

**BARNSLEY METROPOLITAN
BOROUGH COUNCIL**



**CENTRAL, DEARNE, NORTH, NORTH
EAST AND SOUTH AREA COUNCILS**

ENVIRONMENTAL ENFORCEMENT

PROJECT REF: 07-17-16-1-1115

DATE: NOV 2015

RETURN DATE: *****

TIME: 12 NOON

SPECIFICATION

**Wendy Lowder
Interim Executive Director, Communities
Barnsley MBC
Communities
Westgate Plaza One
PO Box 609
Barnsley
S70 9FH**

CONTENTS

- SECTION 1 - PROJECT OVERVIEW AND SCOPE OF SERVICE**
- Appendix A – Overview of the Area Council Arrangement
 - Appendix B – Area Council Lots
 - Appendix C – Enforcement Flow Chart
 - Appendix D – CSE Enforcement Policy
 - Appendix E – Environmental Enforcement Policy Statement
- SECTION 2 - INSTRUCTIONS FOR TENDERING/TENDER EVALUATION AND TENDER QUALITY QUESTIONNAIRE**
- Appendix (i) – Reference Template
- SECTION 3 - PRICING SCHEDULE, FORM OF TENDER AND APPENDICES**
- Appendix 1 – Supply Chain List
 - Appendix 2 – Insurance Details
 - Appendix 3 – Anti-Collusion Certificate
 - Appendix 4 – TUPE Confidentiality Agreement
- SECTION 4 - FORM OF CONTRACT**

SECTION 1

PROJECT OVERVIEW AND SCOPE OF SERVICE

DRAFT

SECTION 1

PROJECT OVERVIEW AND SCOPE OF SERVICE

1. INTRODUCTION

- 1.1 The Central, Dearne, North, North East and South Area Councils have reaffirmed ‘the environment’ as one of the key issues that they wish to prioritise during 2016/17. Within the context of this priority, an enhanced **enforcement service** is seen as vital to prevent environmental problems escalating and to ensure that the positive work undertaken to maintain the environment is not undone by an anti-social minority.

Public feedback consistently identifies environmental blight through littering, dog fouling and illegal parking as a significant cause of local concern and highlights where the people who live and work in the area want to see action being taken.

This proposed intervention will strengthen the ability to demonstrate a strong stance on enforcement issues through this extra provision and will be marketed through a No Tolerance approach in the 5 Area Council areas identified above.

Background information about Barnsley Council’s Communities and Area Governance Service and the associated Area Council structure can be found at Appendix A.

2. BACKGROUND AND CONTEXT

- 2.1 The Area Councils will purchase bespoke services to tackle the areas of concern most affecting our communities. The aims of procuring bespoke environmental enforcement services are to respond to locally identified priorities, encourage the public to take pride in their local environment and facilitate a change in behaviours and attitudes towards looking after the environment. The majority of residents take pride in where they live and treat their local environment and fellow residents with respect. More robust enforcement will help the Area Councils to isolate the small minority that disrespect their environment and fellow residents and take robust action against them to change the way they behave and make them contribute towards the costs of improving the environment in which we live.

The Area Councils will seek to maximise the impact of resources being earmarked to address environmental crime by procuring high quality proven services and to operationally align those services to the Council’s Safer Communities Service and Parking Services (the existing core services). This arrangement is designed to achieve the best possible value for residents by purchasing the necessary skills and expertise at an affordable price. By subsequently aligning these bespoke additional services to the existing core services provided by the Council, the Area Councils will ensure that any service is delivered within the parameters of the Council’s policies, with the integrity and authority it requires and within the existing operational infrastructure of the Council.

Each of the Area Councils will be identified individually by lots (see Appendix B) and these will be procured collectively across Area Council boundaries to maximise the potential for achieving best value for money. All services will be delivered bespoke to the value of the local commission and according to the needs of **each** individual Area Council. One service provider will be appointed for all lots.

2. BACKGROUND AND CONTEXT (Cont'd)

2.2 A key purpose of Area Council's is to grow community capacity by commissioning local services and encouraging volunteering. The aims of Area Governance are to:

- Ensure people of all ages have a much greater involvement in designing services and actively participating in improving their lives.
- Support the many benefits of volunteering and foster the many and diverse opportunities for residents to gain new skills and experiences through volunteering.
- Ensure customer services and the citizen experience of access is improved.
- Engage local communities in helping to shape the decisions and services in their neighbourhood.
- Ensure the Council operates fairly and demonstrates total commitment to equalities in policy and practice.
- Establish new models of delivering services guided by local choice and need.

3. STRATEGIC VISION AND VALUES

3.1 Barnsley MBC's Vision is to '*Work together for a brighter future, a better Barnsley*'

Our Values include:

Working Together

- We work as "One Council" to do the best that we can for our customers
- We build partnerships and work with others to achieve the best for Barnsley
- We are understanding and supportive of others, respecting and valuing differences
- We are open and honest about what we are able to achieve, the decisions we make and how well we are doing
- We are true to our word, reliable and fair
- We are responsible and accountable for our actions

Excellence

- We are committed to quality and value for money
- We learn from our successes and mistakes
- We are flexible, adaptable and respond positively to change

Pride

- We are proud of the work we do and services we deliver
- We are proud to support our communities to make Barnsley a better place
- We are proud of our achievements

4. COUNCIL PRIORITIES AND OUTCOME STATEMENTS

4.1 In developing and delivering this bespoke environmental enforcement service, the Service Provider should ensure that it is contributing to the Council's corporate priorities and outcome statements as outlined below:

Improving people's potential and achievement	Inspire the local community to 'Love Where They Live' Increase employment, skills and work experience at local level
Growing the economy	Improve the local environment (make the area more attractive to shoppers and new businesses) Keep the Wards clean, well maintained and attractive Increase employment, skills and work experience at local level
Changing the relationship between the Council and the Community	Increase the number of people engaged in voluntary activities in the community Young people involved in reparation activities

5. AIMS AND OBJECTIVE OF THE SERVICE, INCLUDING SOCIAL VALUE OBJECTIVES

5.1 The overarching aims and objectives of the service for the Central, Dearne, North, North-East and South areas are:

- Services designed to operate locally and address the priorities and hot spots of each of the Area Councils listed above.
- Inspire people who live and work in the areas to 'Love Where they Live'
- Maintain and improve Environmental Standards
- Keep the Wards clean and well maintained
- Link with other Area Council procured services, to support the over-arching aims of area governance shown above
- Close working relationship with the Council's Safer Communities Service and Parking Services
- A service that fully complements existing 'core' environmental enforcement service provision provided by the Council's Safer Communities Service and Parking Services.

5. AIMS AND OBJECTIVE OF THE SERVICE, INCLUDING SOCIAL VALUE OBJECTIVES (Cont'd)

Under this contract, the successful Service Provider will be required to actively contribute to the achievement of specific **Social Value Objectives**. These reflect the vision and corporate priorities of the Council outlined in Sections 3 and 4 and include:

- Develop strong community networks, community self-help and resilience
- Improve physical health and emotional well-being in the area
- Improve the local environment
- Increase the number of people engaged in voluntary activities in the community
- Increase skills and work experience at local level
- Promote employment and training opportunities within the locality

6. THE SERVICE/ACTIVITIES TO BE DELIVERED

6.1 GENERAL

The Service to be provided flexibly according to need and to include evenings and weekends with a minimum of 10 hours per week per officer spent working either weekends, or week days before 8am or after 5pm.

100% coverage in the event of annual leave, sickness or other leave related absence will be provided by the Service Provider to maintain service delivery.

It is expected that each Environmental Enforcement Officer provided by the Service Provider will proactively issue tickets for littering, parking and dog fouling offences.

Environmental Enforcement Officers must be provided with appropriate mobile communication devices.

6.2 LOT SPECIFIC

LOT 1 - CENTRAL AREA

To provide the Central Area Council with 1.5 FTE Environmental Enforcement Officers working 37 hours per week, 52 weeks per year dedicated to environmental enforcement activity over a 12 month period with options to extend for 2 further periods each of 12 months.

The Service will cover the five Wards of the Central Area Council (Central, Dodworth, Kingstone, Worsbrough and Stairfoot)

There will be no abstractions of the dedicated Central Enforcement Officers from the Central area.

LOT 2 – DEARNE AREA

To provide the Dearne Area Councils with 1 Environmental Enforcement Officer working 37 hours per week, 52 weeks per year dedicated to environmental enforcement activity over a 12 month period with options to extend for 2 further periods each of 12 months.

The Service will cover the two wards of the Dearne Area Council (Dearne North and Dearne South)

There will be no abstractions of the dedicated Dearne Environmental Enforcement Officers from the Dearne areas.

LOT 3 – NORTH AREA

To provide the North Area Council with 4 Environmental Enforcement Officers working 37 hours per week, 52 weeks per year dedicated to environmental enforcement activity over a 12 month period with options to extend for 2 further periods each of 12 months.

The Service will cover the four Wards of the North Area Council of Darton East, Darton West, Old Town and St Helens

There will be no abstractions of the dedicated North Environmental Enforcement Officers from the North area.

LOT 4 - NORTH EAST AREA

To provide the North East Area Council with 2 Environmental Enforcement Officers working 37 hours per week, 52 weeks per year dedicated to environmental enforcement activity over a 12 month period with options to extend for 2 further periods each of 12 months.

The Service will cover the four Wards of the North East Area Council of Cudworth, Monk Bretton, North East and Royston.

There will be no abstractions of the dedicated North East Environmental Enforcement Officers from the North East area.

LOT 5 – SOUTH AREA

To provide the South Area Council with 4 Environmental Enforcement Officers working 37 hours per week, 52 weeks per year dedicated to environmental enforcement activity over a 12 month period with options to extend for 2 further periods each of 12 months.

The Service will cover the four Wards of the South Area Council of Hoyland Milton, Rockingham, Darfield and Wombwell.

There will be no abstractions of the dedicated South Environmental Enforcement Officers from the South area.

6.3 Duties of the Service Provider's Environmental Enforcement Officers

To target problems of littering, dog fouling and parking enforcement within all Lot Areas. This will include proactive patrolling based on intelligence profiles provided from information gathered from the Environmental Hotline number, also from members of Area Councils, Area Manager's and the Council's Safer Communities Service. The Tasking Officer (from the Council's Safer Communities Service) will deploy and review the work of the Service Provider's Enforcement Officers based on this intelligence.

The Service Provider's Enforcement Officers will patrol priority areas and robustly enforce against any offences witnessed by issuing a fixed penalty notice.

Fixed Penalty Notices or Penalty Charge Notices will be issued in all circumstances where an offence has been witnessed or established.

Where littering is observed from vehicles, registration numbers will be taken and passed to the Council's Safer Communities Service, along with a witness statement to allow for the serving of a Fixed Penalty Notice.

The Tasking Officer, on behalf of the Service Provider, will provide verbal updates to the Area Managers regarding emerging problem areas or trends.

At least 85% of contracted time is to be spent out of the office either patrolling or on targeted operations linked to litter, dog fouling and parking enforcement.

BMBC enforcement uniforms (to be provided free of charge) with relevant authorities and insignias must be worn, unless plain clothes operations are being undertaken.

The Service Provider's Enforcement Officers will maintain a pocket notebook which will be kept up to date and will be the subject of periodic checking by the Tasking Officer.

Duties of the Service Provider's Environmental Enforcement Officers (Cont)

For 1 hour at the end of each working week, the Service Provider's Enforcement Officers will be required to complete a weekly report sheet detailing activity and outputs for the week. This will include reference to:

- Overall patrolling hours by Ward
- Number and Locations of Litter Specific Operations
- Number and Locations of Dog Fouling Operations
- Number and Locations of Parking Operations
- Number locations and type of other activity
- Number of Littering FPNs, broken down to Ward level
- Number of Dog Fouling FPNs, broken down to Ward level
- Number of Parking PCNs, broken down to Ward level
- Other Activity

6.4 Other Contract Details: Partnership Working

The Service Provider should establish and maintain close working relationships with active local resident groups to build intelligence networks and to improve personal levels of responsibility.

The Service Provider will ensure good liaison with other services operating in all five areas. This will be co-ordinated via each Area Manager and the Council's Safer Communities Service and Parking Services.

The Service Provider's Environmental Enforcement Officers will work to complement the 'core' service offer of BMBC services, working flexibly alongside core services deployment protocols in order to avoid duplication and ensure added value.

The Service Provider's Environmental Enforcement Officers will work alongside other partners and commissioned services on joint operations. The Service Provider and the Council's Safer Communities Service will work with each Area Team to identify opportunities for reparation work to be undertaken in all five areas so that justice can be seen to be done locally.

6.5 **BMBC roles and responsibilities**

The Council's Safer Communities Service will provide the following equipment and services free of charge. This is to ensure that the Service Provider's enforcement services:

- Operate as part of the broader approach to community safety and enforcement;
- Operate with the same degree of integrity;
- Benefit from existing local infrastructure;
- Do not duplicate core Council enforcement activity;
- Can legitimately act on behalf of the Council as the primary enforcement agent in the Central, Dearne, North, North East and South areas.

The detail below describes the arrangements, which will enable the Service Provider's Environmental Enforcement Service to be bespoke and matched to the needs of each of the five Area Councils, whilst enabling operational effectiveness and legitimacy within the corporate requirements of Barnsley MBC. Accordingly, and for the avoidance of doubt, tenderers **will not** be required to include within their tender bids for costs associated with the 'Equipment' and 'Support' detailed below because these items will be provided free of charge by the Council:

Equipment

- Body Cameras (1 per officer).
- Appropriately branded vehicles at a ratio of 1 per 2 officers to provide transport for the Service Provider's Enforcement Officers across the five Area Councils/Ward Area. Vehicles will carry the insignia of the Area Council and Barnsley MBC Safer Communities Services.
- Safer Communities uniforms with clear designation of authorities carried out and the Area Council from which the officers are functioning.
- Pocket Books.
- Office accommodation at a central location..

Support

- Processing and Monitoring Officer support to process fines and PCNs issued and ensure income is recycled to the five areas Council.
- Support providers to promote the initiative to local residents and the wider community.

6.6 Operational Activities to be undertaken by Barnsley MBC Safer Communities Service

The Council's Safer Communities Service will:

- Authorise the Service Provider to act on behalf of the Council, including endorsement of individual officer competencies to discharge certain powers.
- Provide weekly tasking requirements according to local hot spot areas and areas identified for priority intervention.
- Deal with all direct telephone and e-mail enquiries from Elected Members (Tasking Officer responsibility) to contribute to local intelligence and inform service priorities.
- Tasking Officer will provide Area Managers with quarterly reports for submission to the Area Council, detailing the development of tactical enforcement priorities. In addition, monthly statistics will be provided to the Elected Members and Area Manager.
- Process all dog fouling and littering fines for payment.
- All prosecutions or court warrants for non-payment will be secured by the Safer Communities Service (Service Solicitor and Head of Service).
- All fine payments will be recycled by the Safer Communities Service to the relevant Area Council where issued by the Service Provider.

6.7 WE NEED A SIMILAR SECTION AS 6.6 BUT FOR THE ROLE OF BMBC PARKING SERVICES INCLUDING A STATEMENT ON RECYCLING INCOME FROM PARKING FINES

6.8 Operational Activities to be undertaken by Service Provider

The Service Provider will:

- Provide Environmental Enforcement Officers as outlined within this document.
- Issue fines (FPNs and PCNs) correctly upon witnessing an offence occurring.
- Routinely share intelligence gleaned by the Service Provider with the Local Safer Neighbourhood Team & Parking Services.

6.9 The above describes arrangements which will enable environmental enforcement services to be bespoke and matched to the needs of each of the five area Councils, whilst enabling operational effectiveness and legitimacy within the corporate requirements of Barnsley MBC.

