

**Kent County Council**

**Tender Document for Approved Mental Health Professional Qualification programme**

**Ref: 4**

**Section A: Requirement**

**Course Title: Approved Mental Health Professional Qualification programme**

**1. Award Criteria**

Your responses to the following questions will be assessed and the outcome will identify the Council’s training provider.

**Overall Objectives**

The overall objective of this contract is to produce high caliber Approved Mental Health professionals (AMHPs) conversant with the necessary knowledge, skills and values as set out in the AMHP Key Competency Areas in Schedule 1 of The Mental Health (Approved Mental Health Professionals) (Approval) (England) Regulations 2008 for AMHP practice capability.

**1.1** Suppliers are required to set out how they will ensure that students meet this requirement.

**1.2** Suppliers are required to confirm that they are prepared to train the maximum of 15 students per year, for two cohorts across two academic years commencing October 2021 and October 2022.

**1.3** Suppliers are required to confirm that they will deliver the programme online initially with the potential to deliver locally in Kent on a face-to-face classroom basis when COVID-19 restrictions are lifted. The supplier to factor in venue costs into their final price when delivering in Kent.

**2. Partnership Arrangements**

The selected HEI supplier will be required to work collaboratively with employers, commissioners and stakeholders to develop the programme and in the selection of students for the programme

**2.1** Suppliers are required to confirm how they will work with employers, commissioners and stakeholders and how the employers will input into the programme’s delivery to meet the stated objectives.

**3. Admissions**

Students on the programme will be nominated and sponsored by Kent County Council and Medway Council. The selected HEI Supplier will be required to recruit students in partnership with Kent County Council, the Kent AMHP Service and Medway Council to deliver a single selection and interview process for applicants.

**3.1** Suppliers are required to confirm that they will participate in a joint admissions process and describe how they will input to the selection process.

**3.2** Suppliers are required to confirm what marketing materials/services will be utilised and how these will be developed to ensure the partnership with the Employers is both utilised and sufficiently advertised.

**4. Quality Standards**

**4.1** Suppliers are required to detail what Quality Assurance (‘QA’) measures will be put in place and how they will operate to ensure the appropriate quality standards are met and maintained.

**5. The Programme Teaching and Learning Strategies**

The successful Supplier will be expected to deliver a programme that prepares social workers and health care professionals with the detailed knowledge and skills to become AMHPs.

**5.1** Suppliers are required to explain how a programme delivering the required AMHP knowledge, skills, and values, to produce capable AMHPs, will be achieved in a single academic year and how the programme will be structured including a timeline.

**5.2** Suppliers are required to describe the modules their programme will offer including teaching time for each module and number of credits, and how the learning objectives will meet the objectives and strategies of their programme. Provider to ensure that AMHP practitioner input is given to some of the teaching.

**5.3** Suppliers are required to describe how they will know that the knowledge and skills learnt from the classroom-taught subject elements will be applied when candidates are in workplace placements.

**5.4** Suppliers are required to describe how they will assess students and test their suitability to pass the programme and become AMHPs, during the course, and how this will be achieved in partnership with employers.

**5.5** Suppliers are required to state what is the minimum expectation of a student to successfully pass this programme (i.e., the ‘pass mark’) and what arrangements will be put in place to support students who initially fail to meet the pass mark.

**5.6** Suppliers to describe how service user/expert by experience input into the programme will be delivered preferably using a Kent based service user.

**5.7** Suppliers to describe how they will give input into an AMHP preparation information session.

**5.8** Suppliers to evidence how equality and diversity learning needs and accessibility to systems will be achieved during the programme.

**5.9** Suppliers to demonstrate how they will provide anecdotal feedback/intelligence gathered from candidates during programme delivery to KCC Learning and Development. Supplier to detail what typical intelligence could be gathered and the methodology and frequency.

**6. Staff**

It is central to the successful delivery of the programme that there is a high level of consistency in the teaching staff and that they have current knowledge of the AMHP role and practice and specialist legal and mental health knowledge.

**6.1** Suppliers are required to provide details relating to the staff that will deliver the programme including their qualifications and their teaching and AMHP practice experience.

**6.2** Suppliers are required to provide details about how they ensure that there is sufficient appropriately qualified tutoring staff, and what contingencies are in place to provide the necessary teaching time detailed in their programme at 5.2 above.

