

Finance and Resources Committee

10am, Thursday, 5 June 2014

Award and Further Extension of Health and Social Care Contracts

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|--------------------------|------|
| Item number | 7.22 |
| Report number | |
| Executive/routine | |
| Wards | All |

Executive summary

In November 2012, Finance and Resources Committee approved the extension for a period of one year of a significant number of health and social care contracts, due to expire during 2013. This was agreed as part of a wider strategy designed to help the Council and provider organisations respond positively to policy developments and planned legislative changes.

This report seeks approval for the award and further extension of a number of contracts; the transfer of others to the grants budget; and for the letting of a new Framework Agreement for the purpose of providing governance arrangements in respect of the management of Individual Service Funds.

Links

Coalition pledges P12, P15, P30, P33, P36, P43, P37

Council outcomes C10,C011, C12, C13, C14, C23, C24, C25, C26

Single Outcome Agreement S02, SO4

Award and Further Extension of Health and Social Care Contracts

Recommendations

On the basis outlined in this report the Finance and Resources Committee is recommended to agree the:

- 1.1 renewal of contracts for registered day centres for older people
- 1.2 transfer of existing contracts for the delivery of unregistered day centres for older people to the grants budget
- 1.3 award of block contracts, which meet provider costs involved in maintaining safe night time staffing arrangements in a variety of home settings
- 1.4 further extension of specified Edinburgh Alcohol and Drug Partnership contracts
- 1.5 letting of a new Framework Agreement to provide governance arrangements in respect of the management of Individual Service Funds

Background

- 2.1 In November 2012, Finance and Resources Committee approved the extension for a period of one year of a significant number of health and social care contracts due to expire during the course of 2013. This was agreed as part of a wider strategy to allow the Council and its providers to respond positively to the Council's Framework to Advance a Cooperative Capital, the planned implementation of the Social Care (Self Directed Support) Act 2013 on 1 April 2014 and the Public Bodies (Joint Working) Act on 1 April 2015. Since then, a Procurement Reform Bill has started its passage through the Scottish Parliament, and this too will impact on future procurement and contracting arrangements.
- 2.2 In developing its response to policy developments and legislative change, Health and Social Care has consulted providers on its Market Shaping Strategy 2013 to 2018, and established a number of collaborative and co-production partnerships, involving providers, service users and carers.
- 2.3 These partnerships have guided the development of new service specifications for some existing services, and the most appropriate procurement route for others. They have also identified the need for certain new contractual relationships in response to the opportunities and challenges, which the implementation of Self Directed Support legislation poses, and concluded that finding procurement and contractual solutions for all services will take further time.

- 2.4 During 2013/14, the Council's Health, Social Care and Housing and Corporate Policy and Strategy Committees have been kept informed of progress made by specific co-production partnerships and have referred decisions on the award of any resulting contracts or proposed changes to contractual arrangements to the Finance and Resources Committee.

Main report

Renewal of Contracts for Registered Day Centres for Older People

- 3.1 The Council currently lets 12 contracts for the delivery of Registered Day Centre Services for Older People. 'Registration' implies these provide a range of personal care services and are subject to regulation and inspection by the Care Inspectorate. Services are delivered in buildings owned or leased by the organisation delivering the service.
- 3.2 Details of contracted organisations and the current value of the Council's contracts with them are provided at Appendix 1, Part A. These contracts expired on 31 March 2014, but have been temporarily extended pending Committee's consideration of this report.
- 3.3 The Council and currently contracted providers formed a co-production partnership in September 2013 and a new service specification for all day centres was agreed in December 2013.
- 3.4 During February 2014, the Corporate Procurement Team advertised the availability of new contracts for the delivery of Registered Day Centre Services via the Public Contracts Scotland web portal and invited interested parties to submit Notes of Interest. While all existing providers indicated their interest in continuing to deliver services, no credible responses from any new potential providers were received.
- 3.5 Given the 'market testing' process produced no interest in competing with current providers operating from their own premises, no purpose would be served in moving to a formal procurement procedure. Committee is therefore recommended to agree the award of new contracts to existing providers, initially for 3 years, but with annual options to extend for a further 2 years.
- 3.6 The Council currently lets one contract to Bield Care Services (BCA) for the delivery of a Registered Day Centre Service for Older People in a building owned by the Council at Canalside in Wester Hailes. On advertising the availability of this contract, which falls due for renewal during 2014, several credible notes of interest were received. As a result, it is proposed to progress renewal of this contract by means of a competitive tender procedure, with a view to a new contract being in place by 1 April 2015. Committee is recommended to extend the current contract with BCA until 31 March 2015 pending the

completion of the tender exercise and any appropriate period of handover between providers, should this be necessary.

Transfer of Existing Contracts to the Grants Budget

Unregistered Day Centres for Older People

- 3.7 The Council currently lets 6 contracts for the delivery of unregistered day centre services for older people and provides grants to support the operation of another 13. 'Unregistered' implies these are local, community based, preventative services offering less intensive day time support than is provided by registered services.
- 3.8 Details of contracted organisations and the current value of the Council's contracts with them are provided at Appendix 1, Part B. These contracts expired on 31 March 2014, but have been temporarily extended pending Committee's consideration of this report.
- 3.9 Given the locus of these services within communities, and their focus on helping people avoid, delay or reduce the need to engage with high cost/high intensity services, their funding would be better met through a grant rather than a contract, as is already the case for the majority of such centres. Transferring these organisations from contract to grant funding will end an anomaly in their funding arrangements, reinforce the commitment to use grant support to fund preventative services, and allow for future funding decisions in respect of unregistered day services to be made on a 'whole service' basis.
- 3.10 Committee is recommended to agree these contracts are extended until 31 March 2015, pending the submission of applications by the six organisations for grant support for 2015/16 and beyond, being made in October 2014, and decided upon by the Health, Social Care and Housing Committee in January 2015. If approved, the impact of this change will be cost neutral.

Award of block contracts, which meet provider costs involved in maintaining safe night time staffing arrangements in a variety of home settings

- 3.11 As part of the whole system transformation of health and social care services being carried out in response to the personalisation, self directed support and integration agendas, block contracts for the delivery of care and support at home services to adults with disabilities valued at £21,572,592 were dismantled during 2013/14. Of the total contract value, £19,226,502 has been allocated to provide personalised service budgets for 631 service users.
- 3.12 However, while committed to the personalisation of services and budgets, it has so far proved impossible to devise an affordable way of doing so in respect of maintaining safe night time staffing for service users living in houses of multiple occupancy and those operated on a core and cluster basis. The most economic and practical way of maintaining safe night time support requires that service users continue to share access to waking/sleep-in staff.

- 3.13 As a result, the remaining contract value balance of £2,339,536 has been retained centrally for the purpose of funding night time staffing arrangements. However, it is not considered feasible or desirable at this stage to seek to tender for the provision of night time services, given these are in all cases delivered by the provider responsible for the delivery of day time services, and it would be impractical to separate day and night time support functions.
- 3.14 For this reason, Committee is recommended to approve the distribution of the remaining contract balance of £2,339,536, via the award of contracts in the amounts shown, to the providers listed at Appendix 2 for the purpose of maintaining safe night staffing arrangements, initially for a period of two years from 1 April 2014.
- 3.15 During the lifetime of these contracts, a detailed review of night time staffing arrangements will be carried out with a view to ensuring these deliver best value and make full use of all appropriate technology solutions.

Further Extension of Existing Contracts

Edinburgh Alcohol and Drugs Partnership

- 3.16 The current spend of £6.9m on alcohol and drug treatment and recovery services is financed by the Council, NHS Lothian and a ring fenced Scottish Government grant. As a result of budget reductions agreed by the Scottish Government, Council and NHS Lothian, statutory sector spending on these services will fall to £6m by 2016/17.
- 3.17 The Scottish Government has also initiated a major re-design of drug and alcohol services, with the development of local recovery orientated systems of care being identified as a national priority.
- 3.18 In response to financial and practice challenges, the Edinburgh Drug and Alcohol Partnership proposes a whole system change to its current commissioning arrangements, and is establishing a multi-agency 'commissioning collaborative.' The collaborative, made up of members of statutory and third sector organisations, will co-produce new service specifications and practice frameworks designed to be sustainable in the context of ongoing budget reductions and changes in practice.
- 3.19 The Edinburgh Drug and Alcohol Partnership has agreed the transition from the existing to the desired service framework will be achieved within two years, at which point a transparent and fair procurement process will also have been developed.
- 3.20 Pending this transition process, Committee is recommended to extend the contracts listed at Appendix 3 for a period of two years until 31 March 2016 at the current values shown. No increase in current contract values will be agreed during this period.

Letting of a new Framework Agreement to provide governance arrangements in respect of the management of Individual Service Funds

- 3.21 Under the Self Directed Support (Scotland) Act 2013, eligible service users can opt to have an Individual Budget; to choose which organisation(s) will provide the support services they need and to ask the Council or a third party provider of their choice to manage and make payments from their Fund, as required.
- 3.22 The option of having an Individual Budget managed by a third party provider is expected to become popular, as awareness of the opportunities and responsibilities associated with self directed support becomes more widespread.
- 3.23 The Council is committed to giving service users easy access to self directed support options. On this basis, Committee is recommended to approve the letting of the new Individual Service Fund Framework Agreement between the Council and those providers deemed suitable and willing to provide individual services to supported persons under Options 2 and 4 of the Social Care (Self Directed Support) (Scotland) Act 2013. A copy of the Agreement is attached as Appendix 4.
- 3.24 The Framework Agreement sets out governance and reporting arrangements relating to the safe management of ISF's and the Council's requirements that such funds are:
- managed by third party providers willing to submit themselves to a financial probity and health check carried out by the Council, and to meet the Council's reporting requirements, by providing regular statements of account to the Council and the service user to whom an Individual Budget has been allocated
 - are held in accounts segregated from provider business accounts and protected from potential creditor claims against the provider
 - managed using service user money management and account operation and audit products supplied by institutions registered with the Financial Conduct Authority.
- 3.25 No direct costs arise for the Council from the letting of the Agreement, its sole purpose being to provide a governance framework for the management of Individual Budgets.

Measures of success

- 4.1 Continued delivery of required volume of high quality registered day services for older people.
- 4.2 Consistent funding arrangements in place for delivery of preventative services for older people.
- 4.3 Best value arrangements for maintaining safe night time staff support for service users.

- 4.4 Whole system transformation of alcohol and drug services in Edinburgh is achieved by 2016/17.
- 4.5 Appropriate governance arrangements for the management of public funds, allocated in the form of Individual Budgets are in place.

Financial impact

- 5.1 All proposed changes have been addressed in the Health and Social Care budget for 2014/15. The transfer of contracts for unregistered day services to grants will allow for a common approach to be developed to their funding in 2015/16, and the extension of current alcohol and drug partnership contracts for the achievement of planned savings on alcohol and drug services by 2016/17.

Risk, policy, compliance and governance impact

- 6.1 Recommended award of contracts for Registered Day Services is consistent with good procurement practice and compliant with regulation.
- 6.2 The collaborative approach to the transformation of alcohol and drug services is consistent with the Council's Framework to Advance a Cooperative Capital.
- 6.3 The letting of a Framework Agreement for Individual Budgets provides for their good governance.

Equalities impact

- 7.1 Equalities and Impact Assessments have been completed in respect of commissioning plans for older people's day services and alcohol and drug services. This report reflects mitigation measures recommended to prevent any adverse equality impact.

Sustainability impact

- 8.1 None arising directly from this report.

Consultation and engagement

- 9.1 The Council's Market Shaping Strategy for adult health and social care services, from which the recommendations in this report flow, was the subject of consultation during the Summer 2013 and of a report to the Health, Social Care and Housing Committee in November 2013.

Background reading / external references

Commissioning Plan for Social Care Day Services, Health, Social Care and Housing Committee, 19 June 2012.

Extension of Health and Social Care Contracts, Finance and Resources Committee, 29 November 2012.

Peter Gabbitas

Director of Health and Social Care

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APPENDIX 1

PART A

Current Contracts for the Delivery of Registered Day Centre Services for Older People – Recommended for Renewal

| Organisation | Contract Value |
|--|-----------------------|
| Caring in Craigmillar | £ 215,573 |
| Corstorphine Dementia Project | £ 118,728 |
| Drylaw Rainbow Club | £ 132,764 |
| Libertus Day Services | £ 204,980 |
| Lifecare Day Services | £ 269,489 |
| Lochend Neighbourhood Centre | £ 68,532 |
| North Edinburgh Dementia Care | £ 248,163 |
| Places for People – Pleasance Day Centre | £ 88,122 |
| Prestonfield and District NWP | £ 85,683 |
| Queensferry Churches | £ 113,096 |
| Eric Liddell Centre | £ 156,462 |
| Alzheimer's Scotland | £ 157,681 |
| TOTAL | £1,859,273 |

Part B

Current Contracts for the Delivery of Unregistered Day Centre Services for Older People – Recommended to Transfer to Grant Funding

| | |
|------------------------------|------------------|
| Broomhouse Centre | £ 62,405 |
| Lochend Neighbourhood Centre | £ 20,960 |
| Murrayfield Club | £ 54,815 |
| Oxgangs Care | £ 165,150 |
| Pilmeny Development Project | £ 85,945 |
| Pilton Equalities Project | £ 235,625 |
| TOTAL | £ 624,900 |

APPENDIX 2

Award of block contracts, which meet provider costs involved in maintaining safe night time staffing arrangements in a variety of home settings

| Organisation | Contract Value |
|-----------------------------|-----------------------|
| Autism Initiatives | £ 352,866 |
| Visualise | £ 55,874 |
| Mears | £ 60,342 |
| Leonard Cheshire Disability | £ 52,256 |
| Care In The Community CIC | £ 250,911 |
| Redcroft Lundie | £ 56,247 |
| Enable | £ 12,753 |
| Crossreach | £ 53,765 |
| Thistle Foundation | £ 11,680 |
| Freespace | £ 353,510 |
| SHARE | £ 162,794 |
| Ark HA | £ 268,760 |
| Redwoods | £ 11,268 |
| The Action Group | £ 130,970 |
| Places for People | £ 135,667 |
| Richmond Fellowship | £ 191,801 |
| Link Living | £ 13,009 |
| Carr Gomm | £ 124,768 |
| Penumbra | £ 16,425 |
| Barony | £ 23,870 |
| TOTAL | £2,339,536 |

APPENDIX 3

Edinburgh Alcohol and Drug Partnership Contracts – Recommended for Extension to 31 March 2016

| Organisation | Contract Value |
|--|-----------------------|
| Access to Industry | £ 104,456 |
| Addaction | £ 27,346 |
| The Castle Project | £ 344,508 |
| The Castle Project – Alcohol Worker | £ 35,256 |
| CHAI – Oxfangs Drug Project | £ 38,873 |
| CHAI – Substance Misuse Services | £ 311,245 |
| Crew 2000 | £ 192,384 |
| Crossreach – Simpson House | £ 185,588 |
| ELCA – Alcohol Capacity Worker | £ 39,856 |
| ELCA – Communities Service | £ 40,522 |
| ELCA – Core Service | £ 113,989 |
| ELCA – Women’s Service | £ 42,479 |
| NEDAC – Project and Alcohol Worker | £ 362,138 |
| Rowan Alba – Alcohol Related Brain Damage | £ 6,724 |
| Turning Point – Alcohol and Drugs Project | £ 334,429 |
| Turning point – Community Addictions Service | £ 87,000 |
| VOCAL – Alcohol Related Carer Support | £ 71,562 |
| TOTAL | £2,338,355 |



INDIVIDUAL SERVICE FUND FRAMEWORK AGREEMENT SUMMARY SHEET DRAFT V1.3

**Reference
Number**

THE PARTIES

**Hereinafter
referred to as
the Council**

The City of Edinburgh Council constituted in terms of the Local Government etc (Scotland) Act 1994

Address

| |
|--|
| Waverley Court 4 East Market Street Edinburgh, EH8 8BG |
| And |

**Hereinafter
referred to as
the Provider**

[INSERT PROVIDER NAME]

Address

[INSERT PROVIDER ADDRESS]

**Description of
Service**

INDIVIDUAL SERVICE FUND SERVICES

**Type of
Framework
Agreement
Period of
Framework
Agreement**

INDIVIDUAL SERVICE FUND FRAMEWORK AGREEMENT

The Framework Agreement shall commence on:
The Framework Agreement shall expire on or before:

**Final
Framework
Agreement
Review Date**

| | |
|--|--|
| | |
| | |
| | |

THE SERVICE

| | |
|--|---|
| Title | [Insert Service Title/Name] |
| Address | [Insert Service Address if different from Provider Address] |
| Category | [Insert Service Category – e.g. Care Home; Short Break(Care Home); Short Break(Community); Day Service(Centre); Day Service(Outreach); Day Support (Access); Training, Advice and Advocacy] |
| Client Group / Service Division | [Insert Primary Client Category – e.g. Older People, Learning Disabilities, etc.] |
| Service Summary | Service is a primary provider for Service Users opting for an Individual Service Fund to self direct their service |
| Service Monitoring | <p>[Please choose one of the following options:</p> <p>1. Individual service users entered against the contract on SWIFT (specific individuals formally referred to the service from CEC)</p> <p>2. Individual service users NOT entered against the Framework Agreement on SWIFT</p> <p>(no formal referral to the service and/or service used by non-CEC clients]</p> |
| Budget Manager | [Insert Budget Manager] |

[GUIDANCE NOTES:

1. All instructions, whether shown in bold, capitals and/or square brackets, should be deleted in advance of signing the Framework Agreement.
2. Where any clause is shown as optional and is deleted, “Not Used” should be inserted in the heading for that clause. The numbering should not be changed.
3. Note in relation to Clause 8: specify alternative professional body at outset of Framework Agreement. If not relevant delete and enter “Not Used”
4. Note in relation to Clause 11: ensure Services Specification sets out training requirements for qualified and unqualified staff, noting that some staff may be unqualified and untrained when first employed by Provider.
5. Note in relation to Clause 16: ensure that monitoring requirements are fully specified in tender documents and Services Specification.
6. Note in relation to Clause 16.5: where possible, specify timescales for compliance.]

