers and all members of the public with a legitimate interest in visiting them
- B23.6 During any audit undertaken under clause B23.1 or B23.2, the Contractor must provide the Authority with all reasonable co-operation and assistance in relation to that audit, including:-
- a) all reasonable information requested within the scope of the audit;
  - b) reasonable access to the Contractor's Premises and/or the premises of any Sub-contractor; and
  - c) access to the Staff.

The Contractor must co-operate with any investigation of the Ombudsman investigating a complaint by any Service User or Carer and pay the cost of any payment awarded to such complainant where there is a finding of maladministration causing injustice as a result of fault attributable to the Contractor.

**B24. INDEMNITIES**

B24.1 The Contractor shall indemnify and keep indemnified the Authority against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever, whether arising in tort (including negligence), default or breach of this Contract, or breach of its statutory duty or breach of an obligation under the DPA, save to the extent that the same is directly caused by or directly arises from the negligence, breach of this Contract or breach of statutory duty or breach of an obligation under the DPA by the Authority.

**B.25 LIMITATION OF LIABILITY**

B25.1 Neither Party shall be liable to the other Party (as far as permitted by Law) for Indirect Losses in connection with this Contract.

B25.2 Each Party must at all times take all reasonable steps to minimise and mitigate any Losses for which it is entitled to be indemnified by or bring a claim against the other Party pursuant to this Contract.

B25.3 Nothing in this Contract will exclude or limit the liability of either Party for:-

- a) death or personal injury caused by its negligence; or
- b) fraud or fraudulent misrepresentation.

**B26. INSURANCE AND INDEMNITY**

B26.1 The Contractor must at its own cost effect and maintain with a reputable insurance company the Required Insurances. The cover shall be in respect of all risks which may be incurred by the Contractor, arising out of the Contractor's performance of this Contract, including death or personal injury, loss of or damage to property or any other such loss. Such policies must include cover in respect of any financial loss arising from any advice given or omitted to be given by the Contractor.

B26.2 The Contractor must give the Authority, on request, a copy of or a broker's placement verification of the Required Insurances insurance, together with receipts or other evidence of payment of the latest premiums due under those policies.

B26.3 The provision of any insurance or the amount or limit of cover will not relieve or limit the Contractor's liabilities under this Contract.

B26.4 The Contractor will indemnify and keep indemnified the Authority against any liability as regards the death of or injury to any person connected to the provision of the Service or any act or omission of the Contractor except and to the extent that it may arise out of a negligent act of the Council, its employees or agents not being the Contractor or employed by the Contractor. The Contractor must:-

- a) comply with all relevant and any future legislation that might apply to the Service defined in this Contract;

- b) maintain Public Liability Insurance of not less than £10,000,000 for any one claim or series of claims arising out of one event;
- c) maintain Employers Liability Insurance of £5,000,000 (or statutory minimum) for any one claim or series of claims arising out of one event;
- d) maintain Professional Indemnity Insurance of £2,000,000;
- e) maintain insurance cover for any motor vehicle used in connection with any part of the Service that complies with the Road Traffic Act 1972 and is adequate for the type of use being made in connection with the Service;
- f) procure and maintain the above-mentioned insurance(s) with a reputable company or companies approved by the Council;
- g) make available to the Authority upon request copies of the above-mentioned insurance policies together with receipts for current premiums relating to their requirements.

## **B27. DEFAULTS AND FAILURE TO SUPPLY**

B27.1 In the event that the Authority is of the reasonable opinion that there has been a Default which is a material breach of this Contract by the Contractor, then the Authority may, without prejudice to any other rights or remedies it may have under this Contract including under clause B28 (*Contract Management*) do any of the following:-

- a) require the Contractor to submit a performance improvement plan detailing why the material breach has occurred and how it will be remedied within 10 Business Days or such other period of time as the Authority may direct;
- b) without terminating this Contract, suspend the affected Service in accordance with the process set out in clause B29 (*Suspension and Consequences of Suspension*);
- c) without terminating the whole of this Contract, terminate this Contract in respect of the affected part of the Services only in accordance with clause B30 (*Termination*) (whereupon a corresponding reduction in the Charges shall be made) and thereafter the Authority may supply or procure a third party to supply such part of the Services.

B27.2 If the Authority exercises any of its rights under clause B27.1, the Contractor must indemnify the Authority for any costs reasonably incurred (including reasonable professional costs and any reasonable administration costs) in respect of the supply of any part of the Services by the Authority or a third party provided that the Authority uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Services.

## **B28. CONTRACT MANAGEMENT**

B28.1 The provisions of this clause B28 do not affect any other rights and obligations the Parties may have under this Contract.

### **Contract Query**

B28.2 If the Authority has a Contract Query it may in addition to any other remedy it has under this Contract or in Law or at common law issue a Contract Query Notice to the Contractor

### **Excusing Notice**

- B28.3 The Contractor may issue an Excusing Notice to the Authority within 3 Business Days of the date of the Contract Query Notice.
- B28.4 If the Authority accepts the explanation set out in the Excusing Notice, it must withdraw the Contract Query Notice in writing within 7 Business Days following the date of the Contract Query Notice.

### **Contract Management Meeting**

- B28.5 Unless the Contract Query Notice has been withdrawn, the Authority and the Contractor must meet to discuss the Contract Query and any related Excusing Notice within 10 Business Days following the date of the Contract Query Notice. If the Contractor does not attend such a meeting then the Authority may unilaterally set a Remedial Action Plan within 20 Business Days of the date of the Contract Query Notice
- B28.6 At the Contract Management Meeting the Authority and the Contractor must agree either:
- a) that the Contract Query Notice is withdrawn; or
  - b) to implement an appropriate Remedial Action Plan

If the Parties do not come to an agreement at such meeting the Authority may unilaterally set a Remedial Action Plan but if it does so must do so within 10 Business Days of the Contract Management Meeting

- B28.7 NOT USED
- B28.8 NOT USED
- B28.9 NOT USED

### **Remedial Action Plan**

- B28.10 If a Remedial Action Plan is to be implemented, the Authority and the Contractor must agree the contents of the Remedial Action Plan within:
- a) 5 Business Days following the Contract Management Meeting. If the Remedial Action Plan is not agreed at the Contract Management meeting then the Authority may unilaterally set a Remedial Action Plan
- B28.11 If following implementation of a Remedial Action Plan:
- a) the matters that gave rise to the relevant Contract Query Notice have been resolved, it must be noted in the next Review Meeting that the Remedial Action Plan has been completed;
  - b) any matter that gave rise to the relevant Contract Query Notice remains in the reasonable opinion of the Authority unresolved, the Authority may issue a further Contract Query Notice in respect of that matter.

### **Exception Reports**

- B28.12 If the Contractor breaches a Remedial Action Plan and does not remedy the breach within 5 Business Days of its occurrence, the Authority (as the case may be) may issue a First Exception Report to the Contractor's chief executive and/or Board of Directors. Or may withhold payment from the Contractor in accordance with clause B28.14.
- B28.13 If following issue of the First Exception Report, the breach of the Remedial Action Plan is not rectified within the timescales indicated in the First Exception Report, the Authority may issue a Second Exception Report to the relevant Party's chief executive and/or Board of Directors ; and/or;

b) copy such notice to CQC or any other Regulatory Body,

in order that each of them may take whatever steps they think appropriate.

#### **Withholding of Payment at First Exception Report for Breach of Remedial Action Plan**

- B28.14 If the Contractor breaches a Remedial Action Plan:
- a) the Authority may withhold, in respect of each milestone in the Remedial Action Plan not met, up to 2% of the aggregate monthly sums payable by the Authority under clause B7 (*Charges and Payment*), from the date of issuing the First Exception Report and for each month the Contractor's breach continues, subject to a maximum monthly withholding of 10% of the aggregate monthly sums payable by the Authority under clause B7 (*Charges and Payment*) in relation to each Remedial Action Plan;
  - b) the Authority must pay the Contractor any sums withheld under clause B28.14(a) within 10 Business Days following the Authority's confirmation that the breach of the Remedial Action Plan has been rectified. Subject to clause B28.19, no interest will be payable on those sums.

#### **Retention of Sums Withheld at Second Exception Report for Breach of Remedial Action Plan**

- B28.15 If the Contractor is in breach of a Remedial Action Plan the Authority may, when issuing any Second Exception Report retain permanently any sums withheld under clause B28.14.

#### **Unjustified Withholding or Retention of Payment**

- B28.16 If the Authority withholds sums under clause B28.14 or retain sums under clause B28.15, and within 20 Business Days of the date of that withholding or retention (as the case may be) the Contractor produces evidence satisfactory to the Authority that the relevant sums were withheld or retained unjustifiably, the Authority must pay those sums to the Contractor within 10 Business Days following the date of the Authority's acceptance of that evidence,...

#### **Retention of Sums Withheld on Expiry or Termination of this Contract**

- B28.17 If the Contractor does not rectify a breach of a Remedial Action Plan before the Expiry Date or earlier termination of this Contract, the Authority may retain permanently any sums withheld under clause B28.14.

### **B29. SUSPENSION AND CONSEQUENCES OF SUSPENSION**

- B29.1 A suspension event shall have occurred if:-
- a) the Authority reasonably considers that a breach by the Contractor of any obligation under this Contract:
    - (i) may create an immediate and serious threat to the health or safety of any Service User; or
    - (ii) may result in a material interruption in the provision of any one or more of the Services; or
  - b) clause B29.1 does not apply, but the Authority, acting reasonably, considers that the circumstances constitute an emergency, (which may include an event of Force Majeure) affecting provision of a Service or Services; or
  - c) the Contractor is prevented, or will be prevented, from providing a Service due to the termination, suspension, restriction or variation of any Consent.
  - f) the CQC registration the Contractor holds at the date of this Contract is downgraded

(each a ***Suspension Event***).

- B29.2 Where a Suspension Event occurs the Authority may by written notice to the Contractor and with immediate effect suspend any affected Service, or the provision of any affected Service, until the Contractor demonstrates to the reasonable satisfaction of the Authority that it is able to and will perform the suspended Service, to the required standard;
- g) B29.3 must where applicable promptly notify CQC and/or any relevant Regulatory Body of the suspension.

During the suspension of any Service under clause B29.2, the Contractor must comply with any steps the Authority reasonably specifies in order to remedy the Suspension Event whether or not the decision to suspend has been referred to any form of dispute resolution (unless there is a court order to the contrary).

- B29.4 During the suspension of any Service under clause B29.2, the Contractor will not be entitled to claim or receive any payment for the suspended Service except in respect of all or part of the suspended Service the delivery of which took place before the date on which the relevant suspension took effect in accordance with clause B29.2.
- B29.5 The Parties must use all reasonable endeavours to minimise any inconvenience caused or likely to be caused to Service Users as a result of the suspension of the Service.
- B29.6 Except where suspension occurs by reason of an event of Force Majeure, the Contractor must indemnify the Authority in respect of any Losses directly and reasonably incurred by the Authority in respect of that suspension (including for the avoidance of doubt Losses incurred in commissioning the suspended Service).
- B29.7 Following suspension of a Service the Contractor must at the reasonable request of the Authority and for a reasonable period:

- a) co-operate fully with the Authority and any Successor Contractor of the suspended Service in order to ensure continuity and a smooth transfer of the suspended Service and to avoid any inconvenience to or risk to the health and safety of Service Users, employees of the Authority or members of the public; and
- b) at the cost of the Contractor:
  - (i) promptly provide all reasonable assistance and all information necessary to effect an orderly assumption of the suspended Service by an alternative Successor Contractor; and
  - (ii) deliver to the Authority all materials, papers, documents and operating manuals owned by the Authority and used by the Contractor in the provision of the suspended Service.

B29.8 As part of its compliance with clause B29.7 the Contractor may be required by the Authority to agree a transition plan with the Authority and/or any alternative Successor Contractor.

## **B30. TERMINATION**

B30.1 The Authority may voluntarily terminate this Contract by giving the Contractor not less than 12 months' written notice at any time after the Service Commencement Date.

B30.2 The Authority may terminate this Contract in whole or part with immediate effect by written notice to the Contractor if:-

- a) the Contractor is in persistent or repetitive breach of the Quality Outcomes Indicators;
- b) the Contractor is in persistent breach of its obligations under this Contract;
- c) the Contractor or any of its staff take advantage, financially or otherwise, of the Service User;
- d) the Contractor:
  - (i) fails to obtain any Consent;
  - (ii) loses any Consent; or
  - (iii) has any Consent varied or restricted,

the effect of which might reasonably be considered by the Authority to have a material adverse effect on the provision of the Services;

- e) the Contractor has breached the terms of clause B37 (*Prohibited Acts*);
- h) any of the Contractor's necessary registrations are cancelled by the CQC or other Regulatory Body as applicable;
- i) the Contractor materially breaches its obligations in clause B35 (*Data Protection*);

- j) two or more Second Exception Reports are issued to the Contractor under clause B28 (*Contract Management*) within any rolling 6 month period which are not disputed by the Contractor, or if disputed, are upheld under Dispute Resolution;
- k) the Contractor breaches the terms of clause B22 (*Assignment and Sub-contracting*);
- l) a resolution is passed or an order is made for the winding up of the Contractor (otherwise than for the purpose of solvent amalgamation or reconstruction) or the Contractor becomes subject to an administration order or a receiver or administrative receiver is appointed over or an encumbrancer takes possession of any of the Contractor's property or equipment;
- m) the Contractor ceases or threatens to cease to carry on business in the United Kingdom; or
- n) the Contractor has breached any of its obligations under this Contract and that breach materially and adversely affects the provision of the Services in accordance with this Contract, and the Contractor has not remedied that breach within 40 Business Days following receipt of notice from the Authority identifying the breach;
- o) the Authority acting reasonably believes that the circumstances set out in Regulation 73 (1) (b) of the Public Contracts Regulations 2015 apply.

**B30.3** Either Party may terminate this Contract or any Service by written notice, with immediate effect, if and to the extent that the Authority or the Contractor suffers an event of Force Majeure and such event of Force Majeure persists for more than 30 Business Days without the Parties agreeing alternative arrangements.

#### **B30.A**

**B30.A.1** Services to a Service User may be terminated by the Authority giving not less than 5 Business Days notice to the Contractor”.

**B30.A.2** Services to a Service User will not be required on:

- a) death of the Service User;
- b) the expressed desire of the Service User (in which case the Contractor shall notify the Authority of that desire immediately it is communicated to it);
- c) where the Service User is unavailable and that unavailability has been communicated by the Authority no later than the day before the relevant service was due to be provided. Where the Authority fails to give such notice, the Contractor will be entitled to recover the cost of planned visits to the Service User that were due to be delivered over the next 48 hour period.

#### **B30.B**

**B30.B.1** Where a Service User has a planned period of absence (e.g. holiday, short-term hospital stay) the provision of Services to the Service User shall be suspended and no payment will be made or due for such periods.



- B30.B.2 The Authority will use its reasonable endeavours to give the Contractor 7 days' notice of planned periods of absence in excess of 2 weeks known to it.
- B30.B.3 For planned periods of absence known to it of not more than 2 weeks, the Authority will use its reasonable endeavours to give 2 days' notice of such planned period of absence.
- B30.B.4 The Contractor must inform the Authority of intended periods of absence notified to it by the Service User or Carer.
- B30.B.5 Where there is an unplanned period of absence or the Service User refuses to accept Services, the Contractor must notify the Authority in writing forthwith. The Authority will only pay for the cost of the first 48 hours in that unplanned period.
- B30.B.6 Where there is an unplanned period of absence due to admission to hospital, the Contractor will keep the service open for no less than 7 days. This is to ensure continuity of service for the individual. The commissioner will continue to pay for 7 days on the basis that the capacity will be used to progress another Package of Care waiting to be placed.

### **B31. CONSEQUENCE OF EXPIRY OR TERMINATION**

- B31.1 Expiry or termination of this Contract, or termination of any Service, will not affect any rights or liabilities of the Parties that have accrued before the date of that expiry or termination or which later accrue.
- B31.2 On the expiry or termination of this Contract or termination of any Service for any reason the Authority, the Contractor must co- operate fully with the Authority and any successor Contractor or proposed successor provide to ensure continuity and the Contractor and the Authority will if the Authority so requires, will agree a Succession Plan and the Parties will comply with the provisions of the Succession Plan.
- B31.3 On the expiry or termination of this Contract or termination of any Service the Contractor must co-operate fully with the Authority to migrate the Services in an orderly manner to the successor Contractor. The Contractor will continue to provide assistance to the Authority for 12 months following the termination of this Contract.
- B31.4 In the event of termination or expiry of this Contract, the Contractor must cease to use the Authority's Confidential Information and on the earlier of the receipt of the Authority's written instructions or 12 months after the date of expiry or termination, return all copies of the Confidential Information to the Authority.
- B31.5 If, as a result of termination of this Contract or of any Service in accordance with this Contract (except any termination under clause B30.3 (*Termination*), the Authority procures any terminated Service from an alternative Contractor, and the cost of doing so (to the extent reasonable) exceeds the amount that would have been payable to the Contractor for providing the same Service, then the Authority, acting reasonably, will be entitled to recover from the Contractor (in addition to any other sums payable by the Contractor to the Authority in respect of that termination) the excess cost and all reasonable related professional and administration costs it incurs (in each case) for a period of 6 months following termination.

- B31.6 The provisions of clauses B6 (*Staff*), B7 (*Charges and Payment*), B10 (*Incidents Requiring Reporting*), B12 (*Service User Health Records*), B13 (*Information*), B22 (*Assignment and Sub-contracting*), B23 (*Audit and Inspection*), B31 (*Consequence of Expiry or Termination*), B34 (*Confidentiality*) and B36 (*Freedom of Information and Transparency*) will survive termination or expiry of this Contract.

### **B32. BUSINESS CONTINUITY**

- B32.1 The Contractor must comply with the Civil Contingencies Act 2004 and with any applicable national and local civil contingency plans.
- B32.2 The Parties will work together to ensure business continuity plans are in place and meet both parties' needs.

### **B33. COUNTER-FRAUD AND SECURITY MANAGEMENT**

- B33.1 The Contractor must put in place and maintain appropriate counter fraud and security management arrangements.
- B33.2 The Contractor must take all reasonable steps, in accordance with Good Industry Practice, to prevent Fraud by Staff and the Contractor in connection with the receipt of monies from the Authority and/or any payments from a Service User.
- B33.3 The Contractor must notify the Authority immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.
- B33.4 If the Contractor or its Staff commits Fraud in relation to this or any other contract with the Authority, the Authority may terminate this Contract by written notice to the Contractor with immediate effect (and terminate any other contract the Contractor has with the Authority) and recover from the Contractor the amount of any Loss suffered by the Authority resulting from the termination, including the cost reasonably incurred by the Authority of making other arrangements for the supply of the Services for the remainder of the term of this Contract had it not been terminated.

### **B34. CONFIDENTIALITY**

- B34.1 Other than as allowed in this Contract, Confidential Information is owned by the Party that discloses it (the “**Disclosing Party**”) and the Party that receives it (the “**Receiving Party**”) has no right to use it.
- B34.2 Subject to Clauses B34.3 and B34.4, the Receiving Party agrees:
- a) to use the Disclosing Party’s Confidential Information only in connection with the Receiving Party’s performance under this Contract;
  - b) not to disclose the Disclosing Party’s Confidential Information to any third party or to use it to the detriment of the Disclosing Party; and
  - c) to maintain the confidentiality of the Disclosing Party’s Confidential Information and to return it immediately on receipt of written demand from the Disclosing Party.
- B34.3 The Receiving Party may disclose the Disclosing Party’s Confidential Information:
- a) in connection with any litigation between the Parties;
  - b) to comply with the Law;

c) to its staff, consultants and sub-contractors, who shall in respect of such Confidential Information be under a duty no less onerous than the Receiving Party's duty set out in clause B34.2;

d) to comply with a regulatory bodies request.