7. TARGET GROUPS AND/OR AREAS

7.1 The service will target the streets, neighbourhoods and people who live or work in the wards making up each of the 5 Area Council areas: Lot 1 - Central Council - Wards of Dodworth, Central, Kingstone, Worsbrough & Stairfoot
Lot 2 - Dearne Council - Wards of Dearne North and Dearne South.
Lot 3 – North Council - Wards of Darton East, Darton West, Old Town and St Helens.
Lot 4 – North East Council - Wards of Cudworth, Monk Bretton, North East and Royston.
Lot 5 – South Council - Wards of Hoyland Milton, Rockingham, Darfield and Wombwell.

8. EQUALITY IMPACTS

8.1 The successful Service Provider will be required to ensure that the service is free from bias and acknowledges and respects gender, sexual orientation, age, race, religion and culture, lifestyles and values. If any needs are required as per the Equalities Act, such as language or disability, these needs will be provided for during the term of the contract.

Please also refer to Section 4 – Form of Contract.

9. PERFORMANCE MEASURES/OUTPUTS

9.1 Service Outcomes and Measures

Table 1 below details the outcomes or results that the Service Provider is required to achieve as a consequence of the service being delivered. A list of possible measures to monitor and evidence the achievement of outcomes is also provided. This is indicative only and Tenderers are required, as part of their tender return, to propose their own list of outcome measures, along with realistic targets, baselines and a methodology for gathering the data/measuring. Final measures and targets will be agreed prior to contract commencement.

Please refer to Section 2 – Tender Quality Questionnaire.

9.2 Table 1

Performance Measures		
<i>Outcome</i>	<i>Measure for Evidencing Achievement of the Outcomes (Indicative only)</i>	<i>Methodology for Capturing Data associated with the Measure (Indicative only)</i>
Inspire the local community to ‘Love Where They Live’	Reducing levels of incidents Number of positive news stories generated Resident Surveys on Perception of locality	Service Provider to determine
Increase employment, skills and work experience at local level	Work experience numbers Number of local people recruited onto this project/and trained	

9.2 Table 1 (Cont'd)

Performance Measures		
<i>Outcome</i>	<i>Measure for Evidencing Achievement of the Outcomes (Indicative only)</i>	<i>Methodology for Capturing Data associated with the Measure (Indicative only)</i>
<p>Improve the local environment (make the area more attractive to shoppers and new businesses)</p> <p>Keep the Wards clean, well maintained and attractive</p>	<p>Reduction in the perception and volume of anti-social behaviour at local level</p> <p>Number of positive news stories generated</p> <p>Resident Surveys on perception of locality</p> <p>Increase in the level of valid/enforceable Fixed Penalty Notices being issued</p>	<p>Service Provider to determine</p>
<p>Increase the number of people engaged in voluntary activities in the community</p>	<p>Number of volunteer workers</p> <p>Number of young people involved in reparation activities</p>	<p>Service Provider to determine</p>

10. PROCUREMENT PROGRAMME

Indicative Programme:	
Tender Return	
Tender Evaluation	
Tender Report and Approval to Award	
Standstill Period and Feedback	
Agreement of outcome measures, targets and outputs	
Issue of Letter Intent and Contract	

11. CONTRACT VALUE AND CONTRACT DURATION

11.1 It is anticipated that the contract will be for 12 months, with an option to extend by 12 months and then a further 12 months (1 year +1+1). However, a 6 month break point exists when performance and achievement of outcomes will be reviewed and, on the basis of findings, decisions will be taken to either continue to full term or cease the contract.

There are no guarantees after the first initial 12 months that each individual Area Council will have the funding available to extend the contract or will decide it has a continuing need either the same level of service or for the service as a whole. Each Area Council has their own budget and this may result in individual Lots coming to an end.

The estimated cost of the service is £ 350,000 per annum.

12. CONTRACT TERMS AND CONDITIONS

12.1 See Section 4 – Form of Contract.

13. CONTRACT MONITORING AND RECORDING REQUIREMENTS

13.1 The Five Area Councils have developed a detailed specification outlining specific requirements of an environmental enforcement service for the areas. The Five Area Councils will be responsible for commissioning these services from the most appropriate Service Provider, following a transparent and robust tendering exercise. Once a Service Provider is commissioned, the Five Area Councils will oversee the delivery of the contract in line with the agreed Specification. Each lot will be individually contract monitored and managed by each Area Council Manager. Within the Specification, the relationship between the successful Service Provider and Barnsley Council's Safer Communities Service and Parking Services is clear and this should be unequivocally demonstrated and only Providers recognising this relationship will be considered for award of this contract.

13.2 The appointed Service Provider will need to continually demonstrate and evidence the effectiveness of the service in terms of delivering the required outcomes/achieving the agreed targets for each Lot. It is a key requirement of the Service Provider to:

- Collect, collate and report on a range of agreed measures on a quarterly basis as part of a quarterly reporting regime for each Lot. This will include the provision of data at ward level. It will also include providing a minimum of 2 case studies per quarter..
- Establish compatible systems to ensure effective management and performance management of the service. Information systems must comply with the requirement of the Data Protection Act.
- Attend monthly/quarterly meetings with the Central, Dearne, North, North East and South Area Council Manager's, in their capacity as Contract Managers, to discuss contract performance and management issues and any Ward or Area Council report requirements, and request any additional information/provide clarification on pertinent issues, as required.
- Submit a 12 month break/review performance report and provide any other information required to inform that review.
- Subject to satisfactory 12 month review outcome, attend a 'lessons learned' meeting to be convened one month before the one year contract end date and submit an end of project performance report prior to this end date, fully and properly evidencing achievement of outcomes.

Each of the Area Council Manager's for each lot will be involved in all performance reviews and may reasonably request additional information at any time.

13.3 Monthly Reporting Requirements

The Council's Tasking Officer will collate reports, based upon information gathered and provided by the Service Provider and will provide monthly written reports to the Contract Management meetings and Elected Members detailing the following:

- Overall patrolling hours by Ward
- Number and Locations of Litter Specific Operation
- Number and Locations of Dog Fouling Operations
- Number and Locations of Parking Operations
- Number Locations and type of other activity
- Number of Littering FPNs
- Number of Dog Fouling FPNs
- Number of Parking PCNs
- Other activity

13.4 Quarterly Reporting Requirements

The Area Managers will ensure that the Five Area Councils receive a full quarterly performance management report that incorporates the contract monitoring and management information from the environmental enforcement Provider. This report will outline overall performance and activity for the previous quarter and establish tactical and strategic priorities for the coming quarter, as agreed with the Council's Safer Communities Service. Elected Members will be able to inform the Tasking Officer of specific issues of concern.

The general public can raise issues of concern through existing Council channels, as outlined in Appendix C. Other issues of concern may also be picked up through Police channels and both types of intelligence will be incorporated into the Service Provider's Enforcement Officers workload through the Tasking Officer.

14. QUALITY STANDARDS

- 14.1 Robust policies and procedures are to be put in place to ensure safeguarding of all adults and children and, in particular, adequate measures/systems to ensure robust data protection and information governance.
- 14.2 The Service Provider has a legal obligation to adhere to all equality legislation. The Service Provider must produce its policy relating to race, gender, disability religion or belief, sexual orientation and age. This policy should include the reporting mechanism for any adverse events which would constitute a deviation. Any and all adverse events should be reported to the relevant Area Council Manager.

14.3 In order for the Service Provider's service to align to the Safer Communities Service the following requirements must be met:

- (a) The Service Provider will operate completely within the Policies of Barnsley MBC (see Appendix D) with regard to enforcing against littering, dog fouling, parking and any other specified enforcement activity.
- (b) The Service Provider will be tasked according to the local intelligence provided by the Members of the Area Council, the Area Matrix Teams and the Council's Safer Communities Service and must incorporate these tasks into their day-to-day workload.
- (c) Staff employed by the Service Provider must meet the required competency levels of the Council to act as an enforcing agent on their behalf. This will include:
 - Understanding how to correctly interview a suspect and record the interview.
 - Understanding what constitutes a littering and a dog fouling offence.
 - Ability to illicit the necessary information required to pursue such an offence.
 - Ability to process the information to issue a fixed penalty notice.
 - Ability to offer an alternative to fixed penalty notice payment for juveniles.
 - Understanding what happens if a fixed penalty notice is not paid.
- (d) The Service Provider's Enforcement Staff must wear the enforcement uniform of the Council.
- (e) The Service Provider's Enforcement Staff must seek to meet the required integrity thresholds of South Yorkshire Police and Barnsley MBC. (see Appendix E).
- (f) The Service Provider's Enforcement Staff will operate from the same working bases as the local Safer Neighbourhood Teams aligned to Area Council boundaries.
- (g) The Service Provider will share all local information intelligence and data established during the course of their activity with the Council's Safer Communities Service.

Additionally:

- The Service Provider will have a robust system for monitoring complaints and suggestions; feedback from service users will inform service delivery.
- The Service Provider will submit reports summarising any complaints, investigations and remedial actions.

Please also refer to Section 4 – Form of Contract

15. TUPE

The Council considers that in the event of this contract being awarded other than to the present service providers then the terms of the European Acquired Rights Directive (Number 2001/23) and/or the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) may apply.

In the event that TUPE does apply, upon which the tenderers must reach their own view, tenderers should take into account the following requirements which would then arise:

You are advised to seek independent professional advice as to the application and the effects of the Directive and/or the Regulations on your organisation should you be in the position of being a successful tenderer.

- (i) The need to consult with recognised trade unions or other professional associations.
- (ii) The need to maintain existing rates of pay and conditions of employment of employees; and
- (iii) The need for a successful tenderer to accept liability in respect of claims for redundancy payments, unfair dismissal and all other claims related to previous employees.

The Council will provide to tenderers such employment details of the workforce presently employed in connection with the services as may be provided by the present Service Provider only on completion and return of the Confidentiality Agreement which can be found in Appendix 4 of this document and that such information will be treated as strictly confidential and will be used for no other purpose than in connections with the submission of a tender for the services. The completed Confidentiality Agreement should be returned through the discussions area of the YORtender system

APPENDIX A
OVERVIEW OF THE AREA COUNCILS ARRANGEMENTS

DRAFT

APPENDIX B
AREA COUNCIL LOTS

DRAFT

LOT 1 - CENTRAL AREA

To provide the Central Area Council with 1.5 FTE Environmental Enforcement Officers working 37 hours per week, 52 weeks per year dedicated to environmental enforcement activity over a 12 month period.

The Service will cover the five Wards of the Central Area Council (Central, Dodworth, Kingstone, Worsbrough and Stairfoot)

There will be no abstractions of the dedicated Central Enforcement Officers from the Central area.

LOT 2 – DEARNE AREA

To provide the Dearne Area Councils with 1 Environmental Enforcement Officer working 37 hours per week, 52 weeks per year dedicated to environmental enforcement activity over a 12 month period.

The Service will cover the two wards of the Dearne Area Council (Dearne North and Dearne South)

There will be no abstractions of the dedicated Dearne Environmental Enforcement Officers from the Dearne areas.

LOT 3 – NORTH AREA

To provide the North Area Council with 4 Environmental Enforcement Officers working 37 hours per week, 52 weeks per year dedicated to environmental enforcement activity over a 12 month period.

The Service will cover the four Wards of the North Area Council of Darton East, Darton West, Old Town and St Helens

There will be no abstractions of the dedicated North Environmental Enforcement Officers from the North area.

LOT 4 - NORTH EAST AREA

To provide the North East Area Council with 2 Environmental Enforcement Officers working 37 hours per week, 52 weeks per year dedicated to environmental enforcement activity over a 12 month period.

The Service will cover the four Wards of the North East Area Council of Cudworth, Monk Bretton, North East and Royston.

There will be no abstractions of the dedicated North East Environmental Enforcement Officers from the North East area.

LOT 5 – SOUTH AREA

To provide the South Area Council with 4 Environmental Enforcement Officers working 37 hours per week, 52 weeks per year dedicated to environmental enforcement activity over a 12 month period.

The Service will cover the four Wards of the South Area Council of Hoyland Milton, Rockingham, Darfield and Wombwell.

There will be no abstractions of the dedicated South Environmental Enforcement Officers from the South area.

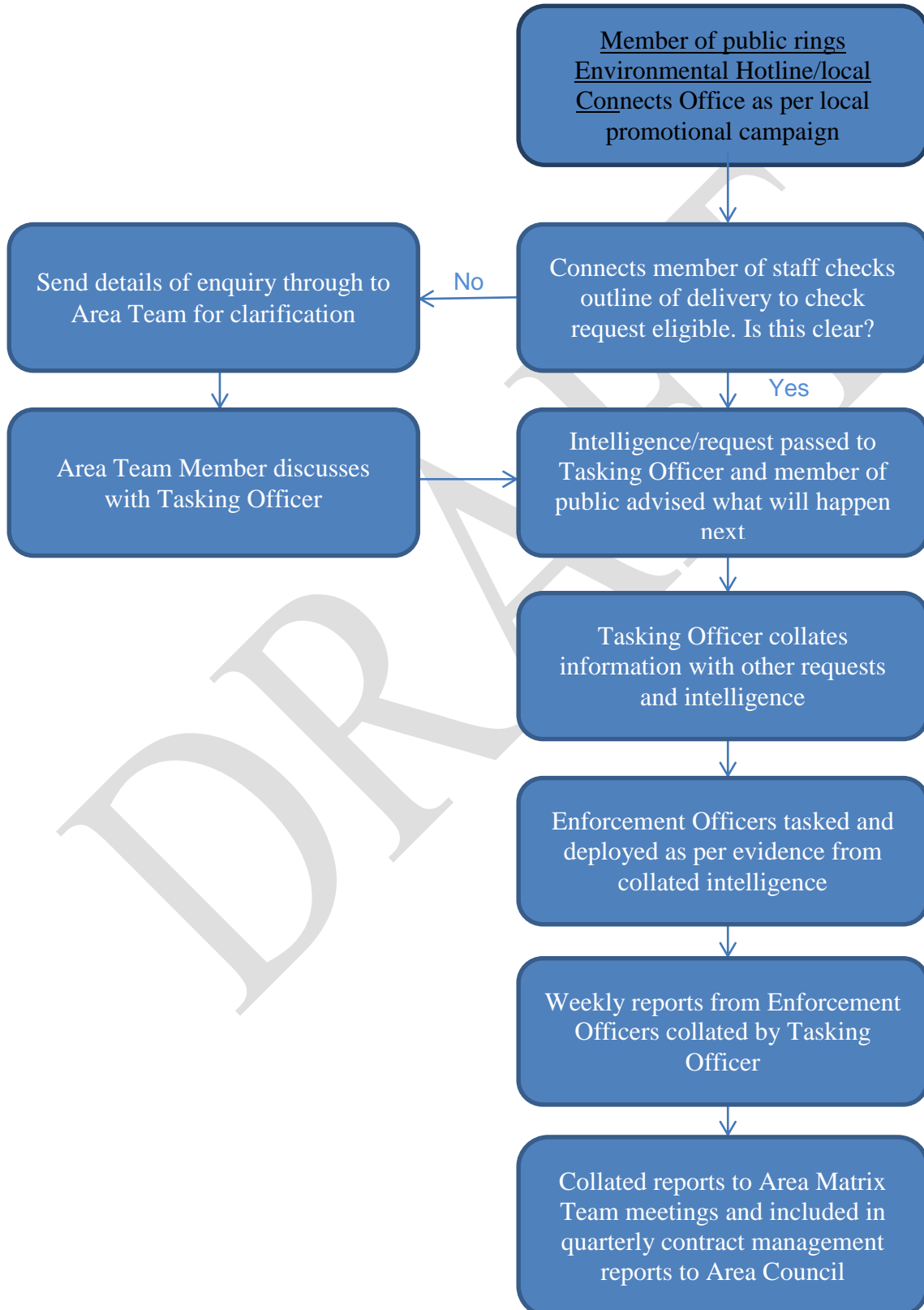
DRAFT

APPENDIX C
ENFORCEMENT FLOW CHART

DRAFT

Appendix C

Calls Processing Flow Chart – Environmental Enforcement



APPENDIX D
CSE ENFORCEMENT POLICY 2014

DRAFT

Appendix D



COMMUNITY SAFETY AND ENFORCEMENT SERVICE

ENFORCEMENT POLICY

Signed:

Date:

Phillip Spurr
Assistant Director, Development, Environment and Culture

Status: Draft
Version Number: 1.0

1. Enforcement Policy Statement

This policy sets out the general principles, which inform the enforcement function within the Community Safety and Enforcement Service. Each team within the Service may also have more specific guidance to aid them in applying these principles to a particular function.