**7. Placements**

Practice placements are a required element of the programme. Students will be placed in the Kent and Medway AMHP Service and they will be allocated an appropriately qualified AMHP practice educator and a service user mentor.

**7.1** Suppliers are required to describe the pattern of practice placements and how they will fit into the overall programme. This will require advanced liaison with the Kent AMHP Service to determine an agreed schedule of practice placements and timings.

**8. Student Support Structures**

Students will be required by the Employers to sign a Learner Agreement outlining what is expected of them. Successful completion of the programme will be expected. This will be a demanding programme for students.

**8.1** What systems will the Supplier put into place to recognise and manage students who may be struggling or failing (or likely to fail) the programme?

**8.2** In the event of a student having difficulties described in 8.1 how does the Supplier anticipate working in partnership with the Employer to aid the student?

**8.3** What support systems will the Supplier make available for students? (Please include all the standard resources including the use of library/research materials/intranet/learning tools as well as student tutor support)?

**9. Cost**

9.1 Suppliers are required to provide an all-inclusive **cost per student** for the provision of the programme for both a face to face version and an online version. The cost should reflect the fact that there is no daily placement fee for AMHP placements.

9.2 Suppliers are required to complete Appendix 1 – Pricing Schedule detailed below.

**10. Contract Timeline**

The contract will commence April 2021 and cease March 2023.

**11. Numbers of Students**:

Minimum of 10, Maximum of 15

**Section B: Evaluation of Tender Submissions**

**1. Evaluation Criteria**:

Responses will be evaluated using the following criteria:

Price 60%

Quality 40%

Quality Breakdown:

A written submission is required from the bidder covering all the requirements set out in Section A. The content of the written submission must cross reference each paragraph number in section A of this tender where a response is required. Bidders can submit attachments to support their written submission.

* Section 5 and 6 of the requirements will attract a higher weighted score. Section 5 will have 10% of the marks and Section 6 will have 10% of the marks.
* Sections 2, 3, 4, 7 and 8 will attract 20% of the marks in total.

**2. Instructions to Tenderers**:

Suppliers are required to submit the following mandatory requirements for evaluation. Please be aware that unless submissions meet all the mandatory requirements the remainder of the tender will not be marked.

* A written submission covering all the requirements set out in Section A.
* CV’s for proposed lecturers demonstrating relevant qualifications and competence in the delivery of the programme plus evidence of Continuous Professional Development.
* Equality and Diversity: In your tender response please outline how you will ensure that equality and diversity issues are integrated throughout the programme.
* A pricing schedule (See Appendix 1) detailing an overall cost for the programme per student. Pricing must be fixed for the duration of the two-year contract.
* An insurance schedule showing Employer and Public Liability, and Professional Indemnity cover.

**Supplier Presentations**

Shortlisted suppliers **may** be invited to attend an online evaluation panel to provide a presentation of their proposal in March 2021. On completion of the presentation session tenderers scores will be moderated to reflect their initial proposals ability to meet each outcome.

**This tender closes at 5pm on Friday 19th March 2021.**

If you have any questions, these must be emailed to me at caroline.buss@kent.gov.uk by **5pm on Friday 5th** **March 2021**. Questions and answers will be shared with all potential bidders.

**Section C: Contract Conditions**

The contract conditions applicable will be those detailed at the end of this specification.

The Council also reserves the right not to accept this request for tender at any time.

**Appendix One – Pricing Schedule**

Suppliers must submit their pricing information in the following format for the programme. Pricing not submitted in the required format may not be evaluated. Prices should be inclusive of all costs.

All pricing is to be in GBP exclusive of VAT.

Pricing is to be fixed for the duration of the contract.

|  |  |
| --- | --- |
|  | Price (£) |
| All inclusive price per student for a two-year contract delivered online: |  |
| All-inclusive price per student for two-year contract delivered face to face in Kent. |  |

Any quantities shown within this Invitation to Tender and any relevant documentation are estimated and may be subject to variation and the Council gives no warranty as to any such quantities. Under this tender there will be no guarantee of work and any contract value or quantity is to be regarded as an estimate.

All invoices submitted by the Service Provider must reference the Council’s Purchase Order number.

