



TENDER NOTICE

EMC 005 - SUPPLY OF RESIDENTIAL CARE SERVICES FOR ADULTS WITH A LEARNING DISABILITY

Applicants are invited to tender for the provision of a block purchase for Residential Care Services for up to 11 adults with learning disabilities. The contract will initially be awarded for 3 years to commence on 7 April 2014, with an option to extend for a further 2 years.

The Council is looking for one or more providers to run the service at the homes:-

Beulah House, 5 Cemetery Road, Market Drayton, Shropshire, TF9 3BD

Glenview, 54 Gravel Hill, Ludlow, Shropshire, SY8 1QS

The homes are owned by the Council and the provider will run a residential care service appropriate for the needs and interests of the residents.

If you wish to receive tender documents, please email or write as soon as possible to [REDACTED] Shirehall, Abbey Foregate, SHREWSBURY SY2 6ND procurement@shropshire.gov.uk quoting reference EMC 005.

The deadline for the return of completed tender documents is **12 noon 15 November 2013**.

Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council's involvement.

Commissioning & Procurement

Shirehall, Abbey Foregate
Shrewsbury, SY2 6ND



02 October 2013

Tel: (01743) 253911

Fax: (01743) 253910

Please ask for: [REDACTED]

Email: procurement@shropshire.gov.uk

Dear Sirs

EMC 005 – Block Contract for Residential Services for Adults with a Learning Disability

You have been invited to tender for the above requirement. With this letter please find copies of the following documents:

1. Instructions for Tendering
2. Form of Contract (Sample)
3. Tender Response Document
4. Appendix 1: Shropshire Council General Terms and Conditions
5. Appendix 2: TUPE information
6. Appendix 3: Residents' Profiles
7. Appendix 4: Residents' Support Hours
8. Appendix 5: Heads of Terms - Lease
9. Return Label

Tenders should be made on the enclosed Tender Specification and Response Document. **One hard copy** and **one CD copy** of your Tender must be completed, signed and returned together with a signed copy of the 'Instructions to Tenderers and Special Terms and Conditions'. You are recommended to keep a copy of all tender documents and supporting documents for your own records.

Please pay particular attention to the points below concerning the returning of tenders.

Returning of Tenders

- The deadline for returning tenders is **Noon on Friday 15th November 2013**, any tenders received after this time **will not** be accepted
- Tenders must be returned to the **Democratic Services Manager, Legal and Democratic Services, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND**
- Tenders must be returned in **plain envelope(s)/packaging using the label provided**. Tender packaging must have **no other markings or writing** apart from the label provided
- Tenderers should **not use their company franking machine** and should check if returning their tenders via Royal Mail or a courier to ensure that **no marks identifying you** are placed on the envelope

personal info

- Tenders can be delivered any time before the due date, tenders are kept in a secure place and are not opened until after the designated time for receipt
- Tenders can be delivered by hand to the North Entrance Reception at the address given above prior to the deadline

Tenders **cannot** be accepted if:

- Tenders are received by facsimile or email
- Tenders are received after **12 noon on the given deadline**
- Tenders bear any marks identifying the tenderer

Freedom of Information

Under the provisions of the Freedom of Information Act 2000 from 1 January 2005, the public (included in this are private companies, journalists, etc.) have a general right of access to information held by public authorities. Information about your organisation, which Shropshire Council may receive from you may be subject to disclosure, in response to a request, unless one of the various statutory exemptions applies.

Therefore if you provide any information to Shropshire Council in the expectation that it will be held in confidence, you must make it clear in your documentation as to the information to which you consider a duty of confidentiality applies. The use of blanket protective markings such as "commercial in confidence" will no longer be appropriate and a clear indication as to what material is to be considered confidential and why should be given.

Other Details

Please note that if supplementary questions are raised by any tenderer prior to the closing of tenders and Shropshire Council decides that the answers help to explain or clarify the information given in the Tender Documents, then both the questions and the answers will be circulated to all enterprises invited to submit a tender.

As part of its sustainability policy, Shropshire Council encourages tenderers to minimise packaging, particularly presentational or retail packaging.

You may be invited to interview on **3 December**, please could you ensure you are available in the event you are invited.

Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council's involvement

If you have any queries relating to this invitation to tender, please contact me on telephone number 01743 253911.

Yours faithfully



Commissioning & Procurement
Enc

SHROPSHIRE COUNCIL

GENERAL TERMS

AND

CONDITIONS

FOR

THE SUPPLY

OF

GOODS SERVICES AND WORKS

TABLE OF CONTENTS

1. DEFINITIONS
2. GENERAL
3. SPECIFICATION AND QUALITY OF THE GOODS, SERVICES AND WORKS
4. ALTERATIONS TO THE SPECIFICATION OF GOODS AND SERVICES
5. PRICE AND PAYMENT
6. DELIVERY
7. LOSS OR DAMAGE IN TRANSIT
8. INSPECTION
9. REJECTION
10. TITLE - PASSING PROPERTY
11. THE COUNCIL'S OBLIGATIONS
12. WARRANTY
13. INDEMNIFICATION
14. TERMINATION AND CANCELLATION
15. PREVENTION OF BRIBERY
16. INTELLECTUAL PROPERTY RIGHTS
17. INDEPENDENT CONTRACTORS
18. SEVERABILITY
19. ASSIGNMENT, TRANSFER AND SUB-CONTRACTING
20. WAIVER
21. HAZARDOUS GOODS
22. NOTICES
23. CONFIDENTIALITY
 - 23A. AGREEMENT STATUS
24. COUNCIL DATA
25. PROTECTION OF PERSONAL DATA
26. COUNCIL DATA AND PERSONAL DATA AUDITS
27. PUBLIC INTEREST DISCLOSURE ('WHISTLE BLOWING')
28. INSURANCE
29. EQUALITIES
30. HUMAN RIGHTS
31. HEALTH AND SAFETY AT WORK
32. FREEDOM OF INFORMATION ACT 2000 & ENVIRONMENTAL INFORMATION REGULATIONS 2004
33. SAFEGUARDING
34. SUSTAINABILITY
35. EXPIRY
36. AUDIT AND MONITORING
37. RIGHTS OF THIRD PARTIES
38. ENTIRE AGREEMENT
39. FORCE MAJEURE
40. GOVERNING LAW AND JURISDICTION
41. COMPLAINTS PROCEDURE
42. DISPUTES
43. STAFFING SECURITY [where used]
44. SECURITY REQUIREMENTS [where used]

These General Terms and Conditions are incorporated in contracts **of all values and types** made between Shropshire Council and a Contractor for the supply of Goods and Services (as defined below).

Only those Terms and Conditions denoted with the suffix "**W**" (**Property Services contracts**) or "**Z**" (**Highways contracts**) will be incorporated into those agreements where a standard form contract is being used to provide Works (as defined below)

1. DEFINITIONS

1.1 In this document the following words shall have the following meanings:

'Agreement'	means the Agreement between the Council and the Contractor consisting of the Purchase Order or Form of Agreement, these General Terms and Conditions and any other documents (or parts thereof) specified in the Purchase Order or Form of Agreement.
'Associated Person'	means in respect of the Council, a person, partnership, limited liability partnership or company (and company shall include a company which is a subsidiary, a holding company or a company that is a subsidiary of the ultimate holding company of that company) in which the Council has a shareholding or other ownership interest.
'Bribery Act'	the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.
"Council Data"	the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are: (a) supplied to the Contractor by or on behalf of the Council; or which the Contractor is required to generate, process, store or transmit pursuant to this Agreement; or (b) any Personal Data for which the Council is the Data Controller;
"Council Software"	software which is owned by or licensed to the Council, including software which is or will be used by the Contractor for the purposes of providing the Services but excluding the Contractor Software;
"Council System"	the Council's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Council or the Contractor in connection with this Agreement which is owned by or licensed to the Council by a third party and which interfaces with the Contractor System or which is necessary for the Council to receive the Services;
"Council Representative"	the representative appointed by the Council
"Council"	means Shropshire Council
"Commercially Sensitive Information"	comprises the information of a commercially sensitive nature relating to the Contractor, its Intellectual Property Rights or its business which the Contractor has indicated to the Council in writing that, if disclosed by the Council, would cause the Contractor significant commercial disadvantage or material financial loss;
"Confidential Information"	any information, which has been designated as confidential by either Party in writing or that ought reasonably to be considered as confidential however it is conveyed, including information that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Council or the Contractor, including Intellectual Property Rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") ;
"Contractor"	means the person, firm or company or any other organisation specified in the Agreement contracting with the Council.
"Contractor Equipment"	the hardware, computer and telecoms devices and equipment supplied by the Contractor or its Sub contractors (but not hired, leased or loaned from the Council) for the provision of the Services;

"Contractor Software"	software which is proprietary to the Contractor, including software which is or will be used by the Contractor for the purposes of providing the Services;
"Contractor System"	the information and communications technology system used by the Contractor in performing the Services including the Software, the Contractor Equipment and related cabling (but excluding the Council System);
"Contractor Personnel"	all employees, agents, consultants and contractors of the Contractor and/or of any Sub-contractor;
"Data Controller"	shall have the same meaning as set out in the Data Protection Act 1998
"Data Processor"	shall have the same meaning as set out in the Data Protection Act 1998
"Data Protection Legislation"	the Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner;
"Data Subject"	shall have the same meaning as set out in the Data Protection Act 1998;
"EIR"	means the Environmental Information Regulations 2004 (as may be amended from time to time.)
"Exempt Information"	means any information or class of information (including but not limited to any document, report, Agreement or other material containing information) relating to this Agreement or otherwise relating to the parties to this Agreement which potentially falls within an exemption to FOIA (as set out therein)
"FOIA"	means the Freedom of Information Act 2000 and all subsequent regulations made under this or any superseding or amending enactment and regulations; any words and expressions defined in the FOIA shall have the same meaning in this clause
"FOIA notice"	means a decision notice, enforcement notice and/or an information notice issued by the Information Commissioner
"Form of Agreement"	means the contract document (other than a Purchase Order) to which these General Terms and Conditions are attached or referred to
"Goods"	means all goods specified in the Agreement.
"Hazardous Goods"	means any solid, liquid, or gas that can cause harm to humans and other living organisms due to being radioactive, flammable or explosive, irritating or damaging the skin or lungs, interfering with oxygen intake and absorption (asphyxiants), or causing allergic reactions (allergens).
"Information"	has the meaning given under section 84 of the Freedom of Information Act 2000;
"Intellectual Property Rights"	means all patents, registered and unregistered designs, copyright, trade marks, know-how and all other forms of intellectual property wherever in the world enforceable
"Law"	any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body;

“Malicious Software”	any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;
“Packages”	includes bags, cases, cylinders, drums, pallets and other containers
"Personal Data"	shall have the same meaning as set out in the Data Protection Act 1998;
“Price”	means the price of the Goods and/or charge for the Services or Works being provided by the Contractor
'Prohibited Act'	the following constitute Prohibited Acts: (a) to directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to: (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity; (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement; (c) committing any offence: (i) under the Bribery Act; (ii) under legislation creating offences concerning fraudulent acts; (iii) at common law concerning fraudulent acts relating to this Agreement or any other contract with the Council; or (d) defrauding, attempting to defraud or conspiring to defraud the Council.
“Public body”	as defined in the FOIA 2000
'Purchase Order'	means the Council's official order which encompasses orders written or electronically generated via any of the Council's ordering systems and to which these General Terms and Conditions are attached or referred to
“Receiving Party”	means a party to this Agreement to whom a Request for Information is made under FOIA, and who thereafter has overall conduct of the request and any response
'Regulated Activity'	in relation to children, as defined in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006, and in relation to vulnerable adults, as defined in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.
'Regulated Provider'	as defined in section 6 of the Safeguarding Vulnerable Groups Act 2006
“Regulatory Bodies”	those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Agreement or any other affairs of the Council and "Regulatory Body" shall be construed accordingly;
“Request for Information”	means a written request for information pursuant to the FOIA as defined by Section 8 of the FOIA
"Security Policy"	the Council's security policy as updated from time to time;
“Services”	means any and all of the services to be provided by the Contractor under this Agreement including those set out in any schedules or service descriptions.
'Software'	Specially Written Software, Contractor Software and Third Party Software;

'Specially Written Software'	any software created by the Contractor (or by a third party on behalf of the Contractor) specifically for the purposes of this Agreement;
'Sub-Contract'	any contract or agreement, or proposed contract or agreement between the Contractor and any third party whereby that third party agrees to provide to the Contractor the Goods, Works or Services or any part thereof, or facilities or services necessary for the provision of the Goods, Works or Services or any part of the Goods, Works or Services, or necessary for the management, direction or control of the Goods, Works or Services or any part of thereof.
'Sub-Contractor'	the third parties that enter into a Sub-Contract with the Contractor.
"Third Party Software"	software which is proprietary to any third party which is or will be used by the Contractor for the purposes of providing the Services
"Working Day"	any day other than a Saturday, Sunday or public holiday in England and Wales.
"Works"	means all civil engineering and building works of whatever nature to be provided by the Contractor to the Council
'Writing'	includes facsimile transmission and electronic mail, providing that the electronic mail is acknowledged and confirmed as being received.

- 1.2 Clause and paragraph headings shall not affect the interpretation of these terms and conditions.
- 1.3 A person includes an individual, firm, company, corporation, unincorporated body of persons, or any state or any agency of any person.
- 1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 A reference to a holding company or subsidiary means a holding company or subsidiary as defined in section 1159 of the Companies Act 2006.
In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that:
- (i) references in sub-sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and
 - (ii) the reference in sub-section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.
- 1.6 Words in the singular shall include the plural and vice versa.
- 1.7 A reference to one gender shall include a reference to the other genders.
- 1.8 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.9 A reference to writing or written includes faxes but not e-mail, unless otherwise specifically agreed.
- 1.10 Any obligation in these terms and conditions on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.11 References to clauses are to the clauses of these terms and conditions.
- 1.12 Where any statement is qualified by the expression so far as the Contractor is aware or to the Contractor's knowledge or any similar expression, that statement shall be deemed to include an additional statement that it has been made after due and careful enquiry.
- 1.13 Where there is any conflict or inconsistency between the provisions of these terms and conditions or any other document forming part of the agreement with the Council, such conflict or inconsistency shall be resolved in a manner at the Council's sole discretion.

2 GENERAL

- 2.1 When requested, the Contractor shall specify the Goods, Services or Works to be provided at the price payable.
- 2.2 No variation of these General Terms and Conditions shall be binding unless agreed expressly in Writing by both the Council and the Contractor.
- 2.3 These General Terms and Conditions shall apply to the exclusion of any other terms or conditions submitted, proposed or stipulated by the Contractor, whether in Writing or orally, and any such other term or condition is hereby expressly excluded or waived.
- 2.4 The Contractor shall complete the Works or Services or supply the Goods within the agreed times but time shall not be of the essence in the performance of any services unless expressly stated in Writing by the Council.

3 SPECIFICATION AND QUALITY OF THE GOODS, SERVICES AND WORKS

- 3.1 The quantity, quality and description of the Goods or Services shall comply in all respects with any quoted British Standards and the specification or illustration contained in any product pamphlet or other sales or marketing literature of the Contractor or drawings, samples and patterns specified in the Agreement or any modifications thereof that may be agreed by the Council in Writing.
- 3.2 All Goods will be of good construction, sound materials, and of adequate strength, shall be free of defects in design materials and workmanship, and shall comply with the requirements of the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982, as applicable to this Agreement and as amended by any related statutes, and any statutory re-enactment(s) or modification(s) thereof.

4 ALTERATIONS TO THE SPECIFICATION OF GOODS AND SERVICES

- 4.1 The parties may at any time mutually agree upon and execute alterations in the scope of Goods, Works or Services to be provided under this Agreement
- 4.2 On receipt of a request from the Council for alterations the Contractor shall, within 5 working days or such other period as may be agreed between the parties, advise the Council by notice in Writing of the effect of such alterations, if any, on the price and any other terms already agreed between the parties
- 4.3 Where the Contractor gives written notice to the Council agreeing to perform any alterations on terms different to those already agreed between the parties, the Council shall, within 5 working days of receipt of such notice or such other period as may be agreed between the parties, advise the Contractor by notice in Writing whether or not it wishes the alterations to proceed thereafter the Contractor shall perform this Agreement upon the basis of such amended terms

5 PRICE AND PAYMENT

- 5.1 The price for the supply of Goods and Services are as set out in the Agreement and the Contractor shall invoice the Council at the time the Goods are despatched or the Services are provided.
- 5.2 The Price, which shall include all charges for delivery to the Council, packaging, insurance and carriage, shall be exclusive of VAT and shall be a fixed price for the duration of the Agreement and shall not be varied without prior written consent of the Council.
- 5.3 The Council reserves the right to set off against the price of the Goods or Services any sums owed or becoming due to the Council from the Contractor.

- 5.4 Provided that a nominated employee or authorised signatory of the Council has signed for Goods or Services the Council will make payment to the Contractor by BACS (Bank Automated Clearing System) within 30 days following of receipt of the relevant undisputed invoice or acceptance of the relevant Goods or Services. No other method of payment shall be acceptable and the Contractor shall ensure that their bank account details are provided to the Council at least 30 days prior to payment becoming due to enable the payment to be made. The Council shall not be liable for any late payment charges where the Contractor fails to provide the Council with their correct bank account details in accordance with this clause.
- 5.5 If the Council fails to make any payment due to the Contractor under this agreement by the due date for payment, then the Council shall pay interest on the overdue amount at the rate of 4% per annum above Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment.
- 5.6 VAT, where applicable, shall be shown separately on all invoices as a strictly net extra, the Invoice must comply with VAT rules and regulations. The correct Purchase Order number must be quoted on all invoices, and the Council will accept no liability whatsoever for invoices, delivery notes or other communications which do not bear such Purchase Order numbers.
- 5.7 The Council reserves the right to refuse payment of sums invoiced in excess of the prices stated in the Agreement.
- 5.8 Unless otherwise agreed in Writing by the Council the Contractor will pay any of its appointed sub-contractors within 30 days from receipt of an undisputed invoice.

6 DELIVERY

- 6.1 The Agreement will specify the quantity of Goods and the nature of the Services required and the date or dates and place of delivery of the Goods or provision of the Service or Services. The Contractor shall provide such programmes of manufacture and delivery as the Council may require. Each delivery or consignment shall have a packing note quoting the reference number of the Purchase Order (where applicable) prominently displayed, and the Council may reject quantities delivered in excess of those stated on the Agreement.
- 6.2 If Goods are in any respect incorrectly delivered the Contractor shall immediately affect correct delivery and shall be responsible for any additional costs or expenses incurred by both parties in so doing.
- 6.3 If Services are provided by the Contractor otherwise than in accordance with the terms of the Agreement, the Contractor shall immediately affect correct provision of the Services and shall be responsible for any additional costs or expenses incurred by the Council or the Contractor in so doing.
- 6.4 The Council may reject any Goods which are not in accordance with the Agreement and the Council shall not be treated as having accepted any Goods until the Council has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after a latent defect in the Goods has become apparent.
- 6.5 The Contractor shall comply with all applicable regulations or other legal requirements as regards the manufacture, packaging, labelling, and delivery of the Goods. The Contractor shall deliver the Goods properly and securely packed and supply the Services during the Council's usual business hours (8:45 to 17:00 Monday to Thursday and 8:45 to 16:00 Friday) or in accordance with the instructions shown on the Agreement.
- 6.6 Where Goods are delivered by road vehicle, available empty Packages may be returned by the same vehicle.

6.7 Where the Council has an option to return Packages and does so, the Council will return such Packages empty and in good order and condition (consigned 'carriage paid' unless otherwise agreed) to the Contractor's supplying works or depot indicated by the Contractor, and will advise the Contractor of the date of despatch.

6.8 Packages and containers of all kinds are supplied free by the Contractor and are non-returnable unless otherwise clearly stated, in the first instance, on quotations and subsequently on all Packages, advice notes and delivery notes.

7. LOSS OR DAMAGE IN TRANSIT

7.1 The Contractor shall promptly make good, free of charge to the Council, any loss in transit of the Goods if notified within 21 days of delivery or any damage to or defect in the Goods if notified within 10 days of delivery.

8. INSPECTION

8.1 The Contractor shall be responsible for the inspection and testing of the Goods and shall ensure that they comply with the Agreement prior to delivery to the Council. The Council shall have the right to inspect the Goods at the Contractor's works and those of its Sub-Contractors at all reasonable times and to reject any part thereof that does not comply with the terms of the Agreement.

8.2 The Contractor shall ensure that rights of access, inspection and rejection at premises of any sub-Contractor of the Contractor are given to the Council in sub-agreements between the Contractor and the Contractor's Sub-Contractors. Any inspection, checking, approval or acceptance given on behalf of the Council shall not relieve the Contractor or its Sub-Contractors from any obligations or liabilities set forth in this Agreement.

9. REJECTION

9.1 The Council shall have the right to reject any Goods or Services which do not comply with the Agreement, and are, without limitation, not of a stipulated quality or quantity or measurement, unfit for the purpose for which they are required or non-compliant with a description or specification or sample, and the Council may return such rejected Goods to the Contractor at the Contractor's cost and expense.

9.2 If the Contractor is unable to supply acceptable replacement Goods or Services within the time specified in the Agreement, or within any extension of such time as the Council may grant, the Council will be entitled to purchase elsewhere other Goods or Services, as near as is practicable to the same Agreement specifications as circumstances shall permit, but without prejudice to any other right which the Council may have against the Contractor including, but not limited to, payment by the Contractor of any excess costs incurred by the Council in doing so.

9.3 The making of such payment shall not prejudice the Council's right of rejection and the Contractor shall immediately reimburse the Council with an amount equal to that paid by the Council in respect of the Goods or Services and any applicable taxes. Before exercising the said right elsewhere the Council shall give the Contractor reasonable opportunity to replace rejected Goods or Services with Goods or Services that conform to the Agreement.

9.4 The Council is under no obligation to test or inspect the Goods before or on delivery.

10 TITLE - PASSING PROPERTY

10.1 Property and risk in the Goods will remain with the Contractor until the Goods are delivered to the place specified in the Agreement and a nominated employee of the Council has

signed a delivery note for them, whereupon title will pass to the Council, without any limitation, constraint or encumbrance.

- 10.2 If payment for the Goods is made prior to delivery, property in the Goods shall pass to the Council once payment has been made and the Goods have been unconditionally appropriated by the Council.
- 10.3 In these circumstances the Contractor will set aside the Goods and store them separately from similar Goods held at the Contractors premises specified in the Agreement and ensure that they are securely, clearly and visibly marked with the wording "Property of Shropshire Council" so as to identify those Goods as having been unconditionally appropriated by the Council to whose order they are held
- 10.4 The Contractor will allow a named representative of the Council reasonable accompanied access to its premises specified in the Agreement to verify compliance with clause 10.3 herein and will immediately rectify any non-compliance as identified by the Council's named representative
- 10.5 The Contractor will indemnify the Council for any loss of or damage to the Goods until delivered on-site.
- 10.6 Without prejudice to this indemnity the Contractor will have appropriate and adequate insurance cover against any such loss or damage with a reputable insurer from the time that title in the materials or Goods passes to the Council until they are delivered on-site and the Contractor shall provide the Council with certified copies of the relevant policy upon request.
- 10.7 The Contractor agrees that the Council has the right to enter the Contractor's premises specified in the Agreement where Goods are being held in order to recover the said materials or Goods in the event of the Contractors' insolvency

11 THE COUNCIL'S OBLIGATIONS

11.1 To enable the Contractor to perform its obligations under this Agreement the Council shall:

- a) co-operate with the Contractor;
- b) provide the Contractor with any information reasonably required by the Contractor;
- c) obtain all necessary permissions and consents which may be required before the commencement of the Services or the supply of Goods; and
- d) comply with such other requirements as may be otherwise agreed between the parties.