2. Introduction

Officers in the Community Safety and Enforcement Service will seek to secure compliance with legislation, whilst conforming to the spirit of the European Convention on Human Rights (as implemented by the Human Rights Act 1998) and the Central/Local Government Enforcement Concordat which this Authority has adopted. The Community Safety and Enforcement Service enforce a wide variety of legislation and had tools and powers that enable officers, amongst other things, to issue verbal advice, send letters, serve formal notices, obtain injunctions and orders, issue simple cautions and pursue prosecutions in the courts.

Officers frequently encounter contraventions of the law and have to choose the most appropriate method of achieving compliance with the law from the range of possible actions available.

The Service will seek to carry out its enforcement functions efficiently and effectively and in a way which is open, clear and helpful to all stakeholders.

The enforcement action chosen by the officer must be informed by this policy, which promotes consistency, proportionality, transparency, fairness and accountability.

This policy will be available to any party affected by enforcement decisions made by the Service.

Where the Service becomes aware of a situation for which it is not the enforcing agency, it will contact the relevant enforcement body to inform them of the situation. Similarly, where there is a shared role with other enforcement bodies, officers shall liaise accordingly.

3. General Principles

The Community Safety and Enforcement Service will seek to secure compliance with the relevant legislation.

When officers find a contravention of the law they will warn or advise those involved (orally or in writing) of the steps needed to rectify the breach, unless more formal enforcement action is the most appropriate way of dealing with the matter (eg absolute offences, fixed penalty notices).

3. **General Principles** (Cont'd)

All communications will be clear and in plain English, translated where appropriate, and will clearly distinguish between advice and legal requirements. Officers will endeavour to discuss fully with a responsible person any compliance failures or difficulties and will give full consideration to their views before making an informed decision on the most appropriate course of action.

The Service will follow the principles of better regulation. It will have regard to the Regulator's Compliance Code (The Regulators Code, from April 2014) and the Regulators Enforcement and Sanctions Act 2008.

The Service will, at all times, comply with the spirit of the European Convention on Human Rights, as implemented by the Human Rights Act, 1998. It will also have due regard to all necessary procedural requirements contained in legislation such as the Criminal Procedure and Investigations Act 1996, the Regulation of Investigatory Powers Act 2000, the Police and Criminal Evidence Act 1984 and the Data Protection Act 1998.

The policy will be operated in a non-discriminatory way and, for example, gender, ethnic origin or sexual orientation of the offender will not influence the choice of enforcement action.

The Service will, so far as is possible, endeavour to foster a good working relationship with all stakeholders.

4. **Enforcement Options**

There are a number of options available when infringements are detected:

a) **Prosecution**

The decision to institute formal prosecution proceedings will only be taken if one or more of the following criteria apply:

- The infringement involved fraud.
- The infringement involved deliberate or persistent breach of legal responsibility, e.g. choosing to disregard written warnings or advice, or where history indicates previous criminal activity was caused, or was likely to cause, significant loss or prejudice to another individual.
- The infringement was through gross negligence or carelessness and caused, or was likely to cause, significant loss or prejudice to another individual.
- The infringement led to the health, safety or well-being of people, animals or the environment being seriously compromised, or contributed to damage of the reputation or economic well-being of the Borough.

4. **Enforcement Options** (Cont'd)

- The infringement involved the obstruction of an authorised officer in carrying out his or her duties.
- The infringement has been subject to the offer of a fixed penalty notice, which has not been accepted.
- The infringement was an absolute offence.
- The offence is widespread throughout the Borough.

Furthermore, a prosecution will only be considered if the sufficiency of evidence and the public interest requirement fall within the guidelines as laid down by the Attorney General and Crown Prosecution Service Code for Crown Prosecutors.

Before making a decision whether or not to prosecute, consideration should also be given to the following:

- The seriousness of the offence and whether it was likely to cause substantial loss or prejudice to others.
- The history of the alleged offender (eg number of complaints and convictions, or extent of previous advice given).
- The willingness of the alleged offender to prevent a recurrence of the infringement.
- The alleged offender has offered a remedy, e.g. redress, compensation.
- The likelihood of the alleged defendant being able to establish a statutory defence.
- The calibre and reliability of witnesses.
- The probable public benefit of a prosecution and the importance of the case, e.g. the possibility of establishing legal precedent.
- If there is a trivial contravention of the law, or where infringements are isolated technical breaches of law, and it is therefore not in the public interest to prosecute.
- If a simple caution may be more appropriate or effective.
- The cost, consideration will need to be given to the balance of likely overall cost against the value of the likely outcome.
- If the infringement indicates evidence of unfair competition with others.

4. **Enforcement Options** (Cont'd)

b) Fixed Penalty Notice

A number of offences can be dealt with by a fixed penalty notice.

These notices allow an offender to accept the offence, and by payment of the appropriate amount within the stipulated timescale, discharge their liability for prosecution, i.e. full and timely payment will result in no prosecution for the offence.

Persons issued with a notice are not obliged to pay the fixed penalty; in such cases, the matter will be referred to the magistrate's court for the purpose of prosecution. This will give the defendant the opportunity to offer a defence and mitigation.

In the spirit of proportionality and consistency, a fixed penalty notice will be issued for a first offence. Repeat offenders and those who are obstruct, violent or aggressive to the authorised officer, will not be offered the option of a fixed penalty (see Section 4 of this policy).

c) Simple Caution

A simple caution can only be considered when all the appropriate prosecution criteria are met, and the circumstances surrounding the infringement are such that a more lenient approach to prosecuting is appropriate. Any simple caution must follow the criteria as laid down in the Home Office Guidelines. If a decision to offer a simple caution is rejected by the alleged offender, then the file shall be forwarded to the Council's legal unit, with a recommendation to prosecute.

d) Statutory Notice

Notices can be served to require offenders to cease contravening activities, or to give them reasonable time to rectify a contravention. Notices may require immediate cessation of infringing activities where health, safety, environmental damage or nuisance demands it. In other circumstances, time allowed to put things right may be reasonable, but must take into account the health, safety, environmental and nuisance implications of the contravention.

e) Written Warnings and Advice

The offender will be sent a polite and firm letter clearly identifying the infringement, they will be given advice on how it can be rectified and a timescale for doing so. Failure to comply with a written warning or advice can result in more formal enforcement action. The time given for the infringement to be rectified will be reasonable, but must take account of the health, safety, environmental and nuisance implications of the infringement.

4. **Enforcement Options** (Cont'd)

f) Referral to another Agency

Sometimes the matter may be more appropriately dealt with by means of referral to another agency that has the power and authorisation to address the matter.

g) No Action

In some circumstances, contraventions may not warrant any action. This can be where the cost of compliance to the offender outweighs the detrimental impact of the contravention on the community, or the cost of the required enforcement action to the Council outweighs the detrimental impact of the contravention on the community. A decision of no action may also be taken where formal enforcement is inappropriate in the circumstances, such as where a trader has ceased to trade, or the offender is elderly and frail and formal action would seriously damage their well-being. A decision to take no action must be recorded in writing and must take into account the health, safety, environmental and nuisance implications of the contravention.

5. **References**

The Code for Crown Prosecutors. Crown Prosecution Service, November 2004

The Enforcement Concordat. Better Regulation Unit, March 1998

The Regulator's Compliance Code. Department for Business, Enterprise and Regulatory Reform

APPENDIX E

ENVIRONMENTAL ENFORCEMENT POLICY STATEMENT

DRAFT

Appendix E



BARNLSLEY
Metropolitan Borough Council

**COMMUNITY SAFETY AND ENFORCEMENT
SERVICE**

**ENVIRONMENTAL CRIME
POLICY STATEMENT
(UNDER REVIEW)**

Status: Draft
Version Number: 1.0
Date: February 2014

1) **Definition**

Environmental Crime can loosely be defined as any illegal act which harms the environment. Such acts can be committed by the general public and by businesses/companies.

Areas covered under the remit of this policy include the offences of:

- Littering (including littering from vehicles)
- Dog fouling
- Fly tipping
- Fly posting
- Graffiti
- Abandoned and nuisance vehicles
- Duty of care offences
- Litter and refuse control offences

2) **Legislative Framework**

This policy statement takes into account the following relevant legislation:

- The (Dogs) Fouling of Land Act 1996
- Anti-Social Behaviour Act 2003
- Environmental Protection Act 1990
- Clean Neighbourhoods and Environment Act (CNEA) 2005
- Refuse Disposal (Amenity) Act 1978
- The ASB Crime and Policing Bill 2013-14

3) **Statutory Duties**

In relation to the above legislation, Barnsley Council has a statutory duty to address the following:

- Abandoned Vehicles – to remove abandoned vehicles (Refuse Disposal (Amenity) Act 1978)
- To keep land and highways free of litter (Environmental Protection Act 1990)
- To remove offensive graffiti as soon as practicable (Crime and Disorder Act 1998)
- Anti-social behaviour – to investigate complaints and to take appropriate action (Anti-Social Behaviour Act 2003)
- Nuisances – to investigate complaints and take appropriate action (Environmental Protection Act 1990)

4) **Local Strategic Priorities**

It is essential that the following functions are maintained as they make an important positive contribution to the Council's three corporate priorities and the economic strategy. By promoting a healthy, safe, clean environment and improving the quality and visual amenity of the borough, businesses will be encouraged to locate in the Borough which will stimulate and create the conditions for investment, growth and prosperity.

The following core functions significantly contribute to improving the quality of life for customers and the wider community, giving people the opportunity to improve their potential and achievement and develop strong resilient communities:

- Dog fouling – to enforce the legislation that requires dog fouling to be removed from designated land
- Littering – to enforce the littering legislation
- Fly tipping – to take preventative and enforcement action
- Nuisance vehicles – to enforce the legislation relating to vehicles that constitute a nuisance
- Flyposting – to enforce the legislation relating to illegal flyposting
- Duty of care – to enforce the legislation relating to the requirements for the safe removal, transfer and disposal of waste
- Conditions adversely affecting the amenity of areas – to enforce planning legislation

5) **Our Approach**

We are committed to dealing with environmental crime in our neighbourhoods, considering existing and new methods of deterrence, detection, investigation, and enforcement, alongside partnership working with internal and external agencies. We recognise different types of environmental crime will require the use of different interventions and legislation to try to achieve a resolution. The decisions relating to how environmental crime is dealt with will be consistent, proportionate, transparent, and accountable and fair, to ensure people, businesses, places and/or the environment are/is adequately protected.

In making decisions on what methods of intervention to use we will consider several criteria. The criteria we will consider include:

- The seriousness of the offence
- The impact on individuals and the community
- The history of the activity
- Confidence in achieving compliance
- Consequences of non-compliance
- Likely effectiveness of the various types of intervention

We will generally take a staged approach to addressing incidents of environmental crime. We will consider what prevention and enforcement measures are available to us and use our policy framework and expertise to choose the most appropriate intervention. Having considered the criteria we have the following options:

- To take no action
- To take informal action
- To issue formal/informal warning letters
- To serve statutory notices
- To issue simple cautions
- To prosecute

Further details regarding types of intervention can be found in our detailed functional policy statements and operational procedures.

6) **Policy**

The Community Safety and Enforcement Service will:

- Proactively enforce within the legislative framework and prioritise complaints on the basis of presented risk and harm, in accordance with the Services Enforcement Policy
- Carry out a program of reactive and proactive activity in response to environmental crime issues
- Seek to prevent the escalation of incidents of environmental crime

7) **Access to service**

To report an incident of environmental crime contact 772468 or e-mail safer@barnsley.gov.uk

8) **Consultation and Policy Review**

This policy will be reviewed every three years, or earlier, in line with Government guidance, best practice and legislative changes. As part of the review, we will consult with residents and other stakeholders on the contents and effectiveness of the policy.

9) **Procedures**

Detailed direction and guidance for these function areas are contained in the Community safety and Enforcement Services, Environmental Enforcement Procedures document.

SECTION 2

**INSTRUCTIONS FOR TENDERING/TENDER EVALUATION
AND TENDER QUALITY QUESTIONNAIRE**

DRAFT

SECTION 2

INSTRUCTIONS FOR TENDERING/TENDER EVALUATION AND TENDER QUALITY QUESTIONNAIRE

1.1 Tenderers should upload their completed tender onto the YORtender website no later than:

12 NOON ON *****

1.2 The Tender Documents available on the YORtender system comprise the following:

Section 1 – Project Overview and Scope of Service

Section 2 – Instructions for Tendering/Tender Evaluation/Tender Questionnaire

Section 3 – Pricing Schedule, Form of Tender and Appendices

Section 4 – Form of Contract

2. INSTRUCTIONS FOR TENDERING

2.1 The text of the Tender Document shall not be altered by the Tenderer.

2.2 Tenders must not be qualified, conditional, accompanied by statements, which could be construed as rendering them equivocal and/or placed on a different footing to other Tenders.

2.3 Only the person named in the covering letter to this Tender has the authority to issue any information or give any verbal or written explanation as to the meaning of any of the Tender Documents.

2.4 Questions or requests for clarification from Tenderers to the Council will be treated confidentially, unless the questions asked and the answers given need to be circulated to all Tenderers in fairness and equity.

2.5 The Council may extend the Tendering period if this is deemed necessary.

2.6 Any request for clarification or further information must come from the Tenderer only.

2.7 Submission of Tender

The Tenderer shall complete the following sheets, which **must** be returned with the Tender. Failure to comply may lead to the Council rejecting your tender:

- Tender Questionnaire – Fully Completed
- Pricing Schedule
- Form of Tender
- Appendix 1 – Supply Chain List
- Appendix 2 – Consultants Insurance
- Safeguarding Policy
- Lone Working Policy
- Equality and Diversity Policy

Any additional documentation provided by the tenderer, which has not been specifically requested, will not be considered.

- 2.8 Submission of your Tender to the Council must only be made electronically through the YORtender System at <http://www.yortender.co.uk/>. Any technical queries about the YORtender system itself should be directed to yorkshiresupport@due-South.com, or by calling 0844 5434580.
- 2.9 A Supplier Guide is available on request to assist Tenderers to upload and download documents. If you would like further guidance or support using YORtender, please contact the Council's Procurement Helpdesk on 01226 772782.
- 2.10 Tenderers should upload their completed tender onto the YORtender website, no later than the date notified on the front cover of the Tender Document and on Page 2/1 or an amended return date as notified by the Council.
- 2.11 When the deadline (insert date – 12 noon) for tenders has passed, you will not be allowed to return your tender using YORtender or any other means. The YORtender portal will close automatically at the allocated deadline time, part uploaded documents will not be accepted. The Council will not accept any claims from a Tenderer on the basis that there was insufficient time to upload the documents.
- 2.12 Signatures are not required when making an electronic submission. Typed entries are acceptable.

3. TENDER EVALUATION

- 3.1 The Council will evaluate Tenders on a Price/Quality basis. A Price: Quality ratio of 40: 60 applies, in favour of quality. The Tender shall be awarded to the highest scoring accepted Tenderer. However, the Council is not bound to accept the highest scoring or any tender.

3.2 Price Evaluation

If the Council suspects that there has been an error in pricing, the Council reserves the right to seek such clarification as it considers necessary from the Tenderer.

It is the Tenderer's responsibility to ensure that the Tender is arithmetically correct, prior to submission. The Tenderer will be informed of any arithmetical errors and be given an opportunity of confirming their offer or amending it to correct genuine errors.

The tender priced submissions will be separately evaluated as part of the tender evaluation. Individual priced components will be summarised into a tender figure for the whole of the service and for the full 1 year duration. Note: A 6 month break point exists when performance and achievement of outcomes will be reviewed and, on the basis of findings, decisions will be taken to either continue to full term or cease the contract.