**INDIVIDUAL SERVICE FUND
FRAMEWORK AGREEMENT [ISFFA]
FOR THE PROVISION OF INDIVIDUAL SERVICE
FUNDED SERVICES**

BETWEEN

THE CITY OF EDINBURGH COUNCIL

AND

[INSERT NAME OF PROVIDER]

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DRAFT

**INDIVIDUAL SERVICE FUND
FRAMEWORK AGREEMENT [ISFFA]
FOR THE PROVISION OF INDIVIDUAL SERVICE FUNDED SERVICES**

Between

THE CITY OF EDINBURGH COUNCIL, a local Council constituted under the Local Government etc (Scotland) Act 1994 and having its principal office at Waverley Court, 4 East Market Street, Edinburgh EH8 8BG (who and whose statutory successors and permitted assignees are hereinafter referred to as “the **Council**”)

and

**[INSERT NAME, ADDRESS, COMPANY NUMBER (WHERE APPLICABLE)
AND REGISTERED OFFICE OF PROVIDER]**

together” the **Parties**”

WHEREAS:

- A. The Council has an obligation to provide care and support to Supported Persons within its area and the Council is committed to increasing choice and control for people who are assessed as needing services to assist them to achieve their agreed Outcomes and empowering those Service Users to make decisions about their support and how this is delivered;
- B. Supported Persons who wish to choose their own Provider, other than the Council, and negotiate with that Provider to provide a Service/s on the basis of an Individual Service Fund; those Supported Persons must do so within the scope of this Framework Agreement and for the Council to pay as per Options 2 and 4 under section 3(1) of the Social Care (Self- Directed Support) (Scotland) Act 2013;
- C. The Council has assessed the Provider as suitable and willing to provide Individual Services to Supported Persons under Options 2 and 4 of the Social Care (Self- Directed Support) (Scotland) Act 2013;
- D. This Framework Agreement sets out the terms and conditions together with the rights and responsibilities of the Council and Provider under both this Framework Agreement and any Individual Service Fund Agreements.
- E. This is a Framework Agreement between the Provider and the Council under which Supported Persons may, as and when required, agree an Individual Service with the Provider subject to confirmation by the Council, of financial support for the services, through an Individual Service Fund Agreement.

- F. In general, the Framework Agreement, sets out the Terms and Conditions and rights and obligations between the Council and the Provider in terms of the operation and management of the Framework Agreement while **Schedule Part 1** the Provider's Service Specification sets out the description of the Service including any requirements specified by the Council.
- G. Under this Framework Agreement, the choice of the Supported Person shall determine the choice of Provider or Providers and the Council will be under no obligation to make any Individual Service Fund Agreements with the Provider. The Supported Person may use whatever methods they so choose to select a Provider, including formal selection processes such as mini-tenders or interviews.
- H. Throughout the Duration of the Framework Agreement, the Council and the Supported Person are at all times entitled to enter into other contracts and arrangements with other providers for the provision of any or all services which are the same as or similar to the Service.
- I. The Framework Agreement shall begin on the Commencement Date and shall remain in force until the End Date unless it is otherwise terminated by any of its provisions. These dates form part of the award of participation on the Framework Agreement issued by the Council and set out in **Schedule Part 1**.
- J. Where the Supported Person determines it is appropriate to do so, and unless in the circumstances the Council has a right to decide otherwise, a service may continue to be provided to individuals by the Provider after the expiry of the Framework Agreement, subject to such separate terms and conditions as may be agreed following discussion between the Council and the Provider.

1. INTERPRETATIONS

- 1.1 Reference to any statutory provisions in this Framework Agreement shall be construed as references to those provisions as amended or re-enacted either before or after the date of this Framework Agreement.
- 1.2 A reference to a "Clause" or a "Schedule Part" shall be a reference to a Clause or Schedule Part of this Framework Agreement.
- 1.3 Reference to any of masculine, feminine or neuter genders shall include the other genders, unless expressly stated to the contrary, and reference to the singular number shall include the plural and vice versa.

2. DEFINITIONS

For the purposes of this Framework Agreement the following words and phrases shall have the meanings stated below:

“Additional Services” means any facilities, goods or services (if any) not included in the Service Specification that may be supplied by the Provider to the Council or with the Council’s agreement to the Service User, the cost of which must have the prior approval in writing of the Council in advance of the provision of these additional services;

“Adult and Child Protection Guidelines” means the multi-agency guidelines developed by the Council along with Health and Police Services as set out in the “Protecting Vulnerable Adults: Ensuring Rights and Preventing Abuse” and the guidelines “Inter Agency Child Protection Guidelines” developed by the said organisations together with Midlothian, West Lothian and East Lothian Councils, the Children’s Reporter and the Crown Office;

“Adults at Risk” are defined by the Adult Support and Protection (Scotland) Act 2007 as individuals, aged 16 or over, who: are unable to safeguard their property, rights or other interests; are at risk of harm; and because they are affected by disability, mental disorder, illness or physical or mental infirmity, are more vulnerable to being harmed than others who are not so affected.

“Agreed Fee” means that element of the Individual Service Fund which the Council has agreed with the Supported Person to allocate to the Provider for provision of the Individual Service for a specific period.

“Best Value” means the obligations of the Council under section 1(1) of the Local Government in Scotland Act 2003 including the statutory instruments and guidance approved by the Scottish Ministers in relation to this Act.

“Care Inspectorate” means the name for the time being given to the Social Care and Social Work Improvement Scotland (SCSWIS) the body established under section 44 of the Public Services Reform (Scotland) Act 2010 having its headquarters for the time being at Compass House, 11 Riverside Drive, Dundee, DD1 4NY.

“Contract” means this framework agreement between the City of Edinburgh Council and the Provider(s) consisting of these conditions including its Schedule Parts, the Service Specification and all other documents (if any) listed in the Service Specification;

“the Council” means the City of Edinburgh Council constituted in terms of the Local Government (Scotland) Act 1994 and having its principal office at Waverley Court, 4 East Market Street, Edinburgh EH8 8BG;

“Disclosure Scotland” means the Disclosure Bureau empowered under Part V of the Police Act 1997 to issue criminal record certificates and

enhanced criminal record certificates and based for the time being at the Scottish Criminal Record Office, Pacific Quay, Glasgow, G51 1EA;

“External Payment” means any payment made out of the Individual Service Fund for the Supported Person by the Provider for goods or Secondary Services;

“Force Majeure Event” means any event materially affecting the performance by a Party of its obligations under this Framework Agreement arising from any act, event, omission, happening or non-happening beyond its reasonable control including, without limitation, acts of God, war, riot, fire, flood, or any disaster affecting either Party, but excluding industrial action;

“Framework Agreement” – means this framework agreement and the attached schedules.

“Individual Budget” means the funds or resources, including those contributed by the Council or other Public Authorities and the person’s own resources, which the Council has decided are available to the Supported Person to meet their assessed needs and agreed Outcomes. **This may be a single fixed sum but could also be on the basis of a funding band.**

“Individual Service” means the service that the Individual Supported Person or their Legal Representative has agreed with the Provider and is delivered under this Framework Agreement and the Supported Person’s Individual Service Fund Agreement.

“Individual Service Fund” or “ISF” means that element of the Individual Budget that the Supported Person has asked to be used on or to pay for services under this Framework Agreement under Option 2 of the Self-Directed Support Act.

“Legal Representative” means a person who has legal authority to negotiate and agree a Personal Plan on your behalf (which may, in the case of a child, include the parent).

“National Care Standards” means the standards for the relevant service(s) to be provided under this Framework Agreement as set out in National Care Standards developed in accordance with the Regulation of Care (Scotland) Act 2001 and published by the Scottish Government from time to time. These describe the standards which individual Service Users can expect from the Provider;

“Nominated Representative” means a person or organisation nominated by you to represent or support you in negotiations with the Provider or the Council in ways you define but who has no legal rights to take decisions.

“Option 2” means option 2 of the Social Care (Self- Directed Support) (Scotland) Act 2013

“Outcomes” mean the aims and objectives for the Supported Person agreed in the Support Plan which form the basis of the Personal Plan.

“Package of Care and/or Support” means the plan for care and support prepared by the Provider in accordance with the Council’s Support Plan;

“Payment(s)” means the fees and charges to be paid by the Council to the Provider for provision of the Service, as detailed in Individual Service Fund Agreements;

“Personal Plan” means the plan drawn up by the Supported Person and the Provider, and agreed by the Council, describing the Individual Services they have agreed to meet the Outcomes and requirements of the Support Plan.

“Price” means the price set out in Individual Service Fund Agreements.

“Provider” means the person, organisation, charity, company or consortium with whom the Council enters into the Framework Agreement for the delivery of the Service;

“PVG Scheme” means the disclosure system as defined by Section 44 of the Protection of Vulnerable Groups (Scotland) Act 2007 (the PVG Act) and managed by Disclosure Scotland for persons undertaking Regulated Work with Protected Adults and/or Children as defined in the PVG Act;

“Regulated Work”, “Regulated Work with Children”, “Regulated Work with Protected Adults” and “Protected Adult” have the meanings given in Part 6, Schedule 2 and 3 of the PVG Act and any associated secondary legislation and guidance issued by the Scottish Government;

“Review Dates” means the dates prior to the expiry of this Framework Agreement on which the Service Review shall be carried out by or behalf of the Council;

“Risk Assessment” means any risk assessment or risk re-assessment questionnaire and the process of risk assessment generally, including without limitation, the identification of (or failure to identify) particular risks and their impact, risk reduction measures, contingency plans and remedial actions;

“Scheme Record” has the meaning given in Section 48 of the PVG Scheme

“Scheme Record Update” means the short scheme record in terms of Section 53 of the PVG Scheme;

“Secondary Provider” means any other provider whom the Supported Person asks the Provider to arrange services, or supply goods with, under this Framework Agreement.

“Secondary Service” means any Individual Service which the Provider arranges on behalf of the Supported Person with a Secondary Provider.

“Segregated Account” means a separate account used to keep their service user’s money separate from the provider’s money. This is done for a few reasons, including creating a clear separation between the two groups of money so neither is used for the wrong purpose, and also to insure that the money can be easily identified as belonging to service users in case anything happens to the provider (such as bankruptcy). The account must be with a United Kingdom based bank that is regulated by the Financial Conduct Authority.

“Service” means the service to be provided by the Provider as set out in the Service Specification including any Additional Services agreed between the Provider and the Council;

“Service Matching Unit” or “SMU” means the Council’s Unit which administers the matching of Service Users to the provider;

“Service Review” means the review of Service provision to be conducted by the Council;

“Service Specification” means the service specification as set out in **Schedule Part 1**;

“Service User” means the person who is in receipt of the Service;

“Social Care and Social Work Improvement Scotland” means the agency established by the Public Reform (Scotland) Act 2010 to regulate the delivery of specified personal and social care services and based for the time being at Compass House, 11 Riverside Avenue, Dundee DD1 4NY and its statutory successors;

“Staff” means any person that the Provider does use or is considering using to provide the service on either a paid or a voluntary basis and whether recruited directly or via an agency;

“Support Plan” means the agreement between the Council and the Supported Person, which sets out the Outcomes and Individual Budget agreed for the Supported Person based on the Assessment of Need carried out by the Council or other assessment provider appointed by the Council.

“TUPE” means the Transfer of Undertakings (Protection of Employment) Regulations 1981 and 2006 as amended.

3. PERIOD AND TYPE OF AGREEMENT

- 3.1** This Framework Agreement shall commence on [INSERT DATE] and shall continue until [INSERT DATE] unless varied, extended or decommissioned under **Clause 29 ‘Variations’**, **Clause 17 ‘Service Review’** or terminated in accordance with the appropriate provisions of this Framework Agreement.

3.2 Council Obligations

- 3.2.1** The Council will make available its service provider on-line directory “**Edinburgh Choices**” in which the provider is obliged to keep information on its service accurate and up to date.

- 3.2.2** It is the responsibility of the Council to:

- provide the Supported Person with information about their rights and responsibilities in relation to the Individual Service Fund and control over their Individual Service
- keep under review the Assessment of Need and the Support Plan of each Supported Person including the overall Outcomes to be achieved and in the case where the Supported Person has multiple services, the contribution of each service to the meeting of these Outcomes.
- provide advice and assistance to the Supported Person where requested and in cases where the Supported Person has chosen multiple services.
- to provide care management support to the Supported Person where they are in receipt of two or more services in respect to the interface between these services, including the organisation of joint Reviews between services where necessary.
- review any changes in the mental capacity of the Supported Person which impact on their ability to manage their Individual Service
- lead on any Adult or Child Protection matters

3.3 Provider Obligations in respect of the Service

- 3.3.1 In the provision of the Service, the Provider shall perform its obligations in accordance with this Framework Agreement and each Individual Service Fund Agreement:
- with appropriately experienced, qualified and trained staff;
 - in accordance with Good Social Care Practice;
 - in compliance with all applicable Laws and Guidance; and
 - for registered services in accordance with the National Care Standards and any requirements made by the Care Inspectorate
- 3.3.2 The Provider must ensure that its Staff understand and, at all times, comply with the obligations resulting from this Framework Agreement.
- 3.3.3 The Provider shall provide relevant information to enable Supported Persons to make an informed choice between it and services offered by other Providers and, where the Supported Person is considering negotiating different services from different Providers, to ascertain how the Service supplied by the Provider might fit with other services.
- 3.3.4 This information should:
- a. be available by whatever means and in whatever format is requested by prospective/Supported Persons and the Council all acting reasonably,
 - b. in a form that meets the requirements of the Scottish Accessible Information Standards (available from: the Scottish Accessible Information Forum
 - i. <http://www.saifscotland.org.uk/publications/publicat.htm#Standards>)

- c. be made available in a suitable electronic format on the Provider's own website including any information required by the specific National Care Standards that apply to the Services offered and include a description of the range and type of care and support offered by the Provider, including the degree of flexibility that can be offered and any limitations to this
 - d. include the Provider's approach to ensuring Outcomes are met and include a statement on the Provider's staffing policy and how this might impact on the delivery of an Individual Service
 - e. include the extent to which the Provider can accommodate Supported Persons who want to choose their own staff
 - f. include a model copy of the Personal Plan and Terms and Conditions including:
 - a written statement of the Provider's standard charges, such as hourly rates or overnight rates and whether these vary for weekends, bank holidays and out of hours, and what these cover including the level of skills and qualifications of the staff concerned and travelling time
 - the likely normal operational expenses of staff that will need to be met out of the ISF
 - non-standard charges and how these might be worked out
 - a description of what arrangements the Provider has in place, if any, to arrange Secondary Services
 - where applicable, information on any Additional Services or extras the Provider might offer which are not covered by ISFs and the charges for these.
- 3.4 The provider shall ensure that they provide a suitable method of segregating Service Users' ISF funds from its own finances in a Segregated Account. This may be in the form of a "clients' monies service" account for each service user. This account record must be available for inspection to the service user, their representative and the Council, at all times.

4. THE SERVICE

- 4.1 The Provider shall deliver a Service and any Additional Services with effect from the start date of each Individual Service Fund.
- 4.2 The Provider shall ensure that the Price paid shall be used exclusively to deliver the Service, including but not limited to reasonable administration and management costs. The Provider shall not be

entitled to use funds forming part of the Price paid to other areas of the Provider's business.

4.3 The Provider shall provide the Service in accordance with:

- (i) the Service User's, or their representative's, directions;
- (ii) The Regulation of Care (Scotland) Act 2001 if applicable
- (iii) the National Care Standards, where applicable;
- (iv) the Reform of Public Services (Scotland) Act 2010 if applicable
- (v) the Adult and Child Protection Guidelines;
- (vi) the Protection of Children (Scotland) Act 2003, where applicable; and
- (vii) any legislation in force from time to time concerning the protection of children and adults and the Lothian & Borders Multi Agency Guidance on the protection of vulnerable adults; and
- (viii) Scots law

5. PAYMENT

5.1 In consideration of the provision of the Service by the Provider in accordance with this Contract, the Council shall make Payments in accordance with Individual Service Fund Agreements as contained at **Schedule Part 6**. The price payable shall be gross and the Council will collect any Service User contribution directly from the supported person. For the avoidance of doubt, the Council will not collect any additional payments agreed by the Service User in line with **Clause 5.16.4** and **Clause 4.11 of Schedule Part 1**.

5.2 Payment will be made on a four weekly basis and paid in arrears.

5.3 The Payment for the previous four week period, shall be due and payable by the Council within **28 days** from the end of the service period. Payments shall be dependent on the receipt of any detailed returns that may be requested **under Clause 5.11**.

5.4 In the event of any dispute in relation to Payments, this shall be dealt with in accordance with **Clause 27** Disputes.