B34.4 The obligations in clause B34.1 and clause B34.2 will not apply to any Confidential Information which:

a) is in or comes into the public domain other than by breach of this Contract;

b) the Receiving Party can show by its records was in its possession before it received it from the Disclosing Party; or

c) the Receiving Party can prove that it obtained or was able to obtain from a source other than the Disclosing Party without breaching any obligation of confidence.

B34.5 The Receiving Party shall indemnify the Disclosing Party and shall keep the Disclosing Party indemnified against Losses and Indirect Losses suffered or incurred by the Disclosing Party as a result of any breach of this clause B34.

B34.6 Not used.

B34.7 This clause B34 shall not limit the Public Interest Disclosure Act 1998 in any way whatsoever.

B34.8 The obligations in clause B34.1 and clause B34.2 shall not apply where the Confidential Information is related to an item of business at a board meeting of the Authority or of any committee, sub-committee or joint committee of the Authority or is related to an executive decision of the Authority and it is not reasonably practicable for that item of business to be transacted or that executive decision to be made without reference to the Confidential Information.

## **B35. DATA PROTECTION**

B35.1 The Parties acknowledge their respective duties under the Data Protection Legislation and shall give all reasonable assistance to each other where appropriate or necessary to comply with such duties.

B35.2 The Contractor must:

a) nominate an Information Governance Lead;

b) if required by Data Protection Legislation nominate a Data Protection Officer;

c) ensure the Authority is informed at all times of the identities and contact details of the Information Governance Lead and Data Protection Office;

- d) put in place appropriate technical and organisational measures against any unauthorised or unlawful processing of such Personal Data, and against the accidental loss or destruction of, alteration to, disclosure of or damage to such Personal Data having regard to the state of technical development and the level of harm that may be suffered by a Data Subject whose Personal Data is affected by such unauthorised or unlawful processing or by its loss, damage or destruction;
- e) take reasonable steps to ensure the reliability of Staff who will have access to such Personal Data, and ensure that such Staff are properly trained in protecting Personal Data;
- f) provide the Authority with such information as the Authority may reasonably require to satisfy itself that the Contractor is complying with its obligations under the Data Protection Law;
- g) promptly notify the Authority of any requests for disclosure of or access to the Personal Data;
- h) promptly notify the Authority of any breach of the security measures required to be put in place pursuant to this clause B35;
- i) ensure it does not knowingly or negligently do or omit to do anything which places the Authority in breach of the Authority's obligations under the DPA.

B35.3 The Contractor must have in place a communications strategy and implementation plan to ensure that Service Users are provided with, or have made readily available to them, Privacy Notices. Any failure by the Contractor to inform Service Users as required by Data Protection Legislation or Data Guidance about the uses of Personal Data that may take place under this Contract cannot be relied on by the Contractor as evidence that such use is lawful and therefore not contractually required.

B35.4 Whether or not a Party is a Data Controller or Data Processor will be determined in accordance with Data Protection Legislation and the ICO Guidance on Data Controllers and Data Processors and any further Data Guidance from a Regulatory or Supervisory Body. The Parties acknowledge that a Party or Sub-Contractor may act as both a Data Controller and a Data Processor. Parties have indicated they consider the Contractor to be a Data Processor for the purposes of this Contract.

B35.5 The Contractor must ensure that all Personal Data processed by or on behalf of the Contractor in the course of delivering the Services is processed in accordance with the relevant Parties' obligations under Data Protection Legislation and the Data Guidance.

B35.6 In relation to Personal Data processed by the Contractor in the course of delivering the Services, the Contractor must publish, maintain and operate:-

- a) policies relating to confidentiality, data protection and information disclosures that comply with the Law and Good Industry Practice;
- b) policies that describe the personal responsibilities of Staff for handling Personal Data;
- c) agreed protocols to govern the sharing of Personal Data with partner organisations; and

- d) where appropriate, a system and a policy in relation to the recording of any telephone calls in relation to the Services, including the retention and disposal of those recordings.

and apply those policies and protocols conscientiously.

B35.7 Where the Authority requires information for the purposes of quality management of care processes, the Contractor must consider whether the Authority's request can be met by providing anonymised or aggregated data which does not contain Personal Data. Where Personal Data must be shared in order to meet the requirements of the Authority the Contractor must:-

B35.7.1 provide such information in pseudonymised form where possible and in any event

B37.7.2 ensure there is a legal basis for the sharing of Personal Data

### **The Contractor as a Data Processor**

B35.8. Where the Contractor, the course of delivering the Services, acts as a Data Processor on behalf of the Authority, the provisions of Schedule 1 (*Contractor Data Processing Agreement*) will apply.

## **B36. FREEDOM OF INFORMATION AND TRANSPARENCY**

B36.1 NOT USED.

B36.2 The Contractor acknowledges that the Authority is subject to the requirements of the FOIA and will assist and co-operate with the Authority to enable the Authority to comply with its disclosure obligations under the FOIA. Accordingly the Contractor agrees:-

- a) that this Contract and any other recorded information held by the Contractor on the Authority's behalf for the purposes of this Contract are subject to the obligations and commitments of the Authority under the FOIA;
- b) that the decision on whether any exemption to the general obligations of public access to information applies to any request for information received under the FOIA is a decision solely for the Authority;
- c) that if the Contractor receives a request for information under the FOIA (and the Contractor is not itself a Public Authority and is not subject to the FOIA), it will not respond to such request (unless directed to do so by the Authority) and will promptly (and in any event within 2 Business Days) transfer the request to the Authority;
- d) that the Authority, acting in accordance with the codes of practice issued and revised from time to time under both section 45 of the FOIA, and regulation 16 of the Environmental Information Regulations 2004, may disclose information concerning the Contractor and this Contract at its discretion either without consulting with the Contractor, or following consultation with the Contractor and having taken its views into account; and

- e) to assist the Authority in responding to a request for information, by processing information or environmental information (as the same are defined in the FOIA) in accordance with a records management system that complies with all applicable records management recommendations and codes of conduct issued under section 46 of the FOIA, and providing copies of all information requested by a Authority within 5 Business Days of such request and without charge
- f) where the Contractor receives a request for information relating to the Services provided under this Contract and the Contractor itself is subject to FOIA it will liaise with the Authority as to the contents of any response before a response to a request is issued and will promptly and in any event within 2 Business Days provide a copy of the request and any response to the Authority.

B36.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information.

B36.4 Notwithstanding any other provision of this Contract, the Contractor hereby consents to the publication of this Contract in its entirety including from time to time agreed changes to this Contract subject to the redaction of information that is exempt from disclosure in accordance with the provisions of the FOIA.

B36.5 In preparing a copy of this Contract for publication pursuant to clause B36.4 the Authority may (but is not obliged to) consult with the Contractor to inform its decision making regarding any redactions but the final decision in relation to the redaction of information shall be at the Authority's absolute discretion.

B36.6 The Contractor must assist and co-operate with the Authority to enable the Authority to publish this Contract.

B36.7 The Authority may disclose information on its website in relation to monthly expenditure over £500 (five hundred pounds) in relation to this Contract. The information will include the Contractor's name and the monthly Charges paid. The Parties acknowledge that this information is not Confidential Information or commercially sensitive information.

## **B37. PROHIBITED ACTS**

B37.1 Neither Party shall do any of the following:-

- a) offer, give, or agree to give the other Party (or any of its officers, employees or agents) any gift or consideration of any kind as an inducement or reward for doing or not doing or for having done or not having done any act in relation to the obtaining of performance of this Contract or any other contract with the other Party, or for showing or not showing favour or disfavour to any person in relation to this Contract or any other contract with the other Party; and
- b) in connection with this Contract, pay or agree to pay any commission, other than a payment, particulars of which (including the terms and conditions of the agreement for its payment) have been disclosed in writing to the other Party,

(together "**Prohibited Acts**").

- B37.2 If either Party or its employees or agents (or anyone acting on its or their behalf) commits any Prohibited Act or commits any offence under the Bribery Act 2010 with or without the knowledge of the other Party in relation to this Contract, the non-defaulting Party shall be entitled:
- a) to exercise its right to terminate under clause B30 (*Termination*) and to recover from the defaulting Party the amount of any loss resulting from the termination; and
  - b) to recover from the defaulting Party the amount or value of any gift, consideration or commission concerned; and
  - c) to recover from the defaulting Party any loss or expense sustained in consequence of the carrying out of the Prohibited Act or the commission of the offence.
- B37.3 Each Party must provide the other Party upon written request with all reasonable assistance to enable that Party to perform any activity required for the purposes of complying with the Bribery Act 2010. Should either Party request such assistance the Party requesting assistance must pay the reasonable expenses of the other Party arising as a result of such request.
- B37.4 The Contractor must have in place an anti-bribery policy for the purposes of preventing any of its Staff from committing a prohibited act under the Bribery Act 2010. Such policy must be disclosed to the Authority within 5 Business Days of the Authority requesting it and enforced by the Contractor where applicable.
- B37.5 Should the Contractor become aware of or suspect any breach of this clause B37, it will notify the Authority immediately. Following such notification, the Contractor must respond promptly and fully to any enquiries of the Authority, co-operate with any investigation undertaken by the Authority and allow the Authority to audit any books, records and other relevant documentation.
- B38. FORCE MAJEURE**
- B38.1 Where a Party is (or claims to be) affected by an event of Force Majeure, it must take all reasonable steps to mitigate the consequences of it, resume performance of its obligations under this Contract as soon as practicable and use its reasonable efforts to remedy its failure to perform its obligations under this Contract.
- B38.2 Subject to clause B38.1 and B38.3, the Party claiming relief as a result of an event of Force Majeure will be relieved from liability under this Contract to the extent that because of the event of Force Majeure it is not able to perform its obligations under this Contract.
- B38.3 The Party claiming relief as a result of an event of Force Majeure must serve an initial written notice on the other Party immediately it becomes aware of the event of Force Majeure. This initial notice shall give sufficient details to identify the particular event. The Party claiming relief must then serve a detailed written notice within a further 15 Business Days. This detailed notice shall contain all relevant available information relating to the failure to perform the relevant obligations under this Contract as is available, including the effect of the event of Force Majeure, the mitigating action being taken and an estimate of the period of time required to overcome it and resume full delivery of Services.
- B38.4 A Party cannot claim relief as a result of an event of Force Majeure, if the event of Force Majeure is attributable to that Party's wilful act, neglect or failure to take reasonable precautions against the relevant event of Force Majeure.

- B38.5 The Authority shall not be entitled to exercise its rights to withholdings and/or deduction of payments under this Contract, to the extent that the circumstances giving rise to such rights arise as a result of an event of Force Majeure.

**B39. THIRD PARTY RIGHTS**

- B39.1 No term of this Contract is intended to confer a benefit on, or to be enforceable by, any person who is not a party to this Contract.

**B40. CAPACITY**

- B40. Without prejudice to the contractual rights and/or remedies of the Contractor expressly set out in this Contract, the obligations of the Authority under this Contract are obligations of the Authority in its capacity as a contracting counterparty and nothing in this Contract shall operate as an obligation upon the Authority or in any way fetter or constrain the Authority in any other capacity, nor shall the exercise by the Authority of its duties and powers in any other capacity lead to any liability on the part of the Authority under this Contract (howsoever arising) in any capacity other than as contracting counterparty.

**B41. SEVERABILITY**

- B41.1 If any provision or part of any provision of this Contract is declared invalid or otherwise unenforceable, the provision or part of the provision as applicable will be severed from this Contract and this will not affect the validity and/or enforceability of the remaining part of that provision or other provisions of this Contract.

**B42. WAIVER**

- B42.1 Any relaxation or delay by either Party in exercising any right under this Contract will not be taken as a waiver of that right and will not affect the ability of that Party subsequently to exercise that right.

**B43. EXCLUSION OF PARTNERSHIP, JOINT VENTURE OR AGENCY**

- B43.1 Nothing in this Contract creates a partnership or joint venture or relationship of employer and employee or principal and agent between the Authority and the Contractor.

**B44. GOVERNING LAW AND JURISDICTION**

- B44.1 This Contract will be governed by and interpreted in accordance with English Law and will be subject to the exclusive jurisdiction of the Courts of England.

**B45. EXTENSION**

- B45.1 The Authority may require the Contractor to offer to provide services under this contract for up to 2 further periods in blocks of 12 months from the automatic expiry date of 31 August 2028, by serving written notice on the Contractor not less than 4 months before such date. The Contractor shall indicate it accepts the Contract extension offered within 1 month of such notice or such longer period as the Authority may agree with the Contractor. If the contract is so extended then the Contractor shall continue to supply such services on the terms and conditions of this contract.



**B46. ENTIRE CONTRACT**

- B46.1 This Contract constitutes the entire agreement and understanding of the Parties and supersedes any previous agreement between the Parties relating to the subject matter of this Contract, except for any contract entered into between the Authority and the Contractor to the extent that it relates to the same or similar services and is designed to remain effective until the Service Commencement Date.

**SCHEDULE A**  
**SERVICE SPECIFICATIONS**



**CARE AND SUPPORT AT HOME MOBILE  
NIGHTS**

**SERVICE SPECIFICATION**

## INTRODUCTION

- 1.1. The Care and Support at Home Mobile Nights Service, aims to support people in their own home to prevent unnecessary acute hospital admission, premature admission to residential care, support timely discharge from hospital and to provide urgent care and support in crisis situations such as carer breakdown.
- 1.2. The Care and Support at Home Mobile Nights Service (the service) can be broadly defined as a domiciliary home care service that will deliver a mix of planned and unplanned care and provides social care support for people in their home during the night-time hours (10.00pm – 07:00am), 7 days a week, 365 days a year (366 in a leap year).
- 1.3. The Provider will be expected to deliver the service as a series of run(s) within Wirral's geographical footprint in a way that maximises the number of home visits within those run(s) each night.
- 1.4. The Provider will design the delivery of the service in the most practical and cost-effective way to respond to both planned and unplanned visits to meet the needs of Wirral residents.
- 1.5. The Provider would also need to have a support system in place to facilitate appropriate rest/breaks for carers in Wirral., which will include an operating base that meets the requirements of the [Care Quality Commission \(CQC\)](#).
- 1.6. The operating base will be CQC registered and based within the boundaries of Wirral Council. Office locations in neighbouring boroughs and within a 10-mile radius of the main Council office (Mallory) can also be considered.
- 1.7. The Provider must have a transport solution in place to meet the needs of this service. The Council welcomes innovative solutions, which would also reduce carbon emissions within the Borough.

## 2. Co- Production

- 2.1. Wirral Council is committed to the principles of working alongside People with care and support needs, their families, and carers to ensure they remain at the heart of decision making. The Council believes they are best placed to shape the services and support they receive as outlined in the [Wirral Adult Social Care Co-Production Charter 2024 to 2029](#).
- 2.2. Wirral Council has incorporated the principles of co-production and adopted a partnership approach in the development of this service specification by ensuring that

the service design, outcomes and delivery will work for people who will be accessing the Care and Support at Home Mobile Nights Service.

- 2.3. Feedback from people currently in receipt of a mobile night service and their family members/carers reveal that people in receipt of a mobile night services want the following from service delivery:
  - Professional, punctual, empathetic and compassionate staff
  - A consistent service that provides good communication
  - A service that provides good record keeping and sufficient information on needs
  - A service that works seamlessly with other services
  - The same team of carers wherever possible
  - A service that is discrete and offers the least amount of disruption during visits
- 2.4. Feedback from Adult Social Care professionals who have referred into the current Mobile Nights service noted that good care and support at night should be “flexible, responsive- can commence at short notice, works seamlessly with other services, and can overall keep people safe at night and enable them to stay at home and independent for as long as possible.
- 2.5. Providers that attended a market engagement event about the Care and Support at Home Mobile Nights Service noted that a good service should provide the following:
  - Reliability and consistency
  - A provision that enables complex care to be met
  - A service that achieves positive outcomes and meets needs identified in a service user’s care plan
  - A service that is proactive, preventative, innovative and uses technology to meet needs
  - A flexible and responsive service that offers consistent staffing to service users.
  - Service users should be provided with good communication, reassurance and should be made to feel safe
  - Service users should be supported to stay at home with no hospital admission

### 3. Principles

- 3.1. Wirral Council has a statutory duty for this commission under the [Care Act 2014](#) and [Health and Social Care Act 2012](#) to ensure people have their wellbeing needs met (for example housing, social inclusion, and environment).
- 3.2. As part of integrated working, Wirral Council jointly commissions services with the NHS under [the National Framework for NHS \(CHC\) and the NHS Funded Nursing Care](#)
- 3.3. The key principles behind this service will be reducing, preventing or delaying the need for further care and support, promoting the Care Act statutory principle of “Individual Wellbeing” and introducing positive behavioural change to encourage independence where possible. In line with the Care Act 2014, wellbeing is described as:

- Personal dignity, including respect.
  - Physical and mental health and emotional wellbeing;
  - Protection from abuse and neglect.
  - Control by the individual over day-to-day life (including over care and support provided and the way it is provided).
- 3.4. The Provider will be expected to work in line with the person's assessed needs, individual outcomes and the key principles within the above legislative requirements.

#### **4. Current Operating Model**

- 4.1. This service currently runs between the hours 21:00pm-06:00am delivering both planned and unplanned care to support people at home, hospital discharges and avoid admissions.
- 4.2. The current service operates Wirral wide and consists of 10 "runs" with 2 carers on each totalling 20 staff. (2 Carers x 9 hours each per run totals 18 hours)
- 4.3. Total current service delivery hours is as follows: 18 hours x 10 runs = 180 hours x 7 nights = 1260 hours per week
- 4.4. The service is required to flex up and down to meet individuals needs and respond to emergencies, falls or additional continence needs. Currently there are approximately 199 service users of this service which equates to approximately 245 visits per night. These numbers fluctuate regularly so may change at point of award.
- 4.5. The Council welcomes new and innovative ways of working, and potential new providers are not required to replicate this model if they feel it could be delivered in an alternative way, with technology, or other rota or working management patterns. New innovations would include but not be limited to deployment of digital and remote monitoring technologies, innovative and carbon friendly transport solutions and flexible and creative staff deployment solutions such as safely managed single runs that maximise capacity.

#### **5. Service Aims and Objectives**

- 5.1. The service will work towards the aims and objectives outlined within this specification. This will include but not be limited to these key high level aims outlined below:
- To comply with the outcomes which are specified within the Care Act 2014, and the elements of wellbeing.