11.2 Without prejudice to any other rights to which the Contractor may be entitled, in the event that the Council unlawfully terminates or cancels the Goods or Services agreed to in the Agreement the Council shall be required to pay to the Contractor as agreed damages and not as a penalty the full amount of any third party costs to which the Contractor has reasonably committed and in respect of cancellations on less than five working days' written notice the full amount of the Goods and Services.

12. WARRANTIES

12.1 The Contractor warrants that as from the date of delivery for a minimum period of 12 months the Goods and all their component parts, where applicable, are free from any defects in design, workmanship, construction or materials. Where certain Goods carry warranties for longer periods the Contractor will notify the Council of these from time to time as appropriate.

12.2 The Contractor warrants that the Services performed under this Agreement shall be performed using reasonable skill and care, and of a quality conforming to generally accepted industry standards and practices.

13 INDEMNIFICATION

13.1 The Council shall indemnify the Contractor against all reasonable claims, costs and expenses which the Contractor may incur and which arise, directly from the Council's breach of any of its obligations under this Agreement.

13.2 The Contractor shall indemnify the Council against all reasonable damage, liability, costs, claims, actions and proceedings arising out of the performance, defective performance or otherwise of this Agreement by the Contractor, its employees, servants or agents

14 TERMINATION AND CANCELLATION

14.1 The Council upon giving the Contractor notice in Writing may cancel any Agreement at any time. A fair and reasonable price will be paid for all work in progress at the time of the cancellation, providing all such work is delivered to, and/or performed for the Council and is accepted as described in Clauses 6 to 9 herein. The Council's liability is strictly limited to work in progress and no further loss or liability will accrue.

14.2 Either party may terminate this Agreement forthwith by notice in Writing to the other if:

a). the other party commits a material breach of this Agreement and, in the case of a breach capable of being remedied, fails to remedy it within 14 calendar days of being given notice in Writing setting out the breach and indicating that failure to remedy the breach may result in termination of this Agreement.

b). the other party commits a material breach of this Agreement which cannot be remedied under any circumstances;

c). the other party passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect;

d). the other party ceases to carry on its business or substantially the whole of its business; or

e). the other party is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.

15 PREVENTION OF BRIBERY (W) (Z)

15.1 The Contractor:

a) shall not, and shall procure that all Contractor Personnel shall not, in connection with this Agreement commit a Prohibited Act;

b) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Council, or that an agreement has been reached to that effect, in connection with the execution of this Agreement, excluding any arrangement of which full details have been disclosed in writing to the Council before execution of this Agreement.

15.2 The Contractor shall:

a) if requested, provide the Council with any reasonable assistance, at the Council's reasonable cost, to enable the Council to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;

b) the Contractor shall, within 10 Working Days of a request from the Council, certify to the Council in writing (such certification to be signed by an officer of the Contractor) the Contractor's compliance with this clause 15 and provide such supporting evidence of compliance with this clause 15 by the Contractor as the Council may reasonably request.

- 15.3 If any breach of clause 15.1 is suspected or known, the Contractor must notify the Council immediately.
- 15.4 If the Contractor notifies the Council that it suspects or knows that there may be a breach of clause 15.1, the Contractor must respond promptly to the Council's enquiries, co-operate with any investigation, and allow the Council to audit books, records and any other relevant documentation. This obligation shall continue for two years following the expiry or termination of this Agreement.
- 15.5 The Council may terminate this Agreement by written notice with immediate effect, and recover from the Contractor the amount of any loss directly resulting from the cancellation, if the Contractor or Contractor Personnel (in all cases whether or not acting with the Contractor's knowledge) breaches clause 15.1. At the Council's absolute discretion, in determining whether to exercise the right of termination under this clause 15.5, the Council shall give consideration, where appropriate, to action other than termination of this Agreement unless the Prohibited Act is committed by the Contractor or a senior officer of the Contractor or by an employee, Sub-Contractor or supplier not acting independently of the Contractor. The expression "not acting independently of" (when used in relation to the Contractor or a Sub-Contractor) means and shall be construed as acting:
- a) with the authority; or,
 - b) with the actual knowledge;
of any one or more of the directors of the Contractor or the Sub-Contractor (as the case may be); or
 - c) in circumstances where any one or more of the directors of the Contractor ought reasonably to have had knowledge.
- 15.6 Any notice of termination under clause 15.5 must specify:
- a) the nature of the Prohibited Act;
 - b) the identity of the party whom the Council believes has committed the Prohibited Act; and
 - c) the date on which this Agreement will terminate.
- 15.7 Despite clause 42 (Disputes), any dispute relating to:
- a) the interpretation of clause 15; or
 - b) the amount or value of any gift, consideration or commission,
- shall be determined by the Council and its decision shall be final and conclusive.
- 15.8 Any termination under clause 15.5 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.

16 INTELLECTUAL PROPERTY RIGHTS

- 16.1 Any specification, drawing, sample and pattern supplied by the Council to the Contractor, or specifically produced by the Contractor for the Council in connection with this Agreement, together with the copyright, design rights or any other intellectual property rights thereto shall be the exclusive property of the Council. On payment of the price and for no further consideration the Contractor assigns to the Council with full title guarantee all such copyright, design and other intellectual property rights.
- 16.2 The Contractor shall not disclose to any third party (except sub-contractors accepting a like obligation of secrecy, and then only to the extent necessary for the performance of the sub-agreement) or provide any such specification, drawing, sample or pattern to any third party or use the same except to the extent that it is or becomes public knowledge through no fault of the Contractor, or as is required for the purposes of the Agreement.
- 16.3 This provision shall survive the expiration or termination of the Agreement.

17 INDEPENDENT CONTRACTORS

17.1 The Contractor and the Council are independent of each other, and neither has the authority to bind the other to any third party or act in any way as the representative of the other, unless otherwise expressly agreed to in Writing by both parties.

18 SEVERABILITY

18.1 If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction such provision shall be severed and the remainder of the provisions herein shall continue in full force and effect as if this Agreement had been agreed with the invalid illegal or unenforceable provision eliminated.

19 ASSIGNMENT, TRANSFER AND SUB-CONTRACTING

19.1 The Council may, subject to clause 19.2:
(a) assign any of its rights under the Agreement; or
(b) transfer all of its rights or obligations by novation, to another person.

19.2 The consent of the Contractor is required for an assignment or transfer by the Council unless:
(a) the assignment or transfer is to an Associated Person of the Council; or
(b) either the Council or the Contractor have committed a breach of this Agreement which gives the other party the right under the terms of this Agreement to terminate the Agreement. Any such consent must not be unreasonably withheld or delayed and if not expressly refused within five Working Days shall be deemed given.

19.3 The Contractor may not assign any of its rights, or transfer any of its rights or obligations under the Agreement.

19.4 The Contractor will not, without the written consent of the Council sub-contract its right or obligations under this Agreement nor allow Services to be provided other than through his own employees and using his own equipment.

19.5 In the event that the Council has consented to the placing of sub-contracts, copies of each sub-contract and order shall be sent by the Contractor to the Council immediately it is issued.

19.6 Notwithstanding the Contractor's right to sub-contract pursuant to this clause 19, the Contractor shall remain responsible for all acts and omissions of its Sub-contractors and the acts and omissions of those employed or engaged by the Sub-contractors as if they were its own. An obligation on the Contractor to do, or to refrain from doing, any act or thing shall include an obligation upon the Contractor to procure that its employees, staff, agents and Sub-contractors' employees, staff and agents also do, or refrain from doing, such act or thing.

20 WAIVER

20.1 The failure by either party to enforce at any time or for any period any one or more of these General Terms and Conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce all the terms and conditions of this Agreement.

21 HAZARDOUS GOODS

21.1 Hazardous Goods must be marked by the Contractor with International Danger Symbol(s) and display the name of the material in English. Transport and other documents must include declaration of the hazard and name of the material in English. Goods must be accompanied by emergency information in English in the form of written instructions, labels or markings. The Contractor shall observe the requirements of UK and international laws, regulations and agreements relating to the packing, labelling and carriage of hazardous Goods.

21.2 All information known, held by, or reasonably available to, the Contractor regarding any potential hazards known or believed to exist in transport, handling or use of the Goods supplied shall be promptly communicated to the Council.

22 NOTICES

22.1 Unless otherwise communicated to the party in Writing any notice to be given by either party to the other may be served by email, fax, personal service or by post to the address of the other party that is the registered office or main place of business of the Contractor or if the Council, the Shirehall, Abbey Foregate, Shrewsbury. SY2 6ND

22.2 A Notice sent by email shall be deemed to be received providing receipt is acknowledged and confirmed, Notice sent by fax shall be deemed to be served on receipt of an error free transmission report, Notice given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by second class post shall be deemed to have been delivered in the ordinary course of post and if by first class post shall be deemed to have been delivered 48 hours after posting and acknowledged

23 CONFIDENTIALITY (W) (Z)

23.1 All plans, drawings, designs or specifications supplied by the Council to the Contractor shall remain the exclusive property of, and shall be returned to the Council on completion of the Agreement and shall not be copied, and no information relating to the Goods or the Services shall be disclosed to any third party, except as required for the purpose of this Agreement.

23.2 No photographs of any of the Council's equipment, installations or property shall be taken without the Council's prior consent in Writing. The Contractor shall keep secret and shall not divulge to any third party (except sub-contractors accepting a like obligation of secrecy, and then only to the extent necessary for the performance of the sub-agreement) all information given by the Council in connection with the Agreement or which becomes known to the Contractor through his performance of the Agreement or use the same other than for the purpose of executing the Agreement.

23.3 The Contractor shall not mention the Council's name in connection with the Agreement or disclose the existence of the Agreement in any publicity material or other similar communication to third parties without the Council's prior consent in Writing.

23.4 The Contractor will keep confidential any information it becomes aware of by reason of the operation of this Agreement.

23.5 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Agreement, each party shall:

23.5.1 treat the other party's Confidential Information as confidential; and

23.5.2 not disclose the other party's Confidential Information to any other person without the owner's prior written consent

23.6 Clause 23.5 shall not apply to the extent that:

23.6.1 such disclosure is a requirement of Law placed upon the party making the disclosure, including any requirements for disclosure under the Audit Commission Act 1998 or under the FOIA or the Environmental Information Regulations pursuant to the above clause regarding Freedom of Information;

23.6.2 such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;

23.6.3 such information was obtained from a third party without obligation of confidentiality;

23.6.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of this Agreement; or

23.6.5 it is independently developed without access to the other party's Confidential Information.

- 23.7 The Contractor may only disclose the Council's Confidential Information to the Contractor Personnel who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such Contractor Personnel are aware of and shall comply with these obligations as to confidentiality.
- 23.8 The Contractor shall not, and shall procure that the Contractor Personnel do not, use any of the Council's Confidential Information received otherwise than for the purposes of this Agreement
- 23.9 Nothing in this Agreement shall prevent the Council from disclosing the Contractor's Confidential Information:
- 23.9.1 to any consultant, contractor or other person engaged by the Council;
 - 23.9.2 for the purpose of the examination and certification of the Council's accounts or any other form of audit of the Council;
- 23.10 The Council shall use all reasonable endeavours to ensure that any government department, employee, third party or Sub-contractor to whom the Contractor's Confidential Information is disclosed pursuant to this Agreement is made aware of the Council's obligations of confidentiality.
- 23.11 Nothing in this clause shall prevent either party from using any techniques, ideas or know-how gained during the performance of the Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of Intellectual Property Rights.
- 23.12 The provisions of this Clause shall survive the expiration or termination of this Agreement.

23A AGREEMENT STATUS AND TRANSPARENCY (W) (Z)

- 23A.1 The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Agreement and any associated tender documentation provided by the Contractor (the Tender Submission) is not Confidential Information. The Council shall be responsible for determining in its absolute discretion whether any of the content of the Agreement or the Tender Submission is exempt from disclosure in accordance with the provisions of the FOIA.
- 23A.2 Notwithstanding any other term of this Agreement, the Contractor hereby gives his consent for the Council to publish this Agreement and the Tender Submission in its entirety, including from time to time agreed changes to the Agreement, to the general public.
- 23A.3 The Council may consult with the Contractor to inform its decision regarding any exemptions but the Council shall have the final decision in its absolute discretion.
- 23A.4 The Contractor shall assist and cooperate with the Council to enable the Council to publish this Agreement and the Tender Submission.

24 COUNCIL DATA

- 24.1 The Contractor shall not delete or remove any copyright or proprietary notices contained within or relating to the Council Data.
- 24.2 The Contractor shall not store, copy, disclose, or use the Council Data except as necessary for the performance by the Contractor of its obligations under this Agreement or as otherwise expressly authorised in writing by the Council and in particular the Contractor shall not store any Council Data, which the Council has notified the Contractor requires storage in an encrypted format, on any portable device or media unless that device is encrypted.

- 24.3 To the extent that Council Data is held and/or processed by the Contractor, the Contractor shall supply that Council Data to the Council as requested by the Council in any format specified in this Agreement or if none specified in any format reasonably requested by the Council.
- 24.4 The Contractor shall take responsibility for preserving the integrity of Council Data and preventing the corruption or loss of Council Data and shall take such back up copies of the Council Data at regular intervals appropriate to the frequency of the revision of the Council Data.
- 24.5 The Contractor shall ensure that any system on which the Contractor holds any Council Data, including back-up data, is a secure system that complies with the Security Policy to include, but not limited to, the following requirements in the Security Policy:
- 24.5.1 Access to the system is restricted to Contractor Personnel with a legitimate need to access the Council Data; and
 - 24.5.2 The system is kept up to date with the latest versions of operating system and anti-virus updates; and
 - 24.5.3 Transfer of data to and from the system is conducted in a secure manner.
- 24.6 If the Council Data is corrupted, lost or sufficiently degraded as a result of the Contractor's Default so as to be unusable, the Council may:
- 24.6.1 require the Contractor (at the Contractor's expense) to restore or procure the restoration of Council Data as soon as practicable; and/or
 - 24.6.2 itself restore or procure the restoration of Council Data, and shall be repaid by the Contractor any reasonable expenses incurred in doing so including the restoration of the Council Data.
- 24.7 If at any time the Contractor suspects or has reason to believe that Council Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Contractor shall notify the Council via the Council's ICT Helpdesk immediately and inform the Council of the remedial action the Contractor proposes to take.
- 24.8 The Contractor shall check for and delete Malicious Software and if Malicious Software is found, the parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Council Data, assist each other to mitigate any losses and to restore the Services to their desired operating efficiency.
- 24.9 Any cost arising out of the actions of the parties taken in compliance with the provisions of sub-clause .8 above shall be borne by the parties as follows:
- 24.9.1 by the Contractor where the Malicious Software originates from the Contractor Software, the Third Party Software or the Council Data (whilst the Council Data was under the control of the Contractor); and
 - 24.9.2 by the Council if the Malicious Software originates from the Council Software or the Council Data (whilst the Council Data was under the control of the Council).

25 PROTECTION OF PERSONAL DATA

- 25.1 With respect to the parties' rights and obligations under this Agreement, the parties agree that the Council is the Data Controller and that the Contractor is the Data Processor.
- 25.2 The Contractor shall:
- 25.2.1 Process the Personal Data only in accordance with instructions from the Council (which may be specific instructions or instructions of a general nature as set out in this Agreement or as otherwise notified by the Council to the Contractor during the term of this Agreement);

25.2.2 Process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by Law or any Regulatory Body;

25.2.3 implement appropriate technical and organisational measures, including but not limited to ensuring that Personal Data is not stored on any portable equipment or storage device or media unless encrypted, to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;

25.2.4 take reasonable steps to ensure the reliability of any Contractor Personnel who have access to the Personal Data;

25.2.5 obtain prior written consent from the Council in order to transfer the Personal Data to any Sub-contractors or Affiliates for the provision of the Services;

25.2.6 ensure that all Contractor Personnel required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Protection of Personal Data clause ;

25.2.7 ensure that no Contractor Personnel publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Council;

25.2.8 notify the Council (within five Working Days) if it receives:

- a) a request from a Data Subject to have access to that person's Personal Data; or
- b) a complaint or request relating to the Council's obligations under the Data Protection Legislation;

25.2.9 provide the Council with full cooperation and assistance in relation to any complaint or request made, including by:

- a) providing the Council with full details of the complaint or request;
- b) complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Council's instructions;
- c) providing the Council with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Council); and
- d) providing the Council with any information requested by the Council;

25.2.10 permit the Council or the Council Representative (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit, in accordance with the Audit clause, the Contractor's data Processing activities (and/or those of its agents, subsidiaries and Sub-contractors) and comply with all reasonable requests or directions by the Council to enable the Council to verify and/or procure that the Contractor is in full compliance with its obligations under this Agreement;

25.2.11 provide a written description of the technical and organisational methods employed by the Contractor for processing Personal Data (within the timescales required by the Council); and

25.2.12 not process Personal Data outside the United Kingdom without the prior written consent of the Council and, where the Council consents to a transfer, to comply with:

- a) the obligations of a Data Controller under the Eighth Data Protection Principle set out in Schedule 1 of the Data Protection Act 1998 by providing an adequate level of protection to any Personal Data that is transferred; and
- b) any reasonable instructions notified to it by the Council

25.2.13 The Contractor shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Agreement in such a way as to cause the Council to breach any of its applicable obligations under the Data Protection Legislation.

25.2.14 The Contractor shall ensure that its employees and agents are aware of and comply with this clause and shall indemnify the Council against any loss or damage sustained or incurred as a result of any breach of this clause.

26 COUNCIL DATA AND PERSONAL INFORMATION AUDITS

- 26.1 Except where an audit is imposed on the Council by a Regulatory body, the Council may, acting reasonably, conduct an audit for the following purposes:
- 26.1.1 to review the integrity, confidentiality and security of the Council Data;
 - 26.1.2 to review the Contractor's compliance with the Data Protection Act 1998, the Freedom of Information Act 2000 in accordance with the Protection of Personal Data and Freedom of Information clauses and any other legislation applicable to the Services;
- 26.2 The Council shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Contractor or delay the provision of the Services.
- 26.3 Subject to the Council's obligations of confidentiality, the Contractor shall on demand provide the Council (and/or its agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:
- 26.3.1 all information requested by the Council within the permitted scope of the audit;
 - 26.3.2 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;
 - 26.3.3 access to Contractor Personnel
- 26.4 The Contractor shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Contractor's performance of the Services.
- 26.5 The Council shall endeavour to (but is not obliged to) provide at least 5 Working Days notice of its intention to conduct an audit.
- 26.6 The parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause.
- 26.7 This clause shall not apply to any audit or inspection regarding the provision of the Services specified in the Service Specification or elsewhere in this Agreement which may be conducted as specified in this Agreement.

27. PUBLIC INTEREST DISCLOSURE ('WHISTLE BLOWING') (W)(Z)

- 27.1 The Contractor will ensure that his employees and agents are made aware of the Council's policy "Speaking Up About Wrongdoing" and that the details of this policy are fully explained to them and shall provide the Council with evidence of doing so upon request

28 INSURANCE

- 28.1 The Contractor shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover, or in accordance with any legal requirement for the time being in force, in respect of all risks which may be incurred by the Contractor, arising out of the Contractor's performance of this Agreement, including death or personal injury, loss of or damage to property or any other loss, and unless otherwise agreed with the Council such policy or policies of Public Liability and Employers Liability insurance shall provide for a minimum of £5,000,000 (FIVE MILLION POUNDS) cover. In respect of death or personal injury due to negligence will be unlimited.

- 28.2 If appropriate and requested in Writing, the Contractor may also be required to provide Product Liability insurance of at least £2,000,000 (TWO MILLION POUNDS) cover for any one claim.
- 28.3 Where the Contractor is providing Services of a professional nature, or the Council otherwise specifies that professional indemnity insurance is required, the Contractor shall hold and maintain professional indemnity insurance cover and shall ensure that all professional consultants or Sub-Contractors involved in the provision of the Services hold and maintain appropriate cover. To comply with its obligations under this clause, and as a minimum, the Contractor shall ensure professional indemnity insurance held by the Contractor and by any agent, Sub-Contractor or consultant involved in the performance of Services has a limit of indemnity of not less than £1,000,000 (ONE MILLION POUNDS) for any occurrences arising out of each and every event. Such insurance shall be maintained for a minimum of six years following the expiration or earlier termination of the agreement.
- 28.4 The Contractor warrants that it has complied with this clause 28 and shall provide the Council with certified copies of the relevant policies upon request together with receipts or other evidence of payment of the latest premiums due under those policies.
- 28.5 If, for whatever reason, the Contractor] fails to give effect to and maintain the insurances required by the agreement the Council may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.

29. EQUALITIES (W) (Z)

- 29.1 The Contractor and any Sub-Contractor employed by the Contractor shall not unlawfully discriminate either directly or indirectly on such grounds as race or ethnic origin, disability, gender, sexual orientation, religion or belief, or age in the supply and provision of Goods, Services or Works under this Agreement, or in its employment practices.
- 29.2 Without prejudice to the generality of the foregoing, the Contractor and any Sub-Contractor employed by the Contractor shall not unlawfully discriminate within the meaning and scope of the Equalities Act 2010 or other relevant legislation, or any statutory modification or re-enactment thereof.
- 29.3 In addition, the Contractor and any Sub-Contractor employed by the Contractor in providing services to the Council will comply with the general duty imposed on local authorities by Section 149 of the Equality Act 2010 to eliminate discrimination, harassment and victimisation and promote equality of opportunity between persons who share a protected characteristic and those who do not share it and to foster good relations between persons who share a protected characteristic and those who do not share it .
- 29.4 The Contractor and any Sub-Contractor employed by the Contractor will take all reasonable steps to observe as far as possible the Codes of Practice produced by the Equalities and Human Rights Commission, which give practical guidance to employers on the elimination of discrimination.
- 29.5 In the event of any finding of unlawful discrimination being made against the Contractor or any Sub-Contractor employed by the Contractor during the contract period, by any court or employment tribunal, or any adverse finding or formal investigation by the Equalities and Human Rights Commission over the same period, the Contractor shall inform the Council of this finding and shall take appropriate steps to prevent repetition of the unlawful discrimination.
- 29.6 The Contractor and any Sub-Contractor employed by the Contractor will provide a copy of its policies to the Council at any time upon request. In addition, the Council may reasonably request other information from time to time for the purpose of assessing the Contractor's compliance with the above conditions.