5.5 Payment shall be based upon the following principle:

- i) the gross Price payable shall be paid by the Council to the Provider four (4) weekly in arrears based on the payments for the total of the Individual Service Funds as set out in [Schedule Part 6](#)
- 5.6 The Payments shall be paid by credit transfer to the Provider's bank account as stated in Schedule Part 5. The Payment Schedule details are set out in [Schedule Part 4](#).
- 5.7 The Payments include payment for any reasonable equipment or resources necessary for the Service to operate effectively, as agreed in advance by the Parties.
- 5.8 The Provider may levy a charge for Additional Services. Any charges for Additional Services must have the prior approval of the Council. Additional Services shall be provided in accordance with the terms of this Contract.
- 5.9 The Council, and the Service User, is entitled to dispute payment where the Council believes, acting reasonably, that the Services and/or Additional Services covered under that payment have not been provided and shall notify the Provider accordingly, giving reasons for disputing such payment. All disputed payments shall be paid as normal in accordance with [Clause 5.2](#); however the Council reserves the right to make a deduction from the following period's payment where the Payment remains in dispute or where it has been agreed that the Services and/or Additional Services being disputed were not provided. This Clause 5.9 is without prejudice to any other rights and remedies available to the Provider under this Contract or otherwise at law.
- 5.10 Notwithstanding that an amount may be being withheld by the Council in accordance with [Clause 5.9](#) the Provider shall ensure that this shall not affect in any way whatsoever the quality and performance of the Service that the Provider is to provide.
- 5.11 The Provider shall submit to the Council detailed returns containing such information in respect of the Service or each Service User's Individual Service Fund as the Council may require. [This shall include "Sharepoint" return information as contained in Schedule Part 8.](#)
- 5.12 The Provider acknowledges and accepts that the Council cannot undertake to increase its level of financial support without prior written agreement and shall ensure that any Additional Services planned by the Provider takes this into account.
- 5.13 Failure by the Provider to follow agreed procedures relating to the submission of (i) regular returns; (ii) details of changes to Service Users; and (iii) any other items that are required to be provided on a regular basis in accordance with the monitoring procedures set out in [Clause 16](#) and [Clause 14 of Schedule Part 1](#) and [Schedule Part 8](#), may lead to the

Council delaying future Payments until such items have been received, provided always that the Council shall act reasonably in determining whether to delay future payments.

5.14 Any under-spend on elements covered by Individual Service Funds shall be reimbursed to the Council.

5.15 Provider Charges

5.15.1 It is up to the Provider to determine the range and level of their charges to Supported Persons prior to entering this Framework Agreement, subject to:

- Transparency about charges as set out in **Clause 3.3.4** and all such charges being submitted to the Council
- The provisions in **Clause 4.3 of Schedule 1** that prevent the Provider charging the Supported Person for the time spent negotiating the Individual Service the Provider might be able to provide and the subsequent negotiation of the Support Plan Terms and Conditions.
- Any ceilings set on the proportion of rates that can be used on management and administration of the services, including where appropriate on the arrangement of Secondary Services.
- Increases in charges being limited to once a year as set out in **Clause 5.18**.

5.15.2 The Council may use Provider information about their charges for benchmarking purposes, which may include provision of benchmarks to Supported Person to assist them in choosing a provider.

5.16 Fee Structure

5.16.1 The Agreed Fee and the arrangements for paying this will be set out in the Individual Service Fund Agreement as per **Schedule Part 6**. The Agreed Fee will only be valid when confirmed in writing and signed by the Council's Authorised Signatory.

5.16.2 The Provider will give a clear explanation of how their charges for the Individual Service are worked out as per **Clause 3.3.4 and Schedule Part 1**.

5.16.3 In order to enable flexible delivery of the Service, the Provider may expend a greater or lesser amount than the Agreed Fee in each payment period depending on the needs and wishes of the Supported

Person so long as this is managed with the Supported Person so that the total balance at the end of the period of the award does not exceed the total Agreed Fee for the period.

- 5.16.4 The Provider may also charge the Supported Person Additional Service Charges for Additional Services and Extras where this has been requested by the Supported Person. The Provider shall be responsible for collecting Supplementary Fees and charges for Extras from the Supported Person or any third party who has agreed to pay it. The relevant financial arrangements, including consequences of non-payment shall be detailed in the Personal Plan Terms and Conditions. For the avoidance of doubt the Council will not be liable for the non-payment of any such charges.

5.17 Agreed Fee and Payment for the Service

- 5.17.1 In exchange for the Provider providing the Individual Service to the Supported Persons the Council shall make payment of the Agreed Fee to the Provider on a phased basis as set out in the Individual Service Fund Agreement as per **Schedule Part 6**.
- 5.17.2 For the avoidance of doubt, the Agreed Fee will cover circumstances where the Supported Person is supported by the Provider at locations away from their home address, for example hospital, holidays or family visits unless otherwise specified in the Support Plan.
- 5.17.3 The Council will pay the Provider the Agreed Fee for each service user, in arrears, for each payment period.

5.18 Variation to the Agreed Fee and Provider charges

- 5.18.1 The Council shall notify the Supported Person and the Provider of any changes to individual Supported Person's Individual Service Funds and any general planned uprating of Individual Budgets, including those made by other Public Authorities, for the following financial year with at least 30 days notice. The Council will divide the Individual Service Fund into an allocation for each invoicing period and inform the Supported Person of this and issue a revised Individual Service Fund Agreement to the Provider.
- 5.18.2 Where the Provider wishes the Council to consider any cost pressures Providers face in deciding about increases to Individual Service Funds, it should inform the Council by **31 January** in the preceding financial year of the cost pressures it faces and highlighting any cost pressures that are due to changes in legislation.

5.18.3 Notwithstanding **Clauses 5.18.1 and 5.18.2**, Providers may increase the rates they charge for the Individual Service once a year, in April, provided that they have given the Supported Person **8 weeks** Notice of their intention to do so and informed the Care Manager. Where the proposed increase in rates is more than the likely increase in Individual Service Fund, as notified by the Council, the Provider will inform the Supported Person of the implications for their Support Plan and their right to consider alternative Providers.

5.18.4 Where a Supported Person has chosen two or more providers under Option 2, the Council will be responsible for providing advice and guidance to their Supported Person on their options for managing and responding to different fee increases from different providers and any subsequent amendments to the Individual Service Fund Agreement.

5.18.5 Providers may reduce their rates at any time.

5.18.6 The Agreed Fee may also be varied as a result of a change in the Assessed Needs and Outcomes identified for the Supported Person as part of a Review of their Support Plan.

5.19 Over-spends and Under-spends of the Individual Service Fund

5.19.1 Where, in accordance with **Clause 5.16.3**, the Provider plans with the Supported Person to spend money in advance or to save money from the Individual Service Fund for a specific purpose they will record this in the Personal Plan and inform the Council.

5.19.2 Where there is a significant over-spend or under-spend of the Agreed Fee for **3** months or more which has not been planned, The Provider shall notify the Council and a review of the Individual Service shall be undertaken to ascertain the reasons for this and whether the amount of the Agreed Fee and the Individual Service Fund should be increased or decreased. The Council shall not be liable to pay the Provider for any sums spent on providing a service to the Supported Person which are in excess of the Agreed Fee and not included in the Support Plan or agreed in advance in line with **Clause 5.19.6**.

5.19.3 The Provider will report to the Council Finance Section and Care Manager any temporary absence which is likely to result in an under-spend of the Individual Service Fund allocation for any **3 month** period.

5.19.4 Where the unplanned under-spend is due to a matter that results in the Individual Service terminating under **Clause 28**, the Council may pay the

Provider the proportion of the Agreed Fee awarded to them for the period of Notice.

5.19.5 Apart from as provided for under **Clause 5.19.4**, where there is any unplanned under-spend, **over any 3-month period**, the Provider shall reimburse this to the Council or (only if the Council elects) the Council may reduce future payments of the Individual Service Fund to reflect any overpayments made by the Council to the Provider.

5.19.6 Where there is an emergency which the Provider believes could be addressed by provision of a higher level of service, the Provider will seek agreement for this from the Council unless provision has been made for this in the Personal Plan as per **Clause 1.5 of Schedule 1**.

5.20 General rules applying to expenditure from Individual Service Funds

5.20.1 The Council has a duty to ensure that Individual Service Funds meet statutory requirements and also Best Value. The Council will make the Supported Person aware of the rules in this section.

5.20.2 Individual Service Funds are awarded to provide an Individual Service to the Supported Person living at the address stated on the Support Plan. Where the Provider becomes aware that the Supported Person intends to move or no longer resides at this address on a permanent basis they will ensure the Council is informed.

5.20.3 The Provider may spend money from Individual Service Funds at the direction of the Supported Person:

- to supply goods or services that meet their needs and Outcomes
- to purchase goods and services from Secondary Providers that meet their needs and Outcomes
- Individual Service Funds may only be spent on goods or services from legitimate sources
- Individual Service Funds may not be spent on goods or services for the Supported Person that would normally be purchased out of the Supported Person's Personal Income.
- Individual Service Funds may be used to pay for the reasonable expenses of support staff which are incurred while supporting the Supported Person. This does not include personal assistants

5.20.4 Where the Supported Person asks the Provider to use their ISF in ways that breach **Clauses 5.20.2 and 5.20.3** the Provider will inform the Supported Person they cannot do this and the reasons why. If the Supported Person does not accept this, the Provider will inform them they will refer the matter to the Council and will then do so within 7 Days.

5.21 Hospitalisation

5.21.1 In the event of the hospitalisation of the Supported Person for a period of longer than 5 Days the Council will have the right to suspend or vary payment of the Individual Service Fund for up to 6 months or to the date the Supported Person returns home whichever is shorter to cover the non-provision or reduced level of the Individual Service. A Review will take place before the end of 6 months at which time the Individual Fund Agreement shall be continued and or varied or terminated as appropriate.

5.21.2 In the event of the Supported Person's death the Provider shall provide the Council with a closing statement and balance sheet for the Individual Service Fund and once this has been approved may retain a sum equivalent to three Days expenditure from the Individual Service Fund with the balance being refunded to the Council.

5.22 Specific requirements for the use of Individual Service Funds for individual Supported Persons

5.22.1 Individual Service Funds may only be spent to achieve Outcomes that have been agreed in the Support Plan. Where a Supported Person decides to choose two or more providers or services under Option 2 or Option 4 of the Social Care (Self- Directed Support) (Scotland) Act 2013, the Council will be responsible for ensuring that the Supported Person and the Provider are clearly informed about which of the outcomes in the Support Plan apply to the Individual Service.

5.22.2 Where there is doubt about how any proposed expenditure would deliver or contribute to the Outcomes in the Support Plan the Provider and the Supported Person should consult the Care Manager. Where agreement cannot be reached, either the Supported Person or the Provider may refer the matter under the dispute resolution clauses of this Framework Agreement but the decision of the Council will be final.

5.22.3 Where there are financial abuse or protection issues, or where the Council believes Outcomes will not be met, the Council may put

conditions on how the Individual Service Fund may be spent in the Support Plan

5.23 Financial arrangements for Secondary Services

5.23.1 Where Secondary Services or External Payments are arranged by support staff as part of the day to day requirements, the Provider will not charge for this.

5.23.2 Where Secondary Services or External Payments are organised by the Provider as part of the Personal Plan, the Provider may charge for this at rates as set out in the Personal Plan Terms and Conditions.

5.23.3 Where the Supported Person has requested that part of their Individual Service Fund is spent on goods, and this meets the Outcomes agreed in the Support Plan, the Provider will obtain and keep copies of the relevant receipts and will provide these to the Council on request.

5.23.4 The Provider may charge for the invoicing, payment and accounting of Secondary Services subject to Clause 5.15.1 as long as these charges are set out in the Personal Plan Terms and Conditions.

5.24 Management of the Individual Service Fund and Personal Income of Supported Persons

5.24.1 The Provider will keep the Supported Person or their Representative informed of expenditure against their Individual Service Fund allocation in a format that the Supported Person or their Representative is able to understand. This will include monthly statements of account which will list actual expenditure against the Agreed Fee broken down by hours or type of expenditure and the balance. **This shall include statements from the Service User's Segregated Account.**

5.24.2 The Provider will keep invoices or receipts for expenditure relating to Staff expenses and External Payments and allow the Supported Person, their Representative or the Council to access these on request

5.24.3 Where the Supported Person requires assistance with the management of their personal income, the arrangements for this will be included in the Support Plan. The Provider will ensure that suitable procedures are in place and there is a clear audit trail for how this money is spent.

5.25 Unauthorised provision of services

5.25.1 Where the Provider spends money on providing a service to the Supported Person, whether at their request or not, that is not in accordance with the Individual Service Fund Agreement or rules on expenditure contained in **Clause 5.20** the Council will not be liable to pay for such expenditure and may seek to recover any such expenditure that has been paid for through the Agreed Fee.

5.26 Failure to provide the Individual Service – financial consequences

5.26.1 Where the Provider has been unable to provide the Essential Service either itself or through a Secondary Provider, and either the Supported Person or the Council has to arrange an alternative Individual Service, the Provider shall meet both the costs of the alternative service and the costs of arranging this and shall reimburse the Council or the Supported Person as appropriate.

6 VALUE ADDED TAX

6.1 The Provider shall be required to show evidence of Value Added Tax (VAT) status. Where the Provider is registered for VAT and the supply is not exempt from VAT, Payments shall be made only on receipt of a properly completed VAT invoice, to enable the Council to reclaim the VAT.

7. DIRECT PAYMENTS

7.1 A Service user may request a direct payment.

7.2.1 The Council is not party to a direct payment agreement between the Service User and the Provider.

7.2.2 If a Service User requests a direct payment to purchase Services, and the Council agrees to this request, the Council shall reduce the Payments made to the Provider in respect of the particular Service User for whom a direct payment is made. A reduction in Payments shall be made irrespective of whether the Service User decides to use the services of the Provider or to employ an alternative service provider. The exercising of a direct payment option by any of the Service Users shall trigger a review of services provided to that Service User, unless the parties agree that any such review is unnecessary.

8. [SELECT APPROPRIATE OPTION BELOW AND DELETE ONE OPTION

EITHER]

REGISTRATION WITH SOCIAL CARE AND SOCIAL WORK IMPROVEMENT SCOTLAND

- 8.1 It is a material condition of this Framework Agreement that the Provider shall be registered with Social Care and Social Work Improvement Scotland (the Care Inspectorate) as a provider of care and support where such registration is required by the Regulation of Care (Scotland) Act 2001. The Provider shall ensure that this registration is maintained and shall comply with the National Care Standards in full for the duration of this Framework Agreement.
- 8.2 Any investigation reports undertaken by Social Care and Social Work Improvement Scotland (the Care Inspectorate) as the result of a complaint shall be made available to the Council within one working day of receipt by the Provider. When requested by the Council, the Provider shall ensure that inspection reports are made available to the Council within seven (7) days. In addition, the Provider shall make available within the same timescale formal confirmation by Social Care and Social Work Improvement Scotland of successful applications of registration and variations of registration.
- 8.3 The Provider shall make available to the Council, on request, copies of all information provided to Social Care and Social Work Improvement Scotland in respect of the registration of the Provider.
- 8.4 The Provider shall notify the Council within one (1) working day of any and all changes of circumstances affecting the Provider's registration, including any conditions imposed, notice to cancel registration or variations to categories of registration.
- 8.5 The Provider shall, where permitted by law, notify the Council immediately in the event of any criminal investigation involving alleged wrongdoing on the part of the Provider.

[OR]

[INSERT APPROPRIATE PROVISIONS IN RELATION TO OTHER PROFESSIONAL BODY WITH WHICH REGISTRATION IS REQUIRED]

- 8.1 It is a material condition of this Contract that from the commencement of this Contract, the Provider shall be registered with **[INSERT PROFESSIONAL BODY]** where such registration is required by **[INSERT APPROPRIATE LEGISLATION]**. The Provider shall ensure that this registration is maintained and shall comply with the **[INSERT APPROPRIATE PROFESSIONAL STANDARDS]** in full for the duration of this Contract.
- 8.2 Any investigation reports undertaken by the **[INSERT PROFESSIONAL BODY]** as the result of a complaint shall be made available to the

Council within one working day of receipt by the Provider. When requested by the Council, the Provider shall ensure that inspection reports are made available to the Council within seven (7) days. In addition, the Provider shall make available within the same timescale formal confirmation by the **[INSERT PROFESSIONAL BODY]** of successful applications of registration and variations of registration.

- 8.3 The Provider shall make available to the Council, on request, copies of all information provided to the **[INSERT PROFESSIONAL BODY]** in respect of the registration of the Provider.
- 8.4 The Provider shall notify the Council within one (1) working day of any and all changes of circumstances affecting the Provider's registration, including any conditions imposed, notice to cancel registration or variations to categories of registration.
- 8.5 The Provider shall, where permitted by law, notify the Council immediately in the event of any criminal investigation involving alleged wrongdoing on the part of the Provider.]

9. ASSESSMENT OF SERVICE USERS' SUPPORT NEEDS

- 9.1 An assessment of a Service User's needs shall be undertaken by the Council or by service personnel from other organisations as nominated by the Council. Service Users shall then choose the Provider so that the Provider can deliver the Service as specified in the Support Plan.
- 9.2 Throughout the period of this Framework Agreement the Council, acting reasonably, may require changes to the form of assessment or the criteria for the Service. The Council shall raise any such required changes with the Provider as part of the Service Review.
- 9.3 The assessment arrangements for the Service are provided in the Service Specification, as set out in **Schedule Part 1**.

10. DISCONTINUATION OF SERVICES TO A SERVICE USER

- 10.1 Provision of the Services to a Service User shall be discontinued on the occurrence of the following event:
- where following review of the Service User's circumstances in conjunction with the Provider and, so far as possible, the Service User and/or their representative, the Council considers that those needs would be better serviced by alternative arrangements. In all such cases the Council and the Provider shall seek to resolve matters amicably to the satisfaction of all parties while safeguarding the needs of the Service User. In this instance, the provision of the Service to the Service User shall cease upon the date specified in the Council's notice to the Provider.