- To work as part of a “whole system” to ensure Wirral residents are supported by resilient, responsive, flexible and sustainable services.
  - To provide a flexible and responsive service in recognition of differing needs within the service user group.
  - To ensure that the service user is actively involved and influential throughout the planning process and is free to take ownership of the development of their support plan if they wish to.
  - To ensure that the service is person-centred and person-led to meet the needs and outcomes that the service user intends, in ways that work best for them as an individual or as a family.
- 5.2. The primary objectives of the service are outlined in [the Adult Social Care Outcomes Framework \(ASCOF\)](#). ASCOF measures were developed by the Department of Health and Social Care (DHSC) in consultation with the Association of Directors of Adult Social Services (ADASS), the Local Government Association (LGA), the Care Quality Commission (CQC) and NHS England (NHSE) to set priorities and objectives for people who draw on care and support.
- 5.3. There are 6 objectives statements outlined below:
- **Quality of life:** people’s quality of life is maximised by the support and services which they access, given their needs and aspirations, while ensuring that public resources are allocated efficiently.
  - **Independence:** people are enabled by adult social care to maintain their independence and, where appropriate, regain it.
  - **Empowerment** - information and advice: individuals, their families and unpaid carers are empowered by access to good quality information and advice to have choice and control over the care they access.
  - **Safety:** people have access to care and support that is safe, and which is appropriate to their needs.
  - **Social connections:** people are enabled by adult social care to maintain and, where appropriate, regain their connections to their own home, family and community.
  - **Continuity and quality of care:** people receive quality care, underpinned by a sustainable and high-quality care market and an adequate supply of appropriately qualified and trained staff.
- 5.4. To fully support this, it is expected that the provider will actively plan care with the service user or family members/carers where the individual lacks capacity whilst taking into account that individual’s aspirations and personal support networks (for example, family, friends and any other support the person receives in the community).
- 5.5. The Provider will work with other providers across the health and care sector that directly support the individual to ensure a seamless service provision with clear lines of communication.

- 5.6. The Provider will also develop a strong relationship with the person and have the skills and ability to recognise signs of deterioration and act upon them without necessarily referring back to Commissioners.
- 5.7. The Provider will also be expected to work within a trusted assessment model that utilises a strength-based approach to ensure people are supported to live as independently as possible by providing 'just enough' care and support.
- 5.8. These outcomes may change as and when the Adults Social Care Outcomes Framework is refreshed and updated from time to time.

## **6. Service Delivery Requirements**

- 6.1. The service provides same day (within 2 hours) pick up of new mobile night packages over 7 days.
- 6.2. The Provider will employ a service model which:
  - delivers a Mobile Night Service across Wirral each night between the hours of 22:00 and 07:00, 365 days a year (366 days in a leap year).
  - delivers planned and unplanned care
  - employs flexible, creative, and responsive solutions which maximise the use of staff, technology and resources to meet people's needs
  - acts as both a "step up" and "step down" response by:
    - facilitating a timely discharge from hospital
    - preventing and diverting from inappropriate admission to hospital
  - provides a flexible referral route to respond to multiple care pathways including hospital discharge and preventions, with referrals accepted on the same day or night 7 days a week
  - can support people in their own homes (including supported living environments and extra care housing) and other care settings
  - can work with assistive technology as a responder to alerts
  - deploys digital solutions to improve care
  - ensures collaborative working and communication with other services to provide a seamless service for the service user
  - forms part of a seamless continuum of services linking health promotion, preventative services, primary care, community health services, social care, and support for carers and acute hospital care
  - ensures a reablement focus to maximise each individual's potential for independence, with appropriate support to regain an optimal level of functional independence and encouraging self-care wherever possible.
  - ensures a person-centred approach, appreciating the experiences of individuals and their needs
  - encourages relatives and carers to take an active role in supporting / reablement of the service user

- facilitates engagement of the person being supported (at an appropriate level in relation to their need and ability) in day-to-day activities, including self-care, to ensure independence
- works with a multidisciplinary team of health or social care professionals to effectively care for people at home
- provides skilled staff with a designated Coordinator as the main contact point for admissions prevention and hospital discharge working in partnership with a range of adult care and health provisions including the Community Integrated Response Team (CIRT), Urgent Community Response, (UCR) Service, and Home First
- ensures the referred person has an assessment the same day (or the next day if placed as an emergency of a night-time) and a copy of the Care Plan and assessment is in place in their home.
- ensures a person being discharged from hospital and needing support is either welcomed at their home, or visited at an agreed time
- ensures a person's carer or representative knows the individual is receiving interim support and will be available if they wish to be present.
- liaises with the appropriate professionals to ensure the person being supported has any medication or other supplies they need
- ensures provision is in place for access into a person's home, such as keys and a key safe.
- works with other services (e.g. the Home From Hospital service) to ensure people being discharged from hospital have adequate food, and heating within their own homes and that their home environment will enable them to recover safely.
- works with local health professionals (including GP practices) to ensure the medical needs of people using the service are met, and are meeting the anticipatory care agenda
- ensures the safety and dignity of people using the service
- works with a trusted assessment approach.

6.3. The Provider must:

- Be able to demonstrate expertise and / or experience of providing overnight services
- Possess the appropriate CQC registration.
- Base itself in appropriate physical local locations to deliver the service and facilitate mobile working
- Ensure staff have appropriate professional registration and maintain the required standards through on-going professional development
- Ensure staff possess appropriate qualifications, have access to regular training and supervision to fulfil their role including moving/handling training and use of relevant equipment
- Ensure staff are fully aware of Wirral's current Safeguarding policy and procedure [Safeguarding adults | www.wirral.gov.uk](http://www.wirral.gov.uk)
- Ensure appropriate administrative systems, processes, and recording, including an electronic tool
- Ensure appropriate performance measurement and reporting
- Ensure an appropriate line management structure for delivery of the service
- Ensure clinical and professional governance for the service



- Ensure a staffing model which provides cover across the whole of the Wirral area
- Ensure a risk assessment framework (with mitigations) to safely support staff and service users for the periods of time that the service is operating
- Ensure a robust transport solution for staff to enable them to be mobile, particularly throughout the overnight period, which supports the reduction in carbon emissions
- Provide an immediate response via 24 hours / 365-day ( 366 in a leap year) dedicated contact number
- Respond to the 2-hour target to discharge people from hospital
- Work in partnership with a multidisciplinary team of health or social care professionals to effectively care for people at home
- Capture and record agreed activity and monitoring reports via electronic support planning system demonstrating successful outcomes in line with organisational requirements in relation to each person supported
- Co-operate with all reasonable requests for data capture, reporting and audits, in line with Wirral's commissioning and monitoring requirements

## **7. Management Oversight**

### **7.1. Management oversight of the Mobile Night Service will include:**

- Follow-up of any issues or shift reports handed over by day staff- either from its own agency and/or from another agency
- Operating as a front-line on-call, for staff on duty
- Liaising directly with service users, next of kin, and other relevant professionals
- Providing a point of contact and responsive service for the Emergency Duty Team for social work (EDT), District Nurses and emergency services.
- Maintaining accurate and timely records on systems and log with EDT all issues and concerns throughout the shift.
- Managing response to falls (including equipment such as falls Mangar) to facilitate falls pick up in the community.
- Responding to Electronic Call Monitoring (ECM) alerts.
- Undertaking spot checks and supervision of carers.
- Deployment of contingency plans in case of emergencies to ensure effective delivery of the service
- Production of reports to ensure adequate management oversight and handover to other providers
- Maintaining a good relationship and working in true partnership with service users, family members/carers, and other professionals to deliver on the outcomes outlined within this specification
- Ensuring a robust handover process to the day domiciliary care staff either within its own organisation or another provider as required
- Responding proactively to changing circumstances on cases and providing a supportive response
- Making recommendations on “right- size” packages of care within the Wirral Trusted Assessor model and working collaboratively with Operational Social Work services

### **7.2. Implementing a management rota for back-up on-call which will be made available 24 hours a day, 7 days a week, 365 days a year (366 days in a leap year). This will be**

publicised with teams agreed with the Commissioner such as Wirral's Emergency Duty Team.

## **8. Scope**

- 8.1. The Provider will ensure that care and support within the Mobile Nights service is delivered by skilled and compassionate workers, who offer excellent services to Wirral residents. This will be based on responsible, comprehensive, and supportive employment practices.
- 8.2. The Provider will reflect the assessed need of individuals as identified within their support plan. In most instances, this care package will identify care and support for people who can no longer care for themselves independently. However, the maintenance of independent living skills should (where possible) be encouraged as well as the drive to reduce any further escalation of identified need.
- 8.3. The Provider will supply a caring, compassionate workforce of staff that are skilled, have access to training and provide a timely, responsive, proactive approach in supporting people and their families. Overall wellness, quality of care and preventive screening all are key elements to bringing about better outcomes.
- 8.4. The Provider will adapt a Trusted Assessor approach by working collaboratively with key partners to promote independence, reduce dependency and work collaboratively on streamlined business processes.
- 8.5. The Provider will work in partnership with health and social care partners to ensure patients, families and carers receive a safe and timely discharge from an acute hospital setting, short-term care facility or hospice. At the point of discharge the Provider will be required to attend Multi-Disciplinary Meetings (MDT) meetings for identified cases that require a strategic overview., respond to queries and referrals from brokerage, Single point of Access and Integrated Discharge Team.
- 8.6. Where unexpected or unplanned events occur, the Provider will have robust contingency plans in place to ensure the continued delivery of a safe, reliable, and effective Care and Support at Home Mobile Nights service to Wirral residents.

## **9. Service User Group**

- 9.1. The Provider is to deliver services to people with a range of support needs, which includes (but is not limited to):

- Caring for Adults of 65 Years and over;
- Caring for Adults Under 65 Years
- Caring for people with Dementia
- Caring for people with challenging behaviours living at home and to provide support to their families;
- Caring for people with learning disabilities;
- Caring for people with Autism
- Caring for people with cognitive impairments.
- Caring for people with frailty.
- Caring for people with complex conditions
- Mental Health Conditions
- Physical Disabilities
- Learning Disabilities
- Sensory Impairments
- Autism
- Substance misuse aged 18 or over.
- People who may self-neglect
- People with Long term conditions
- People with palliative care needs
- CHC non-complex support needs (e.g. not requiring nursing from the registered provider)

9.2. CHC areas that are not included in this commission are:

- 100% Funded Complex Care Learning Disabilities
- 100% Funded Complex Care Mental Health (Under 65)
- 100% Funded Complex Care Mental Health (Over 65)
- Section 117 Learning Disability
- Section 117 Mental Health

## **10. Service Outcomes**

10.1. The provision of the Care and Support at Home Mobile Night Services will contribute to Wirral Council's ambitions to support people to achieve the following outcomes outlined within the Council Plan and All-Age Disability Strategy (2024-2029):

- Delivering high quality efficient universal services to all residents
- To be prepared to innovate and face the future
- To work with community, voluntary and faith organisations to improve all residents' life chances
- Improving health and wellbeing
- Living enriched lives
- Having independent lives

- 10.2. The Provider will deliver its services in such a way to achieve the outcomes set out below which are based on Think Local Act Personal (TLAP) Making It Real; How to do Personalised Care and Support.
- 10.3. Making It Real is a set of statements that describe what good care and support looks like. They were co-produced by people who draw upon care and support and people who work in it and are organised into six themes.
- 10.4. Making It Real also offers the unifying principles within the CQC's single assessment framework for the health and social care sector to ensure that care delivery and oversight are bound by the principles of personalisation.
- 10.5. The 'I statements' within Making it Real describe what good looks like from the perspective of someone who draws upon care and support. The 'We statements' describe what people who work in care and support should do to make the 'I statements' real. The Provider should refer to Appendix 2 for a full breakdown of TLAP's I" and "We" statements

<b>Outcome</b>	<b>Person-Centred Statement</b>
<b>OUTCOME 1</b> – Wellbeing and Independence	Living the Life I want, keeping safe and well
<b>OUTCOME 2</b> – Information and Advice	Having the information, I need, when I need it
<b>OUTCOME 3</b> – Active and Supportive Communities	I have people who support me, such as family, friends and people in my community
<b>OUTCOME 4</b> – Flexible Integrated Care and Support	My support, my own way
<b>OUTCOME 5</b> – When things need to change	I get to stay in control
<b>OUTCOME 6</b> – Workforce	The People who support me

- 10.6. The Provider is expected to work in line with the above outcomes and the statements detailed in Appendix 2 and through effective delivery of a good quality Mobile Nights Service, will also demonstrate:
- That people have real control over their care and support by actively engaging service users, carers, local communities and partners in the co-design and development of support packages.

- The difference the service is making to people's lives through an asset-based approach celebrating and facilitating people's gifts, talents and aspirations.
  - That innovative solutions are sought which actively plan to avoid or overcome crisis and focus on people within their natural communities, rather than service and organisational boundaries.
  - That people are enabled to develop networks of support in their local communities and increase community connections.
  - That time is taken to listen to a person's own voice, particularly those whose views are not easily heard.
  - That the service fully considers the needs of the family, and the Care and Support at Home workers when planning support and care.
  - That the service provides support that is culturally sensitive and relevant to diverse communities.
  - That a person's whole life is fully considered- including their physical, mental, emotional, and spiritual requirements, including insight into an individual's past, present and future aspirations.
- 10.7. The Provider will be expected to work in a flexible way (7 days a week) aiming to improve outcomes for people who use the services in creative and innovative ways. In some circumstances there will be some specific task and time requirements, e.g. administration of medicines at specified intervals.
- 10.8. Upon request, the Commissioning Contracts and Quality Team will support the Provider to develop the service to deliver the outcomes required in this service specification. This will include providing guidance, advice and information, and examples of best practice. It is expected that if the Provider is in any doubt about how to develop or deliver the services being commissioned that they will seek clarification at the earliest possible opportunity.
- 10.9. The Provider will be expected to remain flexible and to engage in an open dialogue about future requirements and the shaping of the Care and Support at Home Mobile Nights service in the future.
- 10.10. The Provider will deliver innovative approaches to service delivery and discuss trialling new practices with the Commissioner. The Commissioner welcomes conversations on innovation and creating efficiency and improved practice and commits to working with the Provider to deliver this.
- 10.11. The Provider will focus on good customer service around the service user, enabling people to make decisions, maximising their life opportunities and giving them choice and control in the way care and support is delivered.
- 10.12. The Provider has a responsibility to monitor the general health and wellbeing of the service user, supporting early intervention and prevention wherever possible and signposting to appropriate lifestyle support services to allow service users to manage their own health needs.

## **11. Service Outcomes- Partnering Approach**

- 11.1. The Council wishes to use the procurement process as an opportunity to establish and develop a partnering arrangement(s) to deliver service improvements over the life of the contract that is sufficiently flexible to accommodate changing demand and overall, provides value for money.
- 11.2. The Provider is expected to work within a spirit of trust and to work to a clear contractual framework that incorporates an open book policy approach and clear performance measures which are outcome-based, and which will be subject to periodic review.
- 11.3. The Council, therefore, feels it appropriate to move towards a clear working relationship with a provider that will actively work towards producing improved outcomes and life chances for service users, alongside greater diversity in service provision.
- 11.4. This approach is viewed as producing both direct and indirect benefits in that providers will equally bring ideas and experience to the mutual benefit of all and within the proposed development of a longer-term partnership.
- 11.5. This approach also takes into account the increasing integration of service delivery and commissioning between the Council and its partner organisations, including Health Provisions, and increasingly local voluntary agencies.
- 11.6. Anticipated partnership outcomes of the contract include -
  - A positive impact on the transfers of care from hospital
  - A positive impact on the reduction in admissions to hospital
  - A positive impact on people remaining at home and as independent as possible
  - Service improvements over the life of the contract (as described in this service specification)
  - Efficiency gains and overall value for money services
- 11.7. To summarise, Wirral Council is keen to work with a partner with the capability and experience to deliver a high-quality Home Mobile Nights service whilst also working in partnership with the Commissioning, Contracts and Quality Team to develop a future proof resilient overnight offer which enables more people to remain at home and live independently as long as possible.
- 11.8. The Provider will also take a proactive and collaborative partnering approach to the delivery of its services and respond appropriately to people's changing needs and get the best outcomes for people. This approach will not just be limited to the Council, but to wider organisations including health, other Providers of care and support, the voluntary sector and community organisations linked to individuals. For this specification collaboration will mean but will not be limited to:

- Sharing relevant information, expertise and plans
- Sharing key objectives
- Ensuring continuity of care across organisations
- Providing a seamless service to individuals in collaboration with others
- Communicating with each other clearly and regularly e.g., passing on quality care concerns about an individual to other care and support at home providers or health professionals involved in an individual's care
- Collaborating for mutual benefit
- Avoiding duplication wherever possible
- Monitoring and reviewing the joint working arrangements
- Seeking to avoid conflicts where they arise, resolving them quickly at a local level wherever possible
- Seeking continuous improvement by working together to get the most out of the resources available and by finding better, more efficient ways of doing things

## **12. Support for people with a diagnosis of dementia, End of Life and Palliative Care Needs, Complex needs and Autism (and other diagnosed conditions)**

12.1. The demographic profile of people who are likely to access this service means that some people may have a cognitive impairment, dementia, autism or may be approaching the end of their life. These people will be treated in accordance with the terms of this specification; In particular:

- Staff will undertake mandatory training in respect of dealing with people with specific needs
- Staff will be able to recognise when specialist care and support is required
- The Provider when arranging to meet the needs of service users and allocating staff, will recognise and take into account the importance of consistency and continuity in care workers.
- Recognising when someone is developing dementia type behaviours or has escalating needs and ensuring they are referred for appropriate assessment
- The utilisation of “life story” aids and other memory aids.

12.2. The Provider will deliver the Care and Support at Home Mobile Nights Service in a way that pays due regard to the NICE quality standard for supporting people to live well with dementia (<https://www.nice.org.uk/guidance/QS30>), in particular statements 2 and 3, which emphasise the importance of the involvement of individuals and carers in the design and review of their support.

## **13. Referral Pathway**

13.1. The Provider will work collaboratively with Wirral Council and its designated Social Work Teams and Health Providers by responding to and accepting new referrals for the Care and Support Mobile Nights Service.

- 13.2. All referrals at the date of contract are currently placed by Wirral Council's Care Arranging Team (CAT) via the e-brokerage system. All unplanned emergency referrals would come via Wirral Council's Emergency Duty Team, including at evenings and weekends.
- 13.3. The Provider will work in partnership with health and social care partners to ensure patients, families and carers receive a safe and timely discharge from an acute hospital setting, Transfer to Assess care facility or hospice. At the point of discharge, the Provider would be required to attend Multi-Disciplinary Meetings (MDT) for identified cases that require a strategic overview.
- 13.4. The Provider will also be required to respond to queries and referrals from brokerage, Single point of Access and Integrated Discharge Team.

#### **14. Hours of Delivery and Response Times**

- 14.1. The Provider will need to operate fully 365 days of the year (366 days in a leap year).
- 14.2. It is essential that, once a service is commissioned from the Provider, cases which require either a hospital discharge and CHC fast track, Discharge to Assess bed (D2A) or which will prevent admission to an acute setting or D2A bed:
- The Provider accepts the package within **2 hours** for action
  - The Provider commences the service within **4 hours** of receipt of a referral. Commencing the service means the Provider will start the process of making contact with the person to discuss their assessment or care plan with a view to the service starting the same day if required or within **24 hours**.
- 14.3. It is expected that any delay is communicated to the person or their nominated representative as soon as possible. It remains the responsibility of the Provider to manage lateness in the most effective way but must, where possible, contact the person or their representative ahead of time.
- 14.4. For full CHC referrals;
- The Provider will accept the Package within **2 hours**
  - The Provider will *commence* the service within **4 hours** of receipt of a referral. *Commencing* the service means the Provider will start the process of making contact with the person to discuss their assessment / care plan with a view of the service starting within **4 days**.
- 14.5. For all other referrals e.g. from a community setting the Provider will:
- Accept the package within **4 hours** for action.
  - Commence the service within **24 hours** of receipt for a referral. Commence the service means the Provider will start the process of making contact with the person to discuss their assessment / care plan with a view to the service starting within **48 hours**



- 14.6. It is expected that any delay is communicated to the person or their nominated representative as soon as possible. It remains the responsibility of the Provider to manage lateness in the most effective way but must, where possible, contact the person or their representative ahead of time.