**TERMS AND CONDITIONS FOR SUPPLY OF SERVICES**

**KENT COUNTY COUNCIL**

**1 Interpretation**

1.1 In these Terms:-

“Contract” means the Order and the Supplier’s acceptance of the Order;

“Order” means the Council’s purchase order which these Terms govern; “Price” means the price of the Services;

“Services” means the services (if any) described in the Order;

“Specification” includes any plans, drawings, data, description or other information relating to the Services;

“Supplier” means the person, firm or company who accepts the Council’s Order; “Terms” means these terms and conditions of purchase between the Council and

the Supplier;

“the Council” means Kent County Council; and

“writing” includes facsimile transmission and electronic communication and

“written” shall be construed accordingly.

1.2 A reference to particular law is a reference to it as it is in force for the time being taking into account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

**2 Application of Terms**

2.1 Subject to any previously agreed contract under condition 2.3 or any variation under

2.4, these Terms are the only conditions which shall govern the Contract to the entire exclusion of all other terms and conditions.

2.2 Each Order by the Council to the Supplier shall be deemed to be an offer by the Council subject to these conditions and no Order shall be accepted until the Supplier either expressly by giving notice of acceptance, or impliedly by fulfilling the Order, in whole or in part accepts the offer.

2.3 Where this Order forms part of another purchasing arrangement and is subject to terms and conditions previously agreed in writing by the Council and the Supplier (“Main Contract”) the terms of the Main Contract shall prevail.

2.4 No variation to the Order or these Terms shall be binding unless agreed in writing by the individual referred to within the Order.

**3 Compliance with Order and Specification**

3.1 The Supplier shall exercise reasonable skill, care and diligence in the performance of the Services and shall use its reasonable endeavours to deliver the quantity, quality and description of the Services in accordance with the Order and/or in any applicable Specification supplied by the Council to the Supplier. For the avoidance of any doubt the Supplier shall be deemed to have given no implied or express fitness for purpose warranty and the obligations of the Supplier shall be to exercise reasonable skill, care and diligence at all times.

3.2 Any part of the Specification provided by the Council to the Supplier, over which the Council has any intellectual property rights, shall be the exclusive property of the Council.

**4 Changes**

4.1 The Council may at its reasonable discretion from time to time change any details specified in its Order by written instruction.

**5 Price**

5.1 The Price of the Services shall be as stated in the Order and, unless otherwise so stated by the Council, shall be fixed, exclusive of any applicable VAT and inclusive of all charges (including packaging and delivery costs) to the Council’s specified delivery address.

5.2 No increase in the Price may be made without the prior written consent of the

Council.

**6 Delivery**

6.1 The Services shall be performed at location(s) in Kent arranged by the Supplier and on the date or within the period stated in the Order, in either case during the times specified in the Order or if no times are specified, during the Council’s usual business hours.

**7 Acceptance**

7.1 The Supplier shall supply the Council in good time with any instructions or other information required to enable the Supplier to provide the Services.

**8 Payment**

8.1 The Council will make payment for the Services set out in the Order within thirty (30) days of receipt of the invoice. Invoices must be submitted to the address detailed on the Order for the invoice to be valid*.*

8.2 It is an important condition that invoices are accurate, including the quoting of the correct official order number. Incorrect invoices will be returned unpaid for correction and resubmission. In such cases the payment terms will take effect not from the original date but from the date of receipt at the correct address of the correctly presented invoice.

8.3 Without prejudice to any other right or remedy, the Council reserves the right to set off any amount owing at any time from the Supplier to the Council against any amount payable by the Council to the Supplier under this Order.

**9 Not used**

**10 Compliance with Law**

10.1 The Supplier shall comply with all applicable statutory requirements concerning the performance of the Services.

**11 Warranties**

11.1 The Supplier warrants to the Council that the Services:-

i) will be performed by appropriately qualified and trained personnel, with reasonable skill care and diligence and in accordance with usual industry standards in all the circumstances; and

ii) will comply with all relevant statutory requirements, regulations, bye-laws and EU directives relating to the performance of the Services.

**12 Not used**

**13 Liability**

13.1 The Supplier shall be liable to the Council in respect of all reasonably foreseeable, legally enforceable and mitigated liabilities, losses, damages, costs and expenses (including legal expenses) incurred directly by the Council directly as a result of or in connection with:-

i) breach of any warranty given by the Supplier in relation to the

Services;

ii) any claim that the Services infringe any intellectual property rights;

iii) any claim made against the Council in respect of any liability, breach or alleged breach by the Council of any statutory provision, regulation or bye-laws or other rule of law arising from the acts or omissions of the Supplier or its employees, agents or sub-contractors;

iv) any act or omission of the Supplier or its employees, agents or sub-contractors in performing the Services.