Unacceptably low or high tenders may be discarded. A tender will be assumed to be unacceptably (abnormally) low if, in comparison with the Client's preliminary estimate and of all tenders submitted, it seems to be abnormally low by not providing a margin for a normal level of profit, and the tenderer cannot explain the price/price breakdown on the basis of the delivery, or the technical solution proposed.

3.2 Price Evaluation (Cont'd)

The Tender Price Submission will be independently evaluated by the Price Evaluation Team; the lowest acceptable price will be awarded one hundred points. For all other submissions, one point will be deducted for each percentage point by which the submission exceeds the lowest. These points will then be transferred to the 'Price/Quality Evaluation Summary' (Attachment A to Section 2). The 'Price Points' will be multiplied by the 40% weighting to arrive at the 'Price Score'.

3.3 Tender Quality Evaluation

The tender quality evaluation comprises a two stage process:

- Stage One – Tender Questionnaire Pre-qualification – Not used in the evaluation of tenders
- Stage Two – Tender Questionnaire Submission - 60% towards the quality evaluation of tenders
- Stage Three – Interviews – 40% towards the quality evaluation of tenders

3.4 Stage One – Tender Questionnaire Pre-Qualification

The evaluation of this Section will be on a Pass/Fail basis and only those applications achieving a Pass will proceed to Stage Two. The Pre-Qualification concentrates on organisation information, financial information, insurances, health and safety and safeguarding requirements. A Pass will be achieved by meeting the minimum criteria stated in the Pre-Qualification Section of the Tender Questionnaire.

3.5 Stage Two – Tender Questionnaire Submission

The tender evaluation for this contract is based on and covers the following 3 main areas of the outcomes required for this service:

- Technical Capacity
- Contract Management
- Social Value

The weightings for these areas have been set to reflect their respective levels of importance.

The tender questionnaire Submission will be scored by a Quality Evaluation Team; each team member will independently mark the submissions. The evaluation team will then meet to agree a 'moderated' score for each question to arrive at the 'Quality Points' per question. The Total Questionnaire Quality points per tenderer will be multiplied by 60% to arrive at the Tenderer's total questionnaire quality score. This will be inserted onto the 'Price/Quality Evaluation Summary'

3.6 Stage Three – Interviews

All tenderers will be invited to the interview stage which will involve tenderer presentations and the posing of formal interview questions. The subject of the presentation has yet to be determined. Interview questions will be predetermined to further interrogate the tenders of the Tenderers and address any perceived gaps/issues.

The presentations and interviews will be scored according to the content/standard of responses/information provided. The Tenderer’s interview scores will be multiplied by 40% to arrive at the Tenderer’s interview quality score. This will be inserted onto the ‘Price/Quality Evaluation Summary’

3.7 Tender Price/Quality Evaluation Summary

The ‘Price Score’ and the ‘Quality Score’ will then be totalled to arrive at the ‘Total Score’. The ‘Total Scores’ will then determine the most economically advantageous tender.

3.8 Overall Quality Evaluation Scoring Details

OVERALL SCORING DETAIL				MAXIMUM QUESTION SCORE	SCORING FACTOR WEIGHTING	MAXIMUM TOTAL WEIGHTED SCORE (A)	MAXIMUM % PER SECTION (B) ((A)/300)*60
SECTION	1	ORGANISATION INFORMATION	INFORMATION ONLY				
SECTION	2	FINANCIAL AND INSURANCES	PASS/FAIL				
SECTION	3	HEALTH AND SAFETY	PASS/FAIL				
SECTION	4	SAFEGUARDING	PASS/FAIL				
SECTION	5	PREMIER SUPPLIER PROGRAMME	PASS/FAIL				
SECTION	6	TECHNICAL CAPACITY	60%				
	6.1	SERVICE DELIVERY METHODOLOGY					
	6.2	OUTCOME MEASURES AND TARGETS					
SECTION	7	CONTRACT MANAGEMENT					
	7.1	CONTRACT MANAGEMENT					
SECTION	8	SOCIAL VALUE					
	8.1	CONTRIBUTIONS TO SOCIAL					

		VALUE					
SECTION	9	INTERVIEWS					

DRAFT

3. TENDER EVALUATION (Cont'd)

Example Calculation Tenderer A

SECTION	6	TECHNICAL CAPACITY	60%	Tenderers Score	Scoring Factor Weighting	Total Weighted Score (A)	% Per Section (B) ((A)/300)*60
	6.1	SERVICE DELIVERY METHODOLOGY					
	6.2	OUTCOME INDICATORS AND TARGETS					
SECTION	7	CONTRACT MANAGEMENT		Tenderers Score	Scoring Factor Weighting	Total Weighted Score (A)	% Per Section (B) ((A)/75)*15
	7.1	CONTRACT MANAGEMENT					
SECTION	8	SOCIAL VALUE		Tenderers Score	Scoring Factor Weighting	Total Weighted Score (A)	% Per Section (B) ((A)/125)*25
	8.1	CONTRIBUTIONS TO SOCIAL VALUE					
INTERVIEWS		Presentation					
		Question 1					
		Question 2					
		Question 3					
TOTAL SCORE							

TENDER QUESTIONNAIRE

**(Incorporating Stage One – Pre-Qualification Questionnaire and
Stage Two – Tender Questionnaire)**

STAGE ONE – PRE-QUALIFICATION QUESTIONNAIRE

SECTION 1: ORGANISATIONAL INFORMATION

This section must be completed. It is for information and will not be scored.

The term ‘Organisation’ in this questionnaire refers to all joint partnership/consortium members. Each Organisation is required to contribute to the information/method statements put forward, so that a comprehensive answer is presented on behalf of the Tenderer. Collectively, each entity submitting a tender (whether it is a single organisation or a joint partnership/consortium) is referred to as a Tenderer.

FOR INFORMATION ONLY

The Questions:

1.1 Name of Organisation
1.2 Contact Details Name: Position: Address: Telephone number: Mobile: E-mail: Website: Facsimile:

1.3 Are you or is your organisation a:

- Sole trader?
- Partnership?
- Limited Liability Partnership?
- Private Limited Company?
- Charity/Voluntary Organisation?
- Social Enterprise?
- User Led Organisation?
- Black and Minority Organisation?
- Owned or Managed by Disabled Person?
- Owned or Managed by Women?
- Other –Please specify

1.4 Date organisation was formed/started trading:

1.5 If your organisation is a limited liability partnership, private limited company, public limited company or charity please supply:

Company/Charity Registration Number:

Date of Registration:

Registration Address:

1.6 Does any member of your organisation have a relative(s) who is employed by Barnsley MBC/NPS Barnsley Ltd/is an elected member of the Council?

Yes:

No:

If yes please give details:

1.7 Is your organisation registered under the Data Protection Act 1998?

Yes:

No:

If yes please provide your Registration Number:

1.8 Is your organisation registered for VAT?

If so, please provide VAT registration number.

Yes:

No:

1.9 Main Supplier/sub-contractors/joint partnership

Please tick the box below which applies

(a) Your organisation is tendering to provide the services without using third parties

(b) Your organisation is tendering in the role of Main Provider and intends to use third parties to provide some services

(c) The application is being made as a joint partnership or consortium application

Please list the intended partners or consortia for the tender (if currently known):		
Organisation/Department Name	Organisation address and contact details	Service provision responsibility

DRAFT

SECTION 2: FINANCIAL INFORMATION

The information provided in this section will be used to assess your financial position and therefore suitability for the contract.

QUESTIONS IN THIS SECTION ARE MANDATORY AND WILL CONSTITUTE PASS/FAIL

2.1 Financial Standing:

A basic financial reference will be carried out for all applicants. A satisfactory basic financial reference will constitute a 'Pass'.

Note: Tenderers do not need to provide any information with their tender bid. However, if a basic financial reference raises anomalies, the Council reserves the right to request and receive a copy of the most recent, unabbreviated financial accounts, including those of any ultimate parent company, that cover the last two years of trading or for the period available (if trading for less than two years), if this is deemed necessary by the Council's Financial Section

Please tick the box below to indicate that you are willing to provide the unabbreviated financial accounts described above as a priority if needed. Alternatively, where this information is not available in an audited form, eg for a new company, please indicate that you are willing to provide as much of the following information as possible:

- Interim and/or draft accounts
- Bankers statements and references
- Accountants references
- Management accounts
- Financial projections, including cash flow forecasts

Yes:

No:

SCORE = PASS/FAIL

2.2 Insurances:

Please indicate whether you have or would be willing to take out the following levels of insurance protection that fulfils Barnsley MBC's standard insurance requirements.

Insurance	Level of Cover	Currently Hold	Willing to Provide
Employer's Liability	£10 million		
Public Liability	£5 million		

If you currently hold these levels of insurance, please complete Appendix 2 in Section 3

(Note: If the successful Service Provider has ticked 'Willing to Provide', it must complete and provide Appendix 2 in Section 3, prior to Contract award. Failure to do so will mean the Council will award to the next Service Provider without delay)

SCORE = PASS/FAIL

SECTION 3: HEALTH AND SAFETY ACCREDITATION

Barnsley MBC will require all Service Providers to be accredited under one of the Safety Schemes in Procurement (SSIP)

<http://www.ssip.org.uk/index.html>

QUESTIONS IN THIS SECTION ARE MANDATORY AND COMPLIANCE OR OTHERWISE WILL CONSTITUTE PASS/FAIL

3.1 Is your organisation SSIP or equivalent accredited?

Yes (please provide certificate showing accreditation):

No:

Applied (evidence must be provided):

(Note: If the successful Service Provider has ticked 'Applied', it must be registered and approved under SSIP prior to Contract award. Failure to be so would mean the Council would award to the next Service Provider without delay)

If 'no' to question 3.1, the application will fail

SCORE = PASS/FAIL

SECTION 4: SAFEGUARDING

QUESTIONS IN THIS SECTION ARE MANDATORY AND COMPLIANCE OR OTHERWISE WILL CONSTITUTE PASS/FAIL

4.1 Please demonstrate that your organisation's has a policy to ensure compliance with safeguarding legislation

It is essential that the service provider is aware of the legislation regarding safeguarding and can ensure compliance with such legislation, particularly since its employees will be in contact with children and vulnerable adults, sometimes in their homes, as part of delivering this service.

Employees may be working alone so it is vital that the service provider has satisfactory policies in place to ensure their staffs are safe when working alone.

Safeguarding Policy

Yes:

No:

Lone Worker Policy

Yes:

No:

NOTE: Copies of the policies are to be provided

If you answer 'no' to any of the questions in 4.1, the application will fail

SCORE = PASS/FAIL

SECTION 6: PREMIER SUPPLIER PROGRAMME

IS MANDATORY AND COMPLIANCE OR OTHERWISE WILL CONSTITUTE A PASS/FAIL

To help the Council meet the requirements of the Prompt Payment Code, achieve its corporate priority with regards to supporting the economy and also the agenda to trade electronically, the Council has launched a Premier Supplier Programme. Further details can be found at http://response.oxygen-finance.com/BarnsleyCouncilPSP_Homepage

How does the Programme Work?

The Council's standard payment terms are 30 days from the receipt of a valid invoice. Joining the Premier Supplier Programme means that all invoices will be paid as soon as the Council is satisfied that the applicable goods / services have been provided for that invoicing period.

This early payment attracts a rebate which is automatically calculated on the payment date and then deducted from each invoice value at the point of payment. The maximum amount deducted from the invoice value is 1.25% for payment on day 7 and thereafter reducing on a sliding scale to nil on day 30.

For the avoidance of doubt the "payment date" is the date on which the payment leaves the Council's bank account and not the date it arrives in the suppliers' bank account)

Are you already a member of the Premier Supplier Programme?

Yes

No

If no are you willing to be a member of the Premier Supplier Programme?

Yes

No

SCORE = PASS/FAIL

For all revenue contracts, signing up to the Premier Supplier Programme is mandatory. Failure to be / to be willing to be a member of this Programme will result in your application not being considered further. For further details of the Programme please click here http://response.oxygen-finance.com/BarnsleyCouncilPSP_Homepage

STAGE TWO – TENDER QUESTIONNAIRE

Tenderers are required to limit their response to the following Stage Two questions in Sections 5, 6 and 7 to a total of 12 A4 sides of text/illustration/attachments. If any submission exceeds this limit, the evaluation team will stop reading the submission after the first 12 A4 sides.

Section 5 – Technical Capacity – 30%

Question 5.1

Provide details of your service delivery plan and provide CV's for the key personnel who will be directly involved in managing delivery. CV's should include experience of delivering similar work to this 'environmental enforcement' service.

Your response **should** include/cover the following:

- Resource/supply chain details/requirements, eg Whole Delivery Team (eg paid/unpaid)
- How you will integrate efficiently and effectively with the Council's core service providers to provide a seamless environmental enforcement service to residents of the Central, Dearne, North, North East and South areas
- Referee contact details to allow us to validate the 'similar experience' being cited. Only one telephone reference will be sought/secured. Provide the contact details of at least one referee to enable us to successfully source one reference during the period of tender evaluation. Reference scoring is directly linked to a series of 13 standard questions where higher levels of perceived satisfaction/performance will score higher. The reference template is scored on a scale of 0-10 according to responses given by the referee (Reference Template is attached at Appendix (i)).

Score	Score Standards	Specification
5	Excellent	CV(s) provided include relevant experience of delivering this type of service. The reference score is 70 or above and the plan clearly covers both of the remaining points required.
3	Good	CV(s) provided include relevant experience of delivering this type of service. The reference score is 60 or above and the plan clearly covers 1 of the 2 remaining points required.
1	Poor	CV(s) provided include relevant experience of delivering this type of service. The reference score is 50 or above but the plan does not cover any of the 2 remaining points required
0	Unacceptable	CV(s) provided do not include relevant experience of delivering this type of service. The reference score is less than 50 or no reference was provided/obtained; and/or the plan does not cover the resourcing/supply chain information.

15% of the overall score

Question 5.2

Based on your proposal and with reference to the indicative list of measures for evidencing achievement of outcomes at Section 1, paragraph 9.2, Table 1 of the Specification, please list your proposed outcome measures, targets and methodology for capturing the data to evidence/prove achievement of outcomes.

Your response should:

- List the outcome measures you would use
- Suggest realistic targets for each of the outcome measures you have listed
- Describe how you will establish baselines from which to measure level of achievement
- Describe how you will collect and measure the data

Score	Score Standards	Specification
5	Excellent	Response covers the four areas listed and outlines additional areas which contribute to evidencing achievement of the outcome indicators listed
4	Good	Response covers the four areas listed
3	Average	Response covers three of the areas listed
2	Below Average	Response covers two of the areas listed
1	Poor	Response covers one of the areas listed
0	Unacceptable	Response does not cover any of the areas listed

15% of the overall score

Section 6 – Contract Management – 15%

Question 6.1

Please with reference to Clauses 13 and 14 of the Specification, Section 1, how you will manage this contract successfully. The response should cover as a minimum:

- Progress Meetings
- Evidence based reports to be produced and issued
- Problem reporting and resolution, eg potential delays
- Channels of communication
- Forecasting spend and financial management

Score	Score Standards	Specification
5	Excellent	Response provided takes into account Clauses 13 and 14 of the specification and covers all the areas listed.
4	Good	Response provided takes into account Clauses 13 and 14 of the specification and only covers four the areas listed
3	Average	Response provided takes into account Clauses 13 and 14 of the specification and only covers three the areas listed
2	Below Average	Response provided takes into account Clauses 13 and 14 of the specification and only covers two the areas listed
1	Poor	Response provided takes into account Clauses 13 and 14 of the specification and only covers one the areas listed
0	Unacceptable	Response provided does not take into account Clauses 13 and 14 and/or does not cover any of the areas listed.

15% of the overall score

Section 7 – Social Value – 15%

Question 7.1

With reference to Clause 5 of the Specification, Section 1, provide a proposal that describes how you will deliver these activities so that the five outcomes listed in Section 9 of the Specification Section 1 (which capture our social value aspirations) will be achieved.