## **15. Registration Requirements**

- 15.1. The Provider must be [CQC registered](#) for personal care throughout the duration of the contract.
- 15.2. The service must be provided by sufficient numbers of appropriately qualified and experienced staff, in line with the standards set by the CQC.
- 15.3. In line with Wirral Council's policies, at point of award, the Provider must be rated good or outstanding by the CQC. The service Provider must ensure that continuous quality improvement systems are in place to ensure the service is run in the best interests of individuals in receipt of a Mobile Nights Service.
- 15.4. Once the contract has been awarded and has commenced, the Provider must engage with the Council's contractual and quality interventions where the service falls below the minimum standard of "Good". The Council's Commissioning, Contract & Quality Monitoring Policy is enclosed as Appendix 3.

## **16. Digital Care Plans**

- 16.1. The Provider must use an [NHS Approved Digital Social Care Record](#) (DSCR) to manage, monitor and record the delivery of the Mobile Nights service. The DSCR must be capable of securely sharing Care Plans with service users to enable them to view their care records if they wish.
- 16.2. The [DSCR](#) will enable the real time sharing of care information to Wirral Council Adult Social Care Department and relevant NHS staff.
- 16.3. The DSCR will also enable the real time sharing of care information to individuals accessing the service, care-workers and office staff in the Provider's organisation.
- 16.4. The Provider must work in line with the Information [Governance \(DSCR\) standards](#), to ensure all personal data is kept confidential, is accurate and only accessed by authorised users.
- 16.5. To ensure family members/carers can engage effectively with care delivery, Providers will ensure appropriate access whilst ensuring that all relevant data privacy laws are adhered to. This will include protecting the rights of data subjects and seeking explicit consent where necessary.

- 16.6. Providers must use guidance such as that found on the [information governance portal](#) to decide upon the correct and lawful way to use data, taking account of GDPR and other relevant legal obligation.

## **17. Payments and Actuals**

- 17.1. Payment will be for 9 hour runs (10:00p.m. to 7a.m.). of individual home visits at night delivered across Wirral's geographical footprint 7 days a week, 365 days a year (366 days in a leap year) including Bank Holidays.
- 17.2. This is a block contract which guarantees payment for the volume of core service hours delivered. The block hours will remain under review for the duration of the contract and may be adjusted in line with any increase or decrease in demand.
- 17.3. The Provider's DSCR will record all the necessary information and evidence required to submit accurate Actuals (electronic invoices) on a monthly basis.
- 17.4. The hours of care and support actually delivered against the number of commissioned hours will be kept under constant review and will be monitored monthly in line with the Key Performance Indicators (KPIs) and activity measures outlined in Appendix 1.
- 17.5. Although the Provider will receive block payments for this service, Wirral Council is keen to ensure value for money by working with the Provider to explore a range of fee models and efficiencies that can be introduced during the lifetime of the contract. Examples of the types of efficiencies that will be explored with the Provider once the contract is in place include- gainshare, financial credits and single runs. This list is not exhaustive, and the Council will welcome other ideas that will deliver much needed efficiencies.
- 17.6. The Provider will work collaboratively with The Council on fee models based on the principles of open book accounting.

## **18. Service Delivery- Visits**

- 18.1. The Provider is expected to maximise the number of home visits within each run. This will include ensuring the specific needs of service users are met e.g. adhering to prescribed medication times.
- 18.2. Service users may have one or more visits per night depending on their assessed needs.
- 18.3. The Provider will work with all partners to ensure that while providing care and support during visits, care workers are not rushed; have the time to talk and meet each person's needs and ensure that they get to their next visit on time.
- 18.4. The Provider will ensure adequate levels of staffing and resources to deliver a safe and quality service for all service users.

- 18.5. The Provider will ensure that visits meet individual needs, focusing on personalised care and outcomes for individuals. Their staff will value and respect the individual's home and their personal possessions, demonstrating empathy and sensitivity in the care and support that they provide, acting upon specific cultural or religious requirements requested by the individual and their family.
- 18.6. The Provider will work with partners to develop and embed the innovative use of a wide range of technology particularly telehealth and telecare, to ensure effective capacity and flow, and right time response for people as required.
- 18.7. The Provider will have robust contingency plans in place to ensure the safe, reliable and effective delivery of Mobile Nights to Wirral residents, where unexpected or unplanned events occur.
- 18.8. The Provider will work collaboratively with the Council and other agencies to respond to local emergency situations and "civil contingencies".

## **19. Sub-contracting**

- 19.1. The Provider will not sub-contract any of their obligations under the Care and Support at Home Mobile Night Service contract. The hiring of agency staff is permitted in cases of emergency or any planned absence, although it is essential that written consent from the designated contract manager is gained prior to this.

## **20. The Workforce**

- 20.1. The Provider will ensure that it is working to the requirements stated below in relation to its workforce:
  - The Provider must be fully compliant with the requirements of HMRC and all relevant National Minimum wage Regulations particularly in relation to travel time, for the duration of the contract.
  - Wirral Council's set rate for this contract is inclusive of the Real Living Wage and it is expected of the Provider to pay the Real Living Wage to its employees who will be engaged on the contract for the duration of their employment.
  - The Provider will ensure that people who use the service are provided with the same workers wherever possible to ensure consistency of care and be able to report on this.
  - The Provider must maintain clear policies, procedures and guidance for all staff on safety precautions that must be taken relating to risk, including lone working, and will ensure that staff are familiar with the guidelines and their application in the work situation.
  - The Provider will ensure that they offer a mixed range of contracts for employees that meet the local requirement times of peak demand and capacity in both hospital discharge and community pressures.

- There will be a requirement that where flexible employment arrangements are in place, the Provider must be able to evidence that this is in complete agreement with the employee. This approach supports the element of labour market that prefers zero-hour contracts and the degree of flexibility it affords employees. This will be subject to review.
- The Provider will nurture and develop their workforce, ensuring that care workers are well trained and supported to achieve appropriate qualifications and accreditation to deliver a strength based high standard of care and support, at no additional costs to themselves.
- The Provider will work collaboratively with the Council and its designated partners to establish and develop a “Wirral career pathway” within the lifetime of the contract
- The Provider will invest in the health and wellbeing of their workforce by engaging with early health intervention strategies within the workplace, such as NHS Health Checks, flu vaccinations, covid-19 vaccinations to ensure a happy, healthy and more productive workforce.
- The Provider will have a robust, objective and demonstrably value based fair recruitment procedure in place, complying with the requirements of legislation, including but not limited to;
  - written terms and conditions of employment
  - job description
  - robust DBS processes
  - effective induction programmes
  - Comprehensive policies and procedures.
- To identify and deliver outcomes to individuals with a range of needs, the Provider will ensure that they have appropriate numbers of staff who are trained and skilled to provide the services defined. There will also be an expectation that organisational frameworks support the improvement of service provision and are delivered in line with national guidance and legislation.

## **21. Workforce- Best Practice Guidelines**

21.1. The Provider will follow best practice guidelines and legislative requirements for the delivery of this contract. Therefore, the following standards will apply to the care and support staff employed on this contract. The Provider’s staff will:

- Have a standard uniform
- Are treated like professionals and are confident when they present themselves
- Feel valued in their work, satisfied, and rewarded
- Have listening skills
- Have rapport with clients
- Are proud of the service they deliver
- Have terms and conditions that provide security, fair pay and working hours and encourage retention and career progression
- Have access to the Wirral career pathway which is currently in development as part of the Workforce Strategy

21.2. The Provider will ensure relevant training for staff that:

- Is appropriate to the tasks of their job
- Is holistic and develops skills and competencies
- Has consistent standards
- Delivers an induction programme
- Enables staff to identify changing needs, nutrition and medication needs
- Enables staff to listen to service users and build good communication and rapport
- Training that is supported by Wirral Borough Council e.g. Palliative Care Education Passport.
- Promotes independence and reduces dependency

21.3. The Provider will ensure an integrated service that:

- Works well across agencies and providers
- Has shared records, standardised paperwork, consistent information
- Has integrated and effective information technology systems with a single-entry point
- Participates in multidisciplinary meeting to effectively coordinate care on a neighbourhood basis
- Supports key working where a named member of staff is responsible for care coordination and communication
- Is equipped and supported to manage medication and changes to prescribing
- Uses technology, equipment and communicates effectively using various methods
- Has the potential to be co-located with other services that support people in their own homes

21.4. As outlined by the Department of Health, Skills for Care England and the Care Quality Commission, the Provider must ensure that all staff employed after March 2015 achieve the following [Care Certificate Standards](#) :

- Standard 1: Understand your role;
- Standard 2: Your personal development;
- Standard 3: Duty of care;
- Standard 4: Equality and diversity;
- Standard 5; Person centred values;
- Standard 6: Communication;
- Standard 7: Privacy and dignity;
- Standard 8: Fluids and nutrition;
- Standard 9: Mental health, dementia and learning disabilities;
- Standard 10: Safeguarding adults;
- Standard 11: Safeguarding children;
- Standard 12: Basic life support;
- Standard 13: Health and safety;
- Standard 14: Handling information;
- Standard 15: Infection prevention and control

- 21.5. For staff employed prior to March 2015, the Provider must be able to evidence an induction commensurate with the requirements of the Common Induction Standards Skills for Care. They must also complete additional top up induction standards of the new care certificate framework:
- Standard 7: Privacy and Dignity;
  - Standard 8: Fluids and Nutrition;
  - Standard 9: Mental Health Dementia and Cognitive Issues;
  - Standard 11: Safeguarding Children;
  - Standard 14: Handling Information.
- 21.6. Staff who have achieved the care certificate should not be expected to complete this if their employer changes; however, it is the responsibility of the Provider that the employee has sufficient knowledge as part of their induction and is aware of the development of the Wirral Career Pathway. Additionally, staff who have achieved the appropriate level of qualification for their role (QCF) will not be required to complete the care certificate.
- 21.7. Induction of Management
- All managers responsible for the service must receive an induction commensurate with the Management Induction Standards Skills for Care completed within the first 12 weeks of employment [www.skillsforcare.org.uk](http://www.skillsforcare.org.uk)
- 21.8. Qualifications of social care and senior staff
- As a minimum all staff must have the appropriate level of qualification as identified by Skills for Care. This will be by way of level 2 and level 3 diplomas or commensurate level diploma meeting the [RQF](#) such as a National Vocational Qualification. For staff working in specialised services, it is also required that generic pathways have been followed as a top up in specialist dementia, or mental health, learning disability and physical disability RQF credits.
- 21.9. Qualifications of management
- It is a requirement that all Registered Managers hold the Level 5 Diploma in Leadership and Management for Health and Social Care if they were recruited post March 2011. For Registered Managers in place prior to this date they must hold an appropriate level care and management qualification that meets current Qualifications and Credit Framework (RQF) requirements and show evidence of continuing professional development.
- 21.10. Refresher Training

- The Provider must have evidence within their workforce plan and training needs analysis that all training is refreshed and updated in line with requirements from regulators, legal frameworks, new and emerging guidance or changes in policy.

## **22. Workforce Plan and Training Needs Analysis**

- 22.1. The Provider must have an up-to-date workforce plan to ensure that the skills mix, training and qualifications of staff are reflective of and meet the service needs of individuals. This must also highlight any unmet needs and how these are managed and resolved. These themes must be integrated into employee reviews and supervision models along with service plans for the organisation.
- 22.2. The Provider will ensure that any medication is handled, administered and stored with due regard for the safety and well-being of the individual. The Provider will be responsible to ensure all staff administering medication are adequately trained and assessed as competent before carrying out the task. Guidance can be found on The Royal Pharmaceutical Society – [www.rpharms.com](http://www.rpharms.com)
- 22.3. The Provider will ensure that they have trained and competent staff to carry out their own low level moving and handling assessments.
- 22.4. As the minimum, the standard of training will be outlined in the Care Certificate, induction processes and workforce plan. It is important that any generic course and policy is reflective of Wirral Borough Council's policies as stated below and that staff are trained to be able to comply with these:
  - Wirral [Safeguarding Adults](#) and [Safeguarding Children](#) policies and procedures
  - The Care Act.
  - Health and Safety requirements.
  - Complaints.
  - Moving and Handling.
  - Moving with Dignity Principles
  - End of Life care and support.
  - Managing challenging and difficult behaviour.
  - Administering medication.
  - Medication auditing.
  - Identifying, supporting and working with carers.
  - Reabling approach to service delivery.
  - Rehabilitation of people discharged from hospital.
  - Supporting people with long term conditions.
  - Supporting and working with people with dementia, particularly those who have complex needs.
  - Mental Capacity Act 2005, including Deprivation of Liberty Safeguards, with appropriate use of mental capacity assessments and best interest decision making.
  - Infection prevention and control.
  - Staff Wellbeing policies.

- 22.5. The Provider must have a range of health and safety policies that are comprehensive that include as minimum care tasks, community based activities, moving and handling, no entry procedures, how to conduct a risk assessment before conducting a visit, use of equipment and environmental hazards. The Service Provider must have clear monitoring procedures to ensure its staff work to these standards.

## **23. Skills for Care - Adult Social Care-Workforce Data Set (ASC-WDS)**

- 23.1. The service will be required to contribute to the Adult Social Care-Workforce Data Set (ASC-WDS) at regular intervals as determined by the reporting requirements
- 23.2. The ASC-WDS is a free online data collection service which collects information on the adult social care workforce in England. It's the leading source of workforce information for the adult social care sector.
- 23.3. As workforce is central to the adult social care sector, the data collected is vital to the Government, the Department of Health and Social Care, local authorities and the Care Quality Commission as it enables planning, funding and monitoring of the sector.
- 23.4. The data collected also determines the quality of care experienced, the success of care providers and the funding needed. More information about ASC-WDS can be found on the [Skills for Care](#) website.

## **24. Safeguarding**

- 24.1. The Provider commissioned has a duty to safeguard vulnerable adults in their care, from abuse or neglect, or risk thereof.
- 24.2. The Provider will be expected to adhere to the [Wirral Multi-Agency Safeguarding Adults Policy](#) (2022) and to the [North West Safeguarding Adults Policy](#) (2017).
- 24.3. These policies and procedures are intended to promote the wellbeing and safety of service users, prevent harm and facilitate effective responses to concerns raised about abuse and neglect.
- 24.4. All safeguarding processes set out as part of this procedure must follow the principles set out in the Care Act 2014 Statutory Guidance in relation to Safeguarding and Wirral Safeguarding Adults Policy. Those principles are:
- Empowerment.
  - Prevention.
  - Proportionality.
  - Protection.
  - Partnership.
  - Accountability.
- 24.5. Every member of staff, irrespective of their role, whether they are paid, a volunteer or a contractor, should be completely familiar with and adhere to the processes and



procedures outlined in to the [Wirral Multi-Agency Safeguarding Adults Policy](#) (2022) and to the [North West Safeguarding Adults Policy](#) (2017).

- 24.6. It is essential that the policies and procedures of the service reflect and are consistent with these two documents.
- 24.7. The Provider will also work in line with Wirral Council's "Criteria for Reporting Safeguarding and Quality of Care Concerns" guidance. As well as making safeguarding referrals, the Provider will take responsibility for reporting and responding to incidents of poor practice (quality of care concerns).
- 24.8. Wirral Council's "Criteria for Reporting Safeguarding and Quality of Care Concerns" guidance will be made available post contract award and will require the Provider to make determinations on whether incidents or issues that occur should be dealt with under the safeguarding process or under the quality of care process.
- 24.9. In addition to making safeguarding referrals, the main purpose of identifying and responding to incidents of poor care is to rectify any deficiency immediately, understand why care was compromised and put in place measures to ensure that the risk of any repetition is minimised.
- 24.10. The Provider will adopt and follow best practice in relation to [safer recruitment](#) of staff, volunteers and contractors in relation to their fitness to practice.
- 24.11. The Provider will ensure that all staff, volunteers and contractor will undertake and complete [safeguarding training](#) that is relevant to their role within 3 months of their role commencing.
- 24.12. Where there is evidence of, or suspicion of, abuse or neglect, The Provider must have a robust policy in place to respond to concerns in order to safeguard the service users accessing the services. This should include actions taken to inform the Care Quality Commission and/or the Police, if appropriate and in accordance with the Public Interest Disclosure Act 1998, the Care Act 2014 and the Disclosure and Barring Service (DBS).
- 24.13. It should be noted that where suspected or alleged abuse or neglect has occurred outside of Wirral, The Provider should follow the safeguarding policies and procedures of the host local authority where the suspected or alleged abuse or neglect is thought to have taken place.
- 24.14. The Provider must also have a 'whistleblowing' policy in place, in accordance with the Public Interest Disclosure Act 1998. The policy should protect staff, volunteers and contractors who wish to raise concerns formally, when they feel that they have no other avenue to do so. Concerns could relate to any of the following:

- A criminal offence has been or could be committed.
- An individual who has failed to comply with a legal obligation.
- A miscarriage of justice which has occurred.
- The health and safety of an individual has been compromised.
- Financial irregularities which may have occurred.

24.15. Where an allegation is made against a member of staff, The Provider will adhere to the North West [Persons in a Position of Trust](#) (PiPoT) policy, to investigate the allegation to determine the staff member's fitness to practice. If, for any reason, the staff member is removed from post, either through dismissal or redundancy, on the basis that they pose a risk to adults with care and support needs, then the Provider must inform the Disclosure and Barring Service (DBS).

24.16. The Provider will have a policy which requires staff, volunteers and contractors to make a declaration in relation to any gifts, payments or any other benefits received from service users accessing the service.

24.17. The Provider will have a policy in place for checking all driving documents for staff, volunteers and contractors with the Driving and Vehicle Licence Agency (DVLA). This should include the licence classification for the vehicles they are driving, insurance, tax and MOT details, etc.

## **25. CONTEST Counter-Terrorism Strategy (2018) – Prevent Strand**

25.1. The UK Government's [CONTEST](#) Counter-Terrorism Strategy (2018) consists of four strands:

- Prevent.
- Pursue.
- Protect.
- Prepare.

25.2. Under [section 26](#) of the Counter-Terrorism and Security Act 2015, certain authorities have a duty to give due regard to, and counter, the threat from terrorism.

25.3. The Prevent Strand of the strategy formulates action to safeguard and protect those individuals who may be vulnerable to radicalisation, in order to prevent them from becoming terrorists or supporting terrorism.

25.4. The Provider must therefore be vigilant to the risks posed by radicalisation in relation to vulnerable service users in their care. Where evidence suggests that a service user is at risk, the Provider should make a referral using the dedicated [form](#) and email it to: [prevent@merseyside.police.uk](mailto:prevent@merseyside.police.uk).