**14 Force Majeure**

14.1 Neither the Supplier nor the Council shall be liable to the other by reason of any delay which is beyond that party’s reasonable control which shall include (but not limited to) natural disasters, war or national emergency, riot, acts of or threat of acts of terrorism, civil commotion, fire, explosion, flood or storm, strikes, lockouts and any other industrial disputes.

**15 Installation and work on site - not used.**

15.1 The Supplier shall at all times whilst on the Council’s premises or on site comply with and ensure that its employees, agents and sub-contractors comply with, all relevant legal requirements relating to the provision of Services, health and safety legislation and all safety and security regulations and rules from time to time in force and will be

deemed to have full knowledge of such regulations. Copies of such Council regulations which have been provided to the Supplier.

15.2 Where the Supplier is responsible for providing other Services, such Services shall be carried out to the reasonable satisfaction of the Council’s authorised representative. The Supplier shall clear away and remove from the Council’s premises or sites all installation plant, service material, rubbish and temporary works relating to the Services and leave the premises or sites in a clean and workmanlike condition.

**16 Insurance**

16.1 The Supplier shall at all times maintain adequate insurance cover with a reputable insurer against its liability under these Terms and shall produce evidence of such policy in the form of a broker’s certificate to the Council on as award of contract .

16.2 The Supplier will provide all facilities, assistance and information reasonably required by the Council or its insurers for the purpose of bringing an action or claim arising out of the performance of these Terms.

**17 Termination**

17.1 The Council shall be entitled to cancel the Order in respect of all or part only of the Services by giving notice to the Supplier at any time prior to performance without incurring any liability to the Supplier other than to pay for the Services already delivered or performed at the time of such notice.

**18 Confidentiality**

18.1 All information supplied to the Supplier by the Council at any time in connection with these Terms and any Specification shall be regarded as confidential and shall not without any prior written consent of the Council be published or disclosed to any third party or used by the Supplier except for the purpose of implementing the Order.

18.2 The provisions of 18.1 shall not apply to any information:-

i) which is or becomes public knowledge (otherwise than by breach of these conditions); or

ii) which was in the possession of the receiving party, without restriction as to its disclosure, before receiving it from the disclosing party; or

iii) which is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure.

These confidentiality obligations shall continue in perpetuity.

18.3 The Supplier shall not advertise or announce the supply of the

Services without the Council’s prior written consent.

18.4 The Council is subject to the requirements of the Code of Practice on Access to Government Information, the Freedom of Information Act, the Data Protection Act and the Environmental Information Regulations and the Supplier shall assist and cooperate with the Council (at the Contractor’s expense) to enable the Council to comply with these requirements. Requests for information made directly to the Supplier must be forwarded to the Council as soon as practicable after receipt and in any event within two working days of receiving the request.

18.5 The Council shall be responsible for determining at its absolute discretion whether:

i) information is exempt from disclosure under the Code of Practice on Access to

Government Information; and/or

ii) information is to be disclosed in response to a Request for Information.

18.6 The Supplier acknowledges that the Council may be obliged under the Code of Practice on Access to Government Information, the FOIA, or the Environmental Information Regulations to disclose Information with or without having consulted with the Supplier.

**19 The Council’s Liability**

19.1 The Council’s liability in respect of this Order, whether in respect of breach of contract, tort (including negligence), breach of statutory duty or otherwise, shall in no event exceed the level of fees due under this Order. Nothing in these Terms shall be construed as restricting or excluding the Council’s liability for fraud, personal injury or death or any other matter for which it is illegal to limit or exclude liability.

**20 General**

20.1 The Council may assign its rights, sub-contract, or transfer its rights and obligations without the consent of the Supplier. This Order is personal to the Supplier and the Supplier shall not assign, sub-contract, or transfer its rights and/or obligations without the prior written consent of the Council.

20.2 Any waiver by the Council of any breach is not a waiver of any subsequent breach.

20.3 Failure or delay by the Council in enforcing or partially enforcing any provision of these Terms is not a waiver of any of its rights under these Terms.