Your response **must** provide a clear rationale behind how your approach to service delivery will contribute to achievement of each individual outcome, and why. It should also address the following:

- Reference to documentary evidence that your approach to service delivery will contribute to achieving the outcomes
- Any additional activities you would recommend undertaking, why and what outcomes will they contribute to achieving
- How local knowledge and intelligence has been used to inform your proposal/approach
- How can you ensure that no one group is disproportionately targeted and that all groups are treated equally and fairly

Score	Score Standards	Specification
5	Excellent	Provides a description of how each individual outcome will be achieved through service delivery and why, together with a detailed response to the additional points
4	Good	Provides a description of how 4 of the 5 individual outcomes will be achieved through service delivery, and why, together with a detailed response to 2 out of 3 of the additional points.
3	Average	Provides a description of how 3 of the 5 individual outcomes will be achieved through service delivery, and why, together with a detailed response to 1 out of 3 of the additional points.
2	Poor	Provides a description of how 2 or less of the 5 individual outcomes will be achieved through service delivery, and why, together with a detailed response to 1 out of 3 of the additional points.
0	Unacceptable	Does not provide a description of how any of the individual outcomes will be achieved through service delivery. None of the additional points are covered

10% of the overall score

Question 8.2

Please tell us what proportion of your tender figure you expect to spend within the Barnsley Borough and how you will evidence this in no more than one side of A4.

Score	Score Standards	Specification
5	Excellent	<u>80% or above</u> of the tender figure is to be spent within the Barnsley Borough and the suggested evidence will demonstrate this
4	Good	<u>Between 70% and 79.99%</u> of the tender figure is to be spent within the Barnsley Borough and the suggested evidence will demonstrate this
3	Average	<u>Between 60% and 69.99%</u> of the tender figure is to be spent within the Barnsley Borough and the suggested evidence will demonstrate this
2	Below Average	<u>Between 50% and 59.99%</u> of the tender figure is to be spent within the Barnsley Borough and the suggested evidence will demonstrate this
1	Poor	<u>Between 40% and 49.99%</u> of the tender figure is to be spent within the Barnsley Borough and the suggested evidence will demonstrate this
0	Unacceptable	<u>Below 40%</u> of the tender figure is to be spent within the Barnsley Borough and the suggested evidence will demonstrate this, or the suggested evidence put forward will not demonstrate spend levels

5% of the overall score

STAGE THREE – INTERVIEWS

Need to complete this section

DRAFT

ATTACHMENT A
PRICE/QUALITY EVALUATION SUMMARY

DRAFT

ATTACHMENT A

ENVIRONMENTAL ENFORCEMENT

PRICE/QUALITY EVALUATION SUMMARY

TENDERER	PRICE POINTS	PRICE SCORE X 40% (A)	TENDER QUESTIONNAIRE POINTS	TOTAL QUALITY POINTS	QUALITY SCORE X 60% (B)	TOTAL SCORE (A) + (B)	RANKING
Tenderer A							
Tenderer B							
Tenderer C							
Tenderer D							
Tenderer E							
Tenderer F							

PRICE EVALUATION

SUMMARY OF PRICES

	<u>PRICE</u>	<u>PRICE POINTS</u>	<u>EVALUATORS SIGNATURE</u>	<u>DATE</u>
Tenderer A
Tenderer B
Tenderer C
Tenderer D
Tenderer E
Tenderer F

APPENDIX (i)
REFERENCE TEMPLATE

DRAFT

AREA COUNCIL - ENVIRONMENTAL ENFORCEMENT SERVICE

ADVERTISING AND SELECTION OF TENDERERS (BARNSELY MBC CONTRACTS) – RECORD OF TECHNICAL REFERENCES – GOODS, WORKS AND SERVICES

OBTAINED FROM			
Name		Date	
Company		Tel No	
Email		Fax No	

The supplier that you are providing a reference for has confirmed that the project to be detailed below relates to one of the following areas, please tick the criteria which your scheme covers.

AREAS/CRITERIA	Please Tick (✓)
• Delivering environmental enforcement services	
• Delivering/Supporting employment/training/volunteering opportunities	

1 – PROJECT DETAILS	
Supplier	
Project Title	
Project Description (<i>brief details</i>)	
Completion Date/Contract period	
General Comments	

Please complete all questions by placing a tick in the appropriate box. If any boxes are left blank, a score of zero will be given to that question.

2 – PROJECT PERFORMANCE	Excellent	Good			Average			Acceptable			Unacceptable	N/A
	10	9	8	7	6	5	4	3	2	1	0	
Technical competence												
Project organisation, resources and supervision												
Response to Client's Instructions												

**NPS BARNSELY LTD
BARNSELY MBC**

ADVERTISING AND SELECTION OF TENDERERS (BARNSELY MBC CONTRACTS) – RECORD OF TECHNICAL REFERENCES – GOODS, WORKS AND SERVICES (CONT'D)

2 – PROJECT PERFORMANCE	Excellent	Good			Average			Acceptable			Unacceptable	N/A
	10	9	8	7	6	5	4	3	2	1	0	
Management of Sub-Suppliers												
Consideration for Public												
Compliance with performance criteria specified in the contract												
Standard of compliance with 'Health and Safety'												
Degree of co-operation in contract monitoring												
Submission of financial invoices/ accounts												
Communication with Stakeholder												
Standard of administration												

3 – PROJECT SATISFACTION	Excellent	Good			Average			Acceptable			Unacceptable	N/A
	10	9	8	7	6	5	4	3	2	1	0	
Quality of service												
Ability to meet completion dates												
Totals (office use)												
TOTAL												
Other comments:												

Referee:

Signature: Title:

Print Name: Date:



Please send completed via e-mail copy to: procurement.barnsley@nps.co.uk

SECTION 3
PRICING SCHEDULE, FORM OF TENDER
AND APPENDICES

DRAFT

LOT 1 – CENTRAL AREA COUNCIL
PRICING SCHEDULE

1. Tenderers are to price for all items included in the Service Specification and their responses to the Tender Questionnaire, for the contract duration. Tenderers are solely responsible to include all costs and will be deemed to have included all such items.
2. Tenderers are to price the Tender Breakdown and include all Spend Types (adding additional types where necessary), which will be cross-referenced to the answers given in the Tender Questionnaire.

Tender Breakdown	
Spend Type	Year One (Months 1-12) £
Staff (employed)	
Materials/Plant/Equipment*	
Accommodation*	
Vehicles*	
Supply Chain	
Training*	
(Insert as necessary)	
(Insert as necessary)	
(Insert as necessary)	
Total	
	(Total)
	£

** Other than the items listed under 'Equipment' and 'Support' in clause 6 of the Specification Section 1*

NOTE: The total should match the figure carried to the Form of Tender

**LOT 1 – CENTRAL AREA COUNCIL
PRICING SCHEDULE (Cont'd)**

Tender Breakdown	
Spend Type	Year Two (Extension 1) (Months 13-24) £
Staff (employed)	
Materials/Plant/Equipment*	
Accommodation*	
Vehicles*	
Supply Chain	
Training*	
(Insert as necessary)	
(Insert as necessary)	
(Insert as necessary)	
Total	£

(Year Two Total)
£

Tender Breakdown	
Spend Type	Year Three (Extension 2) (Months 25-36) £
Staff (employed)	
Materials/Plant/Equipment*	
Accommodation*	
Vehicles*	
Supply Chain	
Training*	
(Insert as necessary)	
(Insert as necessary)	
(Insert as necessary)	
Total	£

(Year Three Total)
£

** Other than the items listed under 'Equipment' and 'Support' in clause 6 of the Specification Section 1*

LOT 1 – CENTRAL AREA COUNCIL

PRICING SCHEDULE (Cont'd)

PAYMENT PROFILE:

1. Tenderers are required to distribute the Tender Breakdown into this Payment Profile, which will be used (if accepted by the Council) by the successful Service Provider for their monthly invoices, refer to Price and Payment Clause 18 of the Contract, contained in Section 4.
2. The Payment Profile should be split into as many Activities/Tasks as deemed necessary by Tenderers, but must include those stated, if applicable.

Month	YEAR ONE												TOTAL £
	April	May	June	July	August	Sept	Oct	Nov	Dec	Jan	Feb	Mar	
	1	2	3	4	5	6	7	8	9	10	11	12	
Activity/Tasks	£	£	£	£	£	£	£	£	£	£	£	£	
Activity 1													
Activity 2													
Activity 3													
Marketing													
Recruitment													
Attending Meetings													
Producing Reports													
(Insert as necessary)													
Anticipated Monthly Payments													

	YEAR TWO (EXTENSION 1)												TOTAL £
Month	April	May	June	July	August	Sept	Oct	Nov	Dec	Jan	Feb	Mar	
	1	2	3	4	5	6	7	8	9	10	11	12	
Activity/Tasks	£	£	£	£	£	£	£	£	£	£	£	£	
Activity 1													
Activity 2													
Activity 3													
Marketing													
Recruitment													
Attending Meetings													
Producing Reports													
(Insert as necessary)													
Anticipated Monthly Payments													

	YEAR THREE (EXTENSION 2)												TOTAL £
Month	April	May	June	July	August	Sept	Oct	Nov	Dec	Jan	Feb	Mar	
	1	2	3	4	5	6	7	8	9	10	11	12	
Activity/Tasks	£	£	£	£	£	£	£	£	£	£	£	£	
Activity 1													
Activity 2													
Activity 3													
Marketing													
Recruitment													
Attending Meetings													
Producing Reports													
(Insert as necessary)													
Anticipated Monthly Payments													

LOT 2 DEARNE AREA COUNCIL
PRICING SCHEDULE

1. Tenderers are to price for all items included in the Service Specification and their responses to the Tender Questionnaire, for the contract duration. Tenderers are solely responsible to include all costs and will be deemed to have included all such items.
2. Tenderers are to price the Tender Breakdown and include all Spend Types (adding additional types where necessary), which will be cross-referenced to the answers given in the Tender Questionnaire.

Tender Breakdown	
Spend Type	Year One (Months 1-12) £
Staff (employed)	
Materials/Plant/Equipment*	
Accommodation*	
Vehicles*	
Supply Chain	
Training*	
(Insert as necessary)	
(Insert as necessary)	
(Insert as necessary)	
Total	£

(Total To be carried to Form of Tender)

** Other than the items listed under 'Equipment' and 'Support' in clause 6 of the Specification Section 1*

NOTE: The total should match the figure carried to the Form of Tender
--

**LOT 2 – DEARNE AREA COUNCIL
PRICING SCHEDULE (Cont'd)**

Tender Breakdown	
Spend Type	Year Two (Extension 1) (Months 13-24) £
Staff (employed)	
Materials/Plant/Equipment*	
Accommodation*	
Vehicles*	
Supply Chain	
Training*	
(Insert as necessary)	
(Insert as necessary)	
(Insert as necessary)	
Total	£

**(Year Two
Total)**

Tender Breakdown	
Spend Type	Year Three (Extension 2) (Months 25-36) £
Staff (employed)	
Materials/Plant/Equipment*	
Accommodation*	
Vehicles*	
Supply Chain	
Training*	
(Insert as necessary)	
(Insert as necessary)	
(Insert as necessary)	
Total	£

**(Year Three
Total)**

** Other than the items listed under 'Equipment' and 'Support' in clause 6 of the Specification Section 1*

LOT 2 – DEARNE AREA COUNCIL

PRICING SCHEDULE (Cont'd)

PAYMENT PROFILE:

1. Tenderers are required to distribute the Tender Breakdown into this Payment Profile, which will be used (if accepted by the Council) by the successful Service Provider for their monthly invoices, refer to Price and Payment Clause 18 of the Contract, contained in Section 4.
2. The Payment Profile should be split into as many Activities/Tasks as deemed necessary by Tenderers, but must include those stated, if applicable.

Month	YEAR ONE												TOTAL £
	April	May	June	July	August	Sept	Oct	Nov	Dec	Jan	Feb	Mar	
	1	2	3	4	5	6	7	8	9	10	11	12	
Activity/Tasks	£	£	£	£	£	£	£	£	£	£	£	£	
Activity 1													
Activity 2													
Activity 3													
Marketing													
Recruitment													
Attending Meetings													
Producing Reports													
(Insert as necessary)													
Anticipated Monthly Payments													

	YEAR TWO (EXTENSION 1)												TOTAL £
Month	April	May	June	July	August	Sept	Oct	Nov	Dec	Jan	Feb	Mar	
	1	2	3	4	5	6	7	8	9	10	11	12	
Activity/Tasks	£	£	£	£	£	£	£	£	£	£	£	£	
Activity 1													
Activity 2													
Activity 3													
Marketing													
Recruitment													
Attending Meetings													
Producing Reports													
(Insert as necessary)													
Anticipated Monthly Payments													

	YEAR THREE (EXTENSION 2)												TOTAL £
Month	April	May	June	July	August	Sept	Oct	Nov	Dec	Jan	Feb	Mar	
	1	2	3	4	5	6	7	8	9	10	11	12	
Activity/Tasks	£	£	£	£	£	£	£	£	£	£	£	£	
Activity 1													
Activity 2													
Activity 3													
Marketing													
Recruitment													
Attending Meetings													
Producing Reports													
(Insert as necessary)													
Anticipated Monthly Payments													

LOT 3 – NORTH AREA COUNCIL
PRICING SCHEDULE

1. Tenderers are to price for all items included in the Service Specification and their responses to the Tender Questionnaire, for the contract duration. Tenderers are solely responsible to include all costs and will be deemed to have included all such items.
2. Tenderers are to price the Tender Breakdown and include all Spend Types (adding additional types where necessary), which will be cross-referenced to the answers given in the Tender Questionnaire.

Tender Breakdown	
Spend Type	Year One (Months 1-12) £
Staff (employed)	
Materials/Plant/Equipment*	
Accommodation*	
Vehicles*	
Supply Chain	
Training*	
(Insert as necessary)	
(Insert as necessary)	
(Insert as necessary)	
Total	£

(Total To be carried to Form of Tender)

** Other than the items listed under 'Equipment' and 'Support' in clause 6 of the Specification Section 1*

NOTE: The total should match the figure carried to the Form of Tender

**LOT 3 – NORTH AREA COUNCIL
PRICING SCHEDULE (Cont'd)**

Tender Breakdown	
Spend Type	Year Two (Extension 1) (Months 13-24) £
Staff (employed)	
Materials/Plant/Equipment*	
Accommodation*	
Vehicles*	
Supply Chain	
Training*	
(Insert as necessary)	
(Insert as necessary)	
(Insert as necessary)	
Total	£

**(Year Two
Total)**

Tender Breakdown	
Spend Type	Year Three (Extension 2) (Months 25-36) £
Staff (employed)	
Materials/Plant/Equipment*	
Accommodation*	
Vehicles*	
Supply Chain	
Training*	
(Insert as necessary)	
(Insert as necessary)	
(Insert as necessary)	
Total	£

**(Year Three
Total)**

** Other than the items listed under 'Equipment' and 'Support' in clause 6 of the Specification Section 1*

LOT 3– NORTH AREA COUNCIL

PRICING SCHEDULE (Cont'd)

PAYMENT PROFILE:

1. Tenderers are required to distribute the Tender Breakdown into this Payment Profile, which will be used (if accepted by the Council) by the successful Service Provider for their monthly invoices, refer to Price and Payment Clause 18 of the Contract, contained in Section 4.
2. The Payment Profile should be split into as many Activities/Tasks as deemed necessary by Tenderers, but must include those stated, if applicable.