## **26. Complaints and compliments**

- 26.1. The Provider will have a clear complaints and compliments policy in place which is adequately publicised throughout the service.
- 26.2. The complaints and compliments policy should describe the process of making a complaint (or compliment) from submission, through investigation to a decision made or action taken.
- 26.3. The Provider will ensure that all service users, their families, or carers are aware of the complaints and compliments process and how they can use it. A timeline and description of the expected process will also be provided, so that service users, their families or carers know what to expect.
- 26.4. The Provider will ensure that every complaint or compliment is recorded accurately, and that the subsequent investigation is clearly and concisely documented. This should include:
  - The date that the complaint/compliment was made
  - The date that the complaint/compliment was received by the provider
  - An accurate record of the complaint/compliment
  - Details about how this was investigated and whether there was any evidence to substantiate the complaint/compliment
  - The outcome of the investigation
  - The date the complaint/compliment was responded to
- 26.5. The Provider will communicate appropriately with service users, their families or carers throughout the process, to ensure they are kept informed of progress in any investigation undertaken.
- 26.6. The Provider will work transparently and make service users, their families or carers aware of local advocacy services that can support them throughout the complaints/compliments process.
- 26.7. All complaints/compliments must be responded to within an appropriate timescale and complaints need to be resolved, either formally or informally.
- 26.8. Where complaints cannot be resolved satisfactorily, the provider will inform service users, their families or carers about how to escalate their complaint to either Wirral Council or the Ombudsman.
- 26.9. The Provider will ensure that Wirral Council is informed about all formal complaints and serious concerns raised in relation to the service within 24 hours of receipt.
- 26.10. The Provider will collate the information from complaints annually to identify any trends which may impact on services and share the results with Council Officers on request. Evidence of learning should be made available, and any actions taken as a result

## **27. Data Protection and GDPR**

- 27.1. The Provider must put in place appropriate technical and organisational measures to ensure that the processing activities undertaken during the duration of the contract is in full compliance with the Data Protection Act 2018.
- 27.2. The appropriate technical and organisational measures will prevent any unauthorised or unlawful processing of such Personal Data, and against the accidental loss or destruction of, alteration to, disclosure of or damage to such Personal Data.
- 27.3. The Provider will ensure that all processing activity is lawful, fair and transparent as outlined below:
- Lawful means all processing should be based on a legitimate purpose.
  - Fair means the Provider will take responsibility and will not process data for any purpose other than the legitimate purposes.
  - Transparent means that The Provider must inform data subjects about the processing activities on their personal data.
- 27.4. The Provider will use guidance such as that found on the [Commissioners Office \(ICO\)](#) to ensure compliance with GDPR and Data Protection laws.
- 27.5. The Provider will act only on the Council's instructions in relation to the processing of any personal data provided to the Provider by the Council or on behalf or by the Council's employees or former employees.
- 27.6. The Provider will take reasonable steps to ensure the reliability of Staff who will have access to such personal data and ensure that such Staff are properly trained in protecting personal data.
- 27.7. Where People are in receipt of both a day and night provision, providers will need to ensure that GDPR is in place to ensure confidentiality. Inter-agency working is critical for shared packages of care to ensure all regulatory requirements are met.
- 27.8. Upon receipt of at least 7 days' notice the Provider will allow Council Officers access to any relevant premises owned or controlled by the Provider to check compliance with the procedures described above and will, on the Council's request, prepare a report to the Council as to the Provider's current technical and organisational measures used to protect any such personal data.
- 27.9. The Provider will act upon all reasonable suggestions which the Council may put to the Provider to ensure that the level of protection provided for personal data is in accordance with this document and the Data Protection Act 2018 and make changes suggested unless the Provider can prove to the Council's satisfaction that they are not necessary to ensure on going compliance with relevant GDPR legislation and data protection principles.

## **28. Business Continuity Plans**

- 28.1. Business continuity is a way of improving resilience within local communities. Responsibilities under the Civil Contingencies Act 2004 require Local Authorities and other organisations to be prepared to respond quickly and effectively to meet the urgent needs of affected local communities during an emergency.
- 28.2. To support Wirral Council's duties under the act, the Provider must have a Business Continuity Plan which prevents business disruption and ensures that people continue to receive services as commissioned, the plan must cover the following areas:
- Workforce issues
  - Cold Weather – advice on the NHS Choices website
  - Getting ready for winter – information from the Met Office
  - Heat Wave – advice on the NHS Choices website
  - Other severe weather e.g. flooding
  - Wirral Emergency Plan
  - NHS England – wider NHS emergency preparedness
  - Public Health England – responses to public health incidents (e.g. disease outbreaks)
  - Utility/Power failure
  - Response to the Covid-19 Pandemic, or any other communicable or infectious diseases
  - Staffing shortages
  - IT Outage
  - Disrupted transport
  - Fire, gas leak and/or explosion
- 28.3. The Provider must supply a copy of its business continuity plan to the Contract Officer of the Council from time to time once a request is made.

## **29. Monitoring and Evaluation**

- 29.1. The Provider will work in line with Wirral's Commissioning, Contract and Quality Monitoring Policy enclosed as Appendix 3 to ensure that the service continually meets contract and regulatory requirements and strives for efficiencies and improvements.
- 29.2. The Provider will work closely with designated Council Officers to meet Wirral's expectations to be of a "Good" quality (or better) as rated by Care Quality Commission (CQC) or Provider Assessment and Market Management Solutions (PAMMS) throughout the duration of the contract.
- 29.3. The Provider will attend regular contract meetings with a designated officer of the Council to review performance and service development in line with the contract. The frequency of the contract meetings will be dependent on Wirral's RAG rating system outlined in the Contract and Quality Monitoring Policy in Appendix 3.

- 29.4. If during the lifetime of the contract, the Mobile Nights Service has an overall rating of either **inadequate** or **requires improvement**, the Council will provide quality intervention support including the rapid coordinated response of the **Provider Risk Information Group (PRIG)**.
- 29.5. The Provider will be required to register with the Council's online Contract Management Portal following the contract award. Contract performance is monitored in accordance with objectives, targets and Key Performance Indicators as set out within this specification. The Provider will provide monthly Performance data to Wirral Council, in relation to service performance against specified Key Performance Indicators and activity measures (Appendix 1) via a Firmstep Form.
- 29.6. In addition to the monthly data submissions, The Provider will also submit an annual assurance statement to Council Officers.
- 29.7. The Provider will be required to attend all meetings in connection with the contract to which they may be invited, including regular progress meetings. The programme for these meetings will be agreed as part of any contract mobilisation process. Such meetings may be conducted either in person or through media technology. Additional meetings may be held where necessary to address any matters between the review meetings.
- 29.8. The Provider will support the Council's commitments to maximise the economic, social and environmental impact of commissioning services. This will include working with Council Officers to identify an appropriate set of Social Value Commitments and demonstrating delivery against any commitments made.
- 29.9. The Provider will agree to provide Wirral Council with additional ad hoc reports, information or data about service delivery subject to reasonable request for the purposes of audit of the contract e.g., providing information related to funding streams where we would require additional information above the usual monthly and annual reporting requirements.
- 29.10. Where there is reasonable cause, Wirral Council reserve the right to request access to or require the service provider to produce evidence in relation to:
- Organisational policies and procedures
  - Staff competencies and training records
  - Medicines Management Records
  - Exit Interviews
  - Staff Investigations
  - Complaints and compliments

## **30. Social Value**

- 30.1. The Provider will support the Council's commitments to maximise the economic, social and environmental impact of commissioning services. This will include working with

Council Officers to identify an appropriate set of Social Value Commitments and demonstrating delivery against any commitments made.

- 30.2. The Council is utilising the National TOMs as its basis for quantifying Social Value, and these have been adapted to reflect the specific needs of the Council and bidders are to choose measures that are proportional, realistic and relevant to the contract.
- 30.3. The Provider must ensure that the overall value of the Social Value commitments is delivered over the lifetime of the contract. Therefore, in addition to the reporting requirements within section 29, the provider will submit quarterly reports to the Council providing evidence of delivery against all Social Value commitments made.

### **31. Contract Exit and Transfer arrangements**

- 31.1. The Provider will work with the Council to ensure an effective strategy is in place during mobilisation and contract exit. The strategy will include:
  - The transfer of people records to the Authority, if requested
  - The transfer of people from the current to new services (please refer to the ITT for details of the existing service)
  - Providing TUPE information as requested
  - Supporting a smooth transition including participating in handovers between the incumbent and new provider
- 31.2. The transfer of data will be conducted in a timely, efficient, and co-operative manner. The data will be transferred in a compatible format with any new provider and the commissioning authority whilst complying with relevant GDPR legislation. Information on the IT system and software used by the incumbent provider will be shared with any proposed new provider and the Council.

### **32. National Legislation, Guidance and Standards**

- 32.1. The Care and Support at Home Mobile Nights Service must comply with all relevant health and social care policy, legislation, regulations and best practice guidance.
- 32.2. The national guidance outlined below covers the planning and delivery of person-centred care to people living in their home. They aim to promote independence and to ensure safe and consistently high-quality home care services.
- 32.3. The specification could also be subject to change in response to any future changes in legislation or Government guidance.

32.4. It is expected that the following list of resources (which should be considered indicative rather than exclusive) should directly influence the development and delivery of services:

- The Care Quality Commission (CQC)  
[Guidance for providers on meeting the regulations](#) `Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (Part 3)
- *Care Quality Commission (Registration) Regulations 2009 (Part 4)*
  
- [National Institute for Health and Care Excellence \(NICE\)](#)
- *NICE Pathway – Homecare for older people*
  
- United Kingdom Homecare Association  
[Guides and Tools](#)
  
- Department of Health  
[National framework for Health CHC](#)
  
- The Care Act 2014 and care and support statutory guidance
- The Human Rights Commission guidance
- The Equality Act 2010
- The Mental Capacity Act 2005
- [Safeguarding Vulnerable Groups Act 2006](#)
- [Mental Health Act 2007](#)
  
- Other NICE guidance
- [Care of dying adults in last days of life NG31](#)
- [End of Life Care for Adults QS13](#)
- [Managing medicines for adults receiving social care in the community – NG67](#)

### 33. SOCIAL CARE AND HEALTH SPECIFIC DEFINITIONS

The words and expressions which are stated in the left-hand column of the following Interpretation Table will (in the absence of any contrary provision) be construed in accordance with the definitions which are set out opposite the same in the right-hand column of the Interpretation Table

INTERPRETATION TABLE	
Word/Phrase	Definition
Adult Social Care Workforce Data Set	This is a free online data collection service provided by Skills for Care that covers the adult social care workforce in England.



Advocate/Advocacy	The provision of help and representation by an advocate to enable a person accessing the service to have their views, concerns, wishes and preferences communicated to others, whereby the advocate maintains complete loyalty to the person accessing the service in question and represents the person's views and wishes as if they were the advocate's own.
Adult Social Care Outcomes Framework (ASCOF)	The Adult Social Care Outcomes Framework (ASCOF) measures how well care and support services achieve the outcomes that matter most to people. The ASCOF is used both locally and nationally to set priorities for care and support, measure progress and strengthen transparency and accountability.
Asset Based Support	A support approach that explores in a collaborative way how to build on an individual's informal networks. It starts with what matters to the individual or community, recognising the assets that they already hold, creating solutions through collaboration, and engaging people with respect and equality
Assistive Technology (AT)	Assistive technology or adaptive technology (AT) is an umbrella term that includes assistive, adaptive, and rehabilitative devices. AT promotes greater independence by enabling people to perform tasks that they were formerly unable to accomplish, or had great difficulty accomplishing, by providing enhancements to, or changing methods of interacting with the technology needed to accomplish such tasks.
Best Interests decision	A decision made on the behalf of a person who has been assessed as lacking the Mental Capacity to make a decision relating an aspect of their life due to a mental disorder and an inability to understand, retain and/or weigh up information and/or to communicate their decisions to others, following consultation with all relevant people.
The Brokerage/Care Arranging Team	The team broker packages on behalf of Wirral Council and partners in health
Care Package(s)	The approved care provision each week which is to be undertaken for each person accessing the service in the provision of the services.
Care Quality Commission (CQC)	The executive non-departmental public body of the Department of Health established in 2009 to regulate and inspect health and social care services in England or where this ceases to exist or changes its name then such other organisation carrying out a similar regulatory role and function regardless of whatever name it may be known as.
Carer (unpaid)	Someone who helps another person, usually a relative or friend, in their day-to-day life

Continuing Healthcare (CHC)	Refers to people with long-term complex health needs qualify for free social care arranged and funded solely by the NHS
Co-production	The term Co-production refers to a way of working where service providers and users work together to reach a collective outcome. The approach is value-driven and built on the principle that those who are affected by a service are best placed to help design it.
Council Officers	A person deployed by the Council to carry out a range of functions such as arranging care for people who have been found on assessment to be owed a duty under The Care Act 2014 and carrying out the quality assurance or contract monitoring of Provider services.
The Disclosure and Barring Service (DBS)	The Disclosure and Barring Service (DBS) helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups. It replaced the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA)
Deprivation of Liberty Safeguards (DoLS)	The process that must be followed if an incapacitated person is to be deprived of their liberty in a lawful manner, to prevent harm in their best interests.
Financial credits	This is loosely based on the ideas of the service credit model where underused hours are rolled over to help support the peaks and troughs of service demand.
Gainshare	A “partnership” approach to achieve a mutually beneficial result. Both parties gain a percentage of costs saved e.g. 50:50 of underdelivered hours
General Data Protection Regulation (GDPR)	GDPR is a European Union (EU) law that came into effect on 25th May 2018. GDPR governs the way in which we can use, process, and store personal data (information about an identifiable, living person)
Induction Standards	The standards set out by Skills for Care for what a manager and staff delivering care and support at home services need to know and understand to perform well in their role
Information Commissioners Office (ICO)	The ICO regulates data protection in the UK. They monitor compliance on data protection and take enforcement action where appropriate.

Key Performance Indicators (KPIs)	Performance measures that will be recorded and reported by the Provider to the Council
Mental Capacity	A person's ability to make their own specific decisions at specific times
Moving and Handling	When providing care and support to people, Staff may need to support them to move around. It is essential that Staff know about and can deliver safe Moving and Handling which upholds the dignity of people, so they don't hurt themselves or other people.
National TOMs	The National TOMs- Themes Outcomes and Measures is a framework for delivering excellence and measuring social value
Outcomes	The required impacts or end results of the provision of care and support to a service user with the aim of maximising the person's independence and quality of life
Personalised or Person-Centred	Putting people at the centre of the process identifying their needs
PREVENT	A national agenda focused on safeguarding and supporting those vulnerable to radicalisation.
Provider	The organisation that will provide the service as outlined in this specification to Wirral residents.
Runs	A series of home visits to service users, This can be wither by a single member of staff (single run) or by two members of staff (double run)
Safeguarding/ Safeguarding Team	The process by which abuse is reported, investigated and harm to people is prevented/ The team responsible for investigating safeguarding referrals.
Service	Means the care and support package(s) to be purchased from the Provider in line with this specification.
Service User/ Individual/ Person	Individuals in receipt of a Care and Support at Home Mobile Nights Service
Skills for Care	This is the strategic workforce development and planning body for social care in England. They work with key stakeholders to ensure the sector has the right people who are equipped to deliver the highest quality care and support
Social Value	Social value describes the wider social, economic and environmental benefits that can be secured for the community when services are commissioned
Specification	This document

Strengths-Based Approach	The strengths-based approach focuses on a service user's personal, relational, and community assets, rather than their deficit with the aim of maximising independence and preventing over-reliance on services. For example, using tech enable care, accessing local community assets and natural networks of support.
Support Plan	The Plan devised by the Social Care Assessor which describes the care and support requirements.
The Council	Refers to Wirral Metropolitan Borough Council
The Provider	The Contractor responsible for providing the support and care services to adults with a learning disability
Trusted Assessment	Involves an arrangement between Wirral Council and the Provider who identifies a qualified and experienced Trusted Assessor who will be carry out assessments of health/social care needs on behalf of the Council using a strengths-based approach to recommend "right-size" packages or "just enough" support
TUPE	Means Transfer of Undertakings and Protection of Employment. TUPE refers to the "Transfer of Undertakings (Protection of Employment) Regulations 2006" as amended by the "Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014". The TUPE rules apply to organisations of all sizes and protect employees' rights when the organisation or service they work for transfers to a new employer.
Whistleblowing	Whistleblowing involves a person or group of people who tell someone in authority (i.e. the Council, ICBs in Wirral, the Registered Manager or the Regulator) about alleged abusive and dishonest practices occurring in an adult social care or health setting.

## Appendix 1: PERFORMANCE REPORTING AND BUSINESS INTELLIGENCE

The Provider will provide Key Performance Indicators and Activity measures as set out below;

No	Key Performance Indicators/ Activity Measures to be captured	Sub KPIs or Activity Data	Reporting Frequency	Source of Data
1.	Total Number of clients in receipt of a mobile nights' service in the reporting period	None required	Monthly	Controcc
2.	Total Number of clients that are CHC funded in the reporting period	None required	Monthly	Controcc
3.	Number of new clients/starters in the reporting period	<ul style="list-style-type: none"> <li>➤ Numbers of new starters that supported hospital discharge</li> <li>➤ Numbers of new starters that supported hospital avoidance</li> <li>➤ Numbers of new starters that prevented admission into 24 hour care</li> </ul>	Monthly	Brokerage/Controcc
4.	A breakdown of the different types of service being delivered to people in receipt of the service	Different service delivery types to include: <ul style="list-style-type: none"> <li>➤ Personal Care including toileting and changing incontinence pads</li> <li>➤ Medication</li> <li>➤ Repositioning</li> <li>➤ Wellbeing checks               <ul style="list-style-type: none"> <li>○ Nutrition and Hydration</li> <li>○ Unplanned Care</li> </ul> </li> </ul>	Monthly	Provider/Firmstep

5.	% of new packages that were accepted within 24 hours	Broken down into referral sources/referral routes	Monthly	Brokerage / Liquid Logic
6.	Total number of current commissioned hours	None required	Monthly	Controcc
7.	Actual hours delivered in the reporting period	None required	Monthly	Provider (invoice) /Controcc
8.	Total number of new support hours commissioned in the reporting period	None required	Monthly	Controcc
9.	% of visits that were missed in the reporting period	None required	Monthly	Provider/Firmstep
10.	Number of trusted assessment reviews completed in the reporting period	None required	Monthly	Provider/Firmstep
11	Number of complaints received in the reporting period	None required	Monthly	Provider/Firmstep
12	% of complaints dealt with within 28 days	None required	Monthly	Provider/Firmstep
13.	Number of safeguarding referrals in the reporting period	None required	Monthly	Liquid Logic
14.	Number of care concerns raised in the reporting period	None required	Monthly	Liquid Logic
15.	Total Number of reporting incidents in the reporting period	None required	Monthly	Liquid Logic

16.	Total Number of staff employed for the mobile nights	None required	Monthly	Provider/Firmstep
17.	Number of new staff recruited in that month	None required	Monthly	Provider/Firmstep
18.	Number of staff leavers in that month	None required	Monthly	Provider/Firmstep

## Appendix 2: Think Local Act Personal- Making it real co-produced statements

<b>Outcome 1:</b>  <b>Wellbeing and Independence</b>  <b>(living the life I want)</b>	<b>I Statements</b>
	<ul style="list-style-type: none"> <li>• I can live the life I want and do the things that are important to me as independently as possible.</li> <li>• I am treated with respect and dignity.</li> <li>• I feel safe and am supported to understand and manage any risks.</li> <li>• I am supported to manage my health in a way that makes sense to me.</li> <li>• have people in my life who care about me – family, friends and people in my community.</li> <li>• I am valued for the contribution that I make to my community.</li> <li>• I have a place I can call home, not just a ‘bed’ or somewhere that provides me with care.</li> <li>• I live in a home which is accessible and designed so that I can be as independent as possible.</li> </ul>
	<b>We Statements</b>
	<ul style="list-style-type: none"> <li>• We have conversations with people to discover what they want from life and the care, support and housing that will enable this, without restricting solutions to formal services and conventional treatments.</li> <li>• We work with people to make sure that their personal plans promote wellbeing and enable them to be as independent as possible.</li> <li>• We work with people to manage risks by thinking creatively about options for safe solutions that enable people to do things that matter to them.</li> <li>• We know it can be helpful for people to share experiences, so we encourage specialised support, peer support, self-help and self- advocacy groups.</li> <li>• We welcome ideas about using personal budgets flexibly and creatively. We look for ways to involve people in their communities where they feel included and valued for their contribution.</li> <li>• We make sure people feel safe and comfortable in their own home, which is accessible, with appropriate aids, adaptations, technology and medical equipment.</li> <li>• We know that the place where people live, the people they live with, and the support they get, are important to their wellbeing and often interlinked. We have conversations with people to make sure we get all aspects right for them as individuals.’</li> </ul>
	<b>I Statements</b>