20.4 If any provision of these Terms is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Terms and the remainder of the provision in question shall not be affected.

20.5 These Terms shall be governed by the laws of England and the parties submit to the exclusive jurisdiction of the English Courts.

20.6 **Accreditations and Qualifications**

Suppliers are expected to hold all appropriate Accreditations and Qualifications that demonstrate their understanding, knowledge and experience of the provision of training services as identified in the Order.

20.7 **Trainers**

The Council expects that all trainers and those responsible for delivery of programmes on behalf of the Supplier are advised in advance of commencement of the Order and are fully conversant and knowledgeable with the subject that they shall be delivering.

20.8 **Trainer Substitution**

Whilst the Council expects training to be undertaken by the nominated trainer(s), it does appreciate that this may not always be possible due to illness, holidays, commitment conflicts etc. The Supplier shall be required to advise the Council as soon as reasonably practicable if the need for substitution arises and that in such circumstances a substitute trainer will be made available and that such substitute will hold all required qualifications/occupational competence and/or accreditations that are necessary.

20.9 **Course Materials**

The Supplier shall adhere to the Council’s processes and policies and will provide up-to-date training materials and documentation. The Supplier will provide to each participant the following materials with each course as a minimum.

* Electronic copies of slides or course notes where applicable
* Supporting information – (for example legislation, points of reference etc)

20.10 **Presentation Equipment**

All equipment required for the purposes of delivery, i.e. laptops projectors etc are to be provided by the Supplier unless otherwise agreed with the Council in advance of course commencement. Where access to the internet is needed, the provider should confirm in advance with venues that this is possible. Access to the internet or any software needed for the training is the responsibility of the Supplier and should be organised in advance of training.

20.11 Not used.

20.12 **Course Cancellations**

The Supplier will deliver the programme as per the specification within the agreed dates and timescales in accordance with the commission arrangement. If for any reason the Supplier is forced to cancel a course or programme it must do so by the giving of written notice not less than 6 weeks (42 days) prior to agreed start date of said course or programme of such cancellation.

The Supplier shall in the cancellation notice offer to the customer alternative course dates, however the customer shall not be obliged to accept these dates and may choose to source an alternative Supplier without penalty.

Failure to advise the customer in accordance with the above will result in a claim for demonstrable losses. This shall include but not be exclusive to – attendee travel and subsidence costs, cost of sourcing an alternative trainers, additional cost of new provision and any other demonstrable direct costs.

In the event that the customer wishes to change or cancel any course or programme the customer shall not be liable for any cancellation fees, **unless the cancellation occurred 42 days or less before anticipated course date** and the Supplier can evidence that it has suffered a loss as a result of the cancellation. The Council accepts no responsibility for cancellations, changes or any such fees.

20.13 **Venues**

The Supplier will supply venues in Kent.

The Supplier’s representative shall be responsible for familiarising himself with appropriate safety precautions of the venues at which they deliver a course. This information should be shared with all delegates at the beginning of each course/day.

If the Supplier is requested to provide a venue as part of the booking then the Supplier shall be responsible for ensuring the suitability of such venue.

20.14 **Travel & Expenses**

Tenderers will be expected to travel to venues across Kent only using their own mode of transport. All expenses should be included in the cost of providing the programme, no expenses can be claimed outside of this.

20.15 **Intellectual Property**

The intellectual property of any material used in the undertaking of any training shall remain with the original author. However, the Council or participating customer may copy the training material without fee for its own use in later supporting the training.

In the event that a program the Council requests be designed and delivered using the Council’s own data or material then the intellectual property shall rest with the Council. The Supplier must seek written permission from the Council before using any material for the purposes other than that for which they were designed.

20.16 **Canvassing**

Tenderers will not be allowed to use contact information from courses in order to promote any additional courses.

20.17 **KCC Logo**

Tenderers are not permitted to use the Council’s logo on any course material, website or related course matter without prior permission.

20.18 Any quantities shown within this Invitation to Tender and any relevant documentation are estimated and may be subject to variation and the Council gives no warranty as to any such quantities. Under this tender there will be no guarantee of work and any contract value or quantity is to be regarded as an estimate.