Month	YEAR ONE												TOTAL £
	April	May	June	July	August	Sept	Oct	Nov	Dec	Jan	Feb	Mar	
	1	2	3	4	5	6	7	8	9	10	11	12	
Activity/Tasks	£	£	£	£	£	£	£	£	£	£	£	£	
Activity 1													
Activity 2													
Activity 3													
Marketing													
Recruitment													
Attending Meetings													
Producing Reports													
(Insert as necessary)													
Anticipated Monthly Payments													

	YEAR TWO (EXTENSION 1)												TOTAL £
Month	April	May	June	July	August	Sept	Oct	Nov	Dec	Jan	Feb	Mar	
	1	2	3	4	5	6	7	8	9	10	11	12	
Activity/Tasks	£	£	£	£	£	£	£	£	£	£	£	£	
Activity 1													
Activity 2													
Activity 3													
Marketing													
Recruitment													
Attending Meetings													
Producing Reports													
(Insert as necessary)													
Anticipated Monthly Payments													

DRAFT

	YEAR THREE (EXTENSION 2)												TOTAL £
Month	April	May	June	July	August	Sept	Oct	Nov	Dec	Jan	Feb	Mar	
	1	2	3	4	5	6	7	8	9	10	11	12	
Activity/Tasks	£	£	£	£	£	£	£	£	£	£	£	£	
Activity 1													
Activity 2													
Activity 3													
Marketing													
Recruitment													
Attending Meetings													
Producing Reports													
(Insert as necessary)													
Anticipated Monthly Payments													

LOT 4 – NORTH EAST AREA COUNCIL
PRICING SCHEDULE

1. Tenderers are to price for all items included in the Service Specification and their responses to the Tender Questionnaire, for the contract duration. Tenderers are solely responsible to include all costs and will be deemed to have included all such items.
2. Tenderers are to price the Tender Breakdown and include all Spend Types (adding additional types where necessary), which will be cross-referenced to the answers given in the Tender Questionnaire.

Tender Breakdown	
Spend Type	Year One (Months 1-12) £
Staff (employed)	
Materials/Plant/Equipment*	
Accommodation*	
Vehicles*	
Supply Chain	
Training*	
(Insert as necessary)	
(Insert as necessary)	
(Insert as necessary)	
Total	£

**(Total To be
carried to Form
of Tender)**

** Other than the items listed under 'Equipment' and 'Support' in clause 6 of the Specification Section 1*

NOTE: The total should match the figure carried to the Form of Tender

**LOT 4 – NORTH EAST AREA COUNCIL
PRICING SCHEDULE (Cont'd)**

Tender Breakdown	
Spend Type	Year Two (Extension 1) (Months 13-24) £
Staff (employed)	
Materials/Plant/Equipment*	
Accommodation*	
Vehicles*	
Supply Chain	
Training*	
(Insert as necessary)	
(Insert as necessary)	
(Insert as necessary)	
Total	£

**(Year Two
Total)**

Tender Breakdown	
Spend Type	Year Three (Extension 2) (Months 25-36) £
Staff (employed)	
Materials/Plant/Equipment*	
Accommodation*	
Vehicles*	
Supply Chain	
Training*	
(Insert as necessary)	
(Insert as necessary)	
(Insert as necessary)	
Total	£

**(Year Three
Total)**

** Other than the items listed under 'Equipment' and 'Support' in clause 6 of the Specification Section 1*

LOT 4 –NORTH AREA COUNCIL

PRICING SCHEDULE (Cont'd)

PAYMENT PROFILE:

1. Tenderers are required to distribute the Tender Breakdown into this Payment Profile, which will be used (if accepted by the Council) by the successful Service Provider for their monthly invoices, refer to Price and Payment Clause 18 of the Contract, contained in Section 4.
2. The Payment Profile should be split into as many Activities/Tasks as deemed necessary by Tenderers, but must include those stated, if applicable.

Month	YEAR ONE												TOTAL £
	April	May	June	July	August	Sept	Oct	Nov	Dec	Jan	Feb	Mar	
	1	2	3	4	5	6	7	8	9	10	11	12	
Activity/Tasks	£	£	£	£	£	£	£	£	£	£	£	£	
Activity 1													
Activity 2													
Activity 3													
Marketing													
Recruitment													
Attending Meetings													
Producing Reports													
(Insert as necessary)													
Anticipated Monthly Payments													

Month Activity/Tasks	YEAR TWO (EXTENSION 1)												TOTAL £
	April	May	June	July	August	Sept	Oct	Nov	Dec	Jan	Feb	Mar	
	1	2	3	4	5	6	7	8	9	10	11	12	
	£	£	£	£	£	£	£	£	£	£	£	£	
Activity 1													
Activity 2													
Activity 3													
Marketing													
Recruitment													
Attending Meetings													
Producing Reports													
(Insert as necessary)													
Anticipated Monthly Payments													

	YEAR THREE (EXTENSION 2)												TOTAL £
Month	April	May	June	July	August	Sept	Oct	Nov	Dec	Jan	Feb	Mar	
	1	2	3	4	5	6	7	8	9	10	11	12	
Activity/Tasks	£	£	£	£	£	£	£	£	£	£	£	£	
Activity 1													
Activity 2													
Activity 3													
Marketing													
Recruitment													
Attending Meetings													
Producing Reports													
(Insert as necessary)													
Anticipated Monthly Payments													

LOT 5 –SOUTH AREA COUNCIL
PRICING SCHEDULE

1. Tenderers are to price for all items included in the Service Specification and their responses to the Tender Questionnaire, for the contract duration. Tenderers are solely responsible to include all costs and will be deemed to have included all such items.
2. Tenderers are to price the Tender Breakdown and include all Spend Types (adding additional types where necessary), which will be cross-referenced to the answers given in the Tender Questionnaire.

Tender Breakdown	
Spend Type	Year One (Months 1-12) £
Staff (employed)	
Materials/Plant/Equipment*	
Accommodation*	
Vehicles*	
Supply Chain	
Training*	
(Insert as necessary)	
(Insert as necessary)	
(Insert as necessary)	
Total	£

(Total To be carried to Form of Tender)
£

** Other than the items listed under 'Equipment' and 'Support' in clause 6 of the Specification Section 1*

NOTE: The total should match the figure carried to the Form of Tender

**LOT 5 – SOUTH AREA COUNCIL
PRICING SCHEDULE (Cont'd)**

Tender Breakdown		
Spend Type	Year Two (Extension 1) (Months 13-24) £	
Staff (employed)		
Materials/Plant/Equipment*		
Accommodation*		
Vehicles*		
Supply Chain		
Training*		(Year Two Total)
(Insert as necessary)		
(Insert as necessary)		
(Insert as necessary)		
Total		£

Tender Breakdown		
Spend Type	Year Three (Extension 2) (Months 25-36) £	
Staff (employed)		
Materials/Plant/Equipment*		
Accommodation*		
Vehicles*		
Supply Chain		
Training*		(Year Three Total)
(Insert as necessary)		
(Insert as necessary)		
(Insert as necessary)		
Total		£

** Other than the items listed under 'Equipment' and 'Support' in clause 6 of the Specification Section 1*

LOT 5 – SOUTH AREA COUNCIL

PRICING SCHEDULE (Cont'd)

PAYMENT PROFILE:

1. Tenderers are required to distribute the Tender Breakdown into this Payment Profile, which will be used (if accepted by the Council) by the successful Service Provider for their monthly invoices, refer to Price and Payment Clause 18 of the Contract, contained in Section 4.
2. The Payment Profile should be split into as many Activities/Tasks as deemed necessary by Tenderers, but must include those stated, if applicable.

Month	YEAR ONE												TOTAL £
	April	May	June	July	August	Sept	Oct	Nov	Dec	Jan	Feb	Mar	
	1	2	3	4	5	6	7	8	9	10	11	12	
Activity/Tasks	£	£	£	£	£	£	£	£	£	£	£	£	
Activity 1													
Activity 2													
Activity 3													
Marketing													
Recruitment													
Attending Meetings													
Producing Reports													
(Insert as necessary)													
Anticipated Monthly Payments													

	YEAR TWO (EXTENSION 1)												TOTAL £
Month	April	May	June	July	August	Sept	Oct	Nov	Dec	Jan	Feb	Mar	
	1	2	3	4	5	6	7	8	9	10	11	12	
Activity/Tasks	£	£	£	£	£	£	£	£	£	£	£	£	
Activity 1													
Activity 2													
Activity 3													
Marketing													
Recruitment													
Attending Meetings													
Producing Reports													
(Insert as necessary)													
Anticipated Monthly Payments													

	YEAR THREE (EXTENSION 2)												TOTAL £
Month	April	May	June	July	August	Sept	Oct	Nov	Dec	Jan	Feb	Mar	
	1	2	3	4	5	6	7	8	9	10	11	12	
Activity/Tasks	£	£	£	£	£	£	£	£	£	£	£	£	
Activity 1													
Activity 2													
Activity 3													
Marketing													
Recruitment													
Attending Meetings													
Producing Reports													
(Insert as necessary)													
Anticipated Monthly Payments													

Tender Breakdown - Lot Totals					
	Year one total (£)	Year two Total (£)	Year three Total (£)	Total (years one to three) (£)	
Lot 1 – Central Area					
Lot 2 – Dearne Area					
Lot 3 – North Area					(Grand Total)
Lot 4 – North East Area					
Lot 5 – South Area					
Totals					£

Grand Total – to be carried forward to the form of tender

BARNSELY METROPOLITAN BOROUGH COUNCIL

FORM OF TENDER

SERVICE: **ENVIRONMENTAL ENFORCEMENT SERVICES
AREA COUNCILS**

SERVICE REF: 07-17-16-1-1115

I/We, the undersigned, hereby offer and undertake to carry out the whole of the Services required to be done in the execution of the above mentioned Service, including the provision of all materials, tools and plant, implements and labour in accordance with the Services Specification Tender Documentation and to comply in all respects with the Barnsley Metropolitan Borough Council's Contract Procedure Rules with respect to Contracts for the sum of: (in words)

_____ (£ _____)

I/We confirm that I/We have the capability and resources to meet all requirements of the brief in terms of quality, cost and time.

I/We agree to the above Tender being valid for 90 days

I/We understand that you are not bound to accept the lowest or any Tender received and that Barnsley Metropolitan Borough Council will not be responsible for any expense incurred in preparing this Tender

Dated this _____ day of _____ 2015 _____

Signed _____ on behalf of

Company, Firm etc. _____

Address _____

Telephone No: _____ Fax No: _____

Witnessed by: (Signature) _____ (Name) _____

Address _____

BARNSLEY METROPOLITAN BOROUGH COUNCIL

APPENDIX 1

SUPPLY CHAIN LIST

Indicate below the Supply Chain you propose to use in delivering this service (if known):

Name of Firm (s)

Scope of Involvement

DRAFT

BARNSELY METROPOLITAN BOROUGH COUNCIL

APPENDIX 2

SERVICE PROVIDER'S INSURANCE DETAILS

(a) General Details

Project: Environmental Enforcement Service
Central, Dearne, North, North East & South

Ref: 07-17-16-1-1115

Contract sum = £.....

Service Provider's name:

Address:

.....

.....

Amount of Public Liability Insurance required: £5,000,000

Amount of Employer's Liability Insurance
required: £10,000,000

Amount of Professional Indemnity Insurance
Require: N/A

Name and address of Insurance Broker:

.....

.....

.....

(b) Employer's Liability Insurance Details

Company:

Policy Number:

Renewal date:

Last renewed:

Amount of Cover: £

Amount of Excess: £

Does the policy contain an indemnity to principals (if not, this shall be obtained) YES/NO

(c) Public Liability Insurance Details

Company:

Policy Number:

Renewal date:

Last renewed:

Amount of Cover: £

Amount of Excess: £

Does the policy contain an indemnity to principals (if not, this shall be obtained) YES/NO

Signed on behalf of the Service Provider's Insurance Company/Broker:
(Official Stamp if available)

Signed:

Company:

Date:

BARNSELY METROPOLITAN BOROUGH COUNCIL

APPENDIX 3

ANTI-COLLUSION CERTIFICATE – GOODS, WORKS AND SERVICES

TO: BARNSELY METROPOLITAN BOROUGH COUNCIL

I/We certify that this is a bona fide tender, intended to be competitive and that I/we have not (either personally or by anyone acting on my/our behalf)

1. Fixed the amount of the Tender (or the rate and prices quoted) by agreement with any person.
2. Communicated to anyone other than Barnsley MBC the amount or approximate amount or Terms of my/our proposed tender (other than in confidence in order to obtain quotations, professional advice or insurance necessary for the preparation of the tender).
3. Entered into any agreement or arrangement with any other person that he shall refrain from tendering or as to the amount or terms of any tender to be submitted by him.
4. Canvassed or solicited any local authority member, officer or other employee, or employee of NPS Barnsley Limited in connection with the award of this contract or tender.
5. Offered, given or agreed to give any inducement or reward in respect of this or any other local authority contract or tender.
6. We further certify that the principles described above have been or will be brought to the attention of all sub-contractors, suppliers and associated companies providing goods, services or works connected with the tender and any contract entered into with such contractors, suppliers or associated companies will be made on the basis of compliance with the above principles by all parties.

SIGNED* (1)

Status

SIGNED* (2)

Status

For and on behalf of

Date

*** Note: To be signed by the same signatories as the Form of Tender**

BARNSELY METROPOLITAN BOROUGH COUNCIL

APPENDIX 4

**TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT)
REGULATIONS 2006/ E.C ACQUIRED RIGHTS DIRECTIVE (2001/23/EC)**

CONFIDENTIALITY AGREEMENT

(name of Company etc.)
(address)
Barnsley MBC
("the Service Provider")
("the Client")

Whereas

- (1) The Client has invited the Service Provider to tender for the carrying out of The Provision of Security Services ("the Contract") subject to the Conditions of Tender and all matters contained or referred to in the Contract ("the Service").
- (2) The Service Provider has requested information from the Client with regard to the workforce presently working for the Client's existing Service Provider and the Terms and Conditions of Employment of those employees engaged by the existing Service Providers in the performance of the Service under the Contract to enable it to prepare its tender taking account any effect of the Transfer of Undertakings (Protection of Employment) Regulations 2006 and/or the Acquired Rights Directive 2001/23/EC (collectively called "the Regulations").
- (3) The Client is willing to provide such information as is provided to it by the existing Service Provider regarding the employees currently assigned to the contract and their Terms and Conditions of Employment ("the Confidential Information") in consideration of the provision by the Service Provider of the undertakings which appear in this Agreement.

Now it is agreed between the Client and the Service Provider:

- (1) That the Client shall provide the Confidential Information to the Service Provider.
- (2) In consideration of the provision of the Confidential Information by the Client the Service Provider undertakes as follows:-

(a) This Agreement shall bind the Service Provider and all of its associated companies and associates (as defined in sections 414 and 417 of the Income and Corporation Taxes Act 1988) and all officers, employees, servants, agents or professional advisors of such persons (collectively called "Relevant Persons")

(b) The Confidential Information disclosed to the Service Provider by the Client shall be treated as strictly private and confidential and the Service Provider shall take all steps necessary to prevent the Confidential Information from being disclosed or made public to any third party by any Relevant Person or from coming, by any means, into the possession of any third party.

(c) The Service Provider shall use the Confidential Information only for the preparation of any Tender it may submit for the Contract and shall not use it for any other Contract or Contracts for which the Client invites tenders for a period of 5 years.

(d) In the event that the Service Provider decides not to submit a tender or is not the successful Service Provider then all of the Confidential Information supplied by the Client (including any copies made) shall forthwith be returned to the Client.

(e) To indemnify and keep the Client at all times fully indemnified from and against any loss or disclosure of the Confidential Information and from all actions, proceedings, claims, demands, costs, awards and damages howsoever arising, directly or indirectly, as a result of any breach or non-performance by the Service Provider of any of the Service Provider's warranties, undertakings or obligations under this Agreement.

(3) In the event of any breach or non-performance by the Service Provider of this Agreement then without prejudice to any other remedy which the Client may have, any tender submitted by the Service Provider may be treated by the Client as invalid and of no effect.

(4) The Client has used its reasonable endeavours to produce as accurately as possible the Confidential Information but in no way warrants the accuracy or completeness of the Confidential Information and shall not be liable for any loss suffered as a result of the Service Provider's use thereof.