<p><b>Outcome 2: Information and Advice</b></p> <p><b>(Having the information, I need, when I need it)</b></p>	<ul style="list-style-type: none"> <li>• I can get information and advice that helps me think about and plan my life.</li> <li>• I can get information and advice about my health and how I can be as well as possible – physically, mentally and emotionally.</li> <li>• I can get information and advice that is accurate, up to date and provided in a way that I can understand.</li> <li>• I know about the activities, social groups, leisure and learning opportunities in my community, as well as health and care services.</li> <li>• I know what my rights are and can get information and advice on all the options for my health, care and housing.</li> <li>• I know how to access my health and care records and decide which personal information can be shared with other people, including my family, care staff, school or college</li> </ul> <p><b>We Statements</b></p> <ul style="list-style-type: none"> <li>• We provide free information and advice to everyone, including people who arrange or fund their own support and care.</li> <li>• We provide accurate and up-to-date information in formats that we tailor to individual needs, face to face if necessary.</li> <li>• We talk to people to find out how much information they want and follow up to find out if they want more detail.</li> <li>• We provide information and advice about health, social care and housing which is tailored to a person's situation without limiting their options and choices.</li> <li>• We provide information and advice that reflects relevant law and/or clinical guidance.</li> <li>• We provide information to make sure people know how to navigate the local health, care and housing system, including how to get more information or advice if needed.</li> <li>• We make sure people know their legal rights and responsibilities</li> <li>• We tell people about person-centred approaches to planning and managing their support and make sure that they have the information, advice and support to think through what will work best for them.</li> <li>• We provide information about what's happening in our local community and how people can get involved.</li> <li>• We always include a contact name, telephone number and email address when giving advice or information electronically.</li> <li>• We make sure we share information about what we do and how people can access our service with other relevant organisations so we can all work more effectively.</li> <li>• We tell people about their rights to see their health and social care records and to ask for any mistakes to be put right.</li> <li>• We get permission before sharing personal information</li> </ul>
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<p><b>Outcome 3: Active and Supportive Communities</b></p> <p><b>(I have people who support me, such as family, friends and people in my community)</b></p>	<p><b>I Statements</b></p> <ul style="list-style-type: none"> <li>• I have people who support me, such as family, friends and people in my community.</li> <li>• I can meet people who share my interests and have the opportunity to join and participate in a range of groups.</li> <li>• I feel welcome and safe in my local community and can join in community life and activities that are important to me</li> <li>• I have opportunities to learn, volunteer and work and can do things that match my interests, skills and abilities.</li> <li>• I can keep in touch and meet up with people who are important to me, including family, friends and people who share my interests, identity and culture.</li> <li>• I have a co-produced personal plan that sets out how I can be as active and involved in my community as possible</li> </ul> <p><b>We Statements</b></p> <ul style="list-style-type: none"> <li>• We make sure that people can keep in touch and meet up with their family, friends and people in the community who are important to them.</li> <li>• We make sure that people have opportunities to make new friends and build relationships with other people who share their interests, culture and identity.</li> <li>• We work in partnership with others to make our local area welcoming, supportive and inclusive for everyone.</li> <li>• We work in partnership with others to create opportunities for people to work, both paid and voluntary, and to learn</li> <li>• We have a clear picture of all the community groups and resources in our area and use this when supporting people and planning services.</li> <li>• We invest in community groups, supporting them with resources – not necessarily through funding – but with things like a place to meet or by sharing learning, knowledge or skills.</li> <li>• We make sure that personalised care and support plans are co-produced and set out how people can be as active and involved in their community as possible, doing things that are important to them.</li> </ul>
	<p><b>I Statements</b></p> <ul style="list-style-type: none"> <li>• I have care and support that enables me to live as I want to, seeing me as a unique person with skills, strengths and personal goals</li> </ul>

<p><b>Outcome 4</b></p> <p><b>Flexible and Integrated Care and Support</b></p> <p><b>(My support, My own way)</b></p>	<ul style="list-style-type: none"> <li>• I am in control of planning my care and support. If I need help with this, people who know and care about me are involved.</li> <li>• I know how much money is available to meet my care and support needs. I can decide how it's used – whether it's my own money, a health or social care personal budget, or a budget managed on my behalf.</li> <li>• I have care and support that is coordinated and everyone works well together and with me.</li> <li>• I can choose who supports me, and how, when and where my care and support is provided.</li> <li>• I can get skilled advice and support to understand how my care and support budgets work and enable me to make the best use of the money available.</li> <li>• I can get skilled advice and support to recruit and manage my personal assistants, whether I employ them or an organisation does</li> </ul> <p><b>We Statements</b></p> <ul style="list-style-type: none"> <li>• We work in partnership with others to make sure that all our services work seamlessly together from the perspective of the person accessing services.</li> <li>• We work with others to agree a single, integrated personal plan and provide a named coordinator for people accessing more than one service.</li> <li>• We talk with people to find out what matters most to them, their strengths and what they want to achieve and build these into their personalised care and support plans.</li> <li>• We work with people as equal partners and combine our respective knowledge and experience to support joint decision-making. We tell people about their rights to advocacy and representation and make sure these services are available</li> <li>• We want people to be as involved as possible in writing their personalised care and support plans and provide help from people who understand the importance of person-centred planning.</li> <li>• We make sure that people can rely on and build relationships with the people who work with them and get consistent support at times that make sense for them.</li> <li>• We work flexibly to meet people's fluctuating requirements for care and support, enabling the flexible use of personal budgets over time and with minimal restrictions.</li> <li>• We review people's personalised care and support plans with them regularly, focusing on whether they are doing the things they identified as important to them.</li> <li>• We make sure that our organisational policies and procedures reflect the duties and spirit of the law and do not inadvertently restrict people's choice and control</li> </ul>
	<p><b>I Statements</b></p>

<p><b>Outcome 5</b></p> <p><b>When things need to change</b></p> <p><b>(I get to stay in control)</b></p>	<ul style="list-style-type: none"> <li>• I am supported to plan ahead for important changes in life that I can anticipate.</li> <li>• When I move between services, settings or areas, there is a plan for what happens next and who will do what, and all the practical arrangements are in place before change happens.</li> <li>• If I move from my home to another place, the people who are important to me are respected, listened to, supported and involved in decisions</li> <li>• If my medication has to change, I know why and am involved in the decision.</li> <li>• I can plan ahead and stay in control in emergencies. I know who to contact and how to contact them and people follow my advance wishes and decisions as much as possible.</li> <li>• I know what to do and who I can contact when I realise that things might be at risk of going wrong or my health condition may be worsening</li> </ul>
	<p><b>We Statements</b></p> <ul style="list-style-type: none"> <li>• We support people to plan for important life changes, so they can have enough time to make informed decisions about their future.</li> <li>• We make sure that staff working in short-term settings or situations understand people's care, treatment and support requirements and work in a person-centred way.</li> <li>• We talk to people during and after significant changes to find out if their requirements for care, support and housing have changed and to review their aspirations.</li> <li>• We talk through changes in treatment or medication with people so they understand the changes and possible implications or side effects, seeing people holistically in the context of their life.</li> <li>• We work with people to write a plan for emergencies and make sure that everyone involved in supporting the person knows what to do and who to contact in a health or social care emergency.</li> <li>• We make sure that any people or animals that depend on the person are looked after and supported properly. We make sure that people, and those closest to them, know what to do and who to contact if their health condition, support arrangements or housing conditions are deteriorating and a crisis could develop. We respond quickly to anyone raising concerns</li> </ul>
	<p><b>I Statements</b></p> <ul style="list-style-type: none"> <li>• I am supported by people who see me as a unique person with strengths, abilities and aspirations.</li> </ul>

<p><b>Outcome 6</b></p> <p><b>Workforce</b></p> <p><b>(The people who support me)</b></p>	<ul style="list-style-type: none"> <li>• I am supported by people who listen carefully, so they know what matters to me and how to support me to live the life I want.</li> <li>• I am supported to make decisions by people who see things from my point of view, with concern for what matters to me, my wellbeing and health.</li> <li>• I have considerate support delivered by competent people</li> </ul> <p><b>We Statements</b></p> <ul style="list-style-type: none"> <li>• We don't make assumptions about what people can or cannot do and don't limit or restrict people's options.</li> <li>• We see people as individuals with unique strengths, abilities, aspirations and requirements and value people's unique backgrounds and cultures.</li> <li>• We know how to have conversations with people that explore what matters most to them – how they can achieve their goals, where and how they live, and how they can manage their health, keep safe and be part of the local community.</li> <li>• We have a 'can do' approach which focuses on what matters to people and we think and act creatively to make things happen for them.</li> <li>• We keep up to date with local activities, events, groups and learning opportunities and share this knowledge so that people have the chance to be part of the local community.</li> </ul>
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## **Appendix 3**

### **Wirral Adult Social Care Commissioning, Contract & Quality Monitoring Policy**

#### **Index**

#### **Overview**

#### **Equality and Diversity**

#### **1. Policy**

#### **2. Roles and responsibility**

- 2.1 Commissioning Overview
- 2.2 Commissioning Team Role
- 2.3 Market Position Statement
- 2.4 Contracts Team Role
- 2.5 Quality Assessment Team Role
- 2.6 Social Worker Teams Role

#### **3. Contract & Quality Intervention**

- 3.1 Contract Management
- 3.2 Contract Rag Rating
- 3.3 Indicators of Contract Triggers and Tolerances
- 3.4 Expectations for Contract Monitoring
- 3.5 KPI and Reporting Requirements
- 3.6 Overview of Quality Assessment
- 3.7 Scheduling of Quality Assessment

#### **4. Escalation**

#### **5. Provider Risk Information Group**

#### **6. Voluntary & Formal Suspension**

#### **7. Termination of Contract**

#### **8. Out of Borough Placement**

## **Overview**

This policy must be read in conjunction with The Care Act 2014 – Section 5 and The Equality Act 2010.

The Care Act 2014 statutory guidance Section 5 states that 'high quality, personalised Care and Support can only be achieved where there is a vibrant, responsive market of services available'. The Local Authority role is seen as critical and under section 5 of the Care Act, the duty to shape and maintain an efficient and effective market of services for meeting care and support needs in the local area is firmly placed with them. The duty applies in relation to services that the Local Authority commissions directly, but also to other non-commissioned services in its area (including those used by self-funders), universal services and services provided by partners (such as health or charitable services) that together create the marketplace.

To fulfil its duty to promote diversity and quality in service provision, Wirral Borough Council must ensure it has effective strategies to shape the marketplace and commission good quality services. This Policy sets out how the Commissioning, Contracts and Quality Improvement teams work together to implement and fulfil these duties.

The Council will pro-actively work with all care providers to raise the standard of care in Wirral and will engage health and care system partners as part of its response to support care providers at any stage of its contract and quality management process.

## **Equality and Diversity**

### ***Promoting diversity and quality in provision of services***

- (1) A Local Authority must promote the efficient and effective operation of a market in services for meeting care and support needs with a view to ensuring that any person in its area wishing to access services in the market –
  - (a) has a variety of providers to choose from who (taken together) provide a variety of services.
  - (b) has a variety of high-quality services to choose from.
- 2) In performing that duty, a Local Authority must have regard to the following matters in particular -
  - (a) the need to ensure that the authority has, and makes available, information about the providers of services for meeting care and support needs and the types of services they provide.

## **1. Policy**

- 1.1. Wirral Council will monitor the compliance and quality of all its commissioned services in accordance with the contracts applicable to those services.
- 1.2. All regulated Provider services that the council contract with will be expected to be of a Good Quality (or better) as rated by Care Quality Commission (CQC) or Provider Assessment and Market Management Solutions (PAMMS). Where services fall below this standard and are not rated “Good” (or better) then the Council will engage with the provider appropriately via contractual and quality intervention to ensure the provider improves to a point where its rating is improved.
- 1.3. Failure to demonstrate improvements or adhere to contractual obligations could result in suspension or termination of contracts and would be subject to a decision at the Provider Risk Information Group (PRIG).
- 1.4 It is Council policy that the CQC ratings will be published on the Council website. The Council will also publish any services from which it has suspended new placements. The Council will keep this published information under regular review.

## **2. Roles and responsibilities**

### **2.1. Commissioning Overview**

Commissioning is the Local Authority activity of determining at a strategic level which of the Care and Support/Support services in the marketplace it should design, deliver, monitor, and evaluate through a contractual arrangement to meet its strategic objectives. Key to this activity is the Quality Monitoring processes carried out by contract managers and quality improvement practitioners that inform and allow commissioning decisions to be made in relation to who should be contracted with to deliver services to the people of Wirral.

### **2.2. Role of Commissioning Team**

To ensure the best possible outcomes for our population across Wirral, we will work with our internal and commissioned social work provider, our community care market and our third sector. We will draw upon the broad range of resources, including voluntary and community sector as well as public services, using the full breadth of our community assets. We will ensure that whilst working in partnership we are using all of their skills knowledge and cultural expertise. To do this we need strong system leadership, strong local relationships and effective delivery networks across all sectors. Our starting point is people, not organisations, this means putting our residents before organisational self-interest.

Key principles:

- Move to a place based and strength-based commissioning approach.
- Co-produce service offers locally with providers, individuals and the wider citizenship.
- Engage people with lived experience and apply critical thinking and problem solving with them.



- Local Flexibility to meet local needs.
- Create a long-term commitment from all partners

### 2.3 Market Position Statement

The Council has developed a Market Position Statement, which is shared with Regional Councils and can be found here:

<https://www.wirral.gov.uk/health-and-social-care/adult-social-care/market-position-statement>

### 2.4 Role of Contracts Team

To manage and oversee the contractual obligations with all providers to achieve the best outcomes for people.

The purpose of contract management is to ensure that services are being delivered in line with people's stated outcomes, best value (quality and price), continually meet contract and regulatory requirements and strive for efficiencies and improvements.

All suppliers will have a named Council Contract Lead if there is no named Contract Lead an Authorised Officer (AO) will fulfil the role of Contract Lead.

The Contract Lead will be responsible for reviewing, monitoring and evaluating performance and quality in line with the contract to ensure that its provisions and the services within it are being followed and performed as they should be.

During the life of the Contract, the Contract Lead will monitor the Contract in respect of the following:

- Performance (against agreed Key Performance Indicators (KPI's) where relevant)
- Quality standards
- Compliance with specification and contract
- User engagement and satisfaction
- Management of risk
- Be responsible for ensuring that workforce profiles are submitted annually from all contractors to enable the Council to assess compliance with the Equality Act 2010.

### 2.5 Role of Quality Improvement Team

Quality Improvement Teams role and objectives are: -

- To assess the quality-of-care services provided in Wirral using a quality monitoring tool. currently this is the Provider Assessment Market Management System (PAMMS) and supported by any other intelligence related to quality concerns.
- To guide, support, and enable providers to produce a quality improvement action plan to raise and maintain good quality Care and Health standards across Wirral.
- To work collaboratively with key stakeholders and providers of care, to support, promote and sign post system-wide quality improvement interventions across Community Care market.

- To understand and report on the quality of care and inform on the processes in place to manage reported risks and mitigations in relation to Providers of Community Care Services

## **2.6 Role of Social Work Teams**

- To ensure that people who require support continue to receive the right level of targeted support commensurate with their assessed needs.
- To ensure that vulnerable people are kept safe and that safeguarding concerns are appropriately investigated and responded to.
- To take immediate action to keep people safeguarded where necessary.
- To be aware of any contract or quality concerns in their interactions with care providers, and report any concerns via [wirralcontractsteam@wirral.gov.uk](mailto:wirralcontractsteam@wirral.gov.uk)
- To provide a response to any “immediate concerns” (same day or within 24 hours) as a result of any contractual or quality assessment process
- To lead on any safeguarding, assessment and review activities, which may arise from any contract or quality assessments or initiatives.
- To undertake assessment and review duties to meet the Council’s statutory duty under the Care Act

## **3 Contract & Quality Intervention**

### **3.1 Contract Management**

As part of the contract management process, a unified approach has been taken utilising Commissioning, Contracts and Quality intelligence. All contracted Providers are rated by the Council using intelligence based on the following:

- CQC Rating
- Quality Concerns
- Stakeholder feedback
- Safeguarding Adults (section 42) enquiries
- CQC notifications and alerts
- Complaints / Compliments
- Quality assessment outcome
- Financial concerns

### **3.2 Contract (RAG) Rating**

Providers RAG Ratings will be based on a multifactorial assessment which includes intelligence, triggers and tolerances.

Decisions on the RAG Ratings of the Providers will be undertaken monthly by the Acting Senior Managers for Commissioning, Contracts, Quality & Systems, supported by the Quality Improvement Team Manager and Contract Leads. Any immediate concerns that arise between meetings can be addressed in an extraordinary meeting as required.

### **3.3 Indicators of Contract Triggers and Tolerances**

The below table provides indicators of triggers and tolerances, we would use to support the risk assessment and decision making on the RAG rating of providers.

<b>Criteria</b>	<b>Red</b>	<b>Amber</b>	<b>Green</b>
Current CQC Rating	Inadequate / RI	RI / Good	Good / Outstanding
Proportion of Care Concerns raised per service population	> 5%	2% – 5%	< 2%
Proportion of Safeguarding Section 42 enquiries that are progressed and substantiated	> 50%	20% - 50%	< 20%
Proportion of CQC Alerts / Notifications received per population	> 20%	10% - 20%	< 10%
Proportion of Provider complaints substantiated	> 50%	20% - 50%	< 20%
Proportion of Adult Social Care Provider complaints substantiated	> 50%	20% - 50%	< 20%
PAMMS	Poor / RI	RI / Good	Good / Excellent

The outcome of this determines the frequency of both the contract meetings, the deployment of the PAMMS Assessment and any subsequent suspensions.

### **3.4 Expectations for Contract Monitoring**

The below table sets out the frequency of contract monitoring based on the RAG ratings described in 3.3.

	<b>Red</b>	<b>Amber</b>	<b>Green</b>
Monthly Key Performance data	Yes	Yes	Yes
Contract Monitoring Meeting	Monthly	Quarterly	6 Monthly
Annual Assurance Statement & Report	Yes	Yes	Yes

### **3.5 KPI and Reporting Requirements.**

All Providers will be asked to submit monthly Key Performance Indicators via a Firmstep form which will contribute to data already available via Council monitoring systems to create intelligence, linked to triggers and tolerances and reportable on a digital dashboard.

### **Annual Assurance Statement**

It will be a requirement for all Providers to submit an annual statement to the Commissioning, Contracts and Quality Team. The statement will provide assurance on:

- Insurance and indemnity cover
- Regulatory Update
- Business Continuity Plan
- Wirral's Safeguarding Policy
- Quality Monitoring
- Staff engagement
- Digital Social Care Record (DSCR)
- Annual Data Security and Protection Toolkit (DSPT) checklist completed.