11. STAFFING

- 11.1 The Provider shall ensure that all staff employed or to be employed by the Provider are suitably qualified, trained and/or experienced, in accordance with the requirements set out in this Contract, including **Schedule Part 1**, and the individual Support Plans, to deliver the Service and meet all requirements of this Framework Agreement. If necessary, the Service Provider shall engage such staff so as to meet these requirements.
- 11.2 The Provider shall recruit and thereafter employ staff in accordance with the Codes of Practice issued by the Commission for Racial Equality, the Equal Opportunities Commission, the Disability Rights Commission and under the Employment Equality (Religion or Belief) Regulations 2003.
- 11.3 In terms of the Rehabilitation of Offenders Act 1974 and the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003, the Provider shall require any person that he proposes to use (whether paid or unpaid) in the provision of the Services to complete a statement concerning their previous convictions for offences of any description. Before such persons are assigned to delivery of the Services, the Provider must obtain an appropriate level of disclosure directly from Disclosure Scotland.
- 11.4 For the avoidance of doubt the Provider shall operate a Safer Recruitment Policy in accordance with Standard 5 of the Scottish Government's National Care Standards. The provider shall provide a copy of their Safer Recruitment Policy upon request.
- 11.5 The Service Provider shall ensure that the requirements of any new legislation or method of checking the suitability of a member of staff to work with Adults at Risk are adhered to, this includes but is not limited to the Protecting Vulnerable Groups Scheme (PVG Scheme) due for implementation in 2010 as amended from time to time.
- 11.6 Except as outlined in **clause 11.9** before Staff and Volunteers, are allowed to deliver the Service, the Provider shall obtain an appropriate level of Disclosure directly from Disclosure Scotland. The appropriate level of Disclosure shall be determined by reference to Part V of the Police Act 1997, Regulations made under that Act and any Guidance issued by Disclosure Scotland. This requirement shall include all applicants including those from out with the jurisdiction of Disclosure Scotland.
- 11.7 For the avoidance of doubt the Provider shall obtain a PVG Scheme record in respect of Administrators and Staff providing Care to Residents and the Provider shall obtain a new PVG update every three years for all such Staff and for Volunteers.

- 11.8 The Service Provider shall ensure that, both applicants from out with the jurisdiction of Disclosure Scotland and applicants who have spent a significant length of time out with the jurisdiction of Disclosure Scotland provide an overseas criminal record check.
- 11.8.1 Such criminal records check should come from the police or judicial authority, Government department or Home Embassy of the country or countries concerned and be an official statement confirming that the individual does not have any history of or pending criminal record proceedings.
- 11.8.2 In the absence of such checks either being available or being of suspect reliability or where there is significant delay in obtaining such checks, the Service Provider shall satisfy themselves as to the suitability of the applicant/member of staff through such measures as additional scrutiny of references, consideration of supervision measures at the commencement of employment and undertake a risk assessment in line with Clause 11.10.
- 11.9 The Service Provider shall consult with the Care Inspectorate where a disclosure or criminal records check cannot be obtained, is of suspect reliability or where there is a significant delay in obtaining such criminal records check and where they wish to commence employment.
- 11.10 The Provider shall use the contents of the said statements and Disclosures to make recruitment decisions and unless the Disclosure and/or criminal records check contains no convictions, reprimands, warnings, cautions, other relevant information or other government information, the Provider shall conduct a risk assessment and use that assessment to protect the interests of Residents, including, without prejudice to the foregoing generality, prohibiting the subject of the Disclosure from providing the Service directly to Residents.
- 11.11 To ensure compliance with **Clauses 11.4 and 11.12** the Provider shall record the following information (as detailed in Section 28 of the Disclosure Scotland: Explanatory Guide on Code of Practice produced and amended from time to time by the Scottish Ministers) and shall disclose this information to the Council on request:-
- (i) the type of Disclosure;
 - (ii) the issue date of the Disclosure;
 - (iii) the unique Disclosure Number;
 - (iv) the name of the subject of the Disclosure;
 - (v) the position held or applied for; and

- (vi) the recruitment decision taken.
- 11.12 To ensure compliance with **Clause 11.10**, the Provider shall record the fact that a risk assessment has been undertaken and shall on request from the Council disclose that record to it.
- 11.13 The Council reserves the right to require a member of Staff or Volunteer to be withdrawn from providing Care to a Resident in the event of the Provider failing to comply with the foregoing Clauses or the member of Staff or Volunteer as the case may be refusing to agree to a Disclosure or the disclosure at any stage of information which, in the reasonable opinion of the Council, renders that member of Staff or Volunteer unsuitable for the work involved.
- 11.14 The Provider shall have in place and implement all the policies and procedures required to satisfy the Care Inspectorate's requirements in relation to the employment and management of Staff and Volunteers.
- 11.15 The Provider shall comply with any requirements under the Regulation of Care (Scotland) Act 2001 for Staff to register with the Scottish Social Services Council and comply with its Employers' Code of Practice.
- 11.16 Where the Provider intends to use staff from a staffing agency, the Provider must first obtain a signed written statement from the agency which confirms that such staff have satisfied the appropriate Disclosure Scotland checks, or provided an overseas criminal records check as outlined in 11.8 above and are deemed suitable for providing the Service directly to the Service Users. The Provider undertakes to comply at all times with the current Code of Practice and Explanatory Guide relating to Disclosure Information published by the Scottish Ministers under s122 of the Police Act 1997.
- 11.17 The Provider shall not allow Staff and Volunteers to accept gratuities or gifts of significant value from the Resident or relatives, unless these are agreed by the Council.
- 11.18 The Provider must ensure that Staff and Volunteers are covered by the Provider's insurance policies as specified in **Clause 13.1**.
- 11.19 Volunteers must be supernumerary to the Provider's staffing requirement and shall not be used as a substitute for Staff. The Council reserves the right (such right being exercised at its own absolute discretion) to require that any Volunteer does not participate in any or all aspects of the Care provided to the Resident.
- 11.20 The Provider shall provide staff development, support, supervision, and clear and effective leadership.

- 11.21 The Provider shall ensure that staff meet the requirements of the Service Specification in relation to care planning, in that staff that are responsible for the support of vulnerable people are aware of their special needs, how to plan for and meet these needs, and are able to communicate effectively with such vulnerable people.
- 11.22 The Provider shall maintain an ongoing programme of training to ensure that staff (and volunteers where appropriate) who are employed in the provision of the Service receive the level of vocational training required and appropriate to the needs of the Service Users. In order to ensure compliance with legislation and continuously improve service quality, the Provider shall be required to:
- (i) ensure that staff receive training on equalities matters appropriate to the Service;
 - (ii) record staff development; and
 - (iii) report on this annually, using such reporting information as is required to be submitted to the Care Inspectorate in respect of training.
- 11.23 For the avoidance of doubt the Provider and its staff shall not be deemed to be nor be entitled to act or hold themselves out as agents or employees of the Council.
- 11.24 The Provider shall have robust contingency plans in place, agreed with the Council, to ensure that the Services shall be maintained in the event of disruption to the Provider's operations, howsoever caused

12. RISK ASSESSMENTS

- 12.1 The Provider shall carry out such Risk Assessments as would reasonably be expected to be carried out by a diligent provider of such services and as are appropriate to enable the Provider to provide the Service safely and effectively.
- 12.2 The Provider acknowledges and agrees that any Risk Assessment carried out by the Council, the details of which are provided to the Provider, shall be for information purposes only and shall not discharge the Provider of its duty to carry out its own Risk Assessment.
- 12.3 The Provider agrees that any Risk Assessment carried out, or required to be carried out, by the Provider in connection with this Framework Agreement is the Provider's sole responsibility. The provision of details of any Risk Assessment carried out by the Council shall be for information purposes only and shall not in any way be construed as an acceptance by the Council of responsibility or liability for any of the risks identified in the Risk Assessment. Such risks shall remain the sole

responsibility of the Provider unless the Council expressly provides otherwise in writing.

13. INSURANCE AND INDEMNITY

- 13.1 The Provider shall take out and maintain for the duration of this Framework Agreement public liability cover of not less than £5,000,000 in respect of any one occurrence and appropriate and adequate employer's liability insurance cover **[INCLUDE ANY OTHER COVER REQUIRED DEPENDING ON NATURE OF SERVICES BEING PROVIDED EG SPECIFIC MEDICAL/PROFESSIONAL INSURANCE]**. Such insurance must include but is not limited to protection in the event of claims by Service Users arising from any act, omission or negligence on the part of the Provider or those engaged or employed by the Provider resulting in death, injury or damage to any Service User. The Provider shall, prior to commencement of this Framework Agreement and at any time on request, provide evidence to the Council that such cover has been effected and the terms of such cover.
- 13.2 Notwithstanding termination of this Framework Agreement, the Provider shall indemnify the Council against all proceedings, costs, expenses, liabilities, injury, loss or damage arising from or incurred by reason of any claim, demand or action made or raised on behalf of a Service User, employee of the Council, or any third party which arises as a result of the breach, negligent performance or failure in performance of this Framework Agreement by the Provider, its agents, employees or volunteers for which they could be held legally liable; except insofar as and to the extent that such liability, loss, claim or damages shall be due to any act or neglect of the Council, its agents or employees. The Council shall act reasonably in relation to any costs, expenses or damages paid by it, shall take all reasonable steps to minimise its payments/costs/losses and shall only make payment in relation to legally valid claims or proceedings. However, the Provider shall have no liability for and shall not be liable to indemnify the Council in relation to any matter where and to the extent that it occurs as a result of the breach, negligent performance or failure in performance on the part of the Council, its agents or employees.

14. ADVOCACY

- 14.1 The Provider shall ensure that Service Users have information about and are assisted to obtain appropriate advocacy services under the following legislation:
- Adults with Incapacity (Scotland) Act 2000
 - The Mental Health (Care and Treatment (Scotland) Act 2003. This Act also imposes a duty to provide advocacy services for people under 16 years of age who have a mental disorder
 - Adult Support and Protection Act (Scotland) 2007

- The Equality Act 2010
- The Human Rights Act 1998
- The Children (Scotland) Act 1995
- The Children's Hearings (Scotland) Act 2011

for the purposes of making complaints in accordance with **Clause 15** below. The Provider shall ensure that front line staff are confident in assisting Service Users to access appropriate advocacy services.

15. COMPLAINTS PROCEDURE

15.1 The Provider shall have a clear, written procedure for receiving and dealing with complaints made by Service Users and shall comply with it at all times. The Provider shall make Service Users aware that they have a statutory right of complaint to the Council by virtue of Section 5B of the Social Work (Scotland) Act 1968, to Social Care and Social Work Improvement Scotland,, and ultimately to the Public Services Ombudsman. The Provider shall:

- (i) ensure that all Service Users are aware of their right to complain on the grounds of discriminatory conduct and that this is included in the guidance provided by the Provider to the Service Users in relation to complaints; and
- (ii) record and report annually on all such complaints and action taken to resolve these.

15.2 The Provider shall keep written details of any other complaints received and how they are handled and make these available to the Council on request.

16. MONITORING AND EVALUATION

16.1 The Provider and the Council shall monitor the Provider's Service with a view to consistently improving the quality of the Service in accordance with the terms and conditions of this Framework Agreement. The Provider shall comply with all reasonable requirements of the Council to achieve this aim, in accordance with the monitoring arrangements set out in this Framework Agreement and its Schedules including **Clause 14 of Schedule Part 1** and **Schedule Part 8**.

16.2 The Service shall be monitored and evaluated in accordance with the National Care Standards, **[INSERT OTHER PROFESSIONAL STANDARDS WHERE APPROPRIATE IN ACCORDANCE WITH PROFESSIONAL BODY LISTED AT CLAUSE 8]**, the requirements of this Framework Agreement and any which are set out in the Service Specification and the Council shall utilise information from inspections and investigations by Care Inspectorate for the purpose of monitoring and evaluating the Service.

- 16.3 The Provider shall have in place a system to monitor the quality of the Service and shall provide details of this system to the Council on request, including but not limited to the information generated and the outcomes of the quality monitoring process.
- 16.4 Both Parties agree that any relevant guidance issued from time to time by the Scottish Government shall inform the nature of the qualitative and quantitative information to be submitted to the Council by the Provider.
- 16.5 The Provider agrees to comply with the following, if required by the Council, acting reasonably, for the purposes of monitoring and evaluating the Service, and any other monitoring arrangements set out in the [Schedule Part 1](#) and [Schedule Part 8](#):
- (i) provide returns and progress reports from the Provider in paper or electronic form;
 - (ii) permit visits to Provider premises by the Council;
 - (iii) provide feedback from Service Users on the Service being supplied;
 - (iv) provide feedback from staff, volunteers where appropriate, or other relevant individuals/organisations about the Service supplied;
 - (v) provide evidence:
 - (a) that appropriate disclosure certificates, Scheme Records or Scheme Record Updates have been obtained and taken account of in all recruitment decisions in accordance with [Clause 11](#);
 - (b) that Risk Assessments have been carried out in accordance with [Clause 12](#);
 - (c) of compliance with health and safety requirements in force at the time; and
 - (d) of compliance with current equalities legislation;
 - (vi) provide information returns in line with the Council and/or the Scottish Government's reporting requirements; and
 - (vii) provide other information where appropriate including reporting information included at [Clause 14 of Schedule Part 1](#) and [Schedule Part 8](#).

16.6 The Council reserves the right throughout the Duration of the Framework Agreement to review the financial capacity, in particular the creditworthiness, of the Provider to ensure that the Provider is able to perform its obligations to Supported Persons. Such a review may use all means and information available to the Council, which means and information may include but not be limited to obtaining reports from UK-based credit scoring agencies. Where the Council, after considering the information from such a review, determines that the financial capacity of the Provider to perform the Framework Agreement has been placed in doubt, the Council may inform Supported Persons of the risks and may take other remedial action where appropriate under **Clause 10 and Clause 17** of this Framework Agreement.

17. SUSPENSION, SERVICE REVIEW AND DISCONTINUATION

17.1 Service Users, who are assessed as requiring a care and support service, and who choose to manage this requirement through the option of an Individual Service Fund, are free to choose their provision from any provider who has a signed ISFFA in place with the Council for this purpose.

17.2 Notwithstanding **Clause 17.1 (above)**, The Council may suspend Supported Persons rights to choose the Service where:

- (i) it considers that a breach or series of breaches of the Framework Agreement by the Provider creates an immediate or serious risk of harm to Supported Persons;
- (ii) notice of assignation, disposal, subcontracting or change of control has been given and the Council has serious concerns about the viability of the arrangement, or where a Provider has failed to provide notice of the same, or where the Council has given notice of termination as set out in **Clause 28**;
- (iii) the service has failed to achieve grades of at least three (3), in any theme, in their most recent Care Inspection
- (iv) the Care Inspectorate has placed a Suspension of admissions on the Service;
- (v) A complaint has been upheld either by the Council or the Care Inspectorate
- (vi) Following concerns raised from an Adult Protection investigation
- (vii) Any matter of financial concern or viability of the service
- (viii) Following a review of the service

- 17.2.1 Where decisions have been taken to exercise the right of Suspension as per **Clause 17.2** the Council will refer that decision to the Council's **multi-agency quality assurance group** where the decision to suspend may be upheld or removed. Following this decision the Council shall notify;
- the Provider in writing of the reason for the Suspension and the date at which the Suspension will take effect; and
 - Supported Persons who are in the process of choosing a Provider.
- 17.2.3 During the period of any Suspension the Provider must continue to co-operate with and comply with any requirements of the Council in order to resolve the suspension and to ensure the needs of Supported Persons continue to be met.
- 17.3 Following consultation with the Provider, the Council shall give the Provider two (2) months prior written notice of the Review Date. The Council shall endeavour to ensure that the Service Review is completed no later than three (3) months prior to the expiry of this Framework Agreement.
- 17.4 The Provider shall ensure that the Council's staff or agents, as appropriate, are granted access to all records held by the Provider which are relevant to the support of Service Users and the delivery of the Service provided always that the Council provides reasonable prior notice of any such requirement for access and endeavours to minimise any disruption caused during such access period.
- 17.5 The Service Review shall take into consideration:
- (i) the extent to which the Service complies with the strategic priorities and objectives of the Council;
 - (ii) Service performance and the extent to which the Provider meets the standards set out in the National Care Standards;
 - (iv) the demand for the Service;
 - (v) the viability of the Provider's organisation;
 - (vi) any additional criteria specified at the time in any Scottish Government guidance issued from time to time and agreed with the Provider; and
 - (vii) any other matters that the parties consider appropriate.

17.6 Subject to **Clause 17.5**, at the end of the final Service Review the Council shall select one of the following courses of action:

- (i) amend the provisions of this Framework Agreement in accordance with the outcomes of the Service Review;
- (ii) extend the term of this Framework Agreement for up to a maximum of three (3) years or such other period as is deemed appropriate in the circumstances with regard to the nature of the Services being provided;
- (iii) na
- (iv) make recommendations to the Provider to remedy identified problems. Such recommendations shall be discussed with the Provider and a timescale for remedy agreed. When the recommendations are implemented fully, the Council shall determine whether (ii) or (iii) above shall be implemented;
- (v) na
- (vi) decommission the Service and terminate this Framework Agreement by giving to the Provider a minimum of three (3) month's written notice.

17.7 The Council shall provide reasons to the Provider for the decision taken in accordance with **Clause 17.6**, on request.

18. HEALTH AND SAFETY

18.1 The Provider shall at all times have regard for the health and safety of all persons employed or engaged in the provision of the Service and shall ensure all staff are adequately trained to provide the Service. The Provider shall comply with all health and safety law and associated guidance. The Provider shall supply a copy of their Health and Safety Policy to the Council on request.

19. EQUAL OPPORTUNITIES / DISCRIMINATION

19.1 In providing the Service, the Provider shall comply with Equal Opportunities and the Public Sector Equality Duty and shall ensure compliance with the Council's written policies on such matters and with all Laws, regulations and guidance from time to time applicable in such regard.