(5) The Client will not enforce this Agreement where the Confidential Information is disclosed and:-

(a) it is or becomes public knowledge in any way and the Service Provider can show that he is not in breach of the Agreement; or

(b) the Service Provider can show it was in its possession or known to it by being in its use or being recorded in its files or computers or other recording media prior to receipt from the Client and was not previously acquired by the Service Provider from the Client under an obligation of confidence; or

(c) the Service Provider obtains or has available from any person other than the Client without breach by the Service Provider or such person of any obligation of confidentiality or non-use towards the Client.

Dated this

day of

2014

SIGNATURE (1) ("the Service Provider")
NAME AND CAPACITY:

WITNESS (a):

Name:

Address:

WITNESS (b).....

Name:

Address:

SIGNATURE (2)..... ("the Client")
NAME AND CAPACITY:

WITNESS (a):

Name:

Address:

WITNESS (b).....

Name:

Address:

DRAFT

SECTION 4

FORM OF CONTRACT

(When required by the Council, the successful Tenderer will execute a formal agreement with the Council on the attached Terms and Conditions)

AGREEMENT FOR THE PROVISION OF SERVICES

This **Agreement** is made with effect from <insert date >(the “**Effective Date**”)

BETWEEN: *Barnsley Metropolitan Borough Council*

(the “**Commissioner**”)

AND: insert Service Provider (the “**Service Provider**”)

together referred to as the “**Parties**” or individually a “**Party**”.

Term. This Agreement will commence (on the Effective Date) and will continue until *insert date*, unless the agreement is ended by the Commissioner following the 6 month performance review and on giving the Service Provider not less than one month’s written notice following the 6 month performance review date, or terminated in accordance with Clause 21 of the Conditions (“**the Term**”).

Services. The services to be provided by the Service Provider to the Commissioner shall be as set out in Schedule 1 (“**the Services**”).

Entire Agreement. This Agreement comprises:

- (i) This signature page
- (ii) The attached Conditions
- (iii) Schedule 1 - Services
- (iv) Schedule 2 - Services Fee
- (v) Schedule 3 – Implementation Plan

which in the event of any conflict shall take precedence in the order in which they appear above. The Agreement, effected by the signatures of the Parties below, constitutes the entire agreement between the Parties relating to the Services and supersedes all prior negotiations, representations or understandings whether written or oral. This Agreement may only be amended in writing in accordance with Clause 6 of the Conditions.

Signed on behalf of **Commissioner**

Signed on behalf of **Service Provider**

Name:.....

Name:.....

Title:.....

Title:.....

CONDITIONS

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, save where otherwise specifically defined in this Agreement or unless the context otherwise requires the following expressions shall have the following meanings:

“Authorised Officer” means the person or persons for the time being appointed by the Commissioner as being authorised to administer the Contract on behalf of the Commissioner or such person(s) as may be nominated by the Authorised Officer to act on its behalf.

“Contract Manager” means the person or persons for the time being appointed by the Service Provider in accordance with Clause 5.3.

“Nominated Officer” means the person nominated by each Party.

“Normal Working Hours” means between the hours of <insert> on any day save Saturday, Sunday or Bank Holidays.

“Services Fee” means the fee(s) payable to the Service Provider by the Commissioner under the Agreement for the full and proper performance by the Service Provider of the Services, as set out in Schedule 2.

“Service Users” means the users of the services that the Service Provider supplies in this Agreement.

“Specification” means the specification of Services including quality and quantity as set out in *Schedule 1*.

“Staff” means all Staff employed or engaged by the Service Provider (including consultants and agency personnel) in any activity related to or connected with the provision of the Services.

1.2 A reference to the singular shall include the plural and vice versa and a reference to a gender shall include any gender.

1.3 The headings in this Agreement shall not affect its interpretation.

1.4 References to clauses, sub-clauses and Schedules are to clauses, sub-clauses and schedules of this Agreement.

2. THE SERVICES

2.1 The Service Provider shall provide the Services as set out in the Service Specification Schedule 1 and in accordance with the terms of this Contract.

2.2 In providing the Services, the Service Provider shall comply with and take into account all applicable laws, enactments, orders, regulations and other similar instruments, the requirements of any court with relevant jurisdiction and any local, national or supranational agency, inspectorate, minister, ministry, official or public or statutory person of the government of the United Kingdom or of the European Union.

3. SERVICE STANDARDS

3.1 The Service Provider shall deliver the Services in accordance with the Standards laid down in the Service Specification Schedule 1, the terms of this Contract and the terms of a Variation Notice, if any.

3.2 The Service Provider shall use reasonable skill and care in the performance of the Services and in accordance with generally recognised commercial good practice and best practice industry standards.

3.3 The Service Provider shall comply in all respects to the standards and recommendations by the Authorised Officer.

4. RIGHTS OF ACCESS AND INSPECTION

4.1 The Service Users shall gain access to the Services as set out in the Service Specification, Schedule 1.

4.2 The Service Provider shall allow officers of the Commissioner access to the Service Provider’s premises, records and Staff to enable the Commissioner to ascertain that the Services are being provided in accordance with the Contract and any relevant statutory provisions. The Commissioner reserves all rights to undertake unannounced visits to the Service Providers premises and/or sites where the Services are delivered where deemed necessary.

4.3 Both Parties will ensure that they will comply with the Health and Safety Act 1974 and all other applicable legal requirements and standards relating to the health and safety of those individuals performing the Services are met.

5. AUTHORISED OFFICER

5.1 The Commissioner shall appoint an Authorised Officer to act on behalf of the Commissioner for all purposes connected with the Contract. Details of that person are notified to the Service Provider.

5.2 The Commissioner shall forthwith give notice in writing to the Service Provider of any change in the identity, address and telephone numbers of the person appointed as Authorised Officer. The Commissioner shall use reasonable endeavours to give notice to the Service Provider before changing its Authorised Officer.

5.3 The Service Provider shall appoint a Contract Manager/s to act on behalf of the Service Provider for all purposes connected with the Services and this Contract. Details of the person must be notified to the Commissioner.

5.4 The Service Provider shall forthwith give notice in writing to the Commissioner of any change in the identity, address and telephone numbers of the person appointed as Contract Manager. The Service Provider shall notify the Commissioner before changing its Contract Manager/s.

6. SERVICE PROVIDER'S STAFF

6.1 The Service Provider shall employ sufficient properly trained, suitably qualified and experienced Staff and shall ensure that such Staff have supplied proper prior employment references and shall further ensure that any specific requirements outlined in the Service Specification Schedule 1 are met.

6.2 The Service Provider's Staff employed in respect of the provision of the Services shall at all times exercise due care and diligence and respect, in the execution of their duties and the Service Provider shall ensure that such persons are fully, properly and sufficiently

instructed and supervised with regard to the provision of the Services.

6.3 Any staff involved in training should hold as a minimum a Preparing to Teach in the Life Long Learning Sector (PTLLS) qualification.

7. DISCLOSING AND BARRING SERVICE – (DBS) Clause Not Used

8. SAFEGUARDING

8.1 The Service Provider to ensure they are compliant with the Safeguarding Adults Procedures for South Yorkshire and Safeguarding Child Protection Procedures for South Yorkshire in order to promote and safeguard the health and wellbeing of vulnerable adults in their care.

8.2 The Service Provider should identify an appropriate Safeguarding Manager who will ensure that all staff employed by the Service Provider are appropriately trained in the recognition of adult abuse and child abuse and procedural reporting requirements.

8.3 The Service Provider shall ensure that Safeguarding training is implemented, monitored and evidenced by a training matrix to include all staff.

8.4 If there are any concerns regarding the safeguarding of a vulnerable adult, then the Service Provider shall ensure that a safeguarding referral is sent to the Safeguarding Adult Protection Inbox (adultprotection@barnsley.gov.uk) within 24 hours.

8.5 The Service Provider to adhere to all Safeguarding Adults procedural timeframes as outlined in the South Yorkshire Safeguarding Adults procedures.

8.6 If there are any concerns regarding the safeguarding of children, then the Service Provider shall ensure that a safeguarding referral is sent to the Safeguarding Children Inbox (safeguardingunit@barnsley.gov.uk) within 24 hours.

8.7 The Service Provider to adhere to all Safeguarding Children procedural timeframes as outlined in the South Yorkshire Child Protection procedures.

8.8 Where necessary the Service Provider shall make a decision as to whether a staff member is suspended while investigations into safeguarding adults and or safeguarding children concerns are made. Dependent upon the level of risk identified and if the member of staff is not suspended, then the Service Provider should ensure safeguards are in place to maintain the welfare of a vulnerable victim.

9. DEPRIVATION OF LIBERTIES SAFEGUARDS (DOLS)

9.1 The Service Provider is deemed to be a Managing Commissioner as defined in the Mental Capacity Act 2005 and as such is responsible for complying with deprivation of liberty for any Service User who may come within the scope of the Deprivation of Liberty Safeguards (DOLS).

9.2 The Service Provider shall co-operate fully with any Commissioner initiative to raise awareness of the importance of the Deprivation of Liberties Safeguards (DOLS) including but not limited to ensuring that its Manager attends training events and conferences relating to the Deprivation of Liberties Safeguards (DOLS) when invited to do so, in the expectation that information or knowledge acquired at such events will be cascaded to or shared with Staff as part of their continued training and development.

9.3 The Service Provider shall co-operate fully with any Commissioner process for monitoring the effective implementation of the Deprivation of Liberties Safeguards (DOLS) as an integral part of a wider monitoring of Service provision including but not limited to an inspection of any records kept in relation to Staff training and associated workforce matters and any records kept in relation to the health, safety and well-being of Service Users cared for by the Service Provider within the requirements of the Data Protection Act 1998.

10. PERFORMANCE MONITORING

10.1 The Service Provider shall comply with the Performance Monitoring arrangements as set out in the Service Specification Schedule 1.

11. COMPLIANCE

11.1 The Service Provider shall comply with and supply the Commissioner with written evidence demonstrating how it meets its obligations to both Service Users and its employees/volunteers in respect of the Sex Discrimination Act 1975; the Race Relations Act 1976; the Disability Discrimination Act 1995; the Race Relations (Amendment) Act 2000; Employment Equality (Religion and Belief) Regulations 2003; Race Relations Act 1976 (Amendment) Regulation 2003; Civil Partnerships Act 2004; Gender Recognition Act 2004; Disability Discrimination (Amendment) Act 2004, and Carers (Equal Opportunities) Act 2004; Racial and Religious Hatred Act 2006; Equality Act 2006; Employment Equality (Age) Regulation 2006, Mental Capacity Act 2005, Deprivation of Liberties Safeguard 2009 (DOLS) in respect of Service provision and workforce matters.

11.2 The Service Provider shall co-operate fully with any Commissioner initiative to raise awareness of the importance of Equality and Diversity including but not limited to ensuring that its Manager attends training events and conferences relating to Equality and Diversity when invited to do so in the expectation that information or knowledge acquired at such events will be cascaded to or shared with Staff as part of their continued training and development.

11.3 The Service Provider shall co-operate fully with any Commissioner process for monitoring the effective implementation of the Commissioner's Equality and Diversity Policy as an integral part of a wider monitoring of Service provision including but not limited to an inspection of any records kept in relation to Staff training and associated workforce matters and any records kept in relation to Service Users cared for or supported by the Service Provider within the requirements of the Data Protection Act 1998.

12. HUMAN RIGHTS

12.1 The Service Provider:

12.1.1 Shall comply with the Human Rights Act 1998 (HRA) as if it were a 'Public Commissioner' within the meaning of the legislation;

12.1.2 acknowledges that it is unlawful to exercise functions deemed to be of a public nature in a way that is incompatible with those rights contained in the European Convention of Human Rights and incorporated into English Law by the HRA;

12.1.3 shall throughout the duration of this Agreement and at their own cost be subject to the same duty in respect of HRA in the same way as if they were the Commissioner.

13. ENVIRONMENTAL REQUIREMENTS

13.1 The Service Provider shall operate and comply with and provide for the Commissioner on request a comprehensive environmental policy, which shall include details on, but are not limited to Purchasing of Goods and Services, Transport and Travel, Energy Usage, Waste and Recycling, Printing and Environmental Action Plans.

14. DATA PROTECTION ACT

14.1 Each Party, including its Staff, shall comply with the requirements of the Data Protection Act 1998 (the "DPA") in relation to the provision of the Services and shall not knowingly or negligently by any act or omission, place the other Party in breach, or potential breach of the DPA.

14.2 The Service Provider shall in accordance with the DPA be notified and shall advise the Authorised Officer of its notification reference on the Public Register of Data Controllers.

14.3 The Service Provider shall ensure that it has in place appropriate technical and organisational measures to ensure the security of the personal data (and to guard against unauthorised or unlawful processing of the personal data and against accidental loss or destruction of, or damage to, the personal data), as required under the Seventh Data Protection Principle in schedule 1 to the DPA; and:

14.3.1 Provide the Commissioner with such information as the Commissioner may reasonably require to satisfy itself that the Service Provider is complying with its obligations under the DPA;

14.3.2 immediately notify the Commissioner of any breach of the security measures required to be put in place pursuant to this Clause 14; and

14.3.3 ensure that it does nothing knowingly or negligently, which places the Commissioner in breach of the Commissioner's obligations under the DPA.

14.4 The Service Provider agrees to indemnify the Commissioner against all costs that the Commissioner incurs as a result of the Service Provider's failure to comply with this Clause 14.

14.5 The Service Provider shall ensure that personal data is not transferred to a country or territory outside the European Economic Area without the prior written consent of the Commissioner.

14.6 On termination of this Contract the Service Provider shall return all personal data or destroy or dispose of it in a secure manner and in accordance with any specific instructions issued by the Commissioner.

14.7 The provision of this Clause 14 shall apply during the continuance of the Contract and indefinitely after its expiry or termination.

15. FREEDOM OF INFORMATION

15.1 The Service Provider recognises that the Commissioner is subject to legal duties which may require the release of information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 or any other applicable legislation or codes governing access to information and that the Commissioner may be under an obligation to provide information on request. Such information may include matters relating to, arising out of or under this Contract in any way.

15.2 The Service Provider will assist the Commissioner to enable the Commissioner to comply with its obligations under the Freedom of Information Act 2000 or other applicable legislation governing access to information. In particular, it acknowledges that the Commissioner is entitled to any and all information relating to the performance of this Contract. In the event that the Commissioner receives a request for information under the Freedom of Information Act 2000 or any other applicable legislation governing access to information and requires the Service Provider's assistance in obtaining the information that is the subject of such request or otherwise, the Service Provider will respond to any such request for assistance from the Commissioner at its own cost and promptly and in any event within 10 days of receiving the Commissioner request.

15.3 In the event that the Commissioner receives a request for information relating to this Contract under the Freedom of Information Act 2000 or any other applicable legislation governing access to information, the Commissioner shall be entitled to disclose all information and documentation (in whatever form) as necessary to respond to that request in accordance with the Freedom of Information Act 2000 or other applicable legislation governing access to information, save that in relation to any such information that is exempted or excepted information, the Commissioner shall use reasonable endeavours to consult the Service Provider as soon as reasonably practicable and shall not:

15.3.1 Confirm or deny that the information in question is held by the Commissioner, or

15.3.2 disclose the information requested, to the extent that in the Commissioner's sole opinion (including on any question where relevant of the public interest) (having taken into account the views of the Service Provider) an exemption or exception should be applied in accordance with the relevant section of the Freedom of Information Act 2000 or the Environmental Information Regulations in the circumstances.

16. TRANSPARENCY

16.1 The parties acknowledge that, notwithstanding any provisions to the contrary, the text of this Contract and any Schedules to this Contract, is not Confidential Information. The Commissioner shall be responsible for determining in its absolute discretion whether any part of the Contract or its Schedules is exempt from disclosure in accordance with the provisions of the Act.

16.2 Notwithstanding any other term of this Contract, the Service Provider hereby gives its consent for the Commissioner to publish the Contract in its entirety, including from time to time agreed changes to the Contract, to the general public in whatever form the Commissioner agrees.

17. REPUTATION OF THE COMMISSIONER AND PUBLIC SERVICE CONSIDERATIONS

17.1 The Service Provider shall not, and shall use its reasonable endeavours to procure that its Staff shall not, knowingly do or omit to do anything in relation to this Contract or their other activities which may bring the standing or reputation of the Commissioner into disrepute or attract adverse publicity to the Commissioner.