The content of the annual assurance statement will be reviewed on an annual basis by the Contracts, Commissioning & Quality Team.

Failure of a provider not adhering to the above could result in a contractual breach

### **3.6 Overview of Quality Assessment**

The Provider Assessment and Market Management Solution (PAMMS) is an online assessment tool, designed to assess the quality of care delivered by Providers of Adult Social Care Services.

The PAMMS assessment is the current quality tool being used within the Commissioning, Contracts and Quality Team.

The auditing toolkit will:

- Enable the Commissioning, Contracts and Quality Team to work together in collaboration with providers to achieve better outcomes for the residents of Wirral.
- Give providers the opportunity to sense-check their internal quality audits against Wirral Council's assessment.
- Enable the sharing of best practice and new innovations across the sector.
- Enable an objective quality assessment that supports providers in establishing what is working well and what areas may require improvement.
- Help identify where additional support, signposting, or referral to specialist teams e.g. Infection Prevention Control, Medicine Management to achieve the best outcomes for individuals.
- Support providers to prepare in advance of any regulatory activity.
- Support improved Care Quality Commission ratings for providers in Wirral.

- The Quality Improvement Team is committed to working in partnership with providers to ensure the best quality outcomes for people in receipt of care services.

### **3.7 Scheduling of Quality Assessments**

The Quality Improvement Team will endeavour to agree a mutually convenient timeframe for a PAMMS assessment to commence. This will need to be balanced alongside the PAMMS scheduling and any other planned activity. There may be times when the assessment may still need to go ahead for various reasons, and this will be explained to providers in advance.

Scheduled providers will be notified by either their named Contract Lead or Quality Improvement Practitioner (QIP) that they have been scheduled for a PAMMS assessment and a date for an initial introductory PAMMS meeting set if required.

The Provider will be allocated a designated Quality Improvement Practitioner (QIP), who will remain allocated to the Provider for the period of the PAMMS assessment.

The QIP will complete the PAMMS assessment in partnership with the Provider and agree the quality rating with the Registered Manager at the end of assessment.

If an unscheduled review of a service is identified due to risks, a targeted review of the service will be carried out. This will enable a rapid assessment of the immediate areas of concern and inform if further action, or a full PAMMS assessment needs to be scheduled. (Please see appendix 1 - Quality Assessment Process)

## **4. Escalation**

There may be times when there is a need to escalate concerns, during or following a quality assessment, that may include raising a safeguarding referral to Central Advice and Duty Team (CADT).

If a safeguarding concern is highlighted during the quality assessment this will need to be raised with the Registered Manager in the first instance and either the Registered Manager can submit the referral or the QIP.

The QIP will need to notify providers via email at the earliest opportunity, if there are any immediate health and safety risks and copy in the Contract Lead, QIP Team Manager.

Senior Managers within the commissioning, contracts and quality team will decide on what action may need to be considered, until assurances are gained that any immediate health and safety risks have been addressed adequately. This could result in providers being subject to the monthly Provider Risk Information Group (PRIG). Social care representatives may be needed to gain assurance around any safety issues related to people who use services.

There may be times when the commissioning, contracts and Quality Team will need to involve other professional teams for additional support, signposting, or referral to specialist teams such as Infection Prevention Control (IPC), End of Line Team, Primary Care Networks' etc.

## 5. Provider Risk Information Group (PRIG)

The purpose of the PRIG is to ensure a rapid coordinated response to any presenting risks, whilst managing the market and ensuring robust transparent processes are implemented.

All services identified as high risk through quality & Contract monitoring, intelligence received, triggers and tolerances will be subject to the monthly Provider Risk Information Group (PRIG) where a summary of the concerns will be discussed, any mitigating actions agreed and a collective decision around any further action that may need to be taken, for example, social work intervention, quality intervention, service suspension (voluntary or formal), increase contract monitoring etc.

This is to ensure partners across the health and social care system are working cohesively in relation to the Adult Social Care Market and that risks identified are recognised, recorded, and mitigated against where possible.

The membership panel consists of representatives across health and social care sector, CQC & Legal and the meeting is held monthly.

## 6. Voluntary / Formal Suspension

Wirral have taken the approach where Providers fail to demonstrate improvements or adhere to contractual obligations could result in suspension or termination of contracts this would be a decision at the Provider Risk Information Group (PRIG). In circumstances whereby suspension or termination has taken place, self-funders will be offered the same support, access to advice and guidance, advocacy support and assessment as Wirral funded individuals.

Any Wirral service that has a CQC inspection with the overall rating outcome of '**inadequate**' will be formally suspended for all new placements and remain suspended until CQC reinspect, and they will remain subject to PRIG until their rating improves to "**requires improvement**". During this time the Council will provide quality intervention support.

Any service that has a CQC inspection with the overall rating of '**Requires Improvement**' will be subject to PRIG where next steps are determined which could be:

- A formal suspension on any new placements
- A voluntary suspension until the service demonstrates an improvement.
- Quality Assessment or Intervention

(At times of high demand and to ensure system capacity and flow 'requires improvement' services may be supported to facilitate admissions on a risk assessed basis and supported by the Health and Care system.)

Wirral is committed to supporting all providers to achieve and maintain good quality services and will work with all services including suspended services to achieve sustained improvements.

## 7 Termination of Contract

Failure for a service to not demonstrate quality improvements or contractual obligations the Authority may terminate its contract.

## **8 Out of Borough Placements – Contract Monitoring and Quality Assurance**

Were possible all placements are commissioned in Wirral. However, it is recognised that for a range of reasons this may not always be possible, and people may need to be placed with providers out of borough.

When these circumstances arise, it is the responsibility of the host Local Authority to undertake site visits and under the Local Authority sharing protocol agreement inform funding authorities of any safeguarding concerns, contractual concerns, or breaches.

Contract Leads within Wirral are responsible for liaising with host Authorities on a regular basis to make enquiries and seek assurances around the quality of care being provided where Wirral funded individuals reside or use the service.

**Policy agreed at Policy Board: July 2024**

**Policy review Date: July 2026**

**Responsibility for Policy Review: Wirral Council Professional Standards Team**



## **Appendix 1**

### **Quality Assessment Process**

The assessment will follow a standardised approach for consistency across the whole market, whilst considering all services are individual and the method of evidencing standards may differ from service to service.

The provider will be given information on what to expect to meet the required standards and will be supported throughout the process by their designated QIP.

The QIP will triangulate evidence across the domains and standards to ensure a fair and consistent rating is applied.

Examples of some of the things we might ask to see evidence of include:

- Staff have appropriate DBS checks and refresher training
- Staffing is sufficient
- Care and support plans are sufficiently detailed and regularly updated
- Risk assessments are complete
- Daily records are accurate
- Robust procedures are in place

The QIP will want to speak to as many people as possible over the assessment period, to ensure a fair and proportionate assessment is conducted.

The QIP will also advise on any areas of best practice that services may want to consider implementing to further improve the quality of the service.

Any standards that cannot be evidenced by the end of the assessment period will be discussed with the provider and documented on the assessment as an action for the provider to address.

All assessment reports and draft ratings will be approved through the Quality Assurance approval process.

Following approval of the draft report, the QIP will submit the report on the PAMMS system to generate the overall rating. Providers will receive an automated email which will allow them to go onto the system and view the report.

The QIP will ensure that the provider is able to access the report and is aware of any immediate actions required prior to ending the visit.

If a provider does not agree with the ratings, they have 14 days to submit their challenge via the PAMMS system for review any supporting evidence can be submitted or requested accordingly.

The review will not be a further assessment, it will assess the process followed during the assessment by the QIP and will cover the following areas: -

- The Provider and the QIP work in partnership.
- The Provider was supported to evidence that standards had been met.
- Robust evidence to support ratings.
- Use of evidence against correct standards.
- Objective fairness, including appropriate consideration of any evidence relating to the standard in question.
- 

If a challenge is not received within 14 days, the report will automatically be published within the provider portal area.

Following any review of rating, the outcome will be communicated to the provider at the earliest opportunity.

If a provider agrees with the report findings, they can click 'submit' before the 14-day period and it will be automatically published within the provider portal area.

### **PAMMS Rating Outcomes**

For services with an overall PAMMS rating of 'Good' or 'Excellent' there will be no requirement for any follow up activity or improvement plan. The next scheduled quality assessment will not take place for at least 2 years, unless concerns are received that changes the contractual RAG rating. Providers are responsible for addressing any individual quality standards rated requires improvement, as part of their own overall service improvement plans and these areas will be reviewed at the next scheduled PAMMS assessment.

For services with an overall PAMMS rating of 'Requires Improvement' an improvement plan will be required. The timescales for any follow-up activity / validation will be agreed between the provider, QIP and contract lead. A further scheduled PAMMS assessment will be undertaken 12 months from when the improvement plan is fully completed and verified.

For services with an overall PAMMS rating of 'Poor' the service will be added to the PRIG agenda and given a maximum of 6 months to implement improvements. A further PAMMS assessment will be undertaken with the aim of evidencing an improved overall rating.

QIP and contract lead will offer support visits to any overall rated 'Requires Improvement' or 'Poor' services and will work closely with all providers throughout the process offering guidance, best practice, and support to ensure quality standards are rated good or above.

There may be circumstances when an improvement plan is required for closer monitoring by the quality and contracts team. This will be determined on a case-by-case basis and providers will be advised on the reasons why and timescales for any follow-up activity required.

If a QIP, or contract lead identifies, any areas that would constitute a breach in contract.

Contract breaches in scope include but are not limited to the following:

- Health and Safety requirements relating the premises and equipment.

- Fit and Proper Persons Employed
- Met all statutory and mandatory training requirements to fulfil the requirements of their role.
- Safeguarding Adults concerns
- Incidents requiring reporting

Currently, the ratings are only visible to individual providers, however this may be reviewed in the future through provider consultation in terms of wider sharing.

## **SCHEDULE B**

### **CONDITIONS PRECEDENT**

Any tenderer who is offered a contract will be required to submit an up to date copy of the documents requested in the ITT & Service Selection Questionnaire (SSQ)

**SCHEDULE C**

**NOT USED**

## **SCHEDULE D**

1 The rates payable for the contract duration are.

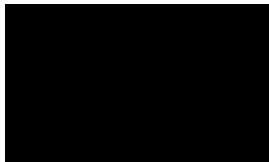
Mobile Nights requires to be in operation between the hours 21:00 – 06:00am currently there is 7 runs per evening with 2 staff on each run totalling 14 staff which delivering 126 hours per night which equates to 882 hours per week.

This Contract will be paid on a block arrangement every 4 weeks. The block hours will remain under review for the duration of the contract and may be adjusted in line with any increase / decrease in demand.

The Contractor is required to submit actuals from their electronic call monitoring for all support provided. Contractors are required to build contingency in these runs to enable pick up unplanned work and respond to emergencies.

The rate payable on this contract are detailed below

**£23.31 per hour**



## **FINANCIAL ARRANGEMENTS**

### **1 PAYMENT**

- 1.1 The Contractor will be paid by the Authority on a scheduled basis four weekly in arrears for services it has provided under the terms of this Agreement.
- 1.2 The will provide a schedule of billing periods for which payment will be made to the Contractor.
- 1.3 The Contractor must maintain appropriate verifiable records of services provided to enable disputed invoices to be reconciled with service delivery.
- 1.4 The Authority will act on behalf of NHS Wirral in making payments to the Contractor in  
  
respect of Service Users who are jointly funded by NHS Wirral and who are supported under the terms of the Contract, but only if the Authority is authorised and continues to be authorised to make such payments.
- 1.5 The Council will pay invoices by BACS within 28 days of the invoice date except where an invoice is considered in error and not reconciled with service variations.
- 1.6 The Authority will act on behalf of NHS Wirral in making payments to the Contractor in respect of Service Users who are jointly funded by NHS Wirral and who are supported under the terms of the Contract, but only if the Authority is authorised and continues to be authorised to make such payments The Contractor will invoice the Authority four weekly in arrears for services it has provided under the terms of this Agreement. Invoices must be in a format acceptable to the Council.

### **2 CUSTOMERS WHO NEED SUPPORT TO MANAGE THEIR PERSONAL FINANCIAL AFFAIRS**

- 2.1 Contractors should not act, or seek to act, in the capacity of a deputy, or Donee of a power of attorney or appointee for a Service User under the terms of this Contract.
- 2.2 The Contractor must keep copies of all correspondence that they have with the Benefits Agency or any other organisations e.g. banks on behalf of any Service User they act for.

- 2.3 Under no circumstances may the Contractor or any of its employees, borrow from, or loan money to, any Service User or carer.
- 2.4 If there is suspicion of there being any form of financial abuse of any Service User supported under this Contract then the Contractor must notify the Authority immediately.
- 2.5 Contractors may not use Service Users personal monies to purchase improvements or items of equipment that would benefit the Contractor.



## **SCHEDULE E**

### **INCIDENTS REQUIRING REPORTING PROCEDURE**

#### **URGENT NOTIFICATIONS**

*Pursuant to clause B10 (Incidents Requiring Reporting) procedure for reporting, investigating, and implementing and sharing Lessons Learned from: (1) Serious Incidents (2) Service User Safety Incidents; and (3) Non-Service User incidents; the Contractor shall notify the relevant DASS Practitioner by telephone, same day or within next working day (and confirm in writing within 2 working days). In addition the Contractor shall notify the relevant DASS Practitioner by telephone, same day or within next working day (and confirm in writing within 2 working days). if any of the following occur:*

- Significant events that affect the well-being of the Individual such as accident, personal injury, death of partner or close family relative.
- A sudden deterioration in an Individuals condition necessitating the need for an urgent review.
- Any unusual or unexpected challenging behaviour by the Individual whether verbal, physical or sexual.
- If the Individual has an unplanned emergency admission to hospital.
- If there are circumstances where an Individual appears in need of medical attention but refuses to seek help.
- Deterioration of a Individuals condition over a longer period necessitating the need for a review e.g. questionable mental capacity, diminishing mobility etc.
- If the Individual or relative carer refuses to grant access or receive the planned service with no prior notice.
- If the If a care worker is unable to gain access to the Individuals home. The Contractor will be expected to exhaust it's own procedures before contacting the DASS Practitioner.
- If the care worker identifies any potentially hazardous situation in the Individuals home, immediate risk must be minimised prior to reporting to the DASS Practitioner.
- Where risks are identified that do not stem from abuse, for example risk from fire, alcohol, self-neglect, increasing frailty.

**SCHEDULE F**

**INFORMATION PROVISION**

**NOT USED**

## **SCHEDULE G**

### **Service Quality Performance Report and Review Meetings**

#### **Service Quality Performance Report**

The Service Contractor must provide a quarterly report to cover:

- (a) A summary of all data collated from:
  - complaints and compliments
  - Service User/carer surveys
  - safeguarding triggers and investigations
- (b) A summary of real time monitoring report, including
  - Planned versus actual visit start and finish times with variable tolerances.
  - The number of new support packages of care commencing within the 4 week period.
  - The number of support packages ceased within the 4week period including reasons for the cessation of the support package.
  - Consistency of carer. The service Contractor will provide the Authority with a list of clients who have received 6 or more different carers during a 7 day period.
  - Reports containing recruitment and staffing numbers.
  - Initiatives and developments by the service Contractor.
- Recording and Performance Management requirements are described in Section 17 of the Service Specification.
- The Contractor must work in partnership with the Authority to fulfil additional requests for information that the Authority and any co- commissioners may have.

#### **Review meetings**

The Service Contractor will be required to prepare for and attend quarterly monitoring meetings with the Authority in order to discuss the information submitted in the Service Quality Performance Reports, detailed above

#### **Performance Indicators:**

The Contractor must be able to produce on request at any time for review that it meets the needs of those people using the service using appropriate evidence that supports the service Contractor's self assessment of compliance and that the CQC regulations are being met to the satisfaction of the Council.

## SCHEDULE H

### Definitions and Interpretation

1. The headings in this Contract shall not affect its interpretation.
2. References to any statute or statutory provision include a reference to that statute or statutory provision as from time to time amended, extended or re-enacted.
3. References to a statutory provision shall include any subordinate legislation made from time to time under that provision.
4. References to Sections, clauses and Appendices are to the Sections, clauses and Appendices of this Contract, unless expressly stated otherwise.
5. References to any body, organisation or office shall include reference to its applicable successor from time to time.
6. Any references to this Contract or any other documents includes reference to this Contract or such other documents as varied, amended, supplemented, extended, restated and/or replaced from time to time.
7. Use of the singular includes the plural and vice versa.
8. The following terms shall have the following meanings:

**Authorised Person** means the Authority and any body or person concerned with the provision of the Service or care of a Service User

**Authority Representative** means the person identified in clause A4.1 (*Representatives*) or their replacement

**Best Value Duty** means the duty imposed by section 3 of the Local Government Act 1999 (the **LGA 1999**) as amended, and under which the Authority is under a statutory duty to continuously improve the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness and to any applicable guidance issued from time to time

**Board of Directors** means the executive board or committee of the relevant organisation

**Business Day** means a day (other than a Saturday or a Sunday) on which commercial banks are open for general business in London

**Care Quality Commission or CQC** means the care quality commission established under the Health and Social Care Act 2008

**Care Worker** – means the member of the Contractor's staff who delivers the service directly to the Service User

**Carer** means a family member or friend of the Service User who provides day-to-day support to the Service User without which the Service User could not manage

**Charges** means the charges which shall become due and payable by the Authority to the Contractor in respect of the provision of the Services in accordance with the provisions of this Contract, as such charges are set out in Schedule D (*Charges*)

**Commencement Date** means the date identified in clause A3.1 (*Commencement and Duration*)

**Competent Body** means any body that has authority to issue standards or recommendations with which either Party must comply

**Conditions Precedent** means the conditions precedent, if any, to commencement of service delivery referred to in clause A3.2 (*Commencement and Duration*) and set out in Schedule B (*Conditions Precedent*)

**Confidential Information** means any information or data in whatever form disclosed, which by its nature is confidential or which the Disclosing Party acting reasonably states in writing to the Receiving Party is to be regarded as confidential, or which the Disclosing Party acting reasonably has marked 'confidential' (including, without limitation, financial information, or marketing or development or work force plans and information, and information relating to services or products) but which is not Service User Health Records or information relating to a particular Service User, or Personal Data, pursuant to an FOIA request, or information which is published as a result of government policy in relation to transparency

**Consent** means:-

- (i) any permission, consent, approval, certificate, permit, licence, statutory agreement, authorisation, exception or declaration required by Law for or in connection with the performance of Services; and/or
- (ii) any necessary consent or agreement from any third party needed either for the performance of the Contractor's obligations under this Contract or for the provision by the Contractor of the Services in accordance with this Contract

**Contract** has the meaning given to it in clause A1.1 (*Contract*)

**Contract Query** means:-

a query on the part of the Authority in relation to the performance or non-performance by the Contractor of any obligation on its part under this Contract;

**Contract Query Notice** means a notice setting out in reasonable detail the nature of a Contract Query

**Contract Management Meeting** means a meeting of the Authority and the Contractor held in accordance with clause B28 (*Contract Management*)

**CQC Regulations** means the Care Quality Commission (Registration) Regulation 2009

**DASS** - Department of Adult Social Services

**DASS Practitioner** means an employee of the Authority who is responsible for assessing Individual needs, and arranging services to meet those needs as recorded in the Service User Support Plan.