**21 Liability**

The Consultant’s maximum liability in respect of this Order, except for death or personal injury (for which liability shall not be limited), in contract, tort (including negligence) or otherwise in connection with this Order/ these Terms shall not exceed ten times the fees payable to the Supplier under this Order in respect of any Loss. “Loss” here means the aggregate of all losses or damages including interest thereon (if any) and any costs (including legal costs) suffered or incurred, directly or indirectly by the Council and any related party under or in connection with this Order.

22 **General Data Protection Regulation Schedule (GDPR):**

Please see Appendix A and B below.

Appendix A:

**GENERAL DATA PROTECTION REGULATION SCHEDULE**

**(“THE GDPR SCHEDULE”)**

**IN RELATION TO THE [ENTER CONTRACT NAME, REFERENCE] CONTRACT**

**(“THE CONTRACT”)**

**PARTIES**

**The Kent County Council** Data Controller/Data Processor/both Data Controller and

Processor [AMEND AS REQUIRED]

[**ENTER PROVIDER NAME**] Data Processor/Data Controller/both Data Controller and

Processor [AMEND AS REQUIRED]

[**NB** THE SAME PARTY CANNOT BE BOTH A CONTROLLER AND A PROCESSOR FOR THE SAME DATA IN ONE CONTRACT BUT CAN FOR DIFFERENT DATA WITHIN THE SAME CONTRACT. ANNEX 1 DETERMINES WHAT THIS SITUATION IS FOR EACH CONTRACT] [DELETE THESE NOTES THESE ONCE SCHEDULE COMPLETED]

**STANDARD DEFINITIONS**

**Party**: A Party to this Contract.

**Law**: means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Processor is bound to comply;

**Processor Personnel**: means all directors, officers, employees, agents, consultants and contractors of the Processor and/or of any Sub-Contractor engaged in the performance of its obligations under this Contract.

**GDPR CLAUSE DEFINITIONS:**

**Data Protection Legislation**: (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iiii) all applicable Law about the processing of personal data and privacy;

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

**Controller**, **Processor**, **Data Subject**, **Personal Data**, **Personal Data Breach**, **Data Protection Officer**:take the meaning given in the GDPR;

**Data Loss Event**: any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;

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

**DPA 2018:** Data Protection Act 2018;

**GDPR:** The General Data Protection Regulation (Regulation (EU) 2016/679);

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

**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 the such measures adopted by it;

**Sub-processor**: any third Party appointed to process Personal Data on behalf of the

Processor related to this Contract

**DATA PROTECTION**

This GDPR Schedule includes Annex 1 (Schedule of Processing, Personal Data and Data. Annex 1 must be completed for this Schedule to be valid.

In the event of a conflict between this Schedule and other Clauses of the Contract pertaining to data protection, the Clauses within this Schedule shall apply.

The Parties acknowledge that for the purposes of the Data Protection Legislation, the Controller and the Processor are as described at the start of this Schedule. The only processing that the Processor is authorised to do is listed in Annex 1 to this Schedule by the Controller and may not be determined by the Processor.

The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.

The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include:

a systematic description of the envisaged processing operations and the purpose of the processing;

an assessment of the necessity and proportionality of the processing operations in relation to the Services.

an assessment of the risks to the rights and freedoms of Data Subjects; and

the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Contract:

process that Personal Data only in accordance with Annex 1 to this Schedule unless the Processor is required to do otherwise by Law. If it is so required, the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law.

ensure that it has in place Protective Measures, which have been reviewed and approved by the Controller as appropriate to protect against a Data Loss Event having taken account of the:

nature of the data to be protected;

harm that might result from a Data Loss Event;

state of technological development; and

cost of implementing any measures;

ensure that:

the Processor Personnel do not process Personal Data except in accordance with this Contract (and Annex 1 to this Schedule);

it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:

are aware of and comply with the Processors duties under this Clause;

are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;

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 Controller or as otherwise permitted by this Contract; and

have undergone adequate training.

not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:

the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;

the Data Subject has enforceable rights and effective legal remedies;

the Processor complies with its obligations under the 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 Controller in meeting its obligations); and

the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;

at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.

Subject to Clause 1.8, the Processor shall notify the Controller immediately if it:

receives a Data Subject Access Request (or purported Data Subject Access Request);

receives a request to rectify, block or erase any Personal Data;

receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;

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;

or

becomes aware of a Data Loss Event.

The Processor’s obligation to notify under Clause 1.7 shall include the provision of further information to the Controller in phases, as details become available.

Considering the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 1.7 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:

the Controller with full details and copies of the complaint, communication or request;

such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;

the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;

assistance as requested by the Controller following any Data Loss Event;

assistance as requested by the Controller with respect to any request from the Information Commissioners Office or any consultation by the Controller with the Information Commissioner's Office.

The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Clause 1.

The Processor shall allow for audits of its Data Processing activity by the Controller or the Controllers designated auditor.

The Processor shall designate a data protection officer if required by the Data Protection Legislation.

Before allowing any Sub-processor to process any Personal Data related to this Contract, the Processor must:

notify the Controller in writing of the intended Sub-processor and processing;

obtain the written consent of the Controller;

enter into a written agreement with the Sub-processor which give effect to the terms set out in this GDPR Schedule such that they apply to the Sub-processor; and

provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.

The Processor shall remain fully liable for all acts or omissions of any Sub-processor.

The Parties agree to take account of any guidance issued by the Information Commissioner’s Office. The Controller may on not less than 30 Working Days’ Notice to the Processor amend this Contract to ensure that it complies with any Guidance issued by the Information Commissioner’s Office.

Appendix B:

**GENERAL DATA PROTECTION REGULATION (GDPR)**

**ANNEX 1**

**Schedule of Processing, Personal Data and Data Subjects**

**Provider: [ENTER PROVIDER NAME]**

**Contract: [ENTER CONTRACT NAME, CONTRACT REFERENCE]**

1. The Processor shall comply with any further written instructions with respect to processing by the Controller.
2. Any such further instructions shall be incorporated into this Schedule.
3. Part A and/or Part B, as appropriate, describe the Data relationship(s) between the Parties. Only completed Part(s) apply and an uncompleted Part indicates that the Data relationship pertaining to that Part does not exist within the Contract. At least one Part must be completed and both Parts may be completed but the latter **must** apply to **different** Data within the Contract.

**PART A**

**The Kent County Council** Data Controller

[**ENTER PROVIDER NAME**] Data Processor

|  |  |
| --- | --- |
| **Description** | **Details** |
| Subject matter of the  Processing | [This should be a high level, short description of what the processing is about i.e. its subject matter] |
| Duration of the  Processing | [Clearly set out the duration of the processing including dates] |
| Nature and purposes of  the Processing | [Please be as specific as possible, but make sure that you  cover all intended purposes.  The nature of the processing means any operation such as  collection, recording, organisation, structuring, storage,  adaptation or alteration, retrieval, consultation, use,  disclosure by transmission, dissemination or otherwise  making available, alignment or combination, restriction,  erasure or destruction of data (whether by automated  means) etc.  The purpose might include: employment processing,  statutory obligation, recruitment assessment etc.] |
| Type of Personal Data | [Examples here include: name, address, date of birth, NI  number, telephone number, pay, images, biometric data etc.] |
| Categories of Data  Subject | [Examples include: Staff (including volunteers, agents, and  temporary workers), customers/ clients, suppliers, patients,  students / pupils, members of the public, users of a particular  website etc.] |
| 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 | [Describe how long the data will be retained for, how it be  returned or destroyed] |

**PART B**

**The Kent County Council** Data Processor

[**ENTER PROVIDER NAME**] Data Controller

|  |  |
| --- | --- |
| **Description** | **Details** |
| Subject matter of the  Processing | [This should be a high level, short description of what the processing is about i.e. its subject matter] |
| Duration of the  Processing | [Clearly set out the duration of the processing including dates] |
| Nature and purposes of  the Processing | [Please be as specific as possible, but make sure that you  cover all intended purposes.  The nature of the processing means any operation such as  collection, recording, organisation, structuring, storage,  adaptation or alteration, retrieval, consultation, use,  disclosure by transmission, dissemination or otherwise  making available, alignment or combination, restriction,  erasure or destruction of data (whether by automated  means) etc.  The purpose might include: employment processing,  statutory obligation, recruitment assessment etc.] |
| Type of Personal Data | [Examples here include: name, address, date of birth, NI  number, telephone number, pay, images, biometric data etc.] |
| Categories of Data  Subject | [Examples include: Staff (including volunteers, agents, and  temporary workers), customers/ clients, suppliers, patients,  students / pupils, members of the public, users of a particular  website etc.] |
| 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 | [Describe how long the data will be retained for, how it be  returned or destroyed] |