18. PRICE AND PAYMENT

18.1 The Commissioner shall pay to the Service Provider the Services Fee within 30 (thirty) days of receipt of a valid invoice ("the Due Date") submitted by the Service Provider in accordance with Schedule 2 hereof.

18.2 The Services Fee shall be exclusive of VAT which shall be payable, if applicable, by the Commissioner in addition to such Services Fee upon receipt of a valid tax invoice at the prevailing rate in force from time to time.

18.3 If payment is not made by the Due Date, in addition to its rights under the Late Payment of Commercial Debts (Interest) Act 1998, the Service Provider may cancel and/or suspend the Services unless the Commissioner shall upon written notice immediately pay for any Services provided or pay in advance for any Services ordered but not provided, all at the Service Provider's option.

18.4 All rights of set off or deduction are hereby retained by the Commissioners.

19. VARIATIONS

19.1 In the event that either Party requires a change to the Specification and/or the terms of this Agreement, that Party shall immediately inform the other Party in writing. Such change(s) shall not come into effect until a written acceptance of the proposed change(s), detailing any consequential amendments, is signed by the Parties Nominated Officers.

19.2 Any variations agreed by the Parties shall be in writing and signed by the Parties Nominated Officers.

20. SUSPENSION OF THE SERVICE

20.1 If the Commissioner considers that the Service Provider is or may be in breach of its obligations under this Contract and as such the Commissioner determines that this poses potential risks to Service Users, the Commissioner shall have the right to suspend the Services wholly or in part, until any investigations are successfully concluded and in exercising this right, it shall not jeopardise in any way all other rights and remedies available to it.

20.2 Following a period of suspension as referred to above, the Commissioner may as a result of any investigation:

20.2.1 Terminate the Contract in accordance with Clause 20 below;

20.2.2 notify the Service Provider to resume the provision of the Services.

21. TERMINATION

21.1 Either Party shall be entitled to terminate this Agreement at any time during the Term by giving the other Party 6 (six) months' notice of termination.

21.2 Subject to both Parties' compliance with Clause 21.1 above either Party shall be entitled to terminate the Agreement without liability to the other Party (the Defaulting Party") by giving notice to the Defaulting Party at any time if the Defaulting Party commits a material breach of the Agreement, which in the case of a breach which is capable

of remedy shall not have been remedied or substantive steps taken to remedy such breach within 30 (thirty) days from the date of receipt by the Defaulting Party of a notice from the other Party identifying the breach and requiring its remedy.

22. CONFIDENTIALITY AND INTELLECTUAL PROPERTY

22.1 Subject to 15 all written information and data made available by one Party ("the Disclosing Party") to the other ("the Receiving Party") hereunder is confidential ("Confidential Information") and each Party undertakes to treat such Confidential Information with the same care as it would reasonably treat its own confidential information.

22.2 Each Party shall use all reasonable endeavours to ensure that the Confidential Information is not copied or disclosed to any third party whatsoever.

22.3 Upon written request of the Disclosing Party or expiration or termination of this Agreement the Receiving Party will return to the Disclosing Party all Confidential Information not previously returned.

22.4 The obligations contained in this Clause 22 shall survive termination of this Agreement by ten (10) years.

22.5 Information shall not be considered as Confidential Information where it is:

22.5.1 Already in the public domain other than through default of the Receiving Party;

22.5.2 already in the Receiving Party's possession with no obligation of confidentiality; or

22.5.3 independently developed by the Receiving Party without reference to the Confidential Information.

22.6 Any samples, plans, drawings or information relating to the Services supplied to or specifically produced by one Party for the other, together with the copyright, design rights or any other intellectual property rights in the same, shall be the exclusive property of the Disclosing Party and shall be used solely by the Receiving Party for the purposes of this Agreement.

23. INDEMNITY AND INSURANCE

23.1 The Service Provider shall indemnify and keep indemnified the Commissioner against any loss damage or liability suffered or incurred by the Commissioner which arises directly or indirectly from the performance (including imperfect or attempted performance or non-performance) by the Service Provider of its obligations under this Contract.

23.2 The Service Provider shall effect and maintain with a reputable insurance company the following minimum insurance cover:

Employer’s liability	£10,000,000 in respect of any one claim
Public liability	£5,000,000 in respect of any one claim

23.3 The Service Provider shall upon request by the Commissioner and to the satisfaction of the Commissioner produce written proof of such insurance and of the renewal of such insurance.

23.4 The Service Provider shall hold adequate insurance for all vehicles used by the Service Provider and ensure that any Staff using their motor vehicles to carry Service Users and/or Carers have valid business insurance on their motor vehicles and shall produce a copy of each certificate to the Authorised Officer if requested to do so provided that if the Commissioner requests this information more often than once a year the Commissioner shall meet the Service Provider’s reasonable cost of production.

24. FORCE MAJEURE

24.1 Neither Party shall be in breach of the Agreement if there is any total or partial failure of performance by it of its duties and obligations under the Agreement occasioned by an event of force majeure (“Force Majeure”) including by way of illustration and not exclusively; any act of God, fire, act of government or state, war, civil commotion, insurrection, embargo, prevention from or hindrance in obtaining raw materials, energy or other supplies, labour disputes of third parties of whatever nature and any other reason beyond its control.

24.2 A Party’s obligations under the Agreement shall be suspended during the

period for which the reason described in Clause 24.1 continues and as soon as it is reasonably practicable after the said reason ceases to exist that Party shall give written advice to the other Party of that fact. If such reason continues for a period of more than 60 (sixty) days either Party shall have the right to terminate the Agreement upon giving 14 (fourteen) days’ notice of termination to the other Party.

25. NOMINATED OFFICERS

25.1 As of the Effective Date, the persons or their deputies nominated by the Parties to monitor performance of the Service, to agree variations and receive notices hereunder are:

For the Commissioner:

Name: Insert name

Address: Barnsley Metropolitan Borough Council

.....

Tel: Insert

Email: Insert

For the Service Provider

Name: Insert

Address:

.....

Tel:.....

Email:.....

25.2 Either Party may change its Nominated Officer by giving reasonable notice hereunder.

26. INFORMATION AND MONITORING

26.1 The Nominated Officers shall meet formally at intervals not exceeding every 3 (three) months from the Effective Date to consider any issues arising from the operation and performance of the Agreement.

26.2 The Service Provider shall, during Normal Working Hours throughout the Term, permit the Commissioner's Nominated Officer unrestricted access to the Provider's relevant Staff, facilities and premises for the purpose of monitoring work carried out by the Service Provider in connection with this Agreement provided that the Commissioner shall have given the Service Provider two (2) Normal Working Days prior written notice.

26.3 If, at any time during the Term either Party becomes aware of any act or omission or proposed act or omission which hinders or prevents its performance of this Agreement, it shall notify the other Party of the same without delay.

26.4 The Service Provider shall on reasonable notice comply with all written requests made by Permitted Third Parties as reasonably required in connection with the performance of their functions for:

26.4.1 Entry to the Service Providers premises at any reasonable time for the purpose of inspecting the provision of the Services; and

26.4.2 information used, generated or provided under the Services, and the Service Provider shall give all such assistance and provide all such information and facilities as the Permitted Third Parties may reasonably require.

27. NOTICES

27.1 Any notice or other document to be given under the Agreement shall be in writing and shall be deemed to have been duly given if left or sent:

27.1.1 By hand; or

27.1.2 by first class post; or

27.1.3 by registered post; or

27.1.4 by facsimile or e-mail

(the electronic media) to a Party at the addresses or relevant telecommunications number for such Party or such other address or number as the Party may from time to time designate by written notice to the other for such purpose.

27.2 Any notice or other document shall be deemed to have been received by the addressee 2 (two) Normal Working Days

following the date of despatch of the notice or other document by post or where the notice or other document is sent by hand or is given by electronic media simultaneously with the delivery or transmission. To prove the giving of a notice or other document it shall be sufficient to show that it was despatched.

28. GENERAL

28.1 This Agreement is personal to the Service Provider and the Service Provider shall not assign or transfer or purport to assign or transfer to any other person any of its rights or obligations under the Agreement nor shall it sub-contract any of its rights or obligations unless that sub-contracting be with the prior written consent of the Commissioner, such consent not to be unreasonably withheld.

28.2 The rights and remedies of either Party in respect of this Agreement shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time by such Party to the other nor by failure of, or delay by the said Party in ascertaining or exercising of any such rights or remedies or in insisting upon strict performance of any provision of this Agreement. The Party of any breach of this Agreement shall not prevent the subsequent enforcement of any subsequent breach of that provision and shall not be deemed to be a waiver of any subsequent breach of that or any other provision. No waiver of any provision of this Agreement shall be effective unless it is agreed by both Parties in writing.

28.3 The termination of this Agreement for any reason shall be without prejudice to any rights or obligations which shall have accrued or become due between the Parties prior to the date of termination.

28.4 The termination of this Agreement for any reason shall not affect the coming into force or the continuation in force of any provision of this Agreement which is expressly or by implication intended to come into or continue in force on or after such termination.

28.5 If any provision of this Agreement is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of this Agreement and the he provision in question shall not be affected thereby.

28.6 Nothing in this agreement shall create, or be deemed to create, a partnership or joint venture or relationship of employer and employee or principal and agent between the Parties.

29. REMEDIES FOR NON PERFORMANCE

29.1 In the event of a Party not performing according to the agreed terms of the Agreement, the following procedure will apply:

29.1.1 Where one Party considers that the other Party has not performed its obligations under the Agreement, that Party may request a meeting with the other Party by giving (two) weeks' notice in writing. Such meeting to include the Nominated Officers and representatives of the Parties responsible for the provision and receipt of the particular Services which have been under performed;

29.1.2 following such meeting, the Party which has not performed adequately will be given a reasonable period to resolve such non-performance to the satisfaction of the other Party.

29.2 Where the Party requesting such meeting is not reasonably satisfied that the other Party's non-performance has been resolved, that Party will have the right, at its discretion, either to resolution in accordance with Clause 30 or to termination of the Agreement in accordance with Clause 21.

30. DISPUTE RESOLUTION PROCEDURE

30.1 Where a Party agrees to resolve any dispute which arises out of this Agreement ("Dispute") by negotiation, then each Party is to be represented by a person who:

30.1.1 Is a director or person of equivalent status with a Party, and

30.1.2 has had no direct day to day involvement in the relevant matter to settle the Dispute.

30.2 If the Parties are unable to settle any Dispute by negotiation under Clause 29.1 within 30 (thirty) days of commencement of negotiations, the Parties will attempt to settle the Dispute by mediation in accordance with the Model Mediation Procedure of the Centre for Effective Dispute Resolution.

30.3 If, after Mediation the Dispute remains unresolved between the Parties, the Dispute shall be referred to and finally resolved by arbitration under the Rules of the Chartered Institute of Arbitrators.

30.4 Unless this Agreement has already been terminated, the Parties shall, notwithstanding that any Dispute is subject to the dispute resolution procedure set out in this Clause 29, continue to carry out their obligations in accordance with this Agreement.

31. NON-SOLICITATION

31.1 During the Term and for a period of 2 (two) years after termination, neither Party shall solicit any employee engaged in the provision of the Services, including in the case of the Service Provider its Staff, without the other Party's prior written consent.

32. APPLICABLE LAW

32.1 This Agreement shall be governed and construed according to English Law.

32.2 A person who is not a party to this Agreement has no rights, express or implied, under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement

33. SUB-CONTRACTING AND ASSIGNMENT

33.1 Subject to clause 33.3, neither party shall assign, novate or otherwise dispose of any or all of its rights and obligations under this agreement without the prior written consent of the other party, neither may the Service Provider sub-contract the whole or any part of its obligations under this agreement except with the express prior

written consent of the Authority [, such consent not to be unreasonably withheld].

32.2 In the event that the Service Provider enters into any Sub-Contract in connection with this agreement it shall:

(a) remain responsible to the Council for the performance of its obligations under the agreement notwithstanding the appointment of any Sub-Contractor and be responsible for the acts omissions and neglects of its Sub-Contractors;

(b) impose obligations on its Sub-Contractor in the same terms as those imposed on it pursuant to this agreement and shall procure that the Sub-Contractor complies with such terms; and

(c) provide a copy, at no charge to the Council, of any such Sub-Contract on receipt of a request for such by the Council's Authorised Representative.

32.3 The Council shall be entitled to novate the agreement to any other body which substantially performs any of the functions that previously had been performed by the Council.

34 AUDIT

34.1 During the Term and for a period of [two] years after the Termination Date, the Council may conduct or be subject to an audit for the following purposes:

(a) to verify the accuracy of Charges (and proposed or actual variations to them in accordance with this agreement) and/or the costs of all suppliers (including Sub-Contractors) of the Services [at the level of detail agreed in the Pricing Schedule (Payment)];

(b) to review the integrity, confidentiality and security of any data relating to the Council or any service users;

(c) to review the Service Providers compliance with the DPA, the FOIA, in accordance with clause 14 (Data Protection) and clause 15 (Freedom of Information) and any other legislation applicable to the Services;

(d) to review the [Service Provider's] compliance with its obligations under clauses

(e) to review any records created [during the provision of the Services];

(f) to review any books of account kept by the Contractor in connection with the provision of the Services;

(g) to carry out the audit and certification of the Council's accounts;

(h) to carry out an examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Council has used its resources;

(i) to verify the accuracy and completeness of the Management Reports delivered or required by this agreement.

34.2 Except where an audit is imposed on the Council by a regulatory body, the Council may not conduct an audit under this clause 33 more than [twice] in any calendar year.

34.3 The Council shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of the Services.

34.4 Subject to the Council's obligations of confidentiality, the Service Provider shall on demand provide the Council and any relevant regulatory body (and/or their agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:

(a) all information requested by the above persons within the permitted scope of the audit;

(b) reasonable access to any sites controlled by the Contractor and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services; and

(c) access to the Service Providers Personnel.

34.5 The Council shall endeavour to (but is not obliged to) provide at least [15] days' notice of its or, where possible, a regulatory body's, intention to conduct an audit.

34.6 The parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause, unless the audit identifies a material failure to perform its obligations under this agreement in any material manner by the Contractor in which case the Contractor shall reimburse the Council for all the Council's reasonable costs incurred in the course of the audit.

34.7 If an audit identifies that:

(a) the Service Provider has failed to perform its obligations under this agreement in any material manner; the parties shall agree and implement a remedial plan. If the Supplier's failure relates to a failure to provide any information to the Council about the Charges, proposed Charges or the Contractor's costs, then the remedial plan shall include a requirement for the provision of all such information;

(b) the Council has overpaid any Charges, the Service Provider shall pay to the Council the amount overpaid within [20] days. The Council may deduct the relevant amount from the Charges if the Service Provider fails to make this payment; and

(c) the Council has underpaid any Charges, the Council shall pay to the Service Provider the amount of the under-payment [less the cost of

audit incurred by the Council if this was due to a default by the Service Provider in relation to invoicing] within [20] days.

35 TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT)

35.1 The Parties recognise that the Transfer of Undertakings (Protection of Employment) Regulations 1981 may apply in respect of the award of the Agreement and that for the purposes of those Regulations the undertaking concerned, or any relevant part of the undertaking, shall transfer to the Provider on the Effective Date.

35.2 The Provider shall comply with the requirements of those Regulations in respect of key personnel (who will have been employed in the undertaking, or relevant part of the undertaking, immediately before its transfer to the Provider.

35.3 The Provider shall indemnify the Commissioner against any claim made against the Commissioner at any time by any of the key personnel for breach of contract, loss of office, unfair dismissal, redundancy, loss of earnings or otherwise (and all damages, penalties, awards, legal costs, expenses and other liabilities incurred by the Commissioner) resulting from any act or omission of the Provider on or after the Effective Date, except where such claim arises as a result of any breach of obligations (whether contractual, statutory, at common law or otherwise) by the Commissioner arising or accruing before the Effective Date.]