19.2 The Provider shall provide such information and documentation to the Council as the Council may reasonably require from time to time for the purposes of:

- (i) assessing the Provider's compliance with its obligation under **clause 19.1**;
- (ii) enabling the Council to review diversity in employment data such as total staff in post, applications for posts, appointments to post, annual gender pay audits, promotions, performance reviews, training, disciplinary matters, grievances, tribunal matters and all other relevant information required for the Council to comply with its Public Sector Equality Duty; and
- (ii) enabling the Council to review data in respect of complaints and satisfaction surveys in respect of the Provider's approach to equalities, diversity and human rights.

19.3 In delivering and reviewing the Service the Provider shall:

- (i) comply with the Council's Public Sector Equality Duty and shall have regard to any guidance provided by Scottish Ministers for local authorities on the Public Sector Equality Duty (including assisting in or preparing reports in order to secure the Council's compliance with the Public Sector Equality Duty);
- (ii) comply with all reasonable requests for information or data in respect of the Council's Public Sector Equality Duty including where the Council undertakes an equalities impact assessment; and
- (iii) compile and keep all required records in order that the Council may comply with the Public Sector Equality Duty including where the Council undertakes an equalities impact assessment.

19.4 The Provider shall deliver the services in a non-discriminatory manner that ensures fairness and equality to all Service Users. The Provider recognises that the Council has a responsibility to monitor the extent to which the provision of the Service extends to groups who are at risk of social exclusion. The Provider agrees, where appropriate and practicable, to provide information to the Council in relation to employment and use of the Service by the following criteria:

- (i) age;
- (ii) sex;
- (iii) sexual orientation;
- (iv) disability;
- (v) religion or belief;
- (vi) race;
- (vii) marriage and civil partnership;
- (viii) pregnancy and maternity; and
- (ix) gender reassignment

- 19.5 The Provider shall not discriminate directly or indirectly, or by way of victimisation or harassment, against any person on grounds of gender reassignment, age, marriage and civil partnership, sexual orientation, disability, religion or belief, sex, pregnancy or maternity and race contrary to the Equality Act 2010.
- 19.6 The Provider shall notify the Council forthwith in writing as soon as it becomes aware of any investigation of or proceedings brought against the Provider under the legislation contained in the Equality Act 2010. Where any investigation is undertaken by a person or body empowered to conduct such investigation, and/or proceedings are instituted in connection with any matter relating to the Provider's performance of this Agreement being in contravention of the Equality Act 2010, the Provider shall free of charge:
- (i) provide any information requested in the timescale allotted;
 - (ii) attend any meetings as required and permit the Provider's staff to attend;
 - (iii) promptly allow access to and investigation of any document or data deemed to be relevant;
 - (iv) allow itself and any staff of the Provider to appear as witness in any ensuing proceedings; and
 - (v) co-operate fully and promptly in every way required by the person or body conducting such investigation during the course of that investigation.

Where any such investigation is conducted or proceedings are brought under the Equality Act 2010, which arise directly or indirectly out of any act or omission of the Provider, its agents or subcontractors, or the staff of the Provider, and where there is a finding against the Provider in such investigation or proceedings, the Provider shall indemnify the Council with respect to all costs, charges and expenses arising out of or in connection with any such investigation or proceedings and such other financial redress to cover any payment the Council may have been ordered or required to pay to a third party.

- 19.7 In recognition of the Council's legal obligation to tackle discrimination and promote equalities and diversity in all its functions and policies, under the Act the Provider may be subject to the requirement to complete a questionnaire and/or provide information to the Council's officers on the extent and quality of the Provider's equalities and diversity policies and practice. Good practice in this regard will be recognised by the Council, however, poor practice may result in the Council issuing a mind to comply letter describing the nature of improvement required and associated timescales. If the Provider fails to improve practice in this regard the Council may take further action, up to and including the termination of the Framework Agreement with the Council.

- 19.8 In the event that the Provider arranges any Secondary Service or enters into any subcontract in connection with this Agreement, it shall impose obligations on its Secondary Provider or subcontractor in proportionate and relevant terms substantially similar to those imposed on it pursuant to this clause

20. EMERGENCIES

- 20.1 In an emergency that requires action outwith the scope of this Framework Agreement, the needs of the Service Users shall be paramount. The Provider shall notify the Council immediately any such emergency arises using Council out of hours and emergency contacts as required

21. ADULTS AT RISK

- 21.1 The Provider shall immediately notify the Council of any allegations or evidence of abuse or neglect in accordance with the Council's Adult Protection Guidelines in relation to "Adults At Risk" and/or within the Lothian and Borders Multi-Agency Guidance "Protecting Vulnerable Adults; Ensuring rights and preventing abuse" as detailed at the following:

http://www.edinburgh.gov.uk/downloads/download/592/adult_protection

- 21.2 The Provider shall develop policies that detail how it intends to provide services within the context of the Adults At Risk guidance. The Provider shall ensure that this information on its approach to Adults At Risk is made available to all Service Users and /or their representatives and to the Council on request.

- 21.3 The Provider shall have in place, implement and regularly review policies and procedures designed to prevent abuse and respond to actual or suspected abuse, neglect or exploitation. These policies and procedures shall include guidance on the following:

- (i) identifying adults at risk;
- (ii) recognising risk from different sources and in different situations and recognising abusive behaviour from others;
- (iii) duty of all staff to report suspected abuse, neglect, or exploitation;
- (iv) duty of the Provider to investigate such reports and communicate information to the Council;
- (v) protection for whistle blowers;

- (vi) that all information should emphasise that all those who express concern shall be treated seriously and shall receive a positive response from management at all levels; and
 - (vii) child protection, where appropriate.
- 21.4 The Provider shall ensure that prompt action is taken in response to individual complaints or concerns from all staff, Service Users and/or their representative. Any such actions shall follow best practice and the timescales identified in **Clause 21.1**;
- 21.5 The Provider shall have in place procedures to prevent all staff gaining any personal benefit when working with vulnerable people.
- 21.6 The Provider shall ensure that there is a procedure in place in relation to victim care/support and dealing with perpetrators which is incorporated into the Service Users' Package of Care. Such procedures may access appropriate independent services including advocacy, counselling or victim support.
- 21.7 The provider will put in place mechanisms for training and up dating staff in the application of policies, procedures and guidance designed to prevent abuse and respond to actual or suspected abuse, neglect or exploitation.

22. CHILD PROTECTION

- 22.1 The Provider shall immediately notify the Council of any allegations or evidence of abuse or neglect in accordance with the Council's practice guidance in relation to the child protection guidelines as detailed at the following:
http://www.edinburgh.gov.uk/downloads/1353/children_and_young_people-child_protection
- 22.2 The Provider shall develop policies that detail how it intends to provide the Service within the context of the child protection guidelines. The Provider shall ensure that this information on its approach to child protection is made available to all Service User and/or their representative and to the Council on request.
- 22.3 The Provider shall have in place, implement and regularly review policies and procedures designed to prevent abuse and respond to actual or suspected abuse, neglect or exploitation. These policies and procedures shall include guidance on the following:
- (i) identifying children who are particularly at risk;
 - (ii) recognising risk from different sources and in different situations and recognising abusive behaviour from others;

- (iii) duty of all staff to report suspected abuse, neglect, or exploitation;
 - (iv) duty of the Provider to investigate such reports and communicate information to the Council;
 - (v) protection for whistle blowers; and
 - (vi) that all information should emphasise that all those who express concern shall be treated seriously and shall receive a positive response from management at all levels.
- 22.4 The Provider shall ensure that prompt action is taken in response to individual complaints or concerns from all staff, Service Users and/or their representative. Any such actions shall follow best practice and the procedures set out in **Clause 22.1**.
- 22.5 The Provider shall have in place procedures to prevent all staff gaining any personal benefit when working with children.
- 22.6 The Provider shall ensure that there is a procedure in place in relation to victim care/support and dealing with perpetrators which is incorporated into each Service User's Package of Care. Such procedures may access appropriate independent services including advocacy, counselling or victim support.

23. MENTAL HEALTH

- 23.1 The Provider shall undertake the management of individuals' finances under **Parts 3 or 4** of the Adults with Incapacity Act (Scotland) 2000, as required. Informal assistance with budgeting and financial management shall also be provided.
- 23.2 All staff will comply, as applicable, with any specific provisions as a result of the application of a Compulsory Treatment Order in the community in relation to the Mental Health (Care and Treatment) (Scotland) Act 2003.

24 BUSINESS CONTINUITY

- 24.1 The Provider will develop, implement, maintain and hold responsibility for the development of a Business Continuity Plan that identifies potential impacts that threaten the delivery of the Service to Service Users, the reputation of the Council or the reputation of the Provider and sets out the measures the Provider has taken and/or will take (in the event of an adverse impact or event occurring) to communicate information to Service Users (and where appropriate their Carers) and to the Council; to minimise the risk of interruption to the delivery of the Service, to minimise Service recovery time in the event of disruption of the operational capacity

of the Service and to minimise the risk of reputational damage to the Council and/or Provider.

25. INDIVIDUAL SERVICE FUND AGREEMENTS

- 25.1 When the Individual Service Fund is agreed, the Provider will be required to carry out an appropriate risk assessment prior to commencing service delivery as per Clause 12.
- 25.2 The Service Matching Unit (SMU) will issue the “Individual Service Fund Agreement” -Schedule Part 6, which is the written agreement, and the care plan. It is these documents that the Provider must deliver against along with the Personal Plan.
- 25.3 The Provider will ensure that the “Individual Service Fund Agreement” and Personal Plan, for acceptance by the Service User (or their representative), are completed and issue a signed copy to the Service User and appropriate administration point of contact in The Council as detailed on the Individual Service Fund Agreement

26. FORCE MAJEURE

- 26.1 On the occurrence of a Force Majeure Event, the affected Party shall notify the other Party as soon as practicable. The notification shall include details of the Force Majeure Event, including evidence of its effect on the obligations of the affected Party and any action proposed to mitigate its effect.
- 26.2 As soon as practicable following such notification, the Parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate terms to mitigate the effects of the Force Majeure Event and facilitate the continued performance of this Framework Agreement.
- 26.3 If no such terms are agreed on or before the expiry of thirty days after the date of the commencement of the Force Majeure Event and such Force Majeure Event is continuing or its consequence remains such that the affected Party is unable to comply with its obligations under this Framework Agreement for a period of more than thirty days, then either Party may terminate this Framework Agreement by giving fourteen (14) days written notice to the other Party.
- 26.4 The affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the affected Party to be unable to comply with its obligations under this Framework Agreement. Following such notification this Framework Agreement shall continue to be performed on the terms existing immediately prior to the occurrence of the Force Majeure Event.

- 26.5 Neither Party shall be entitled to bring a claim for a breach of obligations under this Framework Agreement by the other Party, or incur any liability to the other Party for any losses or damages incurred by the other Party to the extent that a Force Majeure Event occurs and the Party is prevented from carrying out obligations by that Force Majeure Event.

27. DISPUTES

- 27.1 In the event of any dispute between the Parties relating to the terms and conditions of this Framework Agreement or the provision of the Service either Party may serve notice on the other outlining the terms of the dispute. Such notice shall propose a time and place for a meeting between the Council and the Provider's representatives where the representatives shall attempt to resolve the dispute. The other Party shall respond to such a notice within five (5) working days of receipt.
- 27.2 If the matter is not resolved within ten (10) working days of the service of a notice, the matter may be referred by either Party to the appropriate senior officer in the Council and the appropriate senior officer in the Provider's organisation for resolution. If the dispute is not resolved within a further ten (10) working days, the matter may be referred by either Party to a mutually acceptable third party or failing this a third party appointed by the President of the Law Society of Scotland on the application of either Party. The decision of any such third party shall be final and binding on the Council and the Provider.

28. TERMINATION

- 28.1 This Framework Agreement may be terminated by either party on one month's prior written notice if there is a material breach by either Party of its obligations under this Framework Agreement, provided that where such breach is remediable they shall first have been given an opportunity to remedy such breach and have failed to do so within seven days of receipt of notice of the breach.
- 28.2 This Framework Agreement may be terminated by the Council with immediate effect and without any opportunity for remedy on occurrence of any of the following events:
- (i) failure by the Provider to achieve or loss of registered status with the Care Inspectorate **[INSERT OTHER PROFESSIONAL BODY, WHERE APPROPRIATE, IN ACCORDANCE WITH CLAUSE 8]**;
 - (ii) failure by the Provider to comply with relevant legislation or regulations which results in a material breach by the Provider of its obligations under this Framework Agreement;

- (iii) breach by the Provider of any of its material obligations under this Framework Agreement where such breach is not remediable;
- (iv) bankruptcy, insolvency, receivership, a resolution for a voluntary winding up order being passed or where the Provider is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- (v) any action or inaction by the Provider, in contravention of the Services Specification, which compromises the welfare of Service Users;
- (vi) material breach by the Provider of TUPE obligations; or
- (vii) any action or inaction by the Provider which brings the Council into disrepute or anything which the Council may reasonably consider may bring it into disrepute.

29. VARIATIONS

- 29.1 This Framework Agreement may only be varied by agreement in writing between the Council and the Provider.

30. ASSIGNMENT, SUB-CONTRACTING AND SECONDARY PROVISION

- 30.1 Subject to any express provision of this Framework Agreement the Provider shall not, without the prior written consent of the Council, assign all or any benefit, right or interest under this Framework Agreement or sub-contract any parts of the Service.

- 30.2 Where there is agreement to arrange any Secondary Service or sub-contract any part of the Service, the Provider shall be responsible for the acts and/or omissions of their Secondary Provider or sub-contractor as though they were their own.

30.3 Secondary Services and the appointment of Subcontractors

- 30.3.1 The Provider may agree to facilitate the choice by Supported Persons of Secondary Services under this Framework Agreement and where they do so the Supported Person has the right to ask for the Provider to assist with the arrangement of and to pay for Secondary Services out of their Individual Service Fund. The Provider will in the public information they supply on the Service (Clause 3.3.3) clearly indicate whether they can arrange Secondary Services, what the arrangements are for doing this including the financial arrangements.

- 30.3.2 Where the Supported Person has requested that part of their Individual Service Fund shall be spent with a Secondary Provider, the Provider will use their best endeavours to make this happen, ensuring Best Value and ensuring that the Secondary Service Provider is made aware of, and is subject to, all the relevant clauses of this Framework Agreement and the Support Plan.
- 30.3.3 Where the Supported Person or Provider decide that part of the Individual Service would be better delivered by a Secondary Provider, or through arranging other services or equipment, they can discuss this in negotiating the Personal Plan or at a Review and incorporate any agreement into the Personal Plan.
- 30.3.4 Where the Provider disagrees with the Supported Person about a Secondary Provider or other services and is unable to resolve the disagreement they will ask the Care Manager for a Review to address the issues.
- 30.3.5 The Provider will agree roles and responsibilities in respect of Secondary Providers, services or Equipment with the Supported Person, including identification of any liabilities, agree the amount of the ISF that is to be spent on the Secondary Service, incorporate these into the Personal Plan and send a copy of this to the Care Manager.
- 30.3.6 In reaching agreement about roles and responsibilities in respect of Secondary Providers, the starting assumption should be that the Supported Person or their Legal Representative is able to take responsibility for any choices they make and that they should be empowered to take decisions, including decisions about risks, as far as they are able but the Provider has a role in helping the Supported Person take decisions and understanding the risks. The Provider will record the roles and responsibilities of the Supported Person and Provider in respect of any Secondary Services that are agreed and share this with the Supported Person.
- 30.3.7 The specific responsibilities that require to be undertaken by the Provider in arranging a Secondary Service that provides care or support services that are registerable with the Care Inspectorate are:
- that the Secondary Service is registered with the Care Inspectorate and to ensure the Supported Person is aware of the contents of current Inspection Reports and any actions being taken by the Care Inspectorate prior to taking any final decision about the arrangement of the Secondary Service. Where action by the Care Inspectorate suggests that arrangement of the Secondary Service may not be in the best interests of the

Supported Person, the Provider will discuss this with the Supported Person and refer if necessary to the Care Manager.

- to support the Supported Person as they direct in the negotiation of terms and conditions and ensure that these are compatible with the terms of this Framework Agreement
- to ensure that the Secondary Provider is provided with the relevant sections of the Personal Plan, including Outcomes and required to report on these as per the Framework Agreement
- to ensure payment of properly submitted invoices within 28 days

30.3.8 The specific responsibilities that require to be undertaken by the Provider in arranging a Secondary Service that is not registerable with the Care Inspectorate are:

- provision of appropriate risk assessments, including Adult Protection
- to advise the Supported Person about potential risks, including what Disclosures and other checks are needed and if in doubt check with the Care Manager
- to ensure that the Secondary Service has appropriate, training, experience, accreditation (where relevant) and insurance and indemnity cover in place
- to ensure that the Secondary Service can meet the needs of the Supported Person
- negotiation of terms and conditions and ensuring Best Value
- dealing with complaints
- to ensure payment of properly submitted invoices within 28 Days

30.3.9 The Provider may appoint a subcontractor to deliver part(s) of the Service which do not involve direct work with Supported Persons and are not classed as Regulated Work, without the consent Supported Person, so long as this does not affect the performance of its obligations under this Framework Agreement.

30.3.10 Where the Council has reason to believe that subcontractors appointed under **Clause 30** are impacting on the Providers ability to perform its obligations to the Council or to Supported Persons it may require the Provider to provide the following information:

- the name of the proposed subcontractor;
- the part(s) of the Service to be subcontracted;
- the terms of the proposed subcontract;
- information pertaining to the suitability of the proposed subcontractor; and
- where appropriate, the monitoring measures to be put in place by the Provider to ensure that the subcontractor complies with the terms of the Framework Agreement as if it was the Provider.
- such additional information as required to allow it to make an assessment of the suitability of the sub-contractor.