**Data Controller** has the meaning given to it in Data Protection Legislation

**Data Guidance** any applicable guidance , guidelines, direction or determination, framework, code of practice, standard or requirement regarding information governance, confidentiality, privacy or compliance with Data Protection Legislation ( whether specifically mentioned in this Contract or not) to the extent published and publicly available or their existence or contents have been notified to the Contractor by the Authority and/or any Regulatory Body and/or the Information Commissioner

**Data Loss Event** any event that results or may result in unauthorised processing of Personal data held by the Contractor under this Contract or Personal Data for which the Contractor has responsibility under this Contract including without limitation actual or potential loss, destruction , corruption or inaccessibility of Personal Data including any Personal Data Breach

**Data Processing Services** the data processing services described in Annex to Schedule I

**Data Processor** has the meaning given to it in Data Protection Legislation

**Data Protection Impact Assessment** an assessment by the Data Controller of the impact of the envisaged processing on the protection of Personal Data

**Data Protection Legislation** means (i) the DPA (ii) the GDPR ,the LED and any applicable national Laws implementing them as amended from time to time (iii) the DPA 2018 (iv) all applicable Law concerning privacy confidentiality or the processing of personal data including but not limited to the Human Rights Act 1998, the common law duty of confidentiality and the Privacy and Electronic Communications (EC Directive ) Regulations

**Data Protection Officer** has the meaning given to it in Data Protection Legislation

**Data Subject** has the meaning given to it in Data Protection Legislation

**Data Subject Access Request** a request made by or on behalf of a Data Subject in accordance with rights granted pursuant to Data Protection Legislation to access their Personal Data

**DBS** means the Disclosure and Barring Service established under the Protection of Freedoms Act 2012

**Default** means any breach of the obligations of the Contractor (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the Contractor or the Staff in connection with or in relation to the subject-matter of this Contract and in respect of which the Contractor is liable to the Authority

**Disclosing Party** means the Party disclosing Confidential Information

**Dispute** means a dispute, conflict or other disagreement between the Parties arising out of or in connection with this Contract

**DPA** means the Data Protection Act 2018

**Electronic Monitoring System** Is an electronic system monitoring service delivery in 'real time' Electronic monitoring ensure that services are being provided as required including without limitation monitoring of dates times and lengths of visits by Staff.

**Employment Checks** means the following pre-appointment checks: verification of identity checks, right to work checks, registration and qualification checks, a check of gaps in employment so as to ensure all employment and non-employment history is accounted for, together with any other checks required by law of employees prior to engaging staff

**Enhanced DBS & Barred List Check** means an Enhanced DBS & Barred List Check (child) or Enhanced DBS & Barred List Check (adult) or Enhanced DBS & Barred List Check (child & adult) (as appropriate)

**Enhanced DBS & Barred List Check (child)** means a disclosure of information comprised in an Enhanced DBS Check together with information from the DBS children's barred list

**Enhanced DBS & Barred List Check (adult)** means a disclosure of information comprised in an Enhanced DBS Check together with information from the DBS adult's barred list

**Enhanced DBS & Barred List Check (child & adult)** means a disclosure of information comprised in an Enhanced DBS Check together with information from the DBS children's and adult's barred list

**Enhanced DBS Check** means a disclosure of information comprised in a Standard DBS Check together with any information held locally by police forces that it is reasonably considered might be relevant to the post applied for

**Enhanced DBS Position** means any position listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended), which also meets the criteria set out in the Police Act 1997 (Criminal Records) Regulations 2002 (as amended), and in relation to which an Enhanced DBS Disclosure or an Enhanced DBS & Barred List Check (as appropriate) is permitted

**Equipment** means the Contractor's equipment, plant, materials and such other items supplied and used by the Contractor in the performance of its obligations under this Contract

**Equivalent Hourly Wage** means the hourly wage paid to an employee and calculated using the same method as prescribed by the National Minimum Wage Act 1998 and related applicable law to assess whether an employee is at any time receiving the national minimum wage (as identified in that Act)

**Excusing Notice** means a notice setting out in reasonable detail the Contractor's reasons for believing that a Contract Query is unfounded, or that the matters giving rise to the Contract Query are:

- (i) due wholly or partly to an act or omission by the Authority; or
- (ii) a direct result of the Contractor following the instructions of the Authority;

**Expiry Date** means the date set out in clause A3.3 (*Commencement and Duration*)

**First Exception Report** means a report issued in accordance with clause B28 (*Contract Management*)

**FOIA** means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Authority or relevant government department in relation to such legislation and the Environmental Information Regulations 2004

**Force Majeure** means any event or occurrence which is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take preventative action by that Party, including fire; flood; violent storm; pestilence; explosion; malicious damage; armed conflict; acts of terrorism; nuclear, biological or chemical warfare; or any other disaster, natural or man-made, but excluding any industrial action occurring within the Contractor's or any supplier's organisation;

**Fraud means** any offence under the laws of the United Kingdom creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts or defrauding or attempting to defraud or conspiring to defraud the Authority or any Service User

**General Conditions** has the meaning given to it in clause A1.1(b) (*Contract*)

**Good Industry Practice** means using standards, practices, methods and procedures conforming to the Law and using that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled, efficient and experienced person providing services the same as or similar to the Services, at the time the Services are provided, as applicable

**Guidance** means any applicable local authority, health or social care guidance, direction or determination which the Authority and/or the Contractor have a duty to have regard to

**Indirect Losses** means loss of profits (other than profits directly and solely attributable to the provision of the Services), loss of use, loss of production, increased operating costs, loss of business, loss of business opportunity, loss of reputation or goodwill or any other consequential or indirect loss of any nature, whether arising in tort or on any other basis

**Law** means:-

- (i) any applicable statute or proclamation or any delegated or subordinate legislation or regulation;
- (ii) any enforceable EU right within the meaning of Section 2(1) of the European Communities Act 1972;
- (iii) any applicable judgment of a relevant court of law which is a binding precedent in England and Wales;
- (iv) National Standards;
- (v) Guidance; and
- (vi) any applicable industry code

in each case in force in England and Wales

**LED** Law Enforcement Directive (*Directive (EU) 2016/680*)

**Legal Guardian** means an individual who, by legal appointment or by the effect of a written law, is given custody of both the property and the person of one who is unable to manage their own affairs



**Lessons Learned** means experience derived from provision of the Services, the sharing and implementation of which would be reasonably likely to lead to an improvement in the quality of the Contractor's provision of the Services

**Local HealthWatch** means the local independent consumer champion for health and social care in England

**Losses** means all damage, loss, liabilities, claims, actions, costs, expenses (including the cost of legal and/or professional services) proceedings, demands and charges whether arising under statute, contract or at common law but, excluding Indirect Losses

**National Standards** means those standards applicable to the Contractor under the Law and/or Guidance as amended from time to time

**Parties** means the Authority and the Contractor and "Party" means either one of them

**Personal Data** has the meaning set out in the DPA

**Privacy Notice** the information that must be provided to a Data Subject under the DPA 2018

**Processor Data** is any data processed by the Contractor in connection with the Data Processing Services

**Prohibited Acts** has the meaning given to it in clause B37.1 (*Prohibited Acts*)

**Protective Measures** appropriate technical and organisational measures which may include pseudonymising and encrypting Personal Data ensuring confidentiality integrity availability and resilience of systems and services ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident and regularly assessing and evaluating the effectiveness of such measures

**Contractor Representative** means the person identified in clause A4.2 (*Representatives*) or their replacement

**Contractor's Premises** means premises controlled or used by the Contractor for any purposes connected with the provision of the Services which may be set out or identified in a Service Specification

**Contractor's Provisional Staff List:** the list prepared and updated by the Contractor of all the Contractor's personnel engaged in, or wholly or mainly assigned to, the provision of the Services or any part of the Services at the date of the preparation of the list.

**Contractor Representative** means the person identified in clause A4.2 (*Representatives*) or their replacement

**Public Authority** means as defined in section 3 of the FOIA

**Regulatory Body** means any body carrying out regulatory functions in relation to the Contractor and/or the Services

**Relevant Staff** means all employees and other staff (including without limitation temporary and casual workers and agency staff as defined by Regulation 3 of the Agency Workers Regulations 2010 as amended by the Agency Workers (Amendment) Regulations 2011, and whether such staff are engaged or employed on a full or part time basis, but not including

unpaid volunteers, interns or apprentices), who are employed or engaged on the Services for 2 or more hours of work in any given day in a week, for 8 or more consecutive weeks in a year

**Remedial Action Plan** means a plan to rectify a breach of or performance failure under this Contract specifying targets and timescales within which those targets must be achieved

**Required Insurances** means the types of policy or policies providing levels of cover as specified in the Service Specification(s)

**Review Meeting** means a meeting to be held in accordance with clause B18 (*Review Meetings*) or as otherwise requested in accordance with clause B17 (*Review Meetings*)

**Second Exception Report** means a report issued in accordance with clause B28 (*Contract Management*) notifying the recipients of a breach of a Remedial Action Plan and the continuing failure to remedy that breach

**Serious Case** means an incident or accident or near-miss where a patient (whether or not a Service User), member of staff, or member of the public suffers serious injury, major permanent harm or unexpected death on the Contractor's Premises or where the actions of the Contractor, the Staff or the Authority are likely to be of significant public concern

**Service Commencement Date** means the date set out in clause A3.2 (*Commencement and Duration*)

**Service Specification** means each of the service specification set out at Schedule A (*Service Specification*) together with in respect of individual Service Users the Service User Support Plan

**Service User** means the person directly receiving the Services provided by the Contractor as specified in the Service Specifications and includes their Carer and Legal Guardian where appropriate

**Service User Safety Incident** means any unintended or unexpected incident that occurs in respect of a Service User that could have led or did lead to, harm to that Service User

**Service User Support Plan** means the plan prepared by the Contractor and agreed by the Service User setting out the support required for delivery of outcomes for the Service User and specific tasks reasonably necessary for that delivery based on the assessment carried out or on behalf of the Authority

**Report** means a report as described in Schedule G (*Service Quality Performance Report*)

**Services** means the services (and any part or parts of those services) described in each of, or, as the context admits, all of the Service Specification, and/or as otherwise provided or to be provided by the Contractor under and in accordance with this Contract

**Social Value** the additional social benefits that can be achieved in the delivery of the Contract, set out in the Authority's tender response document and detailed in the Social Value Delivery Plan

**Special Conditions** has the meaning given to it in clause A1.1(c) (*Contract*)

**Staff** means all persons employed by the Contractor to perform its obligations under this Contract together with the Contractor's servants, agents, suppliers and Sub-contractors used in the performance of its obligations under this Contract

**Standard DBS Check** means a disclosure of information which contains certain details of an individual's convictions, cautions, reprimands or warnings recorded on police central records and includes both 'spent' and 'unspent' convictions

**Standard DBS Position** means any position listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended) and in relation to which a Standard DBS Check is permitted

**Succession Plan** means a plan agreed by the Parties to deal with transfer of the Services to an alternative Contractor following expiry or termination of this Contract.

**Successor Contractor** means any Contractor to whom a member of Staff is transferred pursuant to TUPE in relation to the Services immediately on termination or expiry of this Contract

**Transferring Employees:** employees whose contracts of employment transfer by virtue of the application of TUPE

**TUPE** means the Transfer of Undertakings (Protection of Employment) Regulations 2006

**VAT** means value added tax in accordance with the provisions of the Value Added Tax Act 1994

**Variation** means a variation to a provision or part of a provision of this Contract

## **SCHEDULE I**

### **Data Processing Agreement**

#### **1. SCOPE**

- 1.1 The Authority appoints the Contractor as a Data Processor to perform the Data Processing Services in Annex 1.
- 1.2 When delivering the Data Processing Services, the Contractor must, in addition to its other obligations under this Contract, comply with the provisions of this Schedule I.
- 1.3 This Schedule I applies for so long as the Contractor acts as a Data Processor in connection with this Contract.

#### **2. DATA PROTECTION**

- 2.1 The Parties acknowledge that for the purposes of Data Protection Legislation in relation to the Data Processing Services the Authority is the Data Controller and the Contractor is the Data Processor. The Contractor must process the Processor Data only to the extent necessary to perform the Data Processing Services and only in accordance with written instructions set out in this Contract, including instructions regarding transfers of Personal Data outside the EU or to an international organisation unless such transfer is required by Law, in which case the Contractor must inform the Authority of that requirement before processing takes place, unless this is prohibited by Law on the grounds of public interest.
- 2.2 The Contractor must notify the Authority immediately if it considers that carrying out any of the Authority's instructions would infringe Data Protection Legislation.
- 2.3 The Contractor must provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Authority, include:
  - (a) a systematic description of the envisaged processing operations and the purpose of the processing;
  - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Data Processing Services;
  - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
  - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 2.4 The Contractor must, in relation to any Personal Data processed in connection with its obligations under this Schedule I:
  - (a) process that Personal Data only in accordance with Annex 1 to this Schedule 1 unless the Contractor is required to do otherwise by Law. If it is so required the Contractor must promptly notify the Authority before processing the Personal Data unless prohibited by Law;
  - (b) ensure that it has in place Protective Measures, which have been reviewed and approved by the Authority as appropriate to protect against a Data Loss Event having taken account of the:
    - (i) nature of the data to be protected;
    - (ii) harm that might result from a Data Loss Event;
    - (iii) state of technological development; and

- (iv) cost of implementing any measures;
- (c) ensure that:
  - (i) when delivering the Data Processing Services the Contractor Staff only process Personal Data in accordance with this Schedule I (and in particular Annex 1 to this Schedule I);
  - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Staff who have access to the Personal Data and ensure that they:
    - (A) are aware of and comply with the Contractor's duties under this paragraph;
    - (B) are subject to appropriate confidentiality undertakings with the Contractor;
    - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Authority or as otherwise permitted by this Contract;
    - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and
    - (E) are aware of and trained in policies and procedures for Service User confidentiality and Data Protection
- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:
  - (i) the Authority or the Contractor has provided appropriate safeguards in relation to the transfer as determined by the Authority;
  - (ii) the Data Subject has enforceable rights and effective legal remedies;
  - (iii) the Contractor complies with its obligations under Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Authority in meeting its obligations); and
  - (iv) the Contractor complies with any reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data;
- (e) at the written direction of the Authority, delete or return Personal Data (and any copies of it) to the Authority on termination of the Data Processing Services and certify to the Authority that it has done so within five Business Days of any such instructions being issued, unless the Contractor is required by Law to retain the Personal Data;
- (f) if the Contractor is required by any Law or Regulatory Body to retain any Processor Data that it would otherwise be required to destroy under this paragraph 2.4, notify the Authority in writing of that retention giving details of the Processor Data that it must retain and the reasons for its retention; and
- (g) co-operate fully with the Authority during any handover arising from the cessation of any part of the Data Processing Services, and if the Authority directs the Contractor to migrate Processor Data to the Authority or to a third party, provide all reasonable assistance with ensuring safe migration including ensuring the integrity of Processor Data and the nomination of a named point of contact for the Authority.

- 2.5 Subject to paragraph 2.6, the Contractor must notify the Authority immediately if, in relation any Personal Data processed in connection with its obligations under this Schedule I, it:
- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
  - (b) receives a request to rectify, block or erase any Personal Data;
  - (c) receives any other request, complaint or communication relating to obligations under Data Protection Legislation owed by the Contractor or Authority;
  - (d) receives any communication from the Information Commissioner or any other Regulatory Body (including any communication concerned with the systems on which Personal Data is processed under this Schedule I);
  - (e) receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law;
  - (f) becomes aware of or reasonably suspects a Data Loss Event; or
  - (g) becomes aware of or reasonably suspects that it has in any way caused the Authority to breach Data Protection Legislation.
- 2.6 The Contractor's obligation to notify under paragraph 2.5 includes the provision of further information to the Authority in phases, as details become available.
- 2.7 The Contractor must provide whatever co-operation the Authority reasonably requires to remedy any issue notified to the Authority under paragraphs 2.5 and 2.6 as soon as reasonably practicable.
- 2.8 Taking into account the nature of the processing, the Contractor must provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 2.5 (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:
- (a) the Authority with full details and copies of the complaint, communication or request;
  - (b) such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Access Request within the relevant timescales set out in Data Protection Legislation;
  - (c) assistance as requested by the Authority following any Data Loss Event;
  - (d) assistance as requested by the Authority with respect to any request from the Information Commissioner's Office, or any consultation by the Authority with the Information Commissioner's Office.
- 2.9 Without prejudice to the generality of B23, the Contractor must allow for audits of its delivery of the Data Processing Services by the Authority or the Authority's designated auditor.
- 2.10 For the avoidance of doubt the provisions of B22 (*Assignment and Sub-contracting*) apply to the delivery of any Data Processing Services.
- 2.11 The Contractor must create and maintain a record of all categories of data processing activities carried out under this Schedule I, containing:
- (a) the categories of processing carried out under this Schedule I;
  - (b) where applicable, transfers of Personal Data to a third country or an international organisation, including the identification of that third country or

international organisation and, where relevant, the documentation of suitable safeguards;

- (c) a general description of the Protective Measures taken to ensure the security and integrity of the Personal Data processed under this Schedule I; and
  - (d) a log recording the processing of the Processor Data by or on behalf of the Contractor comprising, as a minimum, details of the Processor Data concerned, how the Processor Data was processed, when the Processor Data was processed and the identity of any individual carrying out the processing.
- 2.12 The Contractor warrants and undertakes that it will deliver the Data Processing Services in accordance with all Data Protection Legislation and this Contract and in particular that it has in place Protective Measures that are sufficient to ensure that the delivery of the Data Processing Services complies with Data Protection Legislation and ensures that the rights of Data Subjects are protected.
- 2.13 The Contractor must comply at all times with obligations equivalent to those set out at Article 32 of the GDPR and equivalent provisions implemented into Law.
- 2.14 The Contractor must assist the Authority in ensuring compliance with the obligations set out at Article 32 to 36 of the GDPR and equivalent provisions implemented into Law, taking into account the nature of processing and the information available to the Contractor.
- 2.15 The Contractor must take prompt and proper remedial action regarding any Data Loss Event.
- 2.16 The Contractor must assist the Authority by taking appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Authority's obligation to respond to requests for exercising rights granted to individuals by Data Protection Legislation.

## **Annex 1**

### **Data Processing Services**

#### **Processing, Personal Data and Data Subjects**

1. The Contractor must comply with any further written instructions with respect to processing by the Authority.
2. Any such further instructions shall be incorporated into this Annex.

<b>Description</b>	<b>Details</b>
Subject matter of the processing	Delivery of Care Services for individuals in their own home.
Duration of the processing	For the period of this Contract
Nature and purposes of the processing	Collecting, recording, organising, retrieving, using disclosure by transmission, structuring, adapting, making available, combining, restricting, erasing and destroying data, ( whether by manual and/or automated means ) for the purposes of delivering personal care services, assessing delivery of those services, managing delivery of those services , enabling staff to deliver services, enabling appropriate contact with external agencies in delivery of services, managing resourcing for delivery of services.
Type of Personal Data	Names, addresses, date of birth, phone numbers, assessment of care needs, assessment of abilities, sensitive medical data, details of relatives and advocates including names, date of birth, addresses, phone numbers.
Categories of Data Subject	Service Users; Staff their relatives and advocates
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	Data to be retained for 8 years after the expiry of the contract term and then returned back to the Authority for destruction