30 HUMAN RIGHTS (W) (Z)

30.1 The Contractor shall where appropriate take account of the Human Rights Act 1998 and shall not do anything in breach of it.

31 HEALTH AND SAFETY AT WORK (Z)

31.1 The Contractor will at all times in providing Goods, Services or Works to the Council comply with the provisions of the Health and Safety at work Act 1974 and provide evidence of doing so to the Council at any time upon request.

32 FREEDOM OF INFORMATION ACT 2000 (FOIA) AND ENVIRONMENTAL INFORMATION REGULATIONS 2004 (EIR) (W) (Z)

32.1 The Contractor acknowledges that the Council is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Council to enable the Council to comply with its Information disclosure obligations.

32.2 The Contractor shall notify the Council of any Commercially Sensitive Information provided to the Council together with details of the reasons for its sensitivity and the Contractor acknowledges that any lists or schedules of Commercially Sensitive Information so provided are of indicative value only and that the Council may be obliged to disclose such information.

32.3 The Contractor shall and shall procure that its Sub-contractors shall:

32.3.1 transfer to the Council all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;

32.3.2 provide the Council, at the Contractor's expense, with a copy of all Information in its possession, or power in the form that the Council requires within five Working Days (or such other period as the Council may specify) of the Council's request; and

32.3.3 provide, at the Contractor's expense, all necessary assistance as reasonably requested by the Council to enable the Council to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.

32.4 The Council shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Agreement or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations and in considering any response to a Request for Information the Council may consult with the Contractor prior to making any decision or considering any exemption.

32.5 In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Council.

32.6 The Contractor acknowledges that (notwithstanding the provisions of this Freedom of Information clause) the Council may, acting in accordance with the Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("the Code"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Contractor or the Services:

32.6.1 in certain circumstances without consulting the Contractor; or

32.6.2 following consultation with the Contractor and having taken their views into account;

provided always that where sub-clause 32.6.1 above applies the Council shall, in accordance with any recommendations of the Code, take reasonable steps, where

appropriate, to give the Contractor advanced notice, or failing that, to draw the disclosure to the Contractor's attention after any such disclosure.

- 32.7 The Contractor shall ensure that all Information required to be produced or maintained under the terms of this Agreement, or by Law or professional practice or in relation to the Agreement is retained for disclosure for at least the duration of the Agreement plus one year together with such other time period as required by the Agreement, law or practice and shall permit the Council to inspect such records as requested from time to time.
- 32.8 The Council shall in no event be liable for any loss, damage, harm, or detriment, howsoever caused, arising from or in connection with the reasonable disclosure under FOIA, or any other Law, of any information (including Exempt Information) whether relating to this Agreement or otherwise relating to any other party.
- 32.9 Where the Contractor is a Public Body the parties acknowledges that such obligations and duties of the Council as set out above are reciprocal to the Contractor. The Council and the Contractor acknowledge and agree that:
- 32.9.1 as Public Bodies they are subject to legal duties under the FOIA and EIR which may require either party to disclose on request information relating to this Agreement or otherwise relating to the other party;
- 32.9.2 they are required by law to consider each and every Request for Information made under FOIA;
- 32.9.3 that all decisions made by the other pursuant to a request under the FOIA are solely a matter for the Receiving Party and at the discretion of the Receiving Party.
- 32.9.4 Notwithstanding anything in this Agreement to the contrary (including but without limitation any obligations or confidentiality), the Receiving Party shall be entitled to disclose information in whatever form pursuant to a request made under FOIA, save that in relation to any information that is Exempt Information the Receiving Party shall consult the other party before making any such decision and shall not:
- (a) confirm or deny that information is held by the other party, or
 - (b) disclose information required
- to the extent that in the Receiving Party's opinion the information is eligible in the circumstances for an exemption and therefore the Receiving Party may lawfully refrain from doing either of the things described in part (a) and (b) of this clause.
- 32.9.5 each party shall bear its own costs of:
- a) assessing the application of any exemption under FOIA and/or
 - b) responding to any FOIA notice and/or
 - c) lodging any appeal against a decision of the Information Commissioner in relation to disclosure
- 32.9.6 the Receiving Party shall in no circumstances be liable for any loss, damage, harm, or detriment, howsoever caused, arising from or in connection with the reasonable disclosure under FOIA of any Exempt Information or other information whether relating to this Agreement or otherwise relating to the other party.
- 32.9.7 the other party shall assist the Receiving Party with the request as reasonably necessary to enable the Receiving Party to comply with its obligations under FOIA.

33 SAFEGUARDING(W) (Z)

- 33.1 Where the Service or activity being undertaken in this Agreement is a Regulated Activity the Contractor shall :
- (a) ensure that all individuals engaged in the provision of the Service or activity, and prior to commencing the provision of the service or activity, are subject to a valid enhanced disclosure check undertaken through the Disclosure and Barring Service including a check against the adults' barred list or the children's barred list, as appropriate; and
 - (b) monitor the level and validity of the checks under this clause 33.1 for each member of the Contractor's Personnel.

- 33.2 The Contractor warrants that at all times for the purposes of this Agreement it has no reason to believe that any person who is or will be employed or engaged by the Contractor in the provision of a Service or activity that is a Regulated Activity is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.
- 33.3 The Contractor shall immediately notify the Council of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause 33 have been met.
- 33.4 The Contractor shall refer information about any person carrying out the Services or the activity to the Disclosure and Barring Service where it removes permission for such person to carry out the Services or activity (or would have, if such person had not otherwise ceased to carry out the Services or the activity) because, in its opinion, such person has harmed or poses a risk of harm to the Service users, children or vulnerable adults.
- 33.5 The Contractor shall not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity or who may otherwise present a risk to Service users.
- 33.6 Where the service requirement, specification or Purchase Order specifies that the Service or activity to be provided under this Agreement involves a Regulated Activity, or the Council otherwise notifies the Contractor, acting reasonably, that the Contractor's Personnel are required to be subject to a Disclosure and Barring Service check, the Contractor shall comply with clause 33.1 above..

34 SUSTAINABILITY

- 34.1 Contractors should at all times demonstrate how they contribute to the achievement of the Council's Sustainability Policy

35 EXPIRY

- 35.1 The Contractor will on the expiry or termination of the Agreement and, at its own cost, return (or at the request of the Council destroy) all information obtained in undertaking the performance of the Agreement.

36 AUDIT AND MONITORING) (W) (Z)

- 36.1 The Contractor will allow access for the Council's officers to all relevant information for the purposes of audit and the monitoring of the Agreement.

37 RIGHTS OF THIRD PARTIES

- 37.1 The parties to this Agreement do not intend that any of its terms will be enforceable by any person not a party to it by virtue of the Contracts (Rights of Third Parties) Act 1999.

38 ENTIRE AGREEMENT

- 38.1 This Agreement contains the entire agreement between the parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written.

39 FORCE MAJEURE

- 39.1 Neither the Council nor the Contractor shall be in breach of this Agreement nor liable for any failure or delay in performing their obligations under this Agreement where it is directly caused, arising from or attributable to acts, events, omissions or accidents beyond its reasonable control ("Force Majeure Event"), provided that:-

- 39.1.1 any delay by a sub-contractor or supplier of the Party who is delayed will not relieve that Party from liability for delay except where the delay is beyond the reasonable control of the sub-contractor or supplier concerned; and
- 39.1.2 staff or material shortages or strikes or industrial action affecting only the Party who is delayed will not relieve that Party from liability for delay.
- 39.2 If the Party is subject to a Force Majeure Event it shall not be in breach of this Agreement provided that:-
- 39.2.1 it promptly notified the Council in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance; and
- 39.2.2 it has used its reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under this Agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible
- in which case the performance of that Party's obligations will be suspended during the period that those circumstances persist and that Party will be granted a reasonable extension of time for performance up to a maximum equivalent to the period of the delay.
- 39.3 Save where that delay is caused by the act or failure to act of the other Party (in which event the rights, remedies and liabilities of the Parties will be those conferred by the other terms of this Agreement and by law):-
- 39.3.1 any costs arising from that delay will be borne by the Party incurring the same; and
- 39.3.2 either Party may, if that delay continues for more than 5 weeks, terminate this Agreement immediately on giving notice in writing to the other. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this Agreement occurring prior to such termination.

40 GOVERNING LAW AND JURISDICTION (W)

- 40.1 It is the responsibility of the Contractor to comply with all relevant European and English legislation. This Agreement shall be governed by and construed in accordance with English Law and the parties agree to submit to the exclusive jurisdiction of the English and Welsh Courts

41 COMPLAINTS PROCEDURE (W) (Z)

- 41.1 The Contractor shall operate a complaints procedure in respect of any goods, services or works provided under these terms & conditions, to the entire satisfaction of the Council, and comply with the requirements of any regulatory body to which the Contractor is subject (including any change in such requirements) and ensure that its complaints procedure meets the following minimum standards:
- 41.1.1 is easy to access and understand
- 41.1.2 clearly sets out time limits for responding to complaints and keeping the complainant and the Council informed of progress;
- 41.1.3 provides confidential record keeping to protect employees under this contract and the complainant
- 41.1.4 provides information to management so that services can be improved
- 41.1.5 provides effective and suitable remedies
- 41.1.6 is regularly monitored and audited and which takes account of complainant and Council feedback

- 41.2 The Contactor shall ensure that:
 - 41.2.1 under no circumstances is a complaint investigated by a member of its staff employed under this contract who may be part of the complaint.
 - 41.2.2 someone who is independent of the matter complained of carries out the investigation
 - 41.2.3 the complainant is made aware that they are entitled to have the complaint investigated by the Council if they are not satisfied with either the process of investigation or finding of the Contactor's investigations
 - 41.2.4 the Contactor will ensure that it responds to the complainant within a max of 10 days of receiving the complaint
- 41.3 The Contactor will make its complaints procedure available on request
- 41.4 The Contactor shall ensure that all its employees and persons employed under this contract are made aware of its complaints procedure and shall designate one employee (who shall be identified to the Council) to whom a complaint may be referred should the complainant not be satisfied with the initial response to their complaint
- 41.5 The Contactor shall keep accurate and complete written records of all complaints received and the responses to them and shall make these records available to the Council on request or at 12 monthly intervals in any event.
- 41.6 Where the Council is investigating a complaint the Contactor is required to participate fully in all investigations within the timescales requested by the Council
- 41.7 The Contractor should note that if a complaint is made to the Council by a third party relating to the goods, services or works provided, the Local Government Ombudsman has the power to investigate such a complaint and the Council requires the Contractor to fully to co-operate in such investigation. If the Council is found guilty of maladministration or injustice by the Local Government Ombudsman because of the act or default of the Contractor the Contractor shall indemnify the Council in respect of the costs arising from such maladministration or injustice.

42 DISPUTES

- 42.1 If any dispute or difference shall arise between the parties as to the construction of this Agreement or any matter or thing of whatever nature arising under this Agreement or in connection with it then the same shall be dealt with as follows:-
 - 42.1.1 In the first instance a special meeting of both the Parties shall be arranged on 14 days written notice to the other party and the matter shall be discussed and the representatives shall use their reasonable endeavours to resolve the dispute
 - 42.1.2 If the dispute cannot be resolved in accordance with the preceding sub-clause then either one of the Parties may serve the Council's Chief Executive or the Contractor's senior officer or such other authorised officer of either party whose details have been notified to the other party, with notice of the dispute and those officers shall then appoint their representative to adjudicate and use their reasonable endeavours to resolve the dispute within 21 days of receipt of such notice

Additional definitions for clauses 43 and 44	
"Security Plan"	the Contractor's security plan prepared pursuant [<i>to paragraph 3 of schedule 2.5 (Security Requirements and Plan) an outline of which is set out in Appendix of schedule 2.5 (Security Requirements)</i>];
"Staff Vetting Procedures"	the Council's procedures and policies for the vetting of personnel whose role will involve the handling of information of a sensitive or confidential nature or the handling of information which is subject to any relevant security measures.

43 STAFFING SECURITY

- 43.1 The Contractor shall comply with the Staff Vetting Procedures in respect of all Contractor Personnel employed or engaged in the provision of the Services. The Contractor confirms that all Contractor Personnel employed or engaged by the Contractor at the commencement of this agreement were vetted and recruited on a basis that is equivalent to and no less strict than the Staff Vetting Procedures.
- 43.2 The Contractor shall provide training on a continuing basis for all Contractor Personnel employed or engaged in the provision of the Services in compliance with the Security Policy and Security Plan

44 SECURITY REQUIREMENTS

- 44.1 The Contractor shall comply, and shall procure the compliance of the Contractor Personnel, with the Security Policy and the Security Plan and the Contractor shall ensure that the Security Plan produced by the Contractor fully complies with the Security Policy.
- 44.2 The Council shall notify the Contractor of any changes or proposed changes to the Security Policy.
- 44.3 If the Contractor believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the Services it may submit a request for the Agreement to be varied in respect of any charges or fees payable under the Agreement. In doing so, the Contractor must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs.
- 44.4 Until and/or unless a change to the charges or costs is agreed by the Council pursuant to this clause the Contractor shall continue to perform the Services in accordance with its existing obligations

Appendix 3

EMC 005: Residents' Profiles – Beulah House, Market Drayton

More detailed Residents' profiles will be supplied to the tenderers selected for interview.

Please find below a list of the typical behaviours and service user needs for residents at this home:

- A range of severe learning and physical disabilities
- A range of communication difficulties and comprehension difficulties
- Mobility issues such as - Residents using a wheelchair and History of falls
- Epilepsy
- Agitation and becoming verbally abusive with spitting and biting as a result of agitation
- Diabetes
- Lack of safety awareness
- Self harming
- Osteoporosis
- Inappropriate touching
- Lack of co-operation
- Dementia
- Full personal care required
- Weight issues
- Requirement for hoisting
- Anxiety and mood swings
- Punching, hitting and screaming behaviours
- Support required in the community
- Twenty four hour support required
- Incontinence
- Psychiatric issues
- Challenging behaviours

EMC 005: Residents' Profiles – Glen View, Ludlow

There is currently one void at this home.

Please find below a list of the typical behaviours and service user needs for residents at this home:

- A range of severe learning and physical disabilities
- A range of communication difficulties and comprehension difficulties
- Mobility issues such as - residents using a wheelchair and history of falls
- Epilepsy with seizures and autism
- Agitation and becoming verbally abusive with spitting and biting as a result of agitation
- Diabetes
- Lack of safety awareness
- Self harming
- Osteoporosis
- Inappropriate touching
- Lack of co-operation
- Dementia
- Full personal care required
- Weight issues
- Requirement for hoisting
- Anxiety and mood swings
- Punching, hitting and screaming behaviours
- Support required in the community
- Twenty four hour support required
- Incontinence
- Bipolar
- Hypothyroidism
- Joint problems
- Heart problems
- Eating and swallowing difficulties
- Periods of mania and lethargy
- Sleep issues
- Wolff Hirshorn Syndrome which involves severe growth retardation, congenital abnormalities, dysmorphic features, congenital cerebral palsy.
- Bowel problems
- Susceptibility to Chest infections
- Bed rails requirement
- Lack of tolerance of other people
- Spondylitis of spine.
- Psychiatric issues
- Challenging behaviours
- Visual impairments
- Depression

- Urine infections
- Kidney stones

EMC 005: Residents' Hours of Care and Support

Home: Beulah House – Core Hours

Residents	Mornings	Afternoons/Evenings	Nights	Comments-Include additional hours
Resident A	2 x 7:30 am to 3pm	2 x 3pm to 10pm	1 x sleep in 10pm to 7:30am	The 1 x 3pm to 8pm shift shown here is extra hours due to number of incidents during this period. With the extra staffing the number of incidents has fallen considerably.
Resident B	1 x 8am to 3.30pm	1 x 3pm to 8pm	1 x waking night 9:45pm to 7:45am	Mondays and Fridays 1 x 10am to 3pm to support swimming activities
Resident C				Wednesdays 1 x 6pm to 11pm plus other staff stay 1 hour extra to cover disco night
Resident D				Other hours are used flexibly to enable activities to take place
Resident E				

Core daily hours

41.5 Hours per day plus 10 waking night hours = 51.5 hours per day. $51.5 \times 7 = 360.5$ hours per week, plus 7 sleep-ins

EMC 005: Residents' Hours of Care and Support
Home: Glenview– Core Hours

Residents	Mornings	Afternoons/Evenings	Nights	Comments-Include additional hours
Resident A	3 x 7.15am – 2.45pm	3 x 2.30pm-10pm	1 x sleep in 10pm to 7.30am 1 x waking night 10 pm to 7.30 am	Sometimes the morning shifts vary to: 2 x 7.15am-2.45pm plus 1 x 8am-3.30pm. Resident E has 18 additional hours per week. These are 1:1 hours and used for outside activities and consist of 3 to 4 hours per day, 4 to 5 times a week depending on how they have been set on the rota. The days for these can vary according to activity and the needs of the rest of the people we support.
Resident B				
Resident C				
Resident D				
Resident E				

Core daily hours

45 hours per day plus 9.5 waking night hours = 54.5 hours per day. $54.5 \times 7 = 381.5$ hours per week, plus 7 sleep-ins

EMC 005: Sample Heads of Terms

for

Lease of Accommodation at:-

Beulah House, Market Drayton and Glenview, Ludlow

1	Landlord
	Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury SY2 6ND
2	Tenant
	<i>Service Contract Provider</i>
3	Premises
	Beulah House 5 Cemetery Road, Market Drayton, Shropshire, TF9 3BD Glenview 54 Gravel Hill, Ludlow, Shropshire, SY8 1QS
4	Lease Term
	Three (3) years plus an option to extend for a further two (2) years. The lease is coterminous with the service contract.
5	Lease Commencement Date
	At the start of the Service Contract
6	Rent
	Beulah House [REDACTED] Glenview [REDACTED] There will be a rent review three (3) years after the commencement of the Service Contract.
7	Use
	This shall be limited to the aims and objectives set out in the Service Contract between the parties
8	Maintenance and Repair
	The tenant will: Report to the Council any defects in the building Keep the interior of the premises in good repair and condition and in particular to redecorate

	<p>the interior of the premises in the last year of the term.</p> <p>Replace with an equal standard from time to time those items set out in the inventory which subject to fair wear and tear excepted shall need replacement during the term of the agreement. All items replaced will become and remain the property of the Council.</p>
	<p>The Council will:</p> <p>Be responsible for the structural repair of the roof; walls and foundations of the premises.</p> <p>Keep in repair the structure and exterior (including drains; gutters and external pipes) of the premises.</p> <p>Keep in repair and proper working order the installations for the supply of water, gas and electricity and for sanitation including basins; sinks; baths; showers; and sanitary conveniences, but not other fixtures, fittings and appliances for making use of the supply of water, gas or electricity.</p> <p>Keep in repair and working order the installations for space and water heating.</p> <p>Provide an inventory of equipment and furnishings belonging to fixed or placed in or on the premises at the commencement of the lease.</p>
9	Insurance
	<p>The tenant is to insure in accordance with a sum to be agreed with the Landlord with an insurer approved by the Landlord against third party liability and take out contents insurance and to produce a copy of the policy documents and insurance certificate upon demand by the Landlord.</p>
10	Assignment and Subletting
	<p>The tenant is not permitted to assign or sublet or share any part of the premises</p>
11	Alterations and Additions
	<p>The tenant will not be permitted to make any alterations or additions to the premises.</p>
12	Outgoings
	<p>The tenant to be responsible for the payment of all rates, taxes, assessments, duties charges, impositions and outgoings which are now or during the term shall be charged, assessed or imposed on the premises.</p>
13	Statutory Requirements
	<p>The tenant must not do anything which would or might constitute a breach of any statutory requirement affecting the premises or which might vitiate in whole or in any part any insurance effected in respect of the premises.</p>

14	Landlord and Tenant Act 1954
	The lease to be taken outside the security of tenure provisions of the Landlord and Tenant Act 1954.
15	Costs
	Each party is to be responsible for their own costs in this matter.
16	Termination
	<p>The lease will be capable of determination:</p> <p>Immediately on notice given by the Landlord following the occurrence of any of the events set out in Clauses 10 (Breach) 11 (Anti-bribery and Corruption) 13 (Extension and Termination of the Contract) of the Service Contract</p> <p>Immediately on notice given by the Landlord in event of a breach by the tenant of any of the tenants covenants</p> <p>Immediately in the event that the Service Contract is terminated.</p>



INSTRUCTIONS FOR TENDERING

**EMC 005 - Block Contract for
Residential Care Services for Adults
with a Learning Disability**

Shropshire Council Instructions for tendering

Contract Description:

Block Contract for Residential Care Services for Adults with a Learning Disability

Bleulah House, 5 Cemetery Road, Market Drayton TF9 3BD
Glenview, 54 Gravel Hill, Ludlow SY8 1QS

Index

<u>Section</u>	<u>Description</u>	<u>Page</u>
1.0	Invitation to Tender	3
2.0	Terms and Conditions	4
3.0	Preparation of Tenders	4
3.1	Completing the Tender Response Document	4
3.2	Tender Preparation and Cost	4
3.3	Parent Company Guarantee	5
3.4	Warranty	5
4.0	Tender Submission	6
5.0	Variant Bids	6
6.0	Transfer of Undertakings	7
7.0	Tender Evaluation	7
8.0	Clarifications	7
9.0	Continuation of the Procurement Process	8
10.0	Confidentiality	9
11.0	Freedom of Information	10
12.0	Disqualification	11
13.0	E-Procurement	12
14.0	Award of Contract	12
14.1	Award Criteria	12
14.2	Award Notice	12
14.3	Transparency of Expenditure	12

15.0	Value of Contract	12
16.0	Acceptance	12
17.0	Payment Terms	13
18.0	Liability of Council	13
19.0	Declaration	14

1.0 Invitation to Tender

- 1.1** You are invited to tender for the provision of **Residential Care Services for Adults with a Learning Disability** as detailed in the Tender Response Document. The contracts will be for an initial period of 3 years commencing around the **7th April 2014** with the option to extend up for a further two years to the **13th April 2019**.
- 1.2** Tenders are to be submitted in accordance with the Form of Contract and the instructions outlined within this document.
- 1.3** Tenders must be submitted in accordance with the following instructions. Tenders not complying in any particular way may be rejected by Shropshire Council (the Council) whose decision in the matter shall be final. Persons proposing to submit a Tender are advised to read the Invitation to Tender documentation carefully to ensure that they are fully familiar with the nature and extent of the obligations to be accepted by them if their Tender is accepted.
- 1.4** The Invitation to Tender documents must be treated as private and confidential. Tenderers should not disclose the fact that they have been invited to tender or release details of the Invitation to tender document other than on an “in confidence” basis to those who have a legitimate need to know or who they need to consult for the purpose of preparing the tender as further detailed in these Instructions for Tendering.
- 1.5** Tenderers shall not at any time release information concerning the invitation to tender and/or the tender documents for publication in the press or on radio, television, screen or any other medium without the prior consent of the Council.
- 1.6** The fact that a Tenderer has been invited to submit a tender does not necessarily mean that it has satisfied the Council regarding any matters raised in the pre-tender questionnaire submitted. The Council makes no representations regarding the Tenderer’s financial stability, technical competence or ability in any way to carry out the required services. The right to return to any matter raised in any pre-tender questionnaire submitted as part of the formal tender evaluation is hereby

reserved by the Council.