30.3.11 The Provider will:-

- be responsible for the performance of and shall be liable to the Council and Supported Persons for the acts and omissions of its subcontractors;
- ensure that any subcontractor appointed complies with the requirements of the Framework Agreement and any Individual Service Fund Agreement entered into thereunder;
- ensure that a provision is included in any subcontract that requires the subcontractor to apply for the consent of the Provider to further subcontract ;
- ensure that a provision is included in any subcontract which requires payment to be made by the Provider to the subcontractor within a specified period not exceeding 28 Days from receipt of a valid invoice as defined by the subcontract requirements and provides that, for the purpose of payment alone, where the Council has made payment to the Provider and the subcontractor's invoice includes Services in relation to which the payment has been made by the Council then, to the extent that it relates to such Services, the invoice shall be treated as valid and payment shall be made to the subcontractor without deduction.

31 NOTICE

31.1 Any notice or other document to be served or given pursuant to this Framework Agreement shall be sent by first class post or facsimile transmission as follows:

- (i) in the case of notices or other documents to be given to or served on the Provider:

For the urgent attention of **[INSERT CONTACT NAME AND E MAIL ADDRESS]**

Facsimile **[INSERT FAX NUMBER]**

- (ii) in the case of notices or other documents to be given to or served on the Council:

For the urgent attention of **[INSERT CONTACT NAME AND E MAIL ADDRESS]**

Facsimile **[INSERT FAX NUMBER]**

31.2 The Provider shall ensure that any notices to the Supported Person shall be sent to the Supported Person to the address and in the manner that is agreed with them in the Personal Plan Terms and Conditions

31.3 The Notice or communication between the Council and Provider shall be deemed to have been given:

- 2 Working Days after the date of the letter;
- 4 hours after sending in the case of electronic mail or facsimile transmission sent between 9am and 5pm on a Working Day or at 10am on the next Working Day when sending is out with these times; or
- At such sooner time where the Provider or Council acknowledges receipt of such letters, facsimile transmission or items of electronic mail.

31.4 The Provider and the Council may change its address for Notices by sending written notification to the other Party. Both parties shall advise the other of any changes to the Supported Persons address.

31.5 Where events occur which have a material effect on the Provider's ability to deliver the Service, the Supported Person and the Council must be notified immediately or as soon as reasonably practicable thereafter. Notification of such events may be made by telephone as long as formal Notice is subsequently given. The following is a non-exhaustive list of events which must be notified in accordance with this Clause:-

- Notice of Fraud;
- Notice that the Provider has, in terms of the Social Care and Social Work Improvement Scotland (Requirements for Care

Services) Regulations 2011, either become unfit to provide the Service in terms of Regulation 6 or that someone acting as the Manager of the Service is unfit to so act in accordance with Regulation 7;

- Notifications from the Care Inspectorate that it is going to impose conditions, serves notice to cancel Registration or to vary categories of Registration;
- Notice of changes in key personnel, such as to the Manager of the Service;
- Notice under **Clause 31** herein that the Provider finds it is unable permanently or temporarily to meet the conditions of the Framework Agreement

32. SET OFF

- 32.1 The Council shall be entitled but not obligated at any time to set off any liability of the Council to the Provider against any liability of the Provider to the Council (provided that such liabilities are liquid and crystallised). Any exercise by the Council of its rights under this clause shall be without prejudice to any other rights or remedies available to it under this Framework Agreement or otherwise.

33. CONFIDENTIALITY AND FREEDOM OF INFORMATION

- 33.1 Subject always to the terms of the Freedom of Information (Scotland) Act 2002 and to other statutory requirements or court order, the Provider shall not and shall ensure that its employees do not without the written consent of the Council during the period of this Framework Agreement or at any time thereafter divulge to any third party any information which comes into its or their possession in the course of providing the Service.
- 33.2 The Provider shall treat as private and confidential all and any information marked as private and confidential received from the Council or any Service User.
- 33.3 The Council shall treat as private and confidential all and any information marked as private and confidential received from the Provider, subject always to **Clause 33.4**.
- 33.4 The Council is committed to meeting its responsibilities under the Freedom of Information (Scotland) Act 2002 ("FOISA"). Accordingly, all information submitted to the Council may require to be disclosed or published by the Council. If the Provider considers that specific information provided to the Council is potentially exempt from disclosure under FOISA (where for example it is considered to be commercially

confidential), the Provider should identify exactly which information it considers to be exempt, state the period of sensitivity and provide justification for its assertions (for example, identify what harm may result from disclosure). The Provider should note that the Council is not bound by the Provider's views and may in its absolute discretion disclose and/or publish any such information in order to comply with FOISA.

34. AUDIT

- 34.1 The Provider shall submit an original signed set of audited accounts, audited by a qualified auditor, where the Provider is required by law to prepare such accounts, at the Council's request.
- 34.2 The Provider shall submit management accounts relating to the delivery of the Service for any period specified by the Council at its request.
- 34.3 The Provider shall at all reasonable times (including following termination for whatever reason of this Framework Agreement) afford to or procure for any auditor (including an auditor carrying out functions under the Audit Commission Act 1998 or the Local Government Act 1999) conducting an internal audit or an external audit, inspection or an audit of best value performance plans or to or for the Council's representative access to any records, information and data in the possession or control of the Provider which in any way relate to or are or have been used in connection with the provision of the Service including (but without limitation) Council data and information stored on a computer system operated by the Provider, and shall include permission to copy and remove any copies and remove the originals of such documents provided always that the Council provides reasonable prior notice of any such access required and endeavours to minimise any disruption caused during such access period.

35. DATA PROTECTION

- 35.1 The Provider shall notify the Information Commissioner that Service Users' personal information shall be shared with the Council for the purposes of funding, arranging, reviewing, and monitoring service provision and charging for services. The Provider shall request consent for processing information concerning Service Users, which request shall be made at the first appropriate point of contact with the new Service User. If a Service User declines to give consent the Provider shall not process any information about that Service User and notify the Council.
- 35.2 Each Party warrants to the other that it shall comply with all the requirements of the Data Protection Act 1988.

36. STATUTORY AND COMMON LAW REQUIREMENTS

- 36.1 Throughout the period of this Framework Agreement the Provider shall ensure that all persons employed or engaged by it in the performance of the Service act lawfully in providing the Service, observing and complying with all legislation and common law in force from time to time.

37. STATUTORY OBLIGATIONS AND GUIDANCE

- 37.1 The Council and Provider shall exercise their powers, obligations or discretions in terms of this Framework Agreement in a reasonable manner and in accordance with their statutory and regulatory obligations.
- 37.2 Throughout the duration of this Framework Agreement the Provider shall observe and comply with all current statutory enactments, regulations and Scottish Government recommendations applicable to the Provider or to the Service.
- 37.3 Should any procedures or other matters contained in this Framework Agreement become subject to statutory provision which results in any change to the manner in which such procedures or other matters require to be dealt with then such changes shall take precedence over that contained in this Framework Agreement and any such changes shall be considered as part of a Service Review.

38. COMPLIANCE ON TERMINATION

38.1. Handover on Termination

During the 12 months preceding the expiry of this Framework Agreement or after the Council has given notice to terminate this Framework Agreement or at any other time as directed by the Council, and within 15 working days of being so requested by the Council, the Provider shall fully and accurately disclose to the Council any and all information in relation to all personnel engaged in providing the Services including all Relevant Employees who are to transfer as a consequence of a Relevant Transfer as the Council may request, in particular but not necessarily restricted to any of the following:

- (a) a list of employees employed by the Provider;
- (b) a list of agency workers, agents and independent Providers engaged by the Provider;
- (c) the total payroll bill (i.e. total taxable pay and allowances including employer's contributions to pension schemes) of those personnel;

- (d) the terms and conditions of employment of the Relevant Employees, their age, salary, date continuous employment commenced and (if different) the commencement date, enhancement rates, any other factors affecting their redundancy entitlement and any outstanding claims arising from employment.

38.2 The Provider shall warrant the accuracy of all the information provided to the Council pursuant to **clause 37.1** and authorises the Council to use any and all the information as it may consider necessary for the purposes of its business or for informing any tenderer for any services which are substantially the same as the Services (or any part thereof).

38.3 During the 12 months preceding the expiry of this Framework Agreement or where notice to terminate this Framework Agreement for whatever reason has been given, the Provider shall allow the Council or such other persons as may be authorised by the Council to communicate with and meet the Relevant Employees and their trade union or employee representatives as the Council may reasonably request.

38.4 During the 12 months preceding the expiry of this Framework Agreement or where notice to terminate this Framework Agreement for whatever reason has been given, the Provider shall not without the prior written consent of the Council unless bona fide in the ordinary course of business:

- (a) vary or purport or promise to vary the terms and conditions of employment of any employee employed in connection with the Services;
- (b) materially increase or decrease the number of employees employed in connection with the Services; or
- (c) assign or redeploy any employee employed in connection with the Services to other duties unconnected with the Services.

38.5 Exit and Service transfer arrangements including TUPE compliance

38.5.1 This clause **38.5** describes the duties and responsibilities of the Provider to the Council leading up to and covering the expiry or termination of this Framework Agreement in situations where the Provider will not be able to continue to provide a service to the Supported Persons or a group of Supported Persons covered by this Framework Agreement.

38.5.2 The objective of the exit and service transfer arrangement described in this condition is to ensure the smooth transition of the availability of the Service from the Provider to a replacement service provider or providers at the termination or expiry of the Framework Agreement for those Supported Persons who decide not to or are unable to exercise their right to choose another provider as per **Clause 10.1** before the termination of the Framework Agreement.

38.5.3 The Provider hereby undertakes that it shall maintain the quality of service and comply with all requirements of the Framework Agreement and individual Supported Person's Support Plan prior to the expiry date of the Framework Agreement or enter Individual Service entered thereunder.

38.5.4 The Provider agrees to indemnify and keep the Council fully indemnified in respect of any claims, costs, demands and liabilities arising from the provision of incorrect information to the Council by the Provider to the extent that any such claim, cost, demand or liability directly and unavoidably arises from the use of the incorrect information in a manner that can reasonably be assumed to be proper in bidding for or providing services similar to the Service.

38.5.5 Where requested or where the Provider is aware that it may no longer be able to provide the Service the Provider shall prepare a Service Transfer Plan (STP) for the Council. This will include:

- Information about how it intends to inform Supported Persons of their need to choose an alternative service and support them to do so

38.5.6 In respect of Supported Persons who do not wish or are unable to exercise their rights to choose an alternative provider, a list of all files, documents and any other material required and held under the Framework Agreement or Personal Plan Terms and Conditions by the Provider which would be needed by the Council or a replacement provider to deliver the Service successfully, e.g. files for Supported Persons, Staff, sub-contractors and Volunteers used to under the Framework Agreement, information on any premises used by the Service, processes and procedures used by the Provider to provide the Service, list of current, outstanding issues relating to the Service both as a whole and in respect of individual Supported Persons.

38.5.7 The Parties acknowledge that where the Council is involved in transferring the Service to an alternative provider, TUPE and/or the Acquired Rights Directive may apply. In such circumstances, a replacement service provider could inherit liabilities in respect of employees of the Provider or any Sub-Contractor engaged in

the provision of the Service and, accordingly the provisions in **clauses 38.5.7 and 38.5.8** shall apply.

38.5.8 Without prejudice to the Provider's obligations under TUPE, where being requested to do so by the Council, the Provider shall fully and accurately disclose to the Council "employee liability information" as defined by TUPE and will not knowingly do or omit to do anything that may adversely affect an orderly transfer of responsibility for provision of the Services.

38.5.9 The Council shall be entitled to use the information provided for the purposes of selecting an alternative provider/s of the Service.

38.5.10 The Council and the Provider acknowledge that TUPE may also apply in situations where the Supported Person has asked the Provider to recruit Staff to provide care and support to them as set out in **Clause 8 of Schedule Part 1** and then exercises their legal right to choose another Provider or in situations where the Provider has dedicated Staff to work predominantly with the Supported Person.

38.5.11 The Provider will indemnify the Council and/or any successor provider against all reasonable costs, expenses and liabilities incurred as a result of any claim made by any employee of the Provider prior to being transferred under TUPE in relation to the expiry or termination of this Framework Agreement or any Individual Service in respect of his/her employment with the Provider, or any breach of the TUPE Regulations by the Provider, provided that the Provider will in any such case be given the opportunity at its own cost to defend or settle any such claim.

38.6 Best Value

38.6.1 The Provider recognises the Council's statutory duty to achieve Best Value. The Council and the Provider will co-operate to review and consider whether the model of service could be improved or if any financial savings could be achieved that would result in a reduction in charges.

39. SEVERABILITY

39.1 The invalidity or unenforceability of any term of, or any right arising pursuant to this Framework Agreement, shall not affect the validity of enforceability of the remaining terms or rights.

40. ENTIRE AGREEMENT

40.1 This Framework Agreement supersedes all prior agreements, arrangements and undertakings between the Parties and subject to any Variations and Block Framework Agreements made thereunder

constitutes the entire agreement between the Parties relating to the Service.

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41 PROPER LAW AND JURISDICTION [NOTE THAT THIS CLAUSE MUST ALWAYS APPEAR ON THE SAME PAGE AS THE FIRST SIGNATURE IN ORDER FOR THE DOCUMENT TO BE VALIDLY EXECUTED]

41.1 This Framework Agreement shall be subject to and construed and interpreted in accordance with Scots Law and, subject to **Clause 27** Disputes, shall be subject to the exclusive jurisdiction of the Scottish Courts to which both Parties hereby submit.

IN WITNESS WHEREOF this Framework Agreement comprising this and the preceding **[INSERT NUMBER OF PAGES]** pages and the Schedule of **[INSERT NUMBER OF PARTS OF SCHEDULE]** parts annexed hereto is executed as follows:

Signed for and on behalf of
[INSERT NAME OF PROVIDER]
 by the following Authorised Signatory

Signed for and on behalf of the
City of Edinburgh Council
 by the following Authorised Signatory

Signature

Signature

 Name

 Name

 Capacity in which signs

 Capacity in which signs

 Date

 Date

 Place of signing

 Place of signing

Before the following Witness:

Before the following Witness:

 Signature of Witness

 Signature of Witness

 Name of Witness

 Name of Witness

 Address of Witness

 Address of Witness

**THIS IS THE SCHEDULE TO THE FRAMEWORK AGREEMENT BETWEEN
THE CITY OF EDINBURGH COUNCIL AND [INSERT PROVIDER]**

SCHEDULE PART 1

Service Specification

**1. Council Obligations in respect of Individual Service
Assessment and Support Plan**

- 1.1 The Council is responsible for the assessment of needs of the Supported Person in accordance with the Social Work (Scotland) Act 1968, including assessment of any Adult or Child Protection matters and assessment of any eligibility for Free Personal Care.
- 1.2 The Council is responsible for agreeing with the Supported Person the overall Outcomes to be achieved in meeting those needs and for agreeing with the Supported Person the Individual Budget available to meet those needs and Outcomes. The Individual Budget may include a one-off allocation for start-up costs.
- 1.3 Where the Council is working jointly with other Public Authorities and has agreed to share or pool budgets, those Public Authorities may also assess needs, identify Outcomes and allocate resources to the Individual Budget for the Supported Person and ask the Council to arrange services under this Framework Agreement.
- 1.4 The overall Outcomes to be achieved and the Individual Budget available, which may include any outcomes and budget agreed by other Public Authorities, will form the basis of the Support Plan for the Supported Person.
- 1.5 The Support Plan will also:
 - identify key risks that require to be managed in delivery of the Individual Service/s
 - identify any areas of Essential Service provision required by the Council or by the Supported Person if they identify this at the care planning stage
 - set out any specific restrictions on the use of the Individual Budget that the Council has agreed with the Supported Person
 - set out plans and management arrangements for any under-spends or over-spends of the ISF
 - include a section on management of emergencies which sets out how much, if any, of the Individual Service Fund can be drawn

down to respond to emergencies and any other arrangements to manage contingencies.

- specify any start up costs
 - identify any specialist training required of Provider staff
 - identify any training needs of the Supported Person
 - include the name of the Care Manager
- 1.6 The Council will provide information and advice to the Supported Person in a suitable format and this will form the basis for the Supported Person choosing a Provider and the negotiation of their Personal Plan with the Provider.
- 1.7 Where the Supported Person is considering engaging two or more providers under the Framework Agreement, the Council will recommend to them that they should clarify with the Provider what role they want them to play in delivering the Outcomes and any other requirements set out in the Support Plan.

2. Obligations to inform Supported Persons of requirements of the Framework Agreement

- 2.1 The Council will inform the Supported Person of the relevant requirements of the Framework Agreement in respect of the Individual Service they are considering
- 2.2 The Supported Person will be required by the Council to work with the Provider within the parameters set by this Framework Agreement and their Support Plan.
- 2.3 The Supported Person will be required by the Council to abide by the terms of their Support Plan once it has been endorsed by the Council.

3. Provider Obligations in respect to Individual Service

- 3.1 It is the responsibility of the Provider to:
- work with Supported Person to draw up the Personal Plan to deliver the Outcomes identified in accordance with **clause 4 of Schedule Part 1**.
 - consult and engage with, and be led by, the Supported Person within the Personal Plan;

- work creatively and consider solutions for a Supported Person that may involve Secondary Services or purchase of goods as an alternative to the Provider's own Service;
- agree with any Legal Representative how to involve the Supported Person in the delivery of their Individual Service;
- ensure that they obtain clear instructions from the Supported Person about the role of any Nominated Representative;
- give the Supported Person or their Representative a copy of the Personal Plan and include in this all details of how flexibility should operate (eg who to contact if want change hours etc);
- assist the Supported Person with any arrangements with Secondary Providers
- provide support and assistance in the management of Service Users' funds and income. This should include direct management of the Service Users' funds under the Department of Work and Pensions' Appointeeship scheme or under parts 3 or 4 of the Adults with Incapacity (Scotland) Act 2000.

4. Negotiation of Personal Plan and Personal Plan Terms and Conditions

- 4.1 The Supported Person or their Legal Representative, when choosing a Provider, will negotiate an initial Personal Plan with the Provider on the basis of their assessed requirements. A Supported Person or their Legal Representative may include other Nominated Representatives to support them in the negotiation process but any decisions about choice of Provider or final agreement to the Personal Plan and Personal Plan Terms and Conditions can only be made by the Supported Person or their Legal Representative. Where the Supported Person chooses to involve an Advocate in any aspect of the negotiations the Provider will treat them as a Nominated Representative.
- 4.2 It is the responsibility of the Provider to respond to enquiries or negotiate with the Supported Person or their Representative how the Individual Service might be delivered, using their best endeavours to respect the Supported Person's wishes within the agreed Personal Plan.
- 4.3 The Provider shall not charge the prospective Supported Person or their Legal Representative for negotiation or arrangement of the Personal Plan.

-
- 4.4 Where the Provider requires more information to be able to negotiate the Personal Plan they may approach the Council for further information.
- 4.5 The Personal Plan must be based on the Support Plan and agreed Outcomes and state how the Individual Service will support the Supported Person to achieve these Outcomes.
- 4.6 Where the prospective Supported Person seeks a service that does not deliver on all the Outcomes or requirements in the Support Plan, the Provider will bring this to the attention of the Supported Person and inform them that the Individual Service cannot start/or be changed until these issues are resolved, through referral to the Council if necessary.
- 4.7 The Personal Plan must clearly set out areas of Essential Service provision, either as required by the Council in the Support Plan or required by the Supported Person, which must be provided at specific times or within a certain time range and clearly identify areas of service provision where there is greater flexibility.
- 4.8 The Provider will explain the cost implications of the different options for meeting the Supported Person's Outcomes referring to the information in **Clause 1.5 of Schedule Part 1** and will relate these to the total funds available in their Individual Service Fund to enable to the Supported Person to make decisions.
- 4.9 At the end of the negotiation process, once the Supported Person or their Legal Representative has decided on their Individual Service, the Provider will supply a written explanation of how the overall charge for the proposed Individual Service has been worked out with reference to the above and any expenses which need to be met by the Supported Person from their own resources.
- 4.10 Where the Provider in negotiating the Personal Plan with the Supported Person identifies needs or risks not covered by the Personal Plan or which in its opinion cannot be met from the Individual Service Fund, it will bring these to the attention of the Care Manager who will then decide whether the Support Plan and Individual Service Fund need to be reviewed.
- 4.11 Where the Provider offers Additional Services and the Supported Person wishes to pay for these (from their own financial resources), this is a matter for the Provider and Supported Person and is not covered by this Framework Agreement. If the Supported Person wishes any agreement for Additional Services to be included in their Personal Plan this will be clearly separated from the Individual Service the Council approves.

- 4.12 Once agreement is reached on the Personal Plan, the Provider will confirm this in writing to the Supported Person or their Legal Representative in the event that the Council approves the arrangement under **Clause 5.1 of Schedule Part 1**. The Provider will also arrange for a copy of the Personal Plan to be sent to the Care Manager.

5. Commencement of the Individual Service

5.1 The Individual Service Fund Agreement

- 5.1.1 The Council will, through the Care Manager, endeavour to consider and give final approval to the Personal Plan within [14] Days. The Council will inform the Supported Person and Provider immediately if the Council has concerns about whether the Personal Plan is compatible with the assessed needs, Support Plan and outcomes together with suggestions as to how these could be addressed.
- 5.1.2 Where the Council accepts the Personal Plan it will issue to the Provider a copy of the Individual Service Fund Agreement as contained at **Schedule Part 6**. This should be signed by the Provider and Service User and returned to the Council.

5.2 Pre-existing placements

- 5.2.1 Where the Supported Person is already receiving a service from the Provider but arranged by the Council, that service will terminate on the start date of the Individual Service Fund Agreement unless otherwise agreed with the Council.

5.3 Trial Period

- 5.3.1 There will be a trial period for any new Individual Service unless otherwise agreed by the Council with both the Provider and Supported Person which will normally be 28 Days but which may be longer if this is agreed prior to the Individual Service starting or is agreed by both parties subsequent to the Individual Service starting.
- 5.3.2 During the trial period the Provider will actively seek feedback from the Service User and the Staff involved in the delivery of the Individual Service to ensure that the Personal Plan is working effectively and the Service User understands how to control the service within the Personal Plan Terms and Conditions.
- 5.3.3 During the trial period different notice periods apply as set out in **Clause 12.2 of Schedule Part 1**.

6 Supported Person control over the Individual Service

- 6.1 It is the right of the Supported Person or their Legal Representative under this Framework Agreement to negotiate with a Provider how a service will be delivered in order to achieve the Outcomes agreed in the Support Plan.
- 6.2 The Provider must notify/negotiate with Supported Person any permanent changes to the way the Individual Service is delivered that are not initiated by the Supported Person. The Provider may not change the Personal Plan without the agreement of the Supported Person.
- 6.3 If the Provider is unable to supply Staff as planned for any Essential Service Provision they must notify the Supported Person beforehand of this and who will be providing the Individual Service.
- 6.4 The Provider will endeavour to maximise the Supported Person's choice and control on how it delivers flexible elements of the Individual Service within the constraints of the resources available and ensure the Supported Person is fully aware of this. The general arrangements for planning and changing flexible elements of the Individual Service, as agreed with the Supported Person will be set out in the Personal Plan Terms and Conditions.
- 6.5 Where the Provider is unable to deliver flexible elements of the Individual Service as set out in the Personal Plan for particular occasions, they must notify Supported Person as soon as practicable and negotiate an alternative.
- 6.6 The Provider will give the Supported Person details of how to access Out of Hours and emergency support, both where applicable through the Provider and through Local Authority and NHS services and include this in the Personal Plan.

7 Notice Periods for changes to Individual Service

- 7.1 The notice period the Provider requires the Supported Person to give to propose a change to the elements of Essential Service Provision shall be not more than 4 Weeks unless this as a result of a change in need in which case the arrangements for emergencies will come into effect (Clause 20). Any proposed change must be notified to the Council and approved
- 7.2 Any notice that the Provider requires the Supported Person to give to arrange non-essential elements of that service should be proportional to the nature of that support and set out in the Personal Plan.

7.3 Where the Supported Person cancels at short notice a non-essential element of service provision due to an emergency, the Provider will only charge for this where it is unable to re-allocate the staff resource.

7.4 Where the Supported Person wishes to change/ terminate their Individual Service, they will give four weeks notice to the Provider except where they have asked the Provider to recruit Staff on their behalf when the notice period will be as in this **Clause 7.4 of Schedule Part 1** plus four weeks.

8 Supported Person Choice and Control of Staff

8.1 Where a Provider is in a position to recruit Staff on behalf of the Supported Person, this should be stated in the public information about their Service along with an estimate of recruitment costs and information about terms and conditions of employment including any TUPE implications if the Supported Person subsequently decides they wish to move to another service.

8.2 Where a Provider has recruited Staff for a specific Supported Person and they work predominantly with the Supported Person who then wishes to choose an alternative provider, the notice period to terminate the Individual Service will be determined by TUPE or the terms and conditions of employment of the Staff concerned.

8.3 Where a Provider has recruited Staff for a specific Supported Person whose Individual Service is no longer appropriate to meet their level of need, the Provider will be responsible for the costs of redundancy or redeployment.

8.4 Where a Supported Person is happy to be supported by Staff already in the employment of the Provider, the Provider will:

- explain the potential staff options in relation to the Personal Plan and enable Supported Persons to choose staff where they wish or, if not, they should themselves match staff to Supported Persons;
- encourage feedback from Supported Persons about Staff and address any issues;
- facilitate change of individual staff where the Supported Person requests this.

8.5 Where the Supported Person decides they wish to employ directly a member of Staff employed by the Provider and the member of Staff agrees:

- The Provider will explain to the Supported Person the TUPE implications;
- If the Supported Person wishes to go ahead then the Provider will notify the Council and assist the Supported Person to engage with the staff to see if they wish to terminate their existing employment or transfer under TUPE;
- The Council will be responsible for agreeing with the Supported Person that they can change their Individual Service Fund to a Direct Payment and the Council will notify the Provider once it has agreed to this;
- The Supported Person, Provider and Council will meet to agree an implementation plan including the formal notice periods to be given to Staff and Provider.

9 Management of the Individual Service

- 9.1 Where the Supported Person's needs change, either they or the Provider can ask the Council for a review of their Assessment of Need and Support Plan.
- 9.2 Where the allocated Individual Service Fund for a Supported Person appears insufficient to meet their needs, the Provider will discuss this with the Supported Person and contact **Social Care Direct** to request a review of their needs and the Support Plan.
- 9.3 Where the Individual Service Fund appears likely to be under-spent for the financial year, unless this under-spend has been agreed as part of the Personal Plan, the Provider will inform the Care Manager of the reasons for this and alert the Council Finance contact in order to assist overall financial planning by the Council. Where the reason for the under-spend is as a result of a change in the level of need of the Supported Person, the Council may then review the amount of the ISF.
- 9.4 Where the Supported Person loses mental capacity, either temporarily or permanently the Care Manager and Provider will meet and review the arrangements under this Framework Agreement including the role of any Representative/s and the need for any action under the Adults with Incapacity Act.
- 9.5 Where the needs of the Supported Person suddenly change so that a higher level of Individual Service is required, the Supported Person and Provider can on an emergency basis agree further support between themselves as long as this is either within the limits specified in the Support Plan on the management of emergencies or to meet the duty of care and the Care Manager is

immediately notified by the Provider and this is then confirmed in writing.

10 Review of the Individual Service

- 10.1 The Council is responsible for keeping the needs, Support Plan and Outcomes under review and will agree with the Supported Person the planned timescales for this, which will be not less than once a year, and include these in the Support Plan.
- 10.2 The Supported Person and Provider will agree timescales for review of the Support Plan but these shall be not less than 4 weeks after commencement of the Individual Service and 6-monthly thereafter.
- 10.3 The Supported Person may request a Review involving the Council where:
- their needs change
 - they are dissatisfied with or wish to change the Individual Service being provided to them
 - they wish to change the way their Individual Budget, including the Individual Service Fund, is allocated between the four options laid out in the Self-Directed Support Act.
 - there are multiple Providers and the Supported Person needs support co-ordinating services between Providers.
- 10.4 The Provider may ask the Council for a Review directly where:
- the Supported Person loses mental capacity
 - there are issues which could trigger its right to terminate the Individual Service as set out in **Clause 12.4.3 of Schedule Part 1.**
 - there is a breakdown in the relationship between the Provider and the Supported Person
 - the way services are being delivered by other providers to the Supported Person are impacting on its ability to meet the requirements of the Individual Service Fund Agreement and it has been unable to resolve these through discussions with the Supported Person

- 10.4 All Reviews shall be minuted with Providers responsible for recording Reviews of the Support Plan unless otherwise agreed with the Supported Person.

11. Variation to the Individual Service Fund and Individual Service Fund Agreement

- 11.1 Where the Supported Person wishes to vary the proportion of the Individual Budget that is contributed to the Individual Service Fund they will seek agreement from the Council to do so and negotiate with the Provider revised Personal Plan Terms and conditions following the process set out in **Clause 4 of Schedule Part 1**.
- 11.2 Where the Council as a result of a Review of the Supported Person's Needs or their Support Plan decides to alter either the Outcomes to be achieved for the Supported Person or the amount in the Individual Service Fund it will notify the Supported Person and Provider as soon as possible prior to issuing a revised Individual Service Fund Agreement.
- 11.3 The Council will consult the Supported Person about the date of implementation of the revised Individual Service Fund Agreement taking into account any reasonable timescales required to amend the Personal Plan.

12 Termination Individual Service

12.1 General provisions

- 12.1.1 The Provider and the Council shall co-operate to ensure that the Supported Person's needs are met during any period of notice to terminate their Individual Service and that the Supported Person is provided with whatever information or support is necessary to transfer their Individual Service to a new Provider or Providers.
- 12.1.2 Where the Framework Agreement terminates, the Individual Service Fund Agreement will also terminate. In situations where the Council and Supported Person both agree that the Individual Service with the Provider should continue, the Council will advise the Supported Person and Provider about any new contractual arrangements.
- 12.1.3 The provisions of this **Clause 12** are subject to the express qualification that the Council shall in no event be liable to make payment for any period of notice according to the ISF allocation where the staff employed to provide the Individual Service to the Supported Person are immediately redeployed to work with another Supported Person.

12.1.4 When either the Supported Person or the Provider gives notice to terminate an Individual Service, they shall advise the other party of the reasons for their decision to do so.

12.1.5 On termination of the Individual Service to the Supported Person the Provider shall provide a final account of what allocation of the Supported Person's Individual Service Fund has been used to the Supported Person and copy this to the Council.

12.1.6 If at the time of termination of the Individual Service, the Supported Person's personal finances are managed by the Provider then the Provider shall provide a final statement and report to the Supported Person along with any information that may be necessary for any other person who might in future help the Supported Person manage their personal finances.

12.2 Notice periods for short term Individual Service

12.2.1 Where an Individual Service has been agreed for a short-term basis, it shall terminate automatically at the end of the period specified in the Personal Plan unless the Supported Person and Provider agree to vary the duration or either party exercises their right to terminate the Individual Service under **Clauses 12.3 or 12.4 of Schedule Part 1**.

12.2.2 Where the Supported Person fails to allow a short-term Individual Service to start on the planned date the Council shall ensure proportional payment out of the Supported Person's Individual Service Fund of the shorter of:

- a period of 5 Days less the number of Days notice, given by the Supported Person to the Provider, of the fact that the Individual Service is no longer required;
- the period between the date that the Individual Service was requested by the Supported Person and the date that the Individual Service was due to commence;
- once a short term Individual Service has commenced either the Supported Person or the Provider may terminate it by giving not less than 7 Days written notice.

12.3 Notice during trial period

12.3.1 Where the Supported Person or their Legal Representative wishes their Individual Service to end during the Trial Period, the Supported Person or their Legal Representative should confirm this to the Provider in writing and unless the decision is as a result of a breach of this Framework Agreement or the Individual Service Fund Agreement on the part of the Provider or persons

acting on their behalf, the Council shall ensure payment of the ISF for a period of 5 Days after the date of the Supported Person's departure, less the number of days notice up to a maximum of 5, given by the Supported Person or their Legal Representative to the Provider of the fact that the Supported Person wished the Individual Service to end.

12.3.2 During the Trial Period the Provider, after due consultation with the Supported Person and their Legal Representative, and after notifying the Council, shall be entitled to give a minimum of 7 Days Notice of their wish to terminate the Individual Service for the Supported Person.

12.4 Notice for permanent Individual Service

12.4.1 The Notice Periods in this section may be varied if the Provider, Supported Person and the Council has agreed to these in writing prior to the Individual Service starting or through the Review process. If the Provider generally wishes to operate according to different termination periods they must make this clear in their brochure and all publicity about the Service.

12.4.2 Where a Supported Person fails to start a planned permanent Service, the Council shall ensure payment of an equivalent sum out of the Individual Service Fund for a period of 5 Days, less the number of Days Notice up to a maximum of 5, given by the Supported Person to the Provider of the fact that a Service is no longer required.

12.4.3 The Provider shall, after a Review has taken place involving the Supported Person and their Representative, the Care Manager, and/or other appropriate professionals, be entitled to terminate the Individual Service to the Supported Person upon giving them 28 Days notice in writing, or less where the parties agree, where:

- the Supported Person persistently behaves in a manner which causes a serious risk to the safety of Staff
- the Supported Person is in persistent or material breach of their Personal Plan Terms and Conditions, or
- the mental and/or physical needs of the Supported Person change to the extent that the Provider can no longer provide the Individual Service required for the Supported Person
- the level of the Individual Service Fund has been changed or is such that the Provider is no longer able to offer the Individual Service

12.4.4 The Council may terminate an Individual Service by giving not less than 5 Days Notice where:

- the Supported Person or their Legal Representative have secured an alternative Service and there is doubt about whether the Provider has been notified.
- the Supported Person is no longer using the Individual Service and is unlikely to require it again
- the Individual Service has failed to deliver on the Outcomes set out in the Support Plan and where this has been discussed and documented at a Review and any remedial actions agreed by the Provider have not been achieved

12.4.5 The Council may terminate an Individual Service immediately:

- under Child or Adult Protection procedures where termination of the Individual Service is necessary to protect the Supported Person
- where the Provider is unable to deliver the Individual Service and the health or safety of the Supported Person is at risk

12.4.6 The Supported Person may terminate an Individual Service for any reason by giving not less than 14 Days Notice to the Provider except where the Provider has recruited Staff specifically for the Supported Person when **Clause 8 of Schedule Part 1** or when TUPE applies. In such circumstances the Council shall ensure payment of the equivalent of a period of 5 Days out of the ISF, less the number of Days Notice up to a maximum of 5, given by the Supported Person to the Provider of the fact that a Service is no longer required.

12.4.7 The Provider shall remain responsible for the provision of the Individual Service to the Supported Person until alternative arrangements have been put in place

13 Complaints and dispute resolution between Supported Person and Provider

13.1 The Council and the Provider shall inform the Supported Person and their Nominated Representative of how to make a complaint or suggestion and the agencies to whom such complaint or suggestion can be made, in particular the Care Inspectorate, the Ombudsman and the Mental Welfare Commission. The Personal Plan shall detail the Provider's Complaints Procedure and the Provider shall assist the Supported Person with the completion of the documents if required. Such assistance may, if appropriate,

include arranging independent advocacy or support from an independent agency.