- 1.7 The Invitation to Tender is issued on the basis that nothing contained in it shall constitute an inducement or incentive nor shall have in any other way persuaded a tenderer to submit a tender or enter into a Contract or any other contractual agreement.

2.0 Terms and Conditions

- 2.1 Every Tender received by the Council shall be deemed to have been made subject to the General Terms and Conditions and these Instructions for Tendering unless the Council shall previously have expressly agreed in writing to the contrary.

- 2.2 The Tenderer is advised that in the event of their Tender being accepted by the Council, they will be required to undertake the required services.

3.0 Preparation of Tenders

3.1 Completing the Tender Response Document

- 3.1.1 Tenders should be submitted using the 'Tender Response Document' following the instructions given at the front of the document. The Tenderer's attention is specifically drawn to the date and time for receipt of Tenders and that no submission received after the closing time will be considered.

- 3.1.2 All documents requiring a signature must be signed;

- a) Where the Tenderer is an individual, by that individual;
- b) Where the Tenderer is a partnership, by two duly authorised partners;
- c) Where the Tenderer is a company, by two directors or by a director and the secretary of the company, such persons being duly authorised for the purpose.

- 3.1.3 The Invitation to Tender Documents are and shall remain the property and copyright of the Council.

3.2 Tender Preparation and Costs

- 3.2.1 It shall be the responsibility of Tenderers to obtain for themselves at their own expense all information necessary for the preparation of their Tender. No claim arising out of want of knowledge will be accepted. Any information supplied by the Council (whether in the Tender Documentation or otherwise) is supplied only for general guidance in the preparation of tenders.

- 3.2.2** Any Tenderer considering making the decision to enter into a contractual relationship with the Council must make an independent assessment of the Tender opportunity after making such investigation and taking such professional advice as it deems necessary.
- 3.2.3** Tenderers will be deemed for all purposes connected with their Tender submission where appropriate to have visited and inspected the Council, its assets, all the locations in respect of the delivery of the services/supplies/works and to have satisfied themselves sufficiently as to the nature, extent and character of the services supplies/works sought, and the human resources, materials, software, equipment, machinery, and other liabilities and other matters which will be required to perform the contract.
- 3.2.4** The Council will not be liable for any costs incurred by Tenderers in the preparation or presentation of their tenders.
- 3.2.5** The Tenderer is deemed to have made him/herself acquainted with the Council's requirements and tender accordingly. Should the Tenderer be in any doubt regarding the true meaning and intent of any element of the specification he/she is invited to have these fully resolved before submitting his Tender. No extras will be allowed for any loss or expense involved through any misunderstanding arising from his/her failure to comply with this requirement.
- 3.2.6** Any Tender error or discrepancy identified by the Council shall be drawn to the attention of the Tenderer who will be given the opportunity to correct, confirm or withdraw the Tender.
- 3.2.7** The Tender Documents must be treated as private and confidential. Tenderers should not disclose the fact that they have been invited to tender or release details of the Tender document other than on an In Confidence basis to those who have a legitimate need to know or whom they need to consult for the purpose of preparing the Tender.

3.3 Parent Company Guarantee

It is a condition of contract that if the tendering company is a subsidiary then its Ultimate Group/Holding Company must guarantee the performance of this contract and provide a letter to that effect signed by a duly authorised signatory of the Ultimate Group/Holding Company.

3.4 Warranty

The Tenderer warrants that all the information given in their Tender Response is true and accurate. The information provided will be deemed to form part of any contract formed under this contract.

The Tenderer warrants that none of their current Directors have been involved in liquidation or receivership or have any criminal convictions.

4.0 Tender Submission

- 4.1** Tenders must be submitted strictly in accordance with the letter of instruction accompanying this Invitation to Tender using the label provided. Tenders must be submitted by the deadline of **noon, 15th November 2013**. One hard copy and one CD copy of your Tender Response Document must be returned.
- 4.2** No unauthorised alteration or addition should be made to the Specification and Tender Response Document, or to any other component of the Tender document. If any such alteration is made, or if these instructions are not fully complied with, the Tender may be rejected.
- 4.3** Qualified tenders may be submitted, but the Council reserves the right not to accept any such tender. The Council's decision on whether or not a Tender is acceptable will be final.
- 4.4** Tenderers should note that their Tender must remain open and valid and capable of acceptance for a period of at least 90 days.
- 4.5** Tenderers should note that Tenders and supporting documents must be written in English and that any subsequent contract, which may or may not be entered into, its formation, interpretation and performance, shall be subject to and in accordance with the laws of England and subject to the jurisdiction of the Courts of England and Wales.
- 4.6** Where Tender submissions are incomplete the Council reserves the right not to accept them.

5.0 Variant Bids

- 5.1** The Council is interested in alternative solutions which would provide and develop opportunities for savings in service costs, service improvement or other financial benefits. In particular, the Council wishes to encourage solutions which also deliver benefits and added value to the local economy, residents and the business community.
- 5.2** Tenderers may submit, at their discretion, a Tender offering a different approach to the project as a "Variant Bid". However, to permit comparability, at least one bid must be submitted strictly in accordance with the Invitation to Tender Documents (the "Compliant Tender"). Any Tender variant proposed must clearly state how it varies from the requirements of the Compliant Tender Documents, and be explicit in demonstrating the benefits that will accrue to the Council from adopting this approach. Tenderers will be required to identify which submission, in their view, demonstrates best value to the Council.

- 5.3 Variant Bids must contain sufficient financial and operational detail to allow any Variant Bid to be compared with the standard Tender, permitting its considerations in written form.

6.0 **The Transfer of Undertakings (Protection of Employment) regulations 2006**

- 6.1 Tenderers should note that the Employee 'Transfer of Undertakings (Protection of Employment) Regulations '2006 ('TUPE') may apply to this contract. Tenderers are advised to seek their own legal advice about the practicality of these regulations and should reflect the financial implications of such a transfer in their tender submissions.

- 6.2 Details of employees of companies/and of the Council who are currently carrying out the work that is included in the Contract are included. Tenderers should note, however, that where the Council provides information to them for the purposes of TUPE, such information may originate from a third party. As the Council has no control over the compilation of such third party information, the Council gives no guarantee or assurance as to the accuracy or completeness of such information and cannot be held responsible for any errors or omissions in it.

7.0 **Tender Evaluation**

- 7.1 The Tenderers may be called for interview on **Tuesday 3rd December 2013** to seek clarification of their tender or additional or supplemental information in relation to their tender. The presentations will not carry any weighting to the final score achieved by Tenderers, but will be used to clarify and moderate issues raised in the Tenderer's submissions. Any areas of discrepancy between submissions and information gained from the presentations will be reviewed and scores previously awarded will be amended if necessary.

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

8.0 **Clarifications**

- 8.1 Tenderers are responsible for clarifying any aspects of the tendering process and/or the Invitation to Tender documents in the manner described below.

- 8.2 Any queries arising in relation to this invitation to tender should be raised by email for the attention of [REDACTED] (email: procurement@shropshire.gov.uk) quoting the tender reference and title.

- 8.3** Where appropriate, the Authorised Officer named above may direct the Tenderer to other officers to deal with the matter.
- 8.4** All queries should be raised as soon as possible by email, in any event not later than **Monday 11th November 2013**.
- 8.5** All information or responses that clarify or enhance the tendering process will be supplied to all Tenderers on a uniform basis (unless expressly stated otherwise). These responses shall have the full force of this Instruction and where appropriate the Conditions of Contract. If a Tenderer wishes the Council to treat a question as confidential this must be expressly stated. The Council will consider such requests and will seek to act fairly between the Tenderers, whilst meeting its public law and procurement duties in making its decision.
- 8.6** Except as directed in writing by the Authorised Officer, and confirmed in writing to a Tenderer, no agent or officer or elected Member (Councillor) of the Council has any express or implied authority to make any representation or give any explanation to Tenderers as to the meaning of any of the Tender Documents, or as to anything to be done or not to be done by a Tenderer or to give any warranties additional to those (if any) contained in the ITT or as to any other matter or thing so as to bind the Council in any way howsoever.

9.0 Continuation of the Procurement Process

- 9.1** The Council shall not be committed to any course of action as a result of:
- i) issuing this Invitation to Tender;
 - ii) communicating with a Tenderer, a Tenderer's representative or agent in respect of this procurement exercise;
 - iii) any other communication between the Council (whether directly or through its agents or representatives) and any other party.
- 9.2** The Council reserves the right at its absolute discretion to amend, add to or withdraw all, or any part of this Invitation to Tender at any time during the tendering stage of this procurement exercise.
- 9.3** At any time before the deadline for receipt of tender returns the Council may modify the Invitation to Tender by amendment. Any such amendment shall be numbered and dated and issued by the Council to all participating tenderers. In order to give prospective Tenderers reasonable time in which to take the amendment into account in preparing its Tender return, the Council may in its sole discretion, extend the deadline for submission of the tender returns. The Council reserves the right to amend, withdraw, terminate or suspend all or any part of this procurement process at any time at its sole discretion.

10.0 Confidentiality

10.1 All information supplied by the Council in connection with or in these Tender Documents shall be regarded as confidential to the Council unless the information is already within the public domain or subject to the provisions of the Freedom of Information Act 2000.

10.2 The Contract documents and publications are and shall remain the property of the Council and must be returned upon demand.

10.3 Tenderers shall ensure that each and every sub-contractor, consortium member and/or professional advisor to whom it discloses these papers complies with the terms and conditions of this Invitation to Tender.

10.4 The contents of this Invitation to Tender are being made available by the Council on condition that:

10.4.1 Tenderers shall at all times treat the contents of the Invitation to tender and any related documents as confidential, save in so far as they are already in the public domain and Tenderers shall not, subject to the provisions relating to professional advisors, sub-contractors or other persons detailed below, disclose, copy, reproduce, distribute or pass any of the contents of the Invitation to tender to any other person at any time or allow any of these things to happen;

10.4.2 Tenderers shall not use any of the information contained in this Invitation to tender for any purpose other than for the purposes of submitting (or deciding whether to submit) the tender; and

10.4.3 Tenderers shall not undertake any publicity activity within any section of the media.

10.5 Tenderers may disclose, distribute or pass this Invitation to Tender to their professional advisors, sub-contractors or to another person provided that:

10.5.1 this is done for the sole purpose of enabling an Invitation to Tender to be submitted and the person receiving the Information undertakes in writing to keep the Invitation to Tender confidential on the same terms as if that person were the Tenderer; or

10.5.2 the Tenderer obtains the prior written consent of the Council in relation to such disclosure, distribution or passing of the Invitation to Tender; or

10.5.3 the disclosure is made for the sole purpose of obtaining legal advice from external lawyers in relation to the procurement or to any Contract(s) which may arise from it; or

10.5.4 the Tenderer is legally required to make such a disclosure.

10.6 The Council may disclose detailed information relating to the Invitation to Tender to

its officers, employees, agents, professional advisors or Governmental organisations and the Council may make any of the Contracts and procurement documents available for private inspection by its officers, employees, agents, professional advisors, contracting authorities or Governmental organisations.

11.0 Freedom of Information

11.1 Please note that from 1 January 2005 under the provisions of the Freedom of Information Act 2000, the public (included in this are private companies, journalists, etc.) have a general right of access to information held by public authorities. One of the consequences of those new statutory responsibilities is that information about your organisation, which Shropshire Council may receive from you during this tendering process may be subject to disclosure, in response to a request, unless one of the various statutory exemptions applies.

11.2 In certain circumstances, and in accordance with the Code of Practice issued under section 45 of the Act, Shropshire Council may consider it appropriate to ask you for your views as to the release of any information before we make a decision as to how to respond to a request. In dealing with requests for information under the Act, Shropshire Council has to comply with a strict timetable and it would therefore expect a timely response to any such consultation within five working days.

11.3 If, at any stage of this tendering process, you provide any information to Shropshire Council in the expectation that it will be held in confidence, then you must make it clear in your documentation as to the information to which you consider a duty of confidentiality applies. The use of blanket protective markings such as “commercial in confidence” will no longer be appropriate and a clear indication as to what material is to be considered confidential and why should be given.

11.4 Shropshire Council will not be able to accept that trivial information or information which by its very nature cannot be regarded as confidential should be subject to any obligation of confidence.

11.5 In certain circumstances where information has not been provided in confidence, Shropshire Council may still wish to consult with you as to the application of any other exemption such as that relating to disclosure that will prejudice the commercial interests of any party. However the decision as to what information will be disclosed will be reserved to Shropshire Council.

For guidance on this issue see: <http://www.ico.gov.uk>

12.0 Disqualification

12.1 The Council reserves the right to reject or disqualify a Tenderer's Tender submission where:

12.1.1 The tenderer fails to comply fully with the requirements of this Invitation to Tender or is in breach of **clause 11** of the Council's Contract relating to Bribery and Corruption or is guilty of a serious or intentional or reckless misrepresentation in supplying any information required; or

12.1.2 The tenderer is guilty of serious or intentional or reckless misrepresentation in relation to its tender return and/or the procurement process.

12.1.3 The tenderer directly or indirectly canvasses any member, official or agent of the Council concerning the award of the contract or who directly or indirectly obtains or attempts to obtain information from any such person concerning any other Tender or proposed Tender for the services. The Canvassing Certificate must be completed and returned as instructed.

12.1.4 The Tenderer :

a) Fixes or adjusts the amount of his Tender by or in accordance with any agreement or arrangements with any other person; or

b) Communicates to any person other than the Council the amount or approximate amount of his proposed Tender (except where such disclosure is made in confidence in order to obtain quotations necessary for preparation of the Tender for insurance purposes); or

c) Enters into an agreement or arrangement with any other person that he shall refrain from tendering or as to the amount of any Tender to be submitted; or

d) Offers or agrees to pay or give or does pay or gives any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any Tender or proposed Tender for the services any act or omission.

12.2 Any disqualification will be without prejudice to any other civil remedies available to the Council and without prejudice to any criminal liability which such conduct by a Tenderer may attract. The Non-Collusive Tendering Certificate must be completed and returned as instructed.

12.3 The Council reserves the right to disqualify an Applicant from further participating in this procurement process where there is a change in the control or financial stability of the Tenderer at any point in the process up to award of a contract and such change of control or financial stability has a materially adverse effect on the Tenderer's financial viability or ability to otherwise meet the requirements of the procurement process.

13.0 E-Procurement

As part of its procurement strategy Shropshire Council is committed to the use of technology that can improve the efficiency of procurement. Successful Tenderers may be required to send or receive documents electronically. This may include purchase orders, acknowledgements, invoices, payment advices, or other procurement documentation. These will normally be in the Council's standard formats, but may be varied under some circumstances so as not to disadvantage small and medium suppliers.

14.0 Award of Contract

14.1 Award Criteria

The Award Criteria has been set out within the Tender Response Document accompanying this invitation to tender. The Council is not bound to accept any Tender.

14.2 Award Notice

The Council will publish the name and addresses of the successful Tenderers in the Official Journal of the European Union (OJEU) where appropriate. The Contracting Authority reserves the right to pass all information regarding the outcome of the Tendering process to the Office of Fair Trading to assist in the discharge of its duties. Additionally, the Council will adhere to the requirements of the Freedom of Information Act 2000 and Tenderers should note this statutory obligation.

14.3 Transparency of Expenditure

Further to its obligations regarding transparency of expenditure, the Council may also be required to publish information regarding tenders, contracts and expenditure to the general public, which could include the text of any such documentation, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act to be determined at the absolute discretion of the Council.

15.0 Value of Contract

Shropshire Council cannot give any guarantee in relation to the value of this contract.

16.0 Acceptance

- 16.1** Tenders must be submitted strictly in accordance with the terms of the Council's Invitation to Tender documentation and acceptance of the tender shall be conditional on compliance with this Tender Condition.
- 16.2** The Tender documentation including, the General and Special Terms and Conditions of Contract, the Tender Response document, these Instructions to Tender, together with the formal written acceptance by the Council will form a binding agreement between the Contractor and the Council.
- 16.3** The Tenderer shall be prepared to commence the provision of the services on the start date of the contract anticipated as being **Monday 7th April 2014**.

17.0 **Payment Terms**

Tenderers should particularly note that the principles governing public procurement require that, as far as is reasonably possible, payments for Goods, Works or Services are made after the provision. Therefore any indication of a pricing strategy within a Tender which provides for substantial payments at the outset of the Contract will be examined carefully to decide whether or not a Tender in such form can be accepted. If in the opinion of the Council such substantial payments appear excessive in relation to the requirements of the Contract the Council reserves, without prejudice to any other right to reject any Tender it may have, the right to require the Tenderer to spread such proportion of the costs as are considered excessive over the duration of the Contract.

18.0 **Liability of Council**

- 18.1** The Council does not bind himself to accept the lowest or any tender.
- 18.2** The Council does not accept any responsibility for any pre-tender representations made by or on its behalf or for any other assumptions that Tenderers may have drawn or will draw from any pre-tender discussions.
- 18.3** The Council shall not be liable to pay for any preparatory work or other work undertaken by the Tenderer for the purposes of, in connection with or incidental to this Invitation to Tender, or submission of its Tender response or any other communication between the Council and any other party as a consequence of the issue of this Invitation to Tender.
- 18.4** The Council shall not be liable for any costs or expenses incurred by any Tenderer in connection with the preparation of a Tender return for this procurement exercise, its participation in this procurement whether this procurement is completed, abandoned or suspended.
- 18.5** Whilst the Tender Documents have been prepared in good faith, they do not

purport to be comprehensive nor to have been formally verified. Neither the Council nor any of its staff, agents, elected Members, or advisers accepts any liability or responsibility for the adequacy, accuracy or completeness of any information given, nor do they make any representation or given any warranty, express or implied, with respect to the Tender Documents or any matter on which either of these is based (including, without limitation, any financial details contained within the Specification and Contract Documentation). Any liability is hereby expressly disclaimed save in the event of fraud, or in the event of specific warranties provided within the Contract Documentation.

19.0 Declaration

We, as acknowledged by the signature of your authorised representative, accept these Instructions to Tender as creating a binding contract between yourself and the Council. We hereby acknowledge that any departure from the Instructions to Tender may cause financial loss to the Council.

Signed (1) Status.....

Signed (2) Status.....

(For and on behalf of)

Date

Dated

2013

BETWEEN

SHROPSHIRE COUNCIL

and

a

BLOCK CONTRACT

**for the provision of Residential Care
for Adults with Learning Disabilities**

at

INDEX

<u>Heading</u>	<u>Clause</u>
Definitions	
Contract and Term	1
Payment	2
VAT	3
Payment Review	4
Compliance	5
Variation	6
Agency	7
Accounting	8
Notices	9
Breach	10
Prevention of Bribery	11
Insurance	12
Extension & Termination	13
Disputes	14
Assignment, Transfer and Subcontracting	15
Force Majeure	16
Waiver	17
Severance	18
Statutory Duties	19
Law	20
Third Party Rights	21
Remedies cumulative	22
Council's functions as a local authority	23
Conclusion of Contract	24
Sustainability	25
Freedom of Information	26
TUPE	27
Restriction on Employment	28
Equalities	29
Confidential Information	30
Council Data	31
Protection of Personal Data	32
Council Data and Personal Information Audit	33
Emergency Planning	34
Safeguarding	35
Agreement Status and Transparency	36

Deprivation of Liberty Safeguards	37
Complaints	38
Suspension of referrals	39
Notification	40
Schedule One: Service Specification	
Schedule Two: Service Standards	
Schedule Three: Residents at the Homes	
Appendix 1: Notification form	

Commencement Date	
Confidential Information	all information as defined by Clause 30.
Contract	The Contract including the Specification
Contracts Manager	the nominated officer of the Council authorised to oversee contractual arrangements in respect of the Service.
Commission for Local Administration	The Commission for Local Administration is the official title of the body that runs the Local Government Ombudsman service
Council Data	the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are: (a) supplied to the Service Provider by or on behalf of the Council; or which the Service Provider is required to generate, process, store or transmit pursuant to this Contract; or (b) any Personal Data for which the Council is the Data Controller.
Data Subject	shall have the same meaning as set out in the Data Protection Act 1998.
Data Controller	shall have the same meaning as set out in the Data Protection Act 1998.
Data Processor	shall have the same meaning as set out in the Data Protection Act 1998.
Duty Officer	an officer of the Council who is undertaking duty for the Social Care Duty Team
EIR	means the Environmental Information Regulations 2004 (as may be amended from time to time.) means any activities provided further to a Local Authority's social services functions relating to a person aged under 18, or under the Children Act 1989, the Adoption (Intercountry Aspects) Act 1999, the Adoption and Children Act 1976 or the Adoption Act 1976
Excluded Activities	
Excluded Premises	means parts of a care home which are not communal areas; or premises or parts of premises used as

		residential accommodation for employees of the Service Provider; or premises which are occupied by one or more persons as their home and which at least one of those persons occupies under a tenancy or licence.
Exempt Information		any information or class of information (including but not limited to any document, report, contract or other material containing information) relating to this Contract or otherwise relating to the parties to this Contract which potentially falls within an exemption to FOIA (as set out therein)
Expiry Date		
Financial Year		the period of 12 months from and including 1 st April in one year to the 31 st March in the next.
FOIA		means the Freedom of Information Act 2000 and all subsequent regulations made under this or any superseding or amending enactment and regulations; any words and expressions defined in the FOIA shall have the same meaning in this clause.
FOIA notice		means a decision notice, enforcement notice and/or an information notice issued by the Information Commissioner.
Healthwatch		means Healthwatch or any successor body for the administrative area of Shropshire Council established under The Health and Social Care Act 2012.
Home(s)		the care homes from which the Service Provider provides the Service to the Service User
Individual Placement Contract		a contract between the Service Provider and the Council which is specific to a Service User
Individual Care Plan		a written plan (related to the Assessment of Needs) drawn up by the Service Provider in respect of the Service User (to show the care objectives and provision of Service and where appropriate nursing care).
Intellectual Rights	Property	means all patents, registered and unregistered designs, copyright, trademarks, know-how and all other forms of intellectual property wherever in the world enforceable
The Legislation		National Assistance Act 1948

Health and Social Care Act 2008

Malicious Software	any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence
Multi Agency Adult Protection Policy and Procedures	The Council's Policy and Procedures to make clear the roles and responsibilities of staff working with vulnerable adults when abuse is suspected or reported.
Notice	a written communication issued in accordance with Clause 9 of the Contract
Officer(s)	those officers of the Council who are authorised by the Council to perform functions in connection with this Contract
Party	means either the Council or the Service Provider
Parties	means the Council and the Service Provider together
Payment Review	The review of Payment as detailed in Clause 4
Payment	the amount payable by the Council to the Service Provider in accordance with this Contract as detailed in Clause 2
Performance Indicators	The performance indicators relating to this Contract issued by the Council from time to time
Personal Allowance	the sum of the Service User's weekly income to be retained by the Service User being equal to the amount set each year by the Department of Health
Prohibited Act	<p>the following constitute Prohibited Acts:</p> <p>(a) to directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to:</p> <p>(i) induce that person to perform improperly a relevant function or activity; or</p> <p>(ii) reward that person for improper performance of a relevant function or activity;</p>

(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract;

(c) committing any offence:

(i) under the Bribery Act;

(ii) under legislation creating offences concerning fraudulent acts;

(iii) at common law concerning fraudulent acts relating to this Contract or any other contract with the Council; or

(d) defrauding, attempting to defraud or conspiring to defraud the Council.

Public Body	as defined in the FOIA 2000
Purchase Order	the Council's official order which encompasses orders written or electronically generated via any of the Council's ordering systems and to which these General Terms and Conditions are attached or referred to.
Receiving Party	a party to this Contract to whom a Request for Information is made under the FOIA, and who thereafter has overall conduct of the request and any response
Request for Information	a written request for information pursuant to the FOIA as defined by Section 8 of the FOIA
Registration Body	the Care Quality Commission (or any other body which supersedes it) area office for the area where the Service is located and/or any other body which has regulatory powers or responsibilities in respect of the Service Provider
Regulated Activity	in relation to children, as defined in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006, and in relation to vulnerable adults, as defined in Part 2 of

	Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.
Regulated Activity Provider	as defined in section 6 of the Safeguarding Vulnerable Groups Act 2006
Regulated Provider	as defined in section 6 of the Safeguarding Vulnerable Groups Act 2006
Regulatory Body or Bodies	those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Agreement or any other affairs of the Council and "Regulatory Body" shall be construed accordingly
Service	the Service as described in the Specification and Schedules of this Contract
Service Users	the persons or client group designated from time to time by the Council to receive the Service
Service User's Contribution	The sum contributed by the Service User towards the cost of care following a means tested financial assessment by the Council in accordance with Charging for Residential Accommodation Guidelines issued by the Department of Health, or any amending or superseding Guidelines or enactment
Service Provider Software	software which is proprietary to the Service Provider including software which is or will be used by the Service Provider for the purposes of providing the Services
Skills For Care Specification	The organisation that sets the training standards of the Training Organisation for Personal Social Services the Specification contained in the Schedules to this Contract
Speaking up about Wrongdoing Policy	The Council's policy for its employees and elected members that advises specifically on blowing the whistle on wrongdoing. The policy is available in a leaflet form to our business partners, contractors, voluntary agencies, partnerships, and any others with whom the Council has dealings

	with for distribution to their employees.
SPIC	Shropshire Partners in Care (the representative body of Service Providers in Shropshire)
Staff	those persons paid or unpaid who deliver the Service on behalf of the Service Provider including a Subcontractor
Sub-Contract	any contract or agreement, or proposed contract or agreement between the Service Provider and any third party whereby that third party agrees to provide to the Service Provider the Goods, Works or Services or any part thereof, or facilities or services necessary for the provision of the Goods, Works or Services or any part of the Goods, Works or Services, or necessary for the management, direction or control of the Goods, Works or Services or any part of thereof
Sub-Contractor	the third parties that enter into a Sub-Contract with the Service Provider
Third Party	a person (other than the Service User or the Council) who agrees to make a contribution to the cost of the Service
Third Party Software	software which is proprietary to any third party which is or will be used by the Service Provider for the purposes of providing the Services
TUPE	The Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) and the Acquired Rights Directive
Working Days	Monday to Friday inclusive (not including national bank holidays)
Writing	includes facsimile transmission and electronic mail, providing that the electronic mail is acknowledged and confirmed as being received.

WHEREAS

- (A) The Council in the exercise of performing its obligations is desirous of making provision within its area for adults with a learning disability with residential needs.
- (B) The Council has caused to be prepared a detailed Specification in respect of the Service

- (C) The parties have agreed that it is at this time necessary to satisfy the requirements for registration under the Health and Social Care Act 2008
- (D) This Contract, including the specification, schedules and the documents annexed to it or otherwise referred to in it together with any Individual Placement Contracts issued in connection with this Contract contain the whole agreement between the parties relating to the subject matter hereof and supersede all prior agreements, arrangements and understandings between the parties relating to the subject matter.

INTERPRETATIONS

- A Clause and paragraph headings shall not affect the interpretation of these terms and conditions.
- B A person includes an individual, firm, company, corporation, unincorporated body of persons, or any state or any agency of any person.
- C A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- D A reference to a holding company or subsidiary means a holding company or subsidiary as defined in section 1159 of the Companies Act 2006. In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that:
 - (i) references in sub-sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and
 - (ii) the reference in sub-section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.
- E Words in the singular shall include the plural and vice versa.
- F A reference to one gender shall include a reference to the other genders.
- G A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- H Any obligation in these terms and conditions on a person not to do something includes an obligation not to agree or allow that thing to be done.
- I References to clauses are to the clauses of these terms and conditions.

J Where any statement is qualified by the expression so far as the Service Provider is aware or to the Service Provider's knowledge or any similar expression, that statement shall be deemed to include an additional statement that it has been made after due and careful enquiry.

K Where there is any conflict or inconsistency between the provisions of these terms and conditions or any other document forming part of the agreement with the Council, such conflict or inconsistency shall be resolved in a manner at the Council's sole discretion.

1 CONTRACT AND TERM

1(a) In consideration of the Payments the Service Provider will provide to the Service User(s) the Service set out in the Specification and this Contract must be read in association with the Assessment of needs and where there is a conflict this Contract takes precedence

1(b) This Contract shall commence on the Commencement Date and shall continue until the Expiry Date subject to Clauses 10 (Breach) and 13 (Extension and Termination)

1(c) The Service User's accommodation at the Home will be agreed by the Service Provider and the Care Manager in consultation (where appropriate) with the Service User and their family and carers

1(d) In consideration of the Payments the Service Provider will allocate exclusively to Service Users x beds (and provide to the Service Users the Services set out in the Specification from the Commencement Date for the term subject to extension or termination of this agreement in accordance with clause 13)

1(e) If the Service Provider rejects a referral from the Council and the five beds are not at that time occupied by such referrals then the Council may reduce the amount payable under this contract

1(f) The Service Provider will have a lease to occupy the homes which will be coterminous with this Contract

2 PAYMENT

2(a) In the first Financial Year of the Term the sum of £xx shall be payable by the Council to the Service Provider. There will be x residential care beds in single rooms. The annual payment sum of £xx is set for xx years from the commencement date and if the Contract is extended there will be a payment review in accordance with clause 4.

The hourly rate will be £xx.

2(b) Payment will be made two weeks in advance and two weeks in arrears.

- 2(c) Payments to the Service Provider will be made through the BACS.
- 2(d) The Service Provider shall not make a charge to the Service User or any third party for the Service provided.
- 2(e) For the avoidance of doubt the Payment is inclusive of any quality award premium that the Home may qualify for and no additional payment shall be sought by the Service Provider (such as a Third Party contribution)
- 2(f) The Council reserves the right to set off against the price of the goods or services any sums owed or becoming due to the Council from the Service Provider.
- 2(g) If the Council fails to make any payment due to the Service Provider under this agreement by the due date for payment of an undisputed amount, then the Council shall pay interest on the overdue amount at the rate of 4% per annum above Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment.

3 VAT

- 3(a) The Payment does not include VAT and if VAT is payable then the Council will pay this in addition to the Payment provided that the Service Provider supplies the Council with an appropriate VAT notice.

4 PAYMENT REVIEW

- 4(a) The Service Provider may request the Council to review the Payment under this Contract on the 1st of April following the first full year of operation of the Service and once in each subsequent year of the Contract provided that such request is submitted to the Council by 1st of March in the previous Financial Year to which the increase will apply.
- 4(b) Following such review the Council may increase the fee payable to the Service Provider which shall be linked to the annual inflationary provision to the Council as determined by the Council's Chief Finance Officer or Officer of equal standing.
- 4(c) Should any payment review not be concluded by the 1st of April then the Payment for the preceding Financial Year shall remain in full force until such time as any revised Payment is agreed.
- 4(d) An agreed revised Payment submitted in accordance with 4(c) above shall be back-dated to that date.
- 4(e) The Council's decision after the completion of the payment review shall be final.

5 COMPLIANCE

- 5(a) The Council undertakes to:
- 5(a)(i) make the Payments to the Service Provider in accordance with Clause 2 (Payment)
 - 5(a)(ii) liaise with the Service Provider regarding the provision of the Service where appropriate.
- 5(b) The Service Provider undertakes to comply with the following in the provision of the Service:
- 5(b)(i) provide the Service in accordance with the Specification and with all due diligence care and skill expected of a suitable and experienced provider of such services
 - 5(b)(ii) ensure that no aspect of the Service funded by the Payment is or appears to be party political in intention use or presentation
 - 5(b)(iii) the Council's Multi Agency Adult Protection Policy and Procedures
 - 5(b)(iv) all standards required by the Health and Social Care Act 2008 in order to maintain registration thereunder
 - 5(b)(v) all equal opportunities legislation and anti-discriminatory practices including those identified in Clause 29 (Equalities)
 - 5(b)(vi) ensure that Staff and Subcontractors are made aware of the Council's policy "Speaking Up About Wrongdoing" and that the details of this policy are fully explained to them and shall provide the Council with evidence of doing so upon request
 - 5(b)(vii) the Data Protection Act 1998
 - 5(b)(viii) the standard required of a local authority under the Human Rights Act 1998. The Service Provider shall protect and shall not do anything in breach of Service Users' rights under the Act.
 - 5(b)(ix) the principles of Best Value
 - 5(b)(x) the Health and Safety at Work Act 1974 and any relevant health and safety regulations approved codes of practice and HSE guidance
- 5(c) Should the Service Provider provide the Service to Service Users who lack the mental capacity to make particular decisions it must familiarise itself with and adhere to the Council's Mental Capacity Act Deprivation of Liberty Safeguards Multi-Agency Guidance and Procedure.
- 5(d) If for any reason the Service Provider is unable to comply with any of its obligations under this Contract it shall notify the Council's Contracts Manager and appropriate **Care Manager** forthwith in Writing of its failure and the reasons. Compliance with this clause shall not prejudice the Council's rights under clauses 10 (Breach) and 13 (Extension and Termination).

6 VARIATION

- 6(a) This Contract may only be varied by consent of both of the parties and any such variation must be in writing and signed by an authorised officer from the Service Provider and an appropriately authorised officer of the Council authorised under the Council's Constitution and it must be annexed to this Contract and shall record the date from which the agreed variation shall have effect.
- 6(b) The Service Provider will not enter into any negotiations either directly or indirectly with any Service User or Third Party the effect of which would be to vary or amend the terms of this Contract without the prior written agreement of the Council.

7 AGENCY

- 7(a) The Service Provider is an independent contractor and nothing in this Contract shall render it an agent of the Council and the Service Provider shall not hold itself out as the Council's agent nor shall it have the power or the right to bind the Council to any obligation.
- 7(b) Under the terms of this Contract the Service Provider shall not have and shall in no way represent itself as having the power to make vary discharge or waive any by-law or regulation of any kind.

8 ACCOUNTING

- 8(a) The Service Provider shall ensure that all necessary accounting arrangements exist to distinguish between the Payment and any funds held on behalf of the Service User or any other funds held by the Service Provider.
- 8(b) All bank building society post office or other account statements together with all other supporting documentation pertaining to Service Users monies held by the Service Provider shall be retained by the Service Provider and made available for inspection by the Council.
- 8(c) The Service Provider will (upon the Council's request) produce records of any funding held on behalf of Service Users which shall clearly identify the balance held and the date funds are paid in and withdrawn.
- 8(d) The Service Provider will facilitate the inspection of all financial records held in connection with the Service and shall produce a copy of its annual audited accounts as soon as is reasonably practicable if requested to do so by the Council.
- 8(e) The Service Provider shall provide such financial information as the Council may reasonably require from time to time to assess the financial viability and monitor the performance of the Service Provider.

- 8(f) The Service Provider shall compile maintain and keep the information and records as required in the Specification and such information as the Council may from time to time reasonably require to enable the Council to submit any information or data required for the purposes of the Performance Indicators.
- 8(g) The Council may by Notice in Writing to the Service Provider authorise the statutory auditors of the Council or any regulatory body to which the Council is subject including but without limitation the Commissioner for Local Administration to exercise any of the rights exercisable under this clause by the Council. For these purposes the “statutory auditors of the Council” shall include anybody appointed by the Audit Commission or authorised by statute to perform similar functions to those of the Audit Commission.

9 NOTICES

- 9(a) The Service Provider shall comply with and give any Notices required under the Contract or required by any Act of Parliament any instrument rule or order made under any Act of Parliament or any regulation or by-law of any local authority which may have jurisdiction in respect of the Service Provider.
- 9(b) Any Notice under this Contract must be in Writing and can only be sent by:
- 9(b)(i) recorded delivery post or
 - 9(b)(ii) personal delivery
- 9(c) The Service Provider’s address for the purpose of delivery of a Notice is as set out above and all Notices sent to the Service Provider under this Contract must be sent to the Service Provider’s Chief Executive Officer.
- 9(d) The Council’s address for the purpose of delivery of a Notice is Director Of Adult Services at Shropshire Council Shirehall Abbey Foregate Shrewsbury Shropshire SY2 6ND and a separate copy must also be sent to the Council’s Contracts Manager Shirehall Abbey Foregate Shrewsbury SY2 6ND.
- 9(e) All such Notices if delivered by hand shall be deemed to be served immediately and if posted shall be deemed to have been served two days after the date when posted unless the party upon whom the Notice was purported to be served has informed the serving party within 24 hours of partial receipt that the Notice was not received in full.

10 BREACH

- 10(a) In the event that the Service Provider is in breach of his obligations under this Contract then the Council shall serve a Notice requiring the Service Provider to take such action as the Council deems necessary to remedy the breach upon the terms and within the time stipulated in the Notice.

10(b) The following obligations are conditions of this Contract and any breach of them shall be deemed a fundamental breach which shall determine this Contract immediately by the giving of a written Notice:

10(b)(i) Failure to comply with a Notice to remedy a breach 10(a)

10(b)(ii) Assignment by the Service Provider of any of his obligations under this Contract without the prior written consent of the Council

10(b)(iii) If the Service Provider was convicted of any offence the effect of which under the provisions of any legislation would prevent the Council from contracting with him or maintaining any existing contractual relationship

10(b)(iv) If the Service Provider is issued with a Notice from the Health and Safety Executive or Registration Body prohibiting it from operating.

11 PREVENTION OF BRIBERY

11(a) The Service Provider:

11(a)(i) shall not, and shall procure that all Service Provider Personnel shall not, in connection with this Contract commit a Prohibited Act;

11(a)(ii) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Council, or that an agreement has been reached to that effect, in connection with the execution of this Contract, excluding any arrangement of which full details have been disclosed in writing to the Council before execution of this Contract.

11(b) The Service Provider shall:

11(b)(i) if requested, provide the Council with any reasonable assistance, at the Council's reasonable cost, to enable the Council to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;

11(b)(ii) the Service Provider shall, within 10 Working Days of a request from the Council, certify to the Council in writing (such certification to be signed by an officer of the Service Provider) the Service Provider's compliance with this clause 15 (Assignment Transfer & Subcontracting) and provide such supporting evidence of compliance with this clause 15 (Assignment Transfer & Subcontracting) by the Service Provider as the Council may reasonably request.

11(c) If any breach of clause 11 is suspected or known, the Service Provider must notify the Council immediately.

- 11(d) If the Service Provider notifies the Council that it suspects or knows that there may be a breach of clause 11(a), the Service Provider must respond promptly to the Council's enquiries, co-operate with any investigation, and allow the Council to audit books, records and any other relevant documentation. This obligation shall continue for two years following the expiry or termination of this Contract.
- 11(e) The Council may terminate this Contract by written notice with immediate effect, and recover from the Service Provider the amount of any loss directly resulting from the cancellation, if the Service Provider or Service Provider Personnel (in all cases whether or not acting with the Service Provider's knowledge) breaches clause 11(a). At the Council's absolute discretion, in determining whether to exercise the right of termination under this clause 11(e), the Council shall give consideration, where appropriate, to action other than termination of this Contract unless the Prohibited Act is committed by the Service Provider or a senior officer of the Service Provider or by an employee, Sub-Contractor or supplier not acting independently of the Service Provider. The expression "not acting independently of" (when used in relation to the Service Provider or a Sub-Contractor) means and shall be construed as acting:
- 11(e)(i) with the authority; or,
- 11(e)(ii) with the actual knowledge;
of any one or more of the directors of the Service Provider or the Sub-Contractor (as the case may be); or
- 11(e)(iii) in circumstances where any one or more of the directors of the Service Provider ought reasonably to have had knowledge.
- 11(f) Any notice of termination under clause 11(e) must specify:
- 11(f)(i) the nature of the Prohibited Act;
- 11(f)(ii) the identity of the party whom the Council believes has committed the Prohibited Act; and
- 11(f)(iii) the date on which this Contract will terminate.
- 11(g) Despite clause 14 (Disputes), any dispute relating to:
- 11(g)(i) the interpretation of clause 11; or
- 11(g)(ii) the amount or value of any gift, consideration or commission,
shall be determined by the Council and its decision shall be final and conclusive.
- 11(h) Any termination under clause 11(e) will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.

INSURANCE

- 12(a) The Service Provider shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover, or in accordance with any legal requirement for the time being in force, in respect of all risks which may be incurred by the Service Provider, arising out of the Service Provider's performance of this Contract, including death or personal injury, loss of or damage to property or any other loss, and unless otherwise agreed with the Council such policy or policies of Public Liability and Employers Liability insurance shall provide for a minimum of £5,000,000 (FIVE MILLION POUNDS) cover. In respect of death or personal injury liability due to negligence will be unlimited.
- 12(b) The Service Provider warrants that it has complied with this clause 12 and shall provide the Council with certified copies of the relevant policies upon request together with receipts or other evidence of payment of the latest premiums due under those policies.
- 12(c) If, for whatever reason, the Service Provider fails to give effect to and maintain the insurances required by the agreement the Council may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Service Provider.

13 EXTENSION AND TERMINATION

- 13(a) Unless terminated in accordance with this Clause or Clause 10 (Breach) or 11 (Prevention of Bribery) this Contract will remain in force from the Commencement Date until the Expiry Date. The Council may in its absolute discretion extend the duration of this Contract by a further period of **two years** commencing from the Expiry Date and must inform the Service Provider in Writing of its intention to extend the Contract at least 3 months before the Expiry Date and any extension must comply with the requirements of Clause 6 (Variation).
- 13(b) This Contract may be terminated prior to the Expiry Date in the following circumstances:-
- 13(b)(i) by either the Council or the Service Provider by giving 3 months' Notice in Writing to the other party
 - 13(b)(ii) if in the reasonable opinion of the Council it is no longer practicable to maintain a satisfactory or viable relationship with the Service Provider because the Service Provider or its Staff have acted unlawfully or fraudulently or there has been a serious breakdown of mutual trust between the parties

- 13(b)(iii) if the Service Provider becomes the subject of a voluntary arrangement under section 1 Insolvency Act 1986 or is unable to pay its debts within the meaning of section 123 Insolvency Act 1986; has a receiver manager administrator or administrative receiver appointed over all or any parts of its undertaking assets or income; has passed a resolution for its winding up; has a petition presented to any court for its winding up or for an administration order; or if any distraint execution or other process is levied or enforced on any property of the other and is not paid out withdrawn or discharged within 14 days.
- 13(c) in the event of this Contract being terminated at any time prior to the Expiry Date for any reason then the Council's obligations under Clause 2 (Payment) will cease no further Payment will be made and the Service Provider shall repay to the Council all (if any) of the Payment already received (after the liabilities of the Service Provider in the provision of the Service in accordance with this Contract have been met).
- 13(d) Without prejudice to the generality of the foregoing the Council reserves the right to suspend referrals to the Service where in the reasonable opinion of the Council there is any improper conduct on the part of the Service Provider its Staff and Subcontractors and this will be considered a breach of this Contract which may result in the suspension of referrals and or reduction / clawback of part of the Payment consistent with the reduction in Service. Improper conduct includes any action which the Council may reasonably consider to be to the detriment or the welfare of Service Users either by action or neglect including but not limited to:
- 13(d)(i) Fraud or theft from Service Users
 - 13(d)(ii) Neglect of Service Users
 - 13(d)(iii) Cruelty and assault to or upon Service Users including verbal and any other forms of psychological abuse
 - 13(d)(iv) Financial malpractice
 - 13(d)(v) Sexual relationships between Staff and Service Users
 - 13(d)(vi) Racial harassment
 - 13(d)(vii) Loss of registration with Registration Body
 - 13(d)(viii) Under investigation by the Council.
- 13(e) If the Contract is terminated as provided by Clause 10 (Breach) or 11 (Anti-bribery and Corruption) or 13 (Extension and Termination) above the Council shall:

- 13(e) (i) cease to be under any obligation to make further Payment until the cost loss and/or damage resulting from or arising out of the termination of the Contract shall have been calculated and provided such calculation shows a sum or sums due to the Service Provider;
 - 13(e) (ii) be entitled to make other arrangements and if necessary pay other persons to provide the Services
 - 13(e) (iii) be entitled to deduct from any sum or sums which would have been due from the Council to the Service Provider under this Contract or be entitled to recover the same from the Service Provider as a debt any loss or damage to the Council resulting from or arising out of the termination of this Contract and further such loss or damage shall include the reasonable cost to the Council of the time spent by its officers in terminating this Contract and in making alternative arrangements for the provision of the Services provided that the Council will be under a duty to take all reasonable action to mitigate the loss or damage pursuant to this clause.
- 13(f) Whilst this Contract affords the Council and the Service Provider reciprocal rights to terminate as per the terms of Clause 13(b)(i) the Parties acknowledge that the expectation of most Service Users is that the Parties will not act unreasonably or to the prejudice of the Service Users so far as is reasonably practicable.

14 DISPUTES

- 14(a) If any dispute or difference shall arise between the parties as to the construction of this Contract or any matter or thing of whatever nature arising under this Contract or in connection with it then the same shall be dealt with as follows:-
- 14(a)(i) in the first instance a special meeting of both the parties shall be arranged on 14 days written Notice to the other party and the matter shall be discussed and the representatives shall use their reasonable endeavours to resolve the dispute
- 14(b) if the dispute cannot be resolved in accordance with the preceding sub-clause then either one of the parties may serve the Council's Director of Adult Services and the Service Provider's Chief Executive Officer with Notice of the dispute and they shall then appoint their representative to adjudicate and use their reasonable endeavours to resolve the dispute within 21 days of receipt of such Notice

14(c) if the dispute cannot be resolved in accordance with the preceding sub-clause then it shall be referred to a single arbitrator to be agreed between the parties and failing such agreement within 14 days of the request of one party to the others in Writing that the matter be referred to arbitration such reference shall be to a single arbitrator appointed for that purpose on the written request of either party by the President for the time being of the Law Society of England and Wales and any reference to arbitration under this clause shall be deemed to be a reference to arbitration within the meaning of the relevant Arbitration Acts and it is further agreed that if any matter is referred to arbitration then each party will bear its own costs of such referral.

15 ASSIGNMENT, TRANSFER AND SUB-CONTRACTING

15(a) The Council may, subject to clause 15(b):

15(a)(i) assign any of its rights under the Contract; or

15(a)(ii) transfer all of its rights or obligations by novation to another person.

15(b) The consent of the Service Provider is required for an assignment or transfer by the Council unless:

15(b)(i) the assignment or transfer is to an Associated Person of the Council;
or

15(b)(i) either the Council or the Service Provider have committed a breach of this Contract which gives the other party the right under the terms of this Contract to terminate the Contract. Any such consent must not be unreasonably withheld or delayed and if not expressly refused within five Working Days shall be deemed given.

15(c) The Service Provider may not assign any of its rights, or transfer any of its rights or obligations under the Contract.

15(d) The Service Provider will not, without the written consent of the Council sub-contract its right or obligations under this Contract nor allow Services to be provided other than through his own employees and using his own equipment.

15(e) In the event that the Council has consented to the placing of sub-contracts, copies of each sub-contract and order shall be sent by the Service Provider to the Council immediately it is issued.

15(f) Notwithstanding the Service Provider's right to sub-contract pursuant to this clause 15, the Service Provider shall remain responsible for all acts and omissions of its Sub-contractors and the acts and omissions of those employed or engaged by the Sub-contractors as if they were its own. An obligation on the Service Provider to do, or to refrain from doing, any act or

thing shall include an obligation upon the Service Provider to procure that its employees, staff, agents and Sub-contractors' employees, staff and agents also do, or refrain from doing, such act or thing.

16 FORCE MAJEURE

16(a) Subject to the provisions of clause 16(b) neither the Service Provider nor the Council shall be liable for any delay or failure in performing its obligations hereunder for any circumstances beyond its reasonable control such as (but not restricted to) flood fire and civil unrest but the Council shall in such circumstances be entitled to take such action as is reasonable and necessary to protect the interest of the Service Users.

16(b) Save where such delay or failure is caused by the act or omission of the other party (in which event the rights remedies and liabilities of the parties shall be those conferred and imposed by the other terms of this Contract and by Law):-

16(b)(i) any charges arising from such delay or failure shall be borne by the party incurring the same

16(b)(ii) either party may if such delay or failure continues for more than 90 (ninety) days terminate this Contract forthwith on giving Notice (as determined by Clause 9 (Notices)) to the other party in which event neither party shall be liable to the other by reason of such termination.

16(c) For the avoidance of doubt "force majeure" shall not include any labour dispute between the Service Provider and its Staff or the failure to provide the Service by any of the Service Provider's Subcontractors.

17 WAIVER

Failure at any time by either party to enforce any of the provisions hereof shall not be construed as a waiver of any such provisions and shall not affect the validity or any part of it or the right of the Council to enforce any provision of this Contract in accordance with its terms.

18 SEVERANCE

If any of the provisions of this Contract shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way such invalidity or unenforceability shall in no way impair or affect any other provision all of which shall remain in full force and effect.

19 STATUTORY DUTIES

19(a) The Council has various statutory duties in relation to this Contract including (but not exclusively) under Part 1 of the Local Government Act 1999 (Best Value) to carry out a regular review of the Service.

19(b) The Service Provider their Staff and Subcontractors must fully co-operate with the Council in complying with any such statutory duty and subject to the provision of the Data Protection Act 1998 the Service Provider must provide to the Council any information facilities and assistance that the Council may reasonably request provided the Council has given the Service Provider reasonable notice and also provided that this does not put the Service Provider to unnecessary cost.

20 LAW

20(a) It is the responsibility of the Service Provider to comply with all relevant European and English legislation. This Contract shall be governed by and construed in accordance with English Law and the parties agree to submit to the exclusive jurisdiction of the English and Welsh Courts.

21 THIRD PARTY RIGHTS

Unless the right of enforcement is expressly provided it is not intended that a third party should have the right to enforce a provision of this Contract under the Contracts (Rights of Third Parties) Act 1999.

22 REMEDIES CUMULATIVE

Any remedy or right which the Council may exercise in relation to a breach committed by the Service Provider shall be in addition to and shall be capable of being exercised without prejudice to all other rights and remedies available to the Council.

23 COUNCIL'S FUNCTION AS A LOCAL AUTHORITY

Nothing in this Contract shall prejudice or affect the Council's right powers duties and obligations to the exercise of its functions as a local authority.

24 CONCLUSION OF CONTRACT

24(a) Upon the expiry or termination of this Contract and upon the Council's request the Service Provider must give an Officer or any person the Council specifies all data information files records documents and the like (in whatever form that they may be held) which the Council earlier supplied to the Service Provider for the purposes of this Contract or which were produced or augmented by the Service Provider in connection with the carrying out of obligations under this Contract.

24(b) Clause 24(a) is subject to the provisions of Clause 30 (Confidential Information).

25 SUSTAINABILITY

The Service Provider will at all times use its best endeavours to source all materials used to provide the Service from sustainable and renewable sources.

26 FREEDOM OF INFORMATION ACT 2000 (FOIA) AND ENVIRONMENTAL INFORMATION REGULATIONS 2004 (EIR)

- 26(a) The Service Provider acknowledges that the Council is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Council to enable the Council to comply with its Information disclosure obligations.
- 26(b) The Service Provider shall notify the Council of any Commercially Sensitive Information provided to the Council together with details of the reasons for its sensitivity and the Service Provider acknowledges that any lists or schedules of Commercially Sensitive Information so provided are of indicative value only and that the Council may be obliged to disclose such information.
- 26(c) The Service Provider shall:
- 26(c)(i) transfer to the Council all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;
 - 26(c)(ii) provide the Council, at the Service Provider's expense, with a copy of all Information in its possession, or power in the form that the Council requires within five Working Days (or such other period as the Council may specify) of the Council's request; and
 - 26(c)(iii) provide, at the Service Provider's expense, all necessary assistance as reasonably requested by the Council to enable the Council to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
- 26(d) The Council shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations and in considering any response to a Request for Information the Council may consult with the Service Provider prior to making any decision or considering any exemption.
- 26(e) In no event shall the Service Provider respond directly to a Request for Information unless expressly authorised to do so by the Council.

- 26(f) The Service Provider acknowledges that (notwithstanding the provisions of this Freedom of Information clause) the Council may, acting in accordance with the Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("the Code"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Service Provider or the Services:
- 26(f)(i) in certain circumstances without consulting the Service Provider;
or
 - 26(f)(ii) following consultation with the Service Provider and having taken their views into account; provided always that where sub-clause 26(f)(i) above applies the Council shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Service Provider advanced notice, or failing that, to draw the disclosure to the Service Provider's attention after any such disclosure.
- 26(g) The Service Provider shall ensure that all Information required to be produced or maintained under the terms of this Contract, or by Law or professional practice or in relation to the Contract is retained for disclosure for at least the duration of the Contract plus one year together with such other time period as required by the Contract, law or practice and shall permit the Council to inspect such records as requested from time to time.
- 26(h) The Council shall in no event be liable for any loss, damage, harm, or detriment, howsoever caused, arising from or in connection with the reasonable disclosure under FOIA, or any other Law, of any information (including Exempt Information) whether relating to this Contract or otherwise relating to any other party.
- 26(i) Where the Service Provider is a Public Body the parties acknowledges that such obligations and duties of the Council as set out above are reciprocal to the Service Provider. The Council and the Service Provider acknowledge and agree that:
- 26(i)(i) as Public Bodies they are subject to legal duties under the FOIA and EIR which may require either party to disclose on request information relating to this Contract or otherwise relating to the other party;
 - 26(i)(ii) they are required by law to consider each and every Request for Information made under FOIA;

- 26(i)(iii) that all decisions made by the other pursuant to a request under the FOIA are solely a matter for the Receiving Party and at the discretion of the Receiving Party.
- 26(i)(iv) Notwithstanding anything in this Contract to the contrary (including but without limitation any obligations or confidentiality), the Receiving Party shall be entitled to disclose information in whatever form pursuant to a request made under FOIA, save that in relation to any information that is Exempt Information the Receiving Party shall consult the other party before making any such decision and shall not:
- a) confirm or deny that information is held by the other party, or
 - b) disclose information required to the extent that in the Receiving Party's opinion the information is eligible in the circumstances for an exemption and therefore the Receiving Party may lawfully refrain from doing either of the things described in part (a) and (b) of this clause.
- 26(i)(v) each party shall bear its own costs of:
- a) assessing the application of any exemption under FOIA and/or
 - b) responding to any FOIA notice and/or
 - c) lodging any appeal against a decision of the Information Commissioner in relation to disclosure
- 26(i)(vi) the Receiving Party shall in no circumstances be liable for any loss, damage, harm, or detriment, howsoever caused, arising from or in connection with the reasonable disclosure under FOIA of any Exempt Information or other information whether relating to this Contract or otherwise relating to the other party.
- 26(i)(vii) the other party shall assist the Receiving Party with the request as reasonably necessary to enable the Receiving Party to comply with its obligations under FOIA.

27 TUPE

- 27(a) The Service Provider shall provide to the Council any information reasonably required in connection with TUPE when requested to do so and the Council undertakes to use such information only for purposes in connection with TUPE and to ensure that any third party who requests the TUPE information has undertaken to use it only in connection with a tender for Service and for TUPE purposes and in the event of non-compliance by the Service Provider with this Clause 27(a) then:

- 27(a) (i) the parties acknowledge that the Council shall be entitled to an injunction of an order for specific performance in order to obtain the required TUPE information; and
 - 27(a) (ii) the Service Provider shall reimburse all expenses incurred by the Council in enforcing the Service Provider's compliance with this clause and for the avoidance of doubt this shall include the cost of the Council Officer time.
- 27(b) At any time during the period of 9 (nine) months before the Expiry Date or in the event that this Contract is terminated in accordance with clauses 10 (Breach) or 11 (Prevention of Bribery)13 (Extension & Termination) of this Contract within 28 days of giving or receiving Notice of such termination or where the Contract is terminated forthwith the Service Provider shall on the written request of the Council collate whatever information is required for the purposes of TUPE (the "TUPE Information") which may include but shall not be limited to:-
- 27(b)(i)the number of Staff including supervisory and administrative Staff employed by the Service Provider and any Subcontractor employed in the Service
 - 27(b)(ii)the terms and conditions of employment of those Staff and
 - 27(b)(iii)any information relating to those Staff as properly may be required by the Council under this clause.
- 27(c) In the event that the Council commences procedures for inviting tenders to provide the Service the Service Provider shall make the TUPE information available on request to any person who wishes to submit a tender (a "Tenderer") provided that such Tenderer shall undertake to use the TUPE Information for the purposes of submitting a tender to the Council and for no other purposes.
- 27(d) Throughout the period specified in paragraph 27(b) the Service Provider shall maintain and amend the TUPE information to the extent necessary to ensure that it is completely accurate and up to date and in the event that such amendments are made the Service Provider shall inform any person to whom it has made the TUPE information available in accordance with this clause of the nature extent and content of those amendments and the reasons why they have been made.
- 27(e) The Service Provider shall if requested by the Council provide the same information relating to Staff or its Subcontractors and agents where relevant

to the provision of the Service and shall use its reasonable endeavours to procure co-operation from such Subcontractors.

- 27(f) In the event that there is a transfer of employees pursuant to TUPE the Service Provider shall co-operate and where relevant use its reasonable endeavours to procure the co-operation of its Subcontractors and agents in the orderly transfer of any relevant personnel.
- 27(g) The Service Provider shall indemnify the Council against any and all losses costs expenses awards or liabilities incurred by the Council in connection with or as a result of any claims demands or proceedings of whatever nature by any employee or former Staff of the Service Provider or its Subcontractors or agents arising out of any non-compliance with TUPE except any such losses cost expenses awards or liabilities incurred due to any fault on the part of the Council.
- 27(h) The Council gives no express indemnity nor should it be taken as an implied indemnity whether particular to the Subcontractor or jointly for any matter connected with or arising out of the compliance or non-compliance with the requirements of TUPE.
- 27(i) The Service Provider shall not in any circumstances make any claim against the Council in connection with the effect on the Contract of TUPE
- 27(j) The Service Provider undertakes:
 - 27(j)(i) if requested to do so by the Council to supply to the Council any and all relevant accurate information and data to permit the Council to prepare the necessary documentation in respect of any subsequent review or possible invitation for tenders for the Service or including information sufficient to enable the Council to meet its legal obligations and to obtain Best Value
 - 27(j)(ii) not to change the Staff structure grade hours or scales of pay or Service delivery structure without the prior written consent of the Council (such consent not to be unreasonably withheld) but not limited to changes to preclude or promote application of TUPE upon termination or expiry of the Contract
 - 27(j)(iii) to consult with Staff and trade unions during the whole process of TUPE.

28 RESTRICTION ON EMPLOYMENT

- 28(a) Section 21 of the Immigration Asylum and Nationality Act 2006 (“the Act”) provides that an employer commits an offence if he employs a person subject to immigration control who has attained the age of 16, if the employee has

not been granted leave to enter, or remain in, the United Kingdom, or if his leave is not valid and subsisting or is subject to a condition precluding him from taking up employment.

- 28(b) The Service Provider warrants that it has fully complied with its obligations under the Act with regard to checks on its Staff being provided under this Contract and in so doing has taken account of the requirements of the Act and of the requirements of the Immigration (Restriction on Employment) Order 2007 “the Order” or in any future statutory re-enactment or modification thereof.
- 28(c) In complying with the requirements of the Act and with the Order the Service Provider confirms that it has not infringed any equal opportunity legislation in particular the Equalities Act 2010 with regard to the appearance or perceived nationality of their Staff.
- 28(d) Notwithstanding the above the Service Provider agrees to indemnify the Council for any expense liability loss claim or proceedings whatever arising due to the Service Provider’s failure to comply with the requirements of the Act and the Order where a court or tribunal may subsequently find in law that the Service Provider’s Staff provided under this Contract is an employee of the Council.

29 EQUALITIES

- 29(a) The Service Provider shall not unlawfully discriminate either directly or indirectly on such grounds as race or ethnic origin, disability, gender, sexual orientation, religion or belief, or age in the supply and provision of Goods, Services or Works under this Contract, or in its employment practices.
- 29(b) Without prejudice to the generality of the foregoing, the Service Provider shall not unlawfully discriminate within the meaning and scope of the Equalities Act 2010 or other relevant legislation, or any statutory modification or re-enactment thereof.
- 29(c) In addition, the Service Provider in providing services to the Council will comply with the general duty imposed on local authorities by Section 149 of the Equality Act 2010 to eliminate discrimination, harassment and victimisation and promote equality of opportunity between persons who share a protected characteristic and those who do not share it and to foster good relations between persons who share a protected characteristic and those who do not share it.
- 29(d) The Service Provider will take all reasonable steps to observe as far as possible the Codes of Practice produced by the Equalities and Human Rights

Commission, which give practical guidance to employers on the elimination of discrimination.

- 29(e) In the event of any finding of unlawful discrimination being made against the Service Provider during the contract period, by any court or employment tribunal, or any adverse finding or formal investigation by the Equalities and Human Rights Commission over the same period, the Service Provider shall inform the Council of this finding and shall take appropriate steps to prevent repetition of the unlawful discrimination.
- 29(f) The Service Provider will provide a copy of its policies to the Council at any time upon request. In addition, the Council may reasonably request other information from time to time for the purpose of assessing the Service Provider's compliance with the above conditions.

30 CONFIDENTIAL INFORMATION

- 30(a) The Service Provider will keep confidential any information it becomes aware of by reason of the operation of this Contract and any other information which the Council may from time to time determine as relevant to this Contract and shall not use divulge or communicate the same to any third party without the consent in writing of the Council.
- 30(b) The Service Provider shall at all times keep confidential all information held or known in respect of its past or present Service Users.
- 30(c) The Service Provider shall not mention the Council's name in connection with this Contract or disclose the existence of the Contract in any publicity material or other similar communication to third parties without the Council's prior consent in writing.
- 30(d) Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Contract, each party shall:
 - 30(d)(i) treat the other Party's Confidential Information as confidential; and
 - 30(d)(ii) not disclose the other Party's Confidential Information to any other person without the owner's prior written consent
- 30(e) Clause 30(d) shall not apply to the extent that:
 - 30(e)(i) such disclosure is a requirement of law placed upon the party making the disclosure, including any requirements for disclosure under the Audit Commission Act 1998 or under the FOIA or the Environmental Information Regulations pursuant to the above clause regarding Freedom of Information

- 30(e)(ii) such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner
 - 30(e)(iii) such information was obtained from a third party without obligation of confidentiality
 - 30(e)(iv) such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract
 - 30(e)(v) it is independently developed without access to the other party's Confidential Information.
- 30(f) The Service Provider may only disclose the Council's Confidential Information to the Service Provider's Staff who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such Service Provider's Staff are aware of and shall comply with these obligations as to confidentiality.
- 30(g) The Service Provider shall not, and shall procure that the Service Provider's Staff do not, use any of the Council's Confidential Information received otherwise than for the purposes of this Contract.
- 30(h) The Service Provider shall ensure that its employees and agents are aware of and comply with Clause 30 and shall indemnify the Council against any loss or damage sustained or incurred as a result of any breach of confidence by the Service Provider, its employees or agents.
- 30(i) The Service Provider shall ensure that its employees and agents are aware of and comply with paragraph 9.4 Schedule 2 Service Standards and shall indemnify the Council against any loss or damage sustained or incurred as a result of any breach of confidence by such persons mentioned above.
- 30(j) The Service Provider its Staff and any person employed or engaged by the Service Provider in connection with this Contract shall:
- 30(j)(i) only use the Confidential Information for the purposes of this Contract
 - 30(j)(ii) not disclose any of the Confidential Information to any third party without the prior written consent of the Council which consent the Council shall be absolutely entitled to refuse
 - 30(j)(iii) not use the Confidential Information for the solicitation of business from the Council
- 30(k) Nothing in this Contract shall prevent the Council from disclosing the Service Provider's Confidential Information:

- 30(k)(i) to any consultant, contractor or other person engaged by the Council
- 30(k)(ii) for the purpose of the examination and certification of the Council's accounts or any other form of audit of the Council.
- 30(l) The Council shall use all reasonable endeavours to ensure that any government department, employee, third party or Sub-contractor to whom the Service Provider's Confidential Information is disclosed pursuant to this Contract is made aware of the Council's obligations of confidentiality.
- 30(m) The provisions of this Clause shall survive the expiration or termination of this Contract.

31 COUNCIL DATA

- 31(a) The Service Provider shall not delete or remove any copyright or proprietary notices contained within or relating to the Council Data.
- 31(b) The Service Provider shall not store, copy, disclose, or use the Council Data except as necessary for the performance by the Service Provider of its obligations under this Contract or as otherwise expressly authorised in writing by the Council and in particular the Service Provider shall not store any Council Data, which the Council has notified the Service Provider requires storage in an encrypted format, on any portable device or media unless that device is encrypted.
- 31(c) To the extent that Council Data is held and/or processed by the Service Provider, the Service Provider shall supply that Council Data to the Council as requested by the Council in any format specified reasonably requested by the Council.
- 31(d) The Service Provider shall take responsibility for preserving the integrity of Council Data and preventing the corruption or loss of Council Data and shall take such back-up copies of the Council Data at regular intervals appropriate to the frequency of the revision of the Council Data.
- 31(e) The Service Provider shall ensure that any system on which the Service Provider holds any Council Data, including back-up data, is a secure system that complies with the Council's security policy to include, but not limited to, the following requirements:
 - 31(e)(i) Access to the system is restricted to Service Provider Staff with a legitimate need to access the Council Data
 - 31(e)(ii) The system is kept up to date with the latest versions of operating system and anti-virus updates

- 31(e)(iii) Transfer of data to and from the system is conducted in a secure manner.
- 31(f) If the Council Data is corrupted, lost or sufficiently degraded as a result of the Service Provider's default so as to be unusable, the Council may:
 - 31(f)(i) require the Service Provider (at the Service Provider's expense) to restore or procure the restoration of Council Data as soon as practicable; and/or
 - 31(f)(ii) itself restore or procure the restoration of Council Data, and shall be repaid by the Service Provider any reasonable expenses incurred in doing so including the restoration of the Council Data
- 31(g) If at any time the Service Provider suspects or has reason to believe that Council Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Service Provider shall notify the Council via the Council's ICT Helpdesk immediately and inform the Council of the remedial action the Service Provider proposes to take.
- 31(h) The Service Provider shall check for and delete Malicious Software and if Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Council Data, assist each other to mitigate any losses and to restore the Services to their desired operating efficiency.
- 31(i) Any cost arising out of the actions of the parties taken in compliance with the provisions of sub-clause 31(h) above shall be borne by the Parties as follows:
 - 31(i)(i) by the Service Provider where the Malicious Software originates from the Service Provider Software, the Third Party Software or the Council Data (whilst the Council Data was under the control of the Service Provider); and
 - 31(i)(ii) by the Council if the Malicious Software originates from the Council Software or the Council Data (whilst the Council Data was under the control of the Council).

32 PROTECTION OF PERSONAL DATA

- 32(a) With respect to the Parties' rights and obligations under this Contract, the Parties agree that the Council is the Data Controller and that the Service Provider is the Data Processor.
- 32(b) The Service Provider shall:
 - 32(b)(i) Process the Personal Data only in accordance with instructions from the Council (which may be specific instructions or instructions

of a general nature as set out in this Contract or as otherwise notified by the Council to the Service Provider during the term of this Contract)

- 32(b)(ii) Process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by law or any Regulatory Body
- 32(b)(iii) Implement appropriate technical and organisational measures, including but not limited to ensuring that Personal Data is not stored on any portable equipment or storage device or media unless encrypted, to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected
- 32(b)(iv) Take reasonable steps to ensure the reliability of any Service Provider Staff who have access to the Personal Data
- 32(b)(v) Obtain prior written consent from the Council in order to transfer the Personal Data to any Sub-contractors or agents for the provision of the Services
- 32(b)(vi) Ensure that all Service Provider Staff required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Protection of Personal Data clause
- 32(b)(vii) Ensure that no Service Provider Staff publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Council
- 32(b)(viii) Notify the Council (within five Working Days) if it receives:
 - a) a request from a Data Subject to have access to that person's Personal Data; or
 - b) a complaint or request relating to the Council's obligations under the Data Protection Legislation
- 32(b)(ix) Provide the Council with full cooperation and assistance in relation to any complaint or request made, including by:

- a) providing the Council with full details of the complaint or request
 - b) complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Council's instructions
 - c) providing the Council with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Council)
 - d) providing the Council with any information requested by the Council
- 32(b)(x) Permit the Council (subject to reasonable and appropriate confidentiality undertakings) to inspect and audit the Service Provider's data processing activities (and/or those of its agents, subsidiaries and Sub-contractors) and comply with all reasonable requests or directions by the Council to enable the Council to verify and/or procure that the Service Provider is in full compliance with its obligations under this Contract
- 32(b)(xi) Provide a written description of the technical and organisational methods employed by the Service Provider for processing Personal Data (within the timescales required by the Council)
- 32(b)(xii) Not process Personal Data outside the United Kingdom without the prior written consent of the Council and, where the Council consents to a transfer, to comply with:
- a) the obligations of a Data Controller under the Eighth Data Protection Principle set out in Schedule 1 of the Data Protection Act 1998 by providing an adequate level of protection to any Personal Data that is transferred; and
 - b) any reasonable instructions notified to it by the Council
- 32(c) The Service Provider shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Contract in such a way as to cause the Council to breach any of its applicable obligations under the Data Protection Legislation.
- 32(d) The Service Provider shall ensure that its employees and agents are aware of and comply with this clause and shall indemnify the Council against any loss or damage sustained or incurred as a result of any breach of this clause.

33 COUNCIL DATA AND PERSONAL INFORMATION AUDITS

- 33(a) Except where an audit is imposed on the Council by a Regulatory body, the Council may, acting reasonably, conduct an audit for the following purposes:
- 33(a)(i) to review the integrity, confidentiality and security of the Council Data
 - 33(a)(ii) to review the Service Provider's compliance with the Data Protection Act 1998, the Freedom of Information Act 2000 in accordance with the Protection of Personal Data and Freedom of Information clauses and any other legislation applicable to the Services
- 33(b) The Council shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Service Provider or delay the provision of the Services.
- 33(c) Subject to the Council's obligations of confidentiality, the Service Provider shall on demand provide the Council (and/or its agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:
- 33(c)(i) all information requested by the Council within the permitted scope of the audit
 - 33(c)(ii) reasonable access to any Sites controlled by the Service Provider and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services
 - 33(c)(iii) access to Service Provider's Staff
- 33(d) The Service Provider shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Service Provider's performance of the Service.
- 33(e) The Council shall endeavour to (but is not obliged to) provide at least 5 Working Days' notice of its intention to conduct an audit.
- 33(f) The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause.
- 33(g) This clause shall not apply to any audit or inspection regarding the provision of the Services specified in the Service Specification or elsewhere in this Contract which may be conducted as specified in this Contract.

34 EMERGENCY PLANNING

The Service Provider will ensure that it has business continuity plans in place for a range of emergency situations should they arise i.e. Pandemic influenza, powers cuts etc. and a copy must be sent to the Council upon request.

35 SAFEGUARDING

35(a) The parties acknowledge that the Service Provider is a Regulated Activity Provider with ultimate responsibility for the management and control of the Regulated Activity provided under this Agreement and for the purposes of the Safeguarding Vulnerable Groups Act 2006. The Service Provider shall:

35(a)(i) ensure that all individuals engaged in the provision of the Service or activity, and prior to commencing the provision of the service or activity, are subject to a valid enhanced disclosure check undertaken through the Disclosure and Barring Service including a check against the adults' barred list or the children's barred list, as appropriate; and

35(a)(ii) monitor the level and validity of the checks under this clause 35(a) for each member of the Service Provider's Personnel.

35(b) The Service Provider warrants that at all times for the purposes of this Agreement it has no reason to believe that any person who is or will be employed or engaged by the Service Provider in the provision of a Service or activity that is a Regulated Activity is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.

35(c) The Service Provider shall immediately notify the Council of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause 35 have been met.

35(d) The Service Provider shall refer information about any person carrying out the Services or the activity to the Disclosure and Barring Service where it removes permission for such person to carry out the Services or activity (or would have, if such person had not otherwise ceased to carry out the Services or the activity) because, in its opinion, such person has harmed or poses a risk of harm to the Service users, children or vulnerable adults.

35(e) The Service Provider shall not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity or who may otherwise present a risk to Service users.

35(f) The Service Provider must fulfil its commitment to safeguard and promote the welfare of vulnerable adults and shall have the following in place:

35(f)(i) Clear priorities for safeguarding and protecting vulnerable adults explicitly stated in strategic policy documents.

35(f)(ii) A clear commitment by senior management of the organisation to the importance of safeguarding and protecting vulnerable adults.

35(f)(iii) A clear line of accountability within the organisation for overseeing safeguarding and protecting vulnerable adults and that roles and accountability for taking action and reporting internally and in accordance with the West Midlands Safeguarding Policy are properly defined and understood by those involved. The policy can be found on the Council's website at www.shropshire.gov.uk.

35(f)(iv) Procedures for instigating the Safeguarding adults: multi-agency policy and procedures for the West Midlands and for dealing with allegations of abuse against members of Staff and volunteers.

35(f)(v) Arrangements to ensure that all Staff receive supervision and undertake safeguarding and protection of vulnerable adult training in order to equip them to carry out their safeguarding responsibilities effectively. Refresher training must be provided at regular intervals and all Staff including temporary Staff and volunteers who work with vulnerable adults must be made aware of the organisations arrangements for protecting vulnerable adults.

35(f)(vi) Policies to safeguard and protect vulnerable adults and procedures that are in accordance with the Safeguarding adults: multi-agency policy and procedures for the West Midlands.

35(f)(vii) Arrangements to work effectively with other organisations involved in the delivery of services to vulnerable adults in order to protect vulnerable adults including arrangements for sharing information in accordance with section 4.19.1 of Safeguarding adults: multi-agency policy and procedures for the West Midlands.

35(f)(viii) A culture of listening to and engaging in dialogue with vulnerable adults and seeking their views and taking account of those views both in individual decisions and the establishment or development of services.

35(f)(ix) Whistle blowing procedures and a culture that enables issues about safeguarding and protecting vulnerable adults to be raised. A copy of the Council's Speaking Up About Wrongdoing "Whistleblowing" Policy can be found on the Council's website.

36 AGREEMENT STATUS AND TRANSPARENCY

- 36(a) The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract and any associated tender documentation provided by the Service Provider (the Tender Submission) is not Confidential Information. The Council shall be responsible for determining in its absolute discretion whether any of the content of the Contract or the Tender Submission is exempt from disclosure in accordance with the provisions of the FOIA.
- 36(b) Notwithstanding any other term of this Contract, the Service Provider hereby gives his consent for the Council to publish this Contract and the Tender Submission in its entirety, including from time to time agreed changes to the Contract, to the general public.
- 36(c) The Council may consult with the Service Provider to inform its decision regarding any exemptions but the Council shall have the final decision in its absolute discretion.
- 36(d) The Service Provider shall assist and cooperate with the Council to enable the Council to publish this Contract and the Tender Submission.

37 DEPRIVATION OF LIBERTIES SAFEGUARDS

- 37(a) The Service Provider must always apply the principles of the Mental Capacity Act 2005 and the Deprivation of Liberty Safeguards. The Service Provider should always consult the relevant codes of practice for further detailed guidance. The Service Provider Manager is the managing authority for the purpose of the Mental Capacity Act: Deprivation of Liberty Safeguards (DOLS).
- 37(b) The Service Provider will comply with the conditions set as a result of DOLS Authorisation being given.

38 COMPLAINTS

- 38(a) The Service Provider shall operate a complaints procedure in respect of the Services which shall comply with basic principles of effective complaints systems such as being:
- 38(a)(i) easy to access and understand
- 38(a)(ii) speedy – with fixed time limits for action and keeping people

informed of progress

- 38(a)(iii) confidential to protect Staff and the complainant
- 38(a)(iv) informative – providing information to management so that services can be improved
- 38(a)(v) fair – with a full procedure for investigations
- 38(a)(vi) effective – dealing with all points raised and providing suitable remedies
- 38(a)(vii) regularly monitored and audited – to make sure that it is effective and improved
- 38(b) Where the Service Provider is subject to the supervision of a Registration Body or Association which has made rules or issued instructions concerning the content or form of the Service Provider's complaints procedure in compliance with any and all such rules or instructions of that Registration Body.
- 38(c) whichever complaint system is used the Service Provider shall ensure that:
 - 38(c)i under no circumstances is a complaint investigated by a member of Staff who may be part of the complaint. The Service Provider will ensure that someone who is independent of the matter complained of carries out the investigation
 - 38(c)ii the complainant is made aware that they are entitled to have the complaint investigated by the Council if they are not satisfied with either the process of investigation or finding of the Service Provider's investigations
 - 38(c)iii the Service Provider will ensure that it responds to the complainant within a maximum of 20 days of receiving the complaint.
- 38(d) Each party shall make its complaints procedure available to the other party on request.
- 38(e) The Service Provider shall ensure that all Staff are made aware of the procedure referred to in the preceding sub-clause and shall designate one employee to act as a complaints manager to whom a complaint may be referred should the complainant not be satisfied with the initial response to his complaint.
- 38(f) The Service Provider shall keep accurate and complete written records of all complaints received and the responses to them and if required to do so by a Council Officer shall make such records available to the Council.
- 38(g) A record of complaints made and action taken should be kept in accordance with the above in format as required by the Council and all such records shall

be made available to the Council's Contract Unit or Service Manager upon request.

- 38(h) Where the Council is investigating a complaint by a Service User the Service Provider is required to participate in all complaint investigations within the timescales requested by the Council.
- 38(i) Any complaint regarding possible physical, psychological, financial, sexual or discriminatory abuse or neglect should be reported immediately to the appropriate Council's Adults and Carers team by telephone and confirmed in writing as soon as reasonably practical but no later than five Working Days.
- 38(j) Where a complaint is made against a member of Staff this shall be investigated in accordance with the documented complaints procedure of the Service Provider. The Council's Multi Agency Adult Protection Policies and Procedures should be followed and strictly adhered to in any case of actual or suspected abuse. In all such cases the Service Provider shall notify the Council's Contracts Unit of any complaints and actions taken in individual cases and the nature of the complaint if it is from a Service User.

39. SUSPENSION OF THE REFERRAL OF SERVICE USERS TO THE HOME

39(a) Where the Home or the Service Provider:

39(a)(i) is subject to a Protection of Vulnerable Adults (POVA) investigation in connection with an allegation of abuse or a crime or, is subject to an investigation by the Registration Body into apparent failure to comply with the requirements of registration or, consistently fails to meet the standards as detailed on this Contract;

39(a) (ii) and the Contracts Manager has reason to believe that the quality or nature of the Service provided falls short of that required under this Contract or any Individual Placement Contract the Council may suspend its purchasing arrangements under this Contract pending further investigation or satisfactory remedial action (this may affect any quality award premium that the Home qualifies for)

39(a)(iii) While suspension is in place the Council shall continue to pay for the Service provided to existing Service Users but shall be entitled to refuse to make new placements and the terms and conditions of this Contract shall continue to apply in relation to existing Service Users

39(a)(iv) Any suspension of purchasing by the Council shall be communicated to the Service Provider in writing in accordance with Clause 9 (Notices)

39(b) Without prejudice to the generality of the foregoing the Council reserves the right to suspend referrals to the Home where in the reasonable opinion of the Council:

39(b)(i) - there is any improper conduct on the part of the Service Provider or its Staff and this will be considered a breach of this Contract which may result in the suspension of referrals and or reduction or claw-back of part of the Payment consistent with the reduction in Service. Improper conduct includes any action which the Council may reasonably consider to be detrimental to the welfare of Service Users either by action or neglect including but not limited to:

39(b)(ii)(a) Fraud or theft from Service Users

39(b)(ii)(b) Neglect of Service Users

39(b)(ii)(c) Cruelty and assault to or upon Service Users including verbal and any other forms of psychological abuse

39(b)(ii)(d) Financial malpractice

39(b)(ii)(e) Sexual relationships between Staff and Service Users

39(b)(ii)(f) Racial and sexual harassment

39(b)(ii)(g) Loss of registration with the Registration Body

39(b)(ii)(h) Under investigation by the Council

39(b)(ii)(i) improper inducement

40. NOTIFICATION

40(a) In addition to the statutory responsibilities to inform the Registration Body it is the responsibility of the Service Provider to inform the Council's Duty Officer immediately (normally the first working day) and confirm in writing:

40(a)(i) within 3 working days (using the form in Appendix 1) if any of the following occur:

40(a)(i)(a) hospital admission of a Service User

- 40(a)(i)(b) hospital Discharge of a Service User to the Service Provider
- 40(a)(i)(c) the death of a Service User
- 40(a)(i)(d) a written complaint received from the Service User or their family;
- 40(a)(i)(e) allegation of or actual abuse to a Service User;
- 40(a)(i)(f) serious accident to the Service User
- 40(a)(i)(g) disappearance of any Service User
- 40(a)(i)(h) any circumstances where a Service User has refused provision of the Services e.g. where a Service User has failed to take up their place
- 40(a)(i)(i) significant change to physical or mental condition of the Service User;
- 40(a)(i)(j) major injury to a Service User as defined in the “Reporting of Injuries Diseases and Dangerous Occurrences” Regulations 1995;
- 40(a)(i)(k) voluntary discharge by a Service User and/or their representative;
- 40(a)(i)(l) holiday periods of the Service User;
- 40(a)(i)(m) unplanned over-night absence even if the Service User subsequently returns.
- 40(a)(i)(n) allegation of or actual racial harassment abuse or discrimination.
- 40(a)(i)(o) any other serious issues causing concern about the well-being of a Service User
- 40(a)(i)(p) of the Service Provider becoming aware that a privately paying Service User becoming eligible for the Council funding

40(b) The Service Provider will forward to the Council’s Contracts Manager a copy of the Home’s announced or unannounced inspection reports carried out by the Registration Body (within 3 weeks of the final report being received by the Service Provider

THE SPECIFICATION

SCHEDULE 1

THE SERVICE: RESIDENTIAL

1.0 DESCRIPTION OF THE SERVICE

1.0 The Homes are residential care homes and provides care and support to

Service Users with a learning disability.

- 1.1 The needs of Service Users may include:
- autism
 - mental impairment
 - some challenging behaviour
 - visual impairment
 - personal care support
 - written and verbal communication needs
 - physical disability
- 1.2 The Service will support the Service Users to develop independence skills as far as possible acknowledging that learning is a lifelong process.
- 1.3 Where appropriate the Service will support and enable the Service User with:
- 1 household and budgetary management
 - 2 cleaning
 - 3 shopping for food and clothes
 - 4 social and community activities
 - 5 educational and leisure activities
 - 6 maintaining and developing family and friendship ties
- 1.4 Additional needs may include:
- 1 an understanding of autism
 - 2 developing and implementing strategies to reduce challenging behaviour
 - 3 developing and implementing strategies for coping with obsessive and ritualistic routines
 - 4 developing strategies for improving communication
 - 5 developing and implementing a framework to promote person centred planning and opportunities for social, leisure and vocational activity within the local community
- 1.5 Continued review and evaluation of interventions implemented may include:
- 1 reactive management strategies
 - 2 preventive strategies
 - 3 positive programmes to develop alternative behaviour
 - 4 direct treatment strategies

2.0 SERVICE PROVISION

- 2.1 The following are the principles that apply to the Service at the Home:
- 2.1.1 it provides a warm caring environment that stimulates and supports people with learning disabilities.
 - 2.1.2 it endeavours to improve the Service User's quality of life by exploiting

day to day living experiences in a positive and meaningful way.

- it seeks to ensure that each Service User is able to achieve as much independence as possible and builds on strengths and skills, through experience enabling the Service User and encouraging his or her participation in community resources.

2.1.3 it provides a Service where practices are innovative, non-oppressive and non-discriminatory.

2.2 The Service Provider will ensure that the Service is provided in as near as normal domestic setting where Service Users can be supported in their daily lives (taking into account any condition, illness and or disability) whilst being enabled to access non-segregated community resources whenever appropriate.

2.3 The Service is twenty four hours per day, seven days per week, and 52 weeks per year including bank holidays.

2.4 The staffing levels will:

2.4.1 be appropriate to the needs of the Service Users' Individual Care Plans as negotiated between the Service Provider and the Council.

2.4.2 comply with any minimum staffing levels that may in future be imposed by the Regulatory Body.

2.5 In accordance with Clause 4 (Payment Review) the payments may be reviewed if staffing levels are revised to meet the assessment of needs of a Service User.

2.6 The Service Provider will ensure that the Service is matched as near as possible to the requirements of each individual Service User in order that he or she may live a fulfilling and meaningful life.

2.7 The Service Provider will ensure that the Service offers choice and independence incorporated into every day living experiences where the individual is supported with dignity and respect at all times.

2.8 The Service Provider will ensure that the Service is delivered in the belief that Service Users have the right to experience social relationships and achieve status in the community.

2.9 The Service Provider will ensure that, whenever appropriate the Service User will, be involved in decision making related to all issues that may directly or indirectly affect them.

3.0 ASSESSMENT AND REFERRAL TO THE SERVICE

3.1 Assessment and referral to the Service will be undertaken between the Council's Learning Disability Team and the Service Provider.

3.2 Where possible and whenever appropriate the involvement and wishes of the

- Service User will be taken into account.
- 3.3 It is recognised that pre-placement assessment is a collaborative process and will include a multi-disciplinary approach in consultation with next of kin and any other party important to the Service User.
- 3.4 The Service Provider will operate an admissions procedure that will allow for prospective Service Users to visit the Home prior to admission.
- 3.5 The Service Provider will work in collaboration with the Council's Adults with Learning Disabilities Team to support Service Users through any crisis and provide a pro-active management plan.
- 3.6 The assessment process will take into account the compatibility of the prospective Service User with that of Service Users and others already in residence.
- 3.7 Support Staff will be closely involved and their recommendations will be taken into account.
- 3.8 In providing the Service the Service Provider undertakes to explore and implement appropriate and responsive Individual Care Plans in agreement with the Council's Adults with Learning Disabilities Team which will meet the Service User's individual spiritual, physical, educational, psychosocial and emotional needs.

4.0 REVIEW OF SERVICE TO AN INDIVIDUAL SERVICE USER

- 4.1 Formal reviews will usually be held after three months initially and thereafter every six months as appropriate to the Service.
- 4.2 The review process will involve the Service User where appropriate and all other relevant professionals and representatives.

5.0 RIGHTS OF SERVICE USERS

- 5.1 Service Users have the right to:-
- 5.1.1 Be treated as an individual with unique needs.
 - 5.1.2 Be encouraged to have personal independence and choice.
 - 5.1.3 Have personal dignity respected.
 - 5.1.4 Have their cultural social religious and emotional needs respected.
 - 5.1.5 Have access to all personal information held on them by the Service Provider.
 - 5.1.6 Participate in formulating their own Assessment of Needs.
 - 5.1.7 Participate in any reviews or re-assessment of their needs.
 - 5.1.8 Receive a non-discriminatory service.
 - 5.1.9 Receive assistance to maintain personal skills.
 - 5.1.10 Have access to representation and advice as appropriate.

- 5.1.11 Have access to a formal complaints procedure.
- 5.1.12 Maintain their entitlements associated with citizenship.
- 5.1.13 To be involved in any decision-making process as it affects them including the right to refuse reasonably a part of the Service and to comment on the Service under this Contract by means of an independent advocate if necessary without fear of reprisal
- 5.1.14 To be left alone or undisturbed and free from intrusion or public attention in their affairs to be aware of and have access to their personal records including medical records and the procedures for maintaining confidentiality have private access to a telephone and to receive visitors in private

5.2 **Dignity**

The Service Provider will recognise the intrinsic value of Service Users as people regardless of circumstances by respecting their uniqueness and their personal needs including the right to decide how they wish to be addressed. The gender and ability of the Staff assisting in intimate care tasks must be considered to avoid embarrassment and discomfort of both the Staff and the Service User.

5.3 **Independence**

- 5.3.1 Service Users will have the opportunity to act and think without reference to another person including a willingness to incur a degree of calculated risk provided that does not place another person at risk or in breach of the Service Provider's obligations under any legislation.
- 5.3.2 The Service Provider must ensure that Service Users are enabled to exercise their democratic right to vote in governmental elections and referenda nationally and locally and to receive electoral communications and personal calls by canvassers.
- 5.3.3 All Service Users have the right to appropriately express their sexuality although the Service Provider will also recognise the vulnerability of Service Users to sexual exploitation. The Service Provider will raise Staff awareness and provide support and training to Staff when they are dealing directly with issues of sexuality with Service Users.

5.4 **Choice**

- 5.4.1 The Service Users will have the opportunity to make their own choices in respect of their care where appropriate. Service Users have the right to access services provided flexibly for their benefit in the least restrictive way possible.

- 5.4.2 Where appropriate Service Users should be free to administer their own medication in accordance with guidelines issued by the Regulatory Body from time to time.
- 5.5 Fulfilment**
- 5.5.1 Service Users have the right to realise their personal aspirations and abilities in all aspects of daily life and should be encouraged and enabled to maintain links with family, friends, carers and communities and enter into activities and relationships in the wider community.
- 5.5.2 The Service Provider should ensure that the Service User's cultural emotional spiritual and sexual needs are met with understanding and support as necessary.
- 5.6 Security**
- 5.6.1 Service Users have the right to an environment and a Service which affords them protection and security.
- 5.7 Accommodation and Facilities**
- 5.7.1 The accommodation should be a single room or as agreed with the Service Provider and appropriately furnished.
- 5.7.2 There will be full bathing washing and toilet facilities.
- 5.7.3 The Home will be fitted with all necessary and appropriate furnishings
- 5.7.4 Domestic services such as regular cleaning of Service User's rooms and bed making will be carried out daily. Service Users should be encouraged to dust and tidy rooms where possible.
- 5.7.5 Linen and bedding should be provided for each Service User. Service Users should have access to a constant supply of clean towels and flannels for their individual use.
- 5.7.6 Service Users will have access to television radio newspapers and private access to a telephone
- 5.8 Meals and Beverages**
- 5.8.1 Food meals snacks and non alcoholic beverages are inclusive in the Payment and will include breakfast lunch tea and supper with snacks and drinks available where appropriate on request.
- 5.8.2 The Service Provider should ensure there is a healthy balanced menu offered which reflects the views and preferences of the Service Users which could include special diets vegetarian meals and those reflecting a cultural preference.
- 5.8.3 Service Users should be encouraged to prepare drinks and snacks for themselves where appropriate.

5.9 **Personal Care**

5.9.1 Personal care should be of a high standard. It should be offered to a level the Service User considers acceptable and as defined in the Assessment of Needs. This may include assistance with:

- Dressing.
- Washing (including hair).
- Bathing.
- Oral Hygiene.
- Taking to the toilet (including the management of catheters and the provision and changing of incontinence pads and menstruation management).
- Shaving.
- Nail care to hands and feet
- Eating.

5.9.2 Basic toiletry provision (shampoo conditioner soap toothpaste) and minor repairs to clothing are inclusive in the Payment. Additional charges to the Service User may be levied for e.g. hairdressing, dry cleaning, non-basic toiletries and may be met by way of Service User's personal allowances.

5.9.3 Personal Care should include access to incontinence services and aids provided by other agencies.

5.10 **Health Care**

5.10.1 Service Users will be allowed to be registered with a GP of their own choice.

5.10.2 There will be the opportunity for regular appointments with a GP and appointments to check eye, teeth and hearing needs. Service Users should be encouraged to keep all such appointments.

5.10.3 The Service Provider should ensure that if the Service User wishes they are accompanied to these appointments by the Service Provider or a family member or friend.

5.10.4 Where the practice of self-administration of medicines is established or forms part of a planned preparation of a Service Users move towards greater independence adequate steps must be taken to monitor compliance by Staff within legal requirements following an assessment and with the agreement of the Service User and family or Care Manager where appropriate and in accordance with guidelines issued by the Regulatory Body from time to time

5.10.5 The Service Provider is responsible for the collection and dispensation of prescribed drugs and medicines in accordance with the Individual Care Plan.

5.11 Social Care

5.11.1 Service Users should be encouraged to follow where possible their chosen life style which should include leisure and social pursuits. Service Users should have the opportunity to meet their spiritual needs.

5.11.2 Service Users should have the right to choose and wear their own clothes which should be clean and in good repair at all times. Minor repairs are the responsibility of the Service Provider.

5.11.3 Service Users should be encouraged to go on shopping trips to purchase personal items.

5.11.4 Service User's visitors should be welcome at all reasonable times. There should be access to facilities for Service Users and visitors to have access to or make drinks.

5.11.5 The Service Provider should make arrangements for transport and escort as necessary to enable the Service User to access health and social care services shops and social activities etc.

5.11.6 Access to the provision of aids and equipment which may enhance the quality of life of the Service User

5.12 Privacy

Service Users have the right to be left alone or undisturbed and free from intrusion or public attention in their affairs to be aware of and have access to their personal records including medical records and the procedures for maintaining confidentiality have private access to a telephone and to receive visitors in private.

6.0 THE SERVICE PROVIDER'S INDIVIDUAL CARE PLAN

6.1 The Service Provider will produce an Individual Care Plan related to the Assessment of Needs which will describe the specific care objectives and Service arrangements including written risk assessments and will take into account the Service User's physical emotional social cultural and intellectual needs This will be discussed with the Service User or the Service User's representative where appropriate.

6.2 The Service Provider shall keep the Care Manager informed of any change of circumstances that are pertinent to the Service User's Individual Care Plan.

7.0 EQUAL OPPORTUNITIES

7.1 The Service Provider must ensure that the Service User is not excluded from

- involvement in the Home community facilities or any activity due to age gender disability or race and must ensure that the Council's general duty under the Race Relations (Amendment) Act 2000 is met in respect of all Service Users and Staff.
- 7.2 Special requirements of Service Users from ethnic religious or cultural groups will be identified in the individual Assessment of Needs and the Services will be arranged in agreement with the Service Provider the Council and the Service User.
- 7.3 The spiritual and cultural needs of Service Users must be provided for and the Service Provider must ensure Service Users are in contact with an appropriate representative of the religion of their choice if requested. This should include participation by the Service User in religious and cultural festivals as appropriate.
- 7.4 Service Providers will ensure compliance with any special customs and services associated with the death of a Service User.
- 7.5 The Service Provider will take all steps to protect the Service User from sexual or racial harassment.

8. TRANSFER OF SERVICE USERS

- 8.1 Where the Service User is absent from the Home overnight for any reason the Service Provider must inform the Care Manager.
- 8.2 Allocation of a room to a Service User implies exclusive use of that room for the duration of the stay or until such time as the IPC is ended. If a Service User requests a change of room the Service Provider must notify the Care Manager.
- 8.3 In the event of redecoration the Service Provider reserves the right to move the Service User on a temporary basis to facilitate the completion of the work.
- 8.4 The Service Provider may move a Service User to an alternative room with the agreement of the Care Manager if the needs and requirements of the Service User change.

9.0 RISK MANAGEMENT

- 9.1 The Service Provider will have a Risk Management policy in respect of Service Users. Steps taken to minimise risk will be discussed with the Service User family or Care Manager.
- 9.2 The policy will recognise the Service User's right to take risks as an expression of independence but will take into account the effect on other Service Users and Staff.
- 9.3 This policy should be communicated to all Staff Service Users and their family and Care Manager

10.0 CHALLENGING BEHAVIOUR

- 10.1 Where the Service Provider is concerned that a Service User's behaviour is adversely affecting the health safety comfort and quality of life of other Service Users the Service Provider must bring the matter to the attention of the Care Manager and both parties will take immediate action with the Service Provider to resolve the situation as soon as possible and may:
 - 10.1.1 Discuss the matter with the Service User
 - 10.1.2 Discreetly, sensitively and with regard to confidentiality gauge the response of those affected by the behaviour
 - 10.1.3 Discuss the matter with the Service User's family if appropriate
 - 10.1.4 Involve other specialist professionals
- 10.2 The Service Provider will work to the Council's Management of Actual and Potential Aggression Policy and ensure that staff are trained and have further refresher training in this.
- 10.3 The appropriateness and level of medical intervention to address challenging behaviour including the administration of drugs or medication shall be decided only by a GP or Medical Consultant. The Care Manager must be informed by the Service Provider as soon as possible of any such intervention.

11.0 OUTCOMES OF THE SERVICE

- 11.1 To provide the Service User with a place of residence in accordance with the assessment of needs.
- 11.2 The encouragement of the Service User's independence through therapeutic approaches and the utilization of his or her practical skills.
- 11.3 The enabling of Service User choice in relation to the day to day routine of the Home and in choice of food and personal control of money.
- 11.4 The recognition of the symptoms of institutionalisation within Service Users and implementing strategies to build on his or her self-esteem and self determination.
- 11.5 A full and on-going assessment of social, educational, physical, spiritual and emotional needs of the Service User, working in collaboration with other relevant agencies to achieve best outcomes.
- 11.6 An immediate response to changing needs of the Service User through the provision of an ongoing and immediate review system.
- 11.7 The implementation of coping strategies, assessment and intervention during difficulties through the provision of 24 hour supervision which will provide mechanisms for on-going surveillance and monitoring of the Service User.
- 11.8 The reporting of any significant changes in a Service User's psychosocial and

emotional well-being to relevant professionals and every effort made to achieve a positive outcome.

- 11.9 Full and accurate recording of events including all phenomena in order that evaluative processes may be fully exploited.

12.0 INFORMATION FOR SERVICE USERS

- 12.1 A written statement or brochure must be given and explained to Service Users when they stay at a Home and this should include the following information:
- details of the Service, the philosophy and operation of the Service
 - a statement about how the Service User can complain. This should include details of who will deal with the complaint and the time limit within which a response will be made.
 - a statement concerning the Service Provider's policy on equal opportunities/non-discrimination.
 - a statement concerning confidentiality and when confidentiality will be breached.
 - the right of the Service User to have access to any personal information held on them by the Service Provider.

13.0 SENSORY AND MOBILITY LOSS AND IMPAIRMENT

- 13.1 Staff must observe any indications of changes in sensory abilities or physical mobility of Service Users and report them to the Service Provider. These will be recorded in the Service User's Individual Care Plan and in consultation with the Service User a referral may be made for medical advice or treatment.
- 13.2 The Service Provider will ensure that prescribed aids and equipment are being obtained for the Service User without delay. The Service Provider will be aware of and encourage the Service User to use any other aids and equipment which enhances the Service User's life (e.g. Talking Books magnifying glasses). The Service Provider will ensure that all aids and equipment will be kept clean and maintained in good working order and in accord with manufacturing instructions. Under no circumstances will defective equipment aids be used. The Service Provider will ensure that Staff are trained in assisting Service Users in the proper use of the aids and it is the responsibility of the Service Provider to secure this training.
- 13.3 The Service Provider will ensure that Staff can communicate with Service Users with sensory impairments.
- 13.4 The Service Provider will ensure that Staff are trained in the skills required for assisting Service Users who have impaired mobility and the Service Provider will endeavour to promote the independence of the Service User wherever possible.

- 13.5 The Service Provider will ensure Staff are aware of the social isolation which may arise from sensory impairment and physical mobility and will seek ways of addressing such isolation in consultation with the Service User.

SCHEDULE 2

SERVICE STANDARDS

1.0 GUIDING PRINCIPLES

- 1.1 The parties will seek to provide a Service that:
- 1.1.1 encourages Service Users to make decisions about their own lives.
 - 1.1.2 acknowledges and seeks to address and avoid the ways in which people with learning disabilities are marginalised and subjected to discrimination
 - 1.1.3 ensures that members of Staff are committed to anti-discriminatory and anti – oppressive practice and seek to examine their own attitudes.
 - 1.1.4 ensures that the dignity, privacy and individuality of all Service Users are respected.
 - 1.1.5 respects the cultural, social, religious and emotional needs of Service Users.
 - 1.1.6 respects the confidentiality of any information gained about Service Users whilst ensuring that Staff are clear that they have a duty to share any concerns about Service User’s mental and physical welfare with their managers and other professionals involved in the Service User’s support fosters independence and enables Service Users to reach their full potential
 - 1.1.7 provides appropriate protection to Service Users whose level of vulnerability is prone to fluctuation and particularly in circumstances where this vulnerability may compromise the security of their tenancy.
- 1.2 The Service Provider must provide the Service in accordance with the terms of this Contract and with all the skill, care and diligence to be expected of a competent Service Provider of services of a similar kind to the Service.
- 1.3 In providing the Service the Service Provider must also comply with any of the practices performance ratings and quality standards that are set out or referred to in this Contract and all statutory provisions and guidance which apply to the Service and are issued from time to time by a Regulatory Body.
- 1.4 The Service Provider is directed towards the Government White Paper

“Valuing People” and Schedule 7 Rights Charter which mirrors many of the aims and objectives in the Service Specification.

2.0 COMPLAINTS

- 2.1 The Service Provider will operate a complaints procedure which will comply with basic principles of effective complaints systems such as being:
- 2.1.1 easy to access and understand
 - 2.1.2 speedy – with fixed time limits for action and keeping people informed of progress.
 - 2.1.3 confidential to protect Staff and the complainant
 - 2.1.4 informative – providing information to management so that services can be improved
 - 2.1.5 fair – with a full procedure for investigations
 - 2.1.6 effective – dealing with all points raised and providing suitable remedies
 - 2.1.7 regularly monitored and audited – to make sure that it is effective and improved
- 2.2 Where the Service Provider is subject to regulations concerning the content or form of the complaints procedure compliance the Service Provider shall comply with any and all such rules or instructions of the Regulatory Body
- 2.3 The Service Provider shall ensure that:
- 2.3.1 under no circumstances is a complaint investigated by a member of Staff who may be part of the complaint. The Service Provider will ensure that someone who is independent of the matter complained of carries out the investigation
 - 2.3.2 the complainant is made aware that they are entitled to have the complaint investigated by the Council if they are not satisfied with either the process of investigation or finding of the Service Provider’s investigations
 - 2.3.3 it responds to the complainant within a maximum of 20 days of receiving the complaint
- 2.4 Each party shall make its complaints procedure available to the other party on request
- 2.5 The Service Provider shall ensure that all Staff are made aware of the procedure referred to under 2.3 above and shall designate one employee to act as a complaints manager to whom a complaint may be referred should the complainant not be satisfied with the initial response to his complaint
- 2.6 The Service Provider shall keep accurate and complete written records of all

complaints received with any actions taken and the responses to them and will forward them to the Council at the conclusion of the investigation.

2.7 Where the Council is investigating a complaint by a Service User the Service Provider is required to participate in all complaint investigations within the timescales requested by the Council.

2.8 Any complaint regarding possible physical, psychological, financial, sexual or discriminatory abuse or neglect should be reported immediately to the Care Manager by telephone and confirmed in writing as soon as reasonably practical but no later than five working days

2.9 Where a complaint is made against a member of the Staff this shall be investigated in accordance with the documented complaints procedure of the Service Provider. The Councils Multi Agency Adult Protection Policies and Procedures should be followed and strictly adhered to in any case of actual or suspected abuse

3.0 ADMINISTRATION

3.1 The Service Provider will provide information to the Council as requested from time to time to meet Department of Health or the Department for Communities and Local Government requirements.

4.0 FINANCE AND ALLOWANCES

4.1 The Service Provider must ensure that when collecting State benefit entitlement on behalf of a Service User either

- the Service User receives the Personal Allowance or
- proper arrangements have been made in agreement with the Service User or their nominated representative for the safe-keeping of such Personal Allowance or
- where the Service User is unable to make decisions and has no family that arrangements have been made to manage the money which are satisfactory to the Care Manager in accordance with the Assessment of Needs

4.2 All transactions and personal accounts for Service User's should be recorded separately and held in a day book which shall be made available for inspection by the Council.

4.3 The Service Provider will ensure that the Service User's Personal Allowance is not used for the purchase of or contribution towards any part of the Service required to be provided under this Pre-placement Contract and that the Service User's Personal Allowance is available to the Service User to spend as they choose.

- 4.4 Service Users should be free to take responsibility for their Personal Allowances and manage their own finances if able to do so. Any additional charges should be clarified and agreed with the Care Manager when admission is being considered. No additional charges should be made to the Service User or their relatives without prior agreement from the Care Manager.

5.0 RECORD KEEPING AND CONFIDENTIALITY

- 5.1 The Service Provider's facilities for storing records such as filing cabinets must be lockable and in a secure environment. Evidence must be available that any statutory requirements relating to the premises have been complied with.
- 5.2 The following information should be recorded in respect of each Service User:
- 5.2.1 name, address, date of birth
 - 5.2.2 gender, ethnic origin and significant, relevant items of personal/medical history and critical incidents
 - 5.2.3 next of kin - name, address and telephone number
 - 5.2.4 GP - name, address and telephone number
 - 5.2.5 date of referral, Service commencement and termination
 - 5.2.6 current Care Plan details
 - 5.2.7 current risk assessment
 - 5.2.8 personal accounts
- 5.3 A register of Staff must be maintained which should include the following information
- 5.3.1 name, address and telephone number
 - 5.3.2 position held and hours worked
 - 5.3.3 next of kin - name, address and telephone number
 - 5.3.4 GP - name, address and telephone number
 - 5.3.5 Date of issue of identification and retrieval if appropriate
 - 5.3.6 Recruitment details including references, evidence of DBS disclosure and interview
 - 5.3.7 Induction and training records
 - 5.3.8 Copies of training certificates and qualifications
- 5.4 The Service Provider will ensure that each member of Staff is made aware that their files may be inspected by Officers of the Council for the purpose of monitoring.
- 5.5 In accordance with Caldicott recommendations and confidentiality requirements the Service Provider will ensure that:
- 5.5.1 Service Users are able to find out how the Service Provider deals with confidential and sensitive information about them and

should be given a leaflet (or other communication relevant to their level of understanding) that clearly explains what information is kept on them and how they can access this.

- 5.5.2 Service Users and Staff have access to their personal records in private and as quickly as possible if requested and no later than 21 days whilst considering the interest of any third party information which can only be given with the third party's permission.
- 5.5.3 when the Service User has examined the records they are signed and dated by a member of Staff to show they have been examined and by the Service User when possible.
- 5.5.4 Staff are required to sign and date an acknowledgement that they have examined records pertaining to them upon the fulfilment of their request.
- 5.5.5 It has a policy document that details Staff Code of Conduct in relation to confidentiality. This document must be shared with and understood by Staff used to provide the Service and regularly updated.
- 5.5.6 Staff induction contains training on confidentiality procedures. Staff files should evidence the date and nature of the induction on confidentiality that was given to new Staff.
- 5.5.7 confidential and security training needs should be assessed on an ongoing basis taking into account the role of each member of Staff used to provide the Service and this should be done annually
- 5.5.8 Staff contracts explicitly mention confidentiality and disclosure issues
the flows of Service User information are reviewed
- 5.5.9 information collections have a named owner (member of Staff) who is responsible for protecting access
- 5.5.10 confidential information on Service Users is safeguarded so that unauthorised people do not gain access to it.
- 5.5.11 protocols governing the sharing of Service User information with other organisations is agreed and understood
- 5.5.12 a named individual is appointed who will have responsibility for data security
- 5.5.13 it has a programme to review typical risks regarding Service

Users identifiable information

5.5.14 incidents involving security breaches are anticipated and dealt with appropriately

5.5.15 security issues are monitored and reported

5.5.17 passwords are used to safeguard information held on computer regarding the Service

5.5.18 only authorised persons have access to information and only if they need it to carry out their roles.

5.5.19 if it is uncertain about the application of the above to the provision of the Service it will immediately contact the Council for clarification

5.6 The Service Provider must have in place a system for regularly auditing care plans and other Service User records and associated records to ensure that the Service is being delivered and correct records are being kept. The Service Provider shall keep a record of such audits. The Service Provider will inform the manager and other staff at the Home of the outcome of these audits.

6.0 POLICIES, PROCEDURES AND GUIDANCE

6.1 The Service Provider should have the following policies, procedures and/or guidance in place:

6.1.1 Operational policies including recruitment, supervision and retention of Staff

6.1.2 Grievance and disciplinary procedures

6.1.3 Health and Safety Policy in line with the Health & Safety at Work Act 1974 and the Health & Safety at Work Regulations 1992 and any amendments thereof

6.1.4 Confidentiality, record keeping, security and access to records policy

6.1.5 Lone/out of hours working policy

6.1.6 Dealing with Violence, Aggression and Disruptive Behaviour in line with the Council's Management of Actual and Potential Aggression Policy

6.1.7 Staff training policy

6.1.8 Recording of incidents

6.1.9 Supporting Service Users who take prescribed and un-prescribed medication

- 6.1.10 Risk Management policy and procedure
- 6.1.11 Service User Rights and Responsibilities
- 6.1.12 Staff Code of Conduct and Responsibilities
- 6.1.13 Whistle blowing Policy
- 6.1.14 Equal Opportunities Policy
- 6.1.15 The Freedom of Information Act
- 6.1.16 The Council's Multi Agency Adult Protection Policy and Procedure
- 6.1.17 Fire Safety Policy
- 6.1.18 Missing Persons Policy
- 6.1.19 Smoking Policy
- 6.1.20 Infection Control Policy
- 6.1.21 Mental Capacity Act: Deprivation of Liberties Safeguard Policy and procedure

6.2 The Service Provider will ensure that all Staff have access to copies of all the policies and procedures listed above and that Staff sign to indicate that they have received read and understood each one and such documentation will be retained for management and inspection purposes.

7.0 STAFFING - Recruitment and Selection

- 7.1 The Service Provider must inform Staff that the Council reserves the right to view their Staff records
- 7.2 The Service Provider shall at all times during the period of this Contract engage sufficient Staff of sufficient ability skill knowledge training and experience for the proper performance of the Service and shall continuously supervise the performance of Staff and ensure that there is a sufficient reserve available to provide the Service at all times
- 7.3 The Service Provider shall be entirely responsible for the employment and conditions of service of its own employees and shall at all times be fully responsible for the payment of all salaries and wages income or other taxes national insurance contributions or levies of any kind relating to or arising out of the employment of any persons employed by the Service Provider and shall fully and promptly indemnify the Council in respect of any liability of the Council in respect thereof

- 7.4 The Service Provider shall provide a means of identification to all its Staff and shall require them to produce such identification on request
- 7.5 There must be a clear written job description and employee specification for all Staff
- 7.6 Job applications must be in writing and describe previous experience, training, full employment history since leaving school and explain the reason for leaving and any gaps in employment.
- 7.7 Candidates selected for possible appointment must be formally interviewed and records of the interviews of appointed candidates are to be kept.
- 7.8 Two satisfactory written employer references must be obtained before employment commences, and the authenticity of the reference should be verified. One reference must be from the applicant's current or last employer, and should be obtained from a previous employer in the care sector where applicable. Provision must be made for references to be taken from all previous employers if required. References should ask reasons for leaving, whether the employer providing the reference would offer re-employment and whether any disciplinary investigations have been undertaken and why. References should ask for the referee's relationship to the candidate to ensure that it is a reference from the employer.
- 7.9 Applicants must make a written declaration of previous convictions and disqualifying conditions and provide information about any other name by which they have been known.
- 7.10 All Staff working with vulnerable adults must undergo a search by the Disclosure and Barring Service (DBS). The Service Provider must follow guidance issued by the DBS as to the level of disclosure required for each Staff post and ensure that the Code of Practice of the DBS is strictly adhered to.
- 7.11 The identity of all Staff should be verified prior to employment using an official document.
- 7.12 The authenticity of qualifications should be checked prior to employment.
- 7.13 Staff should be provided with information about their conditions of employment.
- 7.14 All Staff make a written undertaking in respect of confidentiality.
- 7.15 In the event of agency Staff being used the Service Provider must ensure that the agency has carried out thorough checks including references and hold a

valid certificate of clearance issued by DBS and that selection processes have been rigorous.

- 7.16 All new Staff must be appointed on a probationary contract, renewal of which must be dependent upon satisfactory performance and completion of the Induction Programme. This provision must also apply to internal transfers.
- 7.17 Where any concerns have been raised about a potential member of Staff by a referee or through the DBS check and the person is nevertheless deemed to be suitable for support work appropriate and sufficient monitoring is undertaken by the Service Provider in respect of the concerns raised. The Service Provider must be able to demonstrate that such monitoring has been carried out.
- 7.18 Where an allegation of abuse occurs against a member of Staff the Service Provider the Council's Multi Agency Adult Protection Policy and Procedures must be followed forthwith.
- 7.19 Mental Capacity Act: Deprivation of Liberties Safeguard Policy and procedure

8.0 STAFFING - Qualifications & Experience

- 8.1 It is essential that Managers should have a qualification in Social Care or Nursing and must have a minimum of 5 years experience of social care. Managers must work towards or possess the Registered Managers (MCI) Level 4 award.
- 8.2 It is desirable that Deputy Managers have a qualification in Social Care or Nursing and essential that they have had 3 to 5 years experience in Social Care. It is desirable that Deputy Managers have a qualification in Management if not they must work towards the achievement of MCI Level 4 or equivalent.
- 8.3 It is desirable that Senior Care Staff have a qualification in Social Care or Nursing and essential that they have had previous experience in Social Care. It is desirable that Senior Care Staff have a qualification in Management if not they must work towards the achievement of NVQ4 or equivalent.
- 8.4 Managers should provide evidence of the ability to manage Staff and systems effectively and to establish positive relationships with other professionals.
- 8.5 Care Staff must have previous relevant experience or training to enable them to provide the Service to the Service Users at the Home and should hold or work towards achieving an appropriate National Vocational Qualification Level 2 and/or the certificate in Community Health Care and/or Learning Disability Awards.

- 8.6 Staff must be able to demonstrate their ability to understand and follow policies and procedures.
- 8.7 All Staff must be committed to meeting the needs of the Service Users and maximising their capacity for independence and self determination.

9.0 STAFFING – Induction

- 9.1 The Service Provider will provide a structured induction programme the standards of which will meet National Care Standards in every area and will cover as a minimum
- an introduction to the policies procedures and codes of conduct of the Service Provider which Staff will be expected to follow
 - an introduction to the “Principles of Care” and “Valuing People”
 - instruction in safe moving and handling
 - administration of medication including administration of stesolid if required
 - breakaway and restraint techniques in line with the Council’s Management of Actual and Potential Aggression Policy