- 13.2 The Individual Supported Person may enlist whoever they wish to help them complain, including where appropriate the Care Manager
- 13.3 Where a complaint between the Supported Person and Provider cannot be resolved, either the Supported Person or Provider can ask for Care Manager input prior to moving to the dispute resolution process
- 13.4 Where the subject matter of any complaint received by the Provider falls within the auspices of The Adult Support and Protection (Scotland) Act 2007 or Child Protection Act the Provider shall immediately notify the Council of the allegations or evidence of abuse in accordance with **Clauses 20 and 21 of the Contract**.
- 13.5 The Supported Person shall also have access to the statutory complaints procedure operated by the Council. The Provider shall co-operate with any investigation resulting from a complaint within the terms of section 5B of the Social Work (Scotland) Act 1968. **The Council may issue a Complaints form, as contained at Schedule Part 7, to the Provider. Where this form is issued, it must be completed and returned by the Provider within the timescales indicated on that form.** The Provider shall provide access to its records, to the Nominated Officer or other duly authorised officers of the Council in the investigation of such a complaint. The Provider shall implement any corrective actions required within the timescales identified by the Council. Where the Provider disagrees with the corrective actions to be taken, the process as set out at **Clause 27** (resolution of disputes) shall be followed.
- 13.6 The Provider shall maintain a Complaints Register which shall be available at all reasonable times to the Council, and a summary of which in a format agreed by the parties will be sent to the Council no less than annually and more often if required under the Council's contract management procedures.

14. Reporting

- 14.1 The Council will explain to the Supported Person what information on Outcomes it expects to be reported from the Provider and the reasons for this.

14.2 The Provider will report to the Council any changes to the services and information it provides under **Clause 3.3.3 and 3.3.4** of the Contract.

14.3 The Provider will provide an annual report summarising Supported Persons views and response to the Service in the course of the year to enable the Council to fulfil duties in relation to strategic commissioning. This should comprise:

- information on Supported Person satisfaction with Service
- complaints summary, internal and to Care Inspectorate
- overview of Provider performance on meeting Outcomes set through Support plans
- numbers of new Supported Persons choosing Service in the year
- numbers of Supported Persons choosing to move to a different Provider and reasons for this
- information required for workforce planning purposes
- a report on the management of ISFs.

**THIS IS THE SCHEDULE TO THE FRAMEWORK AGREEMENT BETWEEN THE CITY OF EDINBURGH COUNCIL AND
[INSERT PROVIDER NAME]
SCHEDULE PART 2**

“MY STEPS TO SUPPORT” SUPPORT PLAN

If we have assessed you as being eligible to receive support from the Council with your social care needs, there are a number of ways in which this support can be organised and delivered. You can ask the council to choose and arrange your support for you or you can take responsibility for deciding how you want to be supported and organising your support yourself.

Your support plan sets out how the money available from the Council to meet your support needs (your personal budget) will be used and managed to meet your needs, achieve the things that are important to you and keep you safe and well. The Council must agree to the support plan that you have drawn up before it can release your personal budget and allow you or whoever is managing the plan to start putting things in place.

This template sets out the information that must be in your support plan to allow the Council to decide if it agrees with the plan.

You do not have to use this template. There are a number of different templates available on the internet and lots of support organisations have developed their own versions. Your plan can be in any format that meets your needs but it must contain all of the information in this template.

| | |
|---------------------------------------|---|
| 1. Whose support plan is this? | 2. Who has completed this support plan? |
| Name: | I have completed the plan myself <input type="checkbox"/> |
| Address: | The plan has been completed by: |
| | a) A friend or relative <input type="checkbox"/> |
| | b) A worker from the City of Edinburgh Council <input type="checkbox"/> |
| | c) A worker from another organisation <input type="checkbox"/> |
| Date of birth: | If a), b) or c) please complete the details below |
| | Name: |
| | |
| | Organisation: |
| | |
| | Phone Number: |
| | |
| | |
| | |

3. What is important to you?

For example, things in your life you want to continue or to change, people who are important to you, things you want to achieve.

4. What is important for you?

What needs to happen for you to stay safe and well?

5. How will you be supported to meet your needs and achieve the things that are important to you?

What sort of support will you need, how often and who from? Support may be provided by people or through using items of equipment.

6. What will you do if things go wrong with your support plan or in an emergency?

Who might you contact or what might you do to protect your safety and wellbeing in an emergency?

7. How will you use your personal budget?

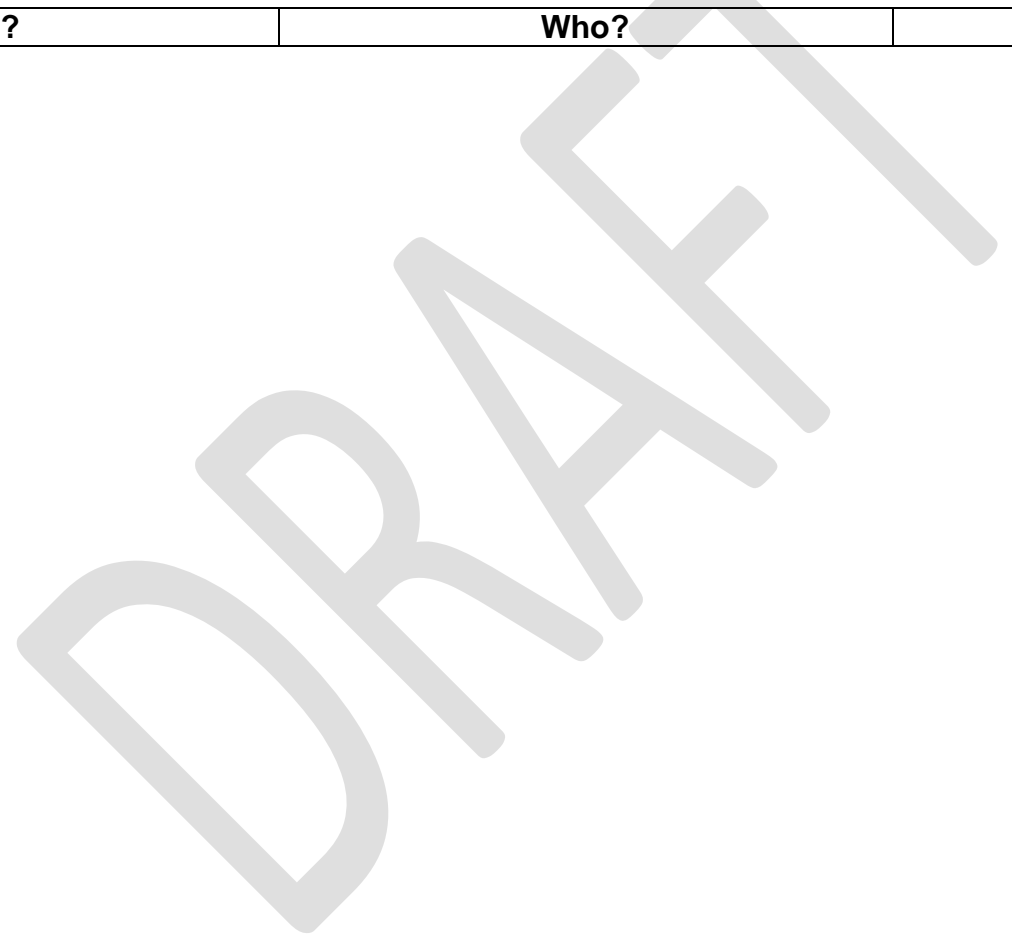
What will your support plan cost each week? Remember to include any one off costs and the cost of things that occur less frequently than weekly

DRAFT

| 8. How will your support be managed? | | |
|--------------------------------------|--|--------------------------|
| Option 1 | I want to arrange and manage my own support using a Direct Payment | <input type="checkbox"/> |
| Option 2 | I want to direct my own support and choose an organisation to manage my personal budget Please tell us which organisation you want to manage your personal budget: Organisation: Contact person: Phone number: | <input type="checkbox"/> |
| Option 3 | I want the City of Edinburgh Council to choose and arrange my support for me | <input type="checkbox"/> |
| Option 4 | I want to use a mixture of 1,2, and 3 to arrange and manage my support | <input type="checkbox"/> |
| | Please give details below: | |

9. What needs to happen now?

What actions need to take place to make your support plan happen? Include what actions need to happen, who needs to do them and by when.

| What? | Who? | By when? |
|---|------|----------|
|  | | |
| Date Completed: <input type="text"/> | | |

**THIS IS THE SCHEDULE TO THE FRAMEWORK AGREEMENT BETWEEN THE
CITY OF EDINBURGH COUNCIL AND [INSERT PROVIDER NAME]
SCHEDULE PART 3**

MONITORING AND REVIEW

**MONITORING REQUIREMENTS ARE INCLUDED IN SECTION 16 OF THE
CONTRACT AND SCHEDULE PART 1**

DRAFT

**THIS IS THE SCHEDULE TO THE FRAMEWORK AGREEMENT BETWEEN THE
CITY OF EDINBURGH COUNCIL AND [INSERT PROVIDER NAME]
SCHEDULE PART 4 - PAYMENT SCHEDULE**

PAYMENT SCHEDULE 2014/15

| Payment Period from to | Sharepoint Return By | BACS (Wednesday) | Period |
|-----------------------------------|---------------------------------|-----------------------------|---------------|
| 01/04/2014 to 20/04/2014 | 18/05/2014 | 30/04/2014 | 1 |
| 21/04/2014 to 18/05/2014 | 15/06/2014 | 28/05/2014 | 2 |
| 19/05/2014 to 15/06/2014 | 13/07/2014 | 25/06/2014 | 3 |
| 16/06/2014 to 13/07/2014 | 10/08/2014 | 23/07/2014 | 4 |
| 14/07/2014 to 10/08/2014 | 07/09/2014 | 20/08/2014 | 5 |
| 11/08/2014 to 07/09/2014 | 05/10/2014 | 17/09/2014 | 6 |
| 08/09/2014 to 05/10/2014 | 02/11/2014 | 15/10/2014 | 7 |
| 06/10/2014 to 02/11/2014 | 30/11/2014 | 12/11/2014 | 8 |
| 03/11/2014 to 30/11/2014 | 28/12/2014 | 10/12/2014 | 9 |
| 01/12/2014 to 28/12/2014 | 25/01/2015 | 07/01/2015 | 10 |
| 29/12/2014 to 25/01/2015 | 22/02/2015 | 04/02/2015 | 11 |
| 26/01/2015 to 22/02/2015 | 31/03/2015 | 04/03/2015 | 12 |
| 23/02/2015 to 31/03/2015 | 14/04/2015 | 01/04/2015 | 13 |

**THIS IS THE SCHEDULE TO THE FRAMEWORK AGREEMENT BETWEEN THE
CITY OF EDINBURGH COUNCIL AND [INSERT PROVIDER NAME]
SCHEDULE PART 5**

PROVIDER PAYMENT DETAILS

| | |
|---|--------|
| Name of Provider | |
| Bank Account Details | |
| Account Name | |
| Account Number | |
| Sort Code | |
| Bank name, branch and address | |
| Reference to be quoted with payment | |
| Method of Payment Requested by Provider | |
| Cheque | YES/NO |
| BACS | YES/NO |
| Council's Finance System reference | |
| Provider's Accounts Department Contact Details | |
| Contact Name | |
| Address | |
| Tel No. | |
| Fax No | |

**THIS IS THE SCHEDULE TO THE FRAMEWORK AGREEMENT BETWEEN THE
CITY OF EDINBURGH COUNCIL AND [INSERT PROVIDER NAME]
SCHEDULE PART 6**

INDIVIDUAL SERVICE FUND AGREEMENT

This summary agreement contains the key information required to implement the ISF

1. This is an Individual Service Fund Agreement between the Council, NAME OF PROVIDER and the Service User:
2. This Individual Service Fund is part of an agreed individualised service for the following Service User:

Service User's Full Name: _____

Date of Birth: _____

Address: _____

SWIFT Number: _____

3. The Provider will provide the services that meet the requirements and Outcomes contained within the attached Support plan. A Personal Plan has been directed by the Service User and has been agreed by the Provider and the Council.
4. This service will start on (date) _____
5. The Provider will inform the Council of any changes to the service user's needs or any service that is not provided.
5. The worker's name is: _____
6. The worker's office location is: _____
7. The Council and The Provider will review this Individual Placement Agreement in accordance with this Framework Agreement along with the service user.
8. The total weekly amount for this Individual Placement Agreement is:

The Council's Contribution for this is:

The Service User's Contribution for this is:

During any prolonged absence by the service user, of up to a maximum of 3 calendar months, the Provider shall continue to provide a service to the service user in order to facilitate their return to the service provision.

9. The Council shall pay the Provider the total weekly amount 4-weekly in arrears.
10. The terms and conditions of this Individual Placement Agreement are governed by the Framework Agreement as agreed between the Provider and the Council.
11. Council's Authorised signature: _____
- Name: _____
- Post: _____
- Date: _____
13. Provider's Authorised signature: _____
- Name: _____
- Post: _____
- Date: _____
14. Service User's signature: _____
- Name: _____
- Date: _____

**THIS IS THE SCHEDULE TO THE FRAMEWORK AGREEMENT BETWEEN THE
CITY OF EDINBURGH COUNCIL AND [INSERT PROVIDER NAME]
SCHEDULE PART 6a**

AD HOC INDIVIDUAL SERVICE FUND (FORM 1715)

Annex 6a Form 1715 ESWS Individual Placement Agreement can be used by The Council to authorise acceptable one-off additional Services time/s and task/s carried out by [INSERT NAME] (the Provider).

Additional time/s and task/s are time/s and task/s not already specified under "Individual Placement Agreement" Schedule Part 6 that meet Level 1 Criteria (*A direct and absolute alternative to placement in a residential or nursing home, or inappropriate admission to hospital, when the Service User requires extra help to meet the basic personal, social, or health care needs and / or the Service Users carer is suddenly disabled or removed and the Service User needs extra help to stay at home and / or the Service User is in hospital and no longer needs active medical treatment and hospital discharge assessment indicates that services are vital for a safe return home*) "Additional Tasks"

The Provider must notify The Council in writing of any such Additional Tasks carried out, to meet Service Users needs, within 24hrs, for payment of such Additional Tasks to be considered.

Such Additional Tasks are to be carried out in accordance with the conditions of the Care at Home, framework agreement held between the Council and the Provider.

Should permanent Individual Placement Agreement amendments be required to the Care Plan the Provider and or Service User must refer these back to the Council for re-assessment before a re-issue / amendment to the "Individual Placement Agreement" Annex 7 (Form 1714) and the Care Plan can be made.

1. This is an ESWS Individual Placement Agreement between the Council and the following Provider:-

Provider's Name: _____

Registered Address: _____

2. This ESWS Individual Placement Agreement is for one-off agreed individualised Additional Tasks in respect of the below Service User:-
Service Users Full Name: _____

Date of Birth: _____

Address: _____

3. The one-off Additional Tasks agreed for the service is as follows:-

-
4. The total firm price for these Additional Tasks is the time multiplied by the appropriate rate as per Schedule 2 "Price and Time" of The Framework Agreement:- _____
5. The Provider shall submit an accurate invoice to the following Practice Team including a breakdown of Additional Tasks delivered:- _____
-
6. Notwithstanding the dates of signature of this ESWS Individual Placement Agreement the relevant date shall be the date the Additional Tasks are provided, such Additional Tasks may continue for a maximum of 4 weeks.
7. Council Authorised signature:- _____
Name: _____
Post: _____
Date: _____
8. Provider Authorised Signature:- _____
Name: _____
Position: _____
Date: _____
9. Service User Authorised signature:- - _____
Name: _____
Relationship: _____
Date: _____
10. This Annex 6a Individual Placement Agreement terms and conditions are as governed by The Framework Agreement.

**THIS IS THE SCHEDULE TO THE FRAMEWORK AGREEMENT BETWEEN THE
CITY OF EDINBURGH COUNCIL AND [INSERT PROVIDER NAME]**

**SCHEDULE PART 7
COMPLAINTS**

| | |
|-------------|--|
| Ref. | Where a complaint is made directly to The Authority by a Client or Carer in relation to the service received from the Provider, the Authority may issue this document to the Provider after completing sections 4.1 through to 4.4 below. The Provider will complete sections 4.5 through to 4.9 below and return it back to the individual who issued it, within 7 days of receipt. (Please expand document and attached evidence / supporting documentation as necessary.) |
| 4.1 | Provider Name <div align="right">(Authority to complete)</div> |
| 4.2 | Authority Ref. Number: CSCO <div align="right">(Authority to complete)</div> |
| 4.3 | Complainant's name and address: <div align="right">(Authority to complete)</div> |
| 4.4 | Complaint Summary: <div align="right">(Authority to complete)</div> |
| 4.5 | List of Interview(s)(Names, Status and Dates: <div align="right">(Provider to complete)</div> |
| 4.6 | Investigation: <div align="right">(Provider to complete)</div> |
| 4.7 | Provider Conclusion: <div align="right">(Provider to complete)</div> |

**THIS IS THE SCHEDULE TO THE FRAMEWORK AGREEMENT BETWEEN THE
CITY OF EDINBURGH COUNCIL AND [INSERT PROVIDER NAME]**

SCHEDULE PART 8

SERVICE USER RETURN

This information must be returned by the end of the following payment period by “Sharepoint” return (see Schedule Part 4). Failure to return this information may result in a withholding of payment by the Council

[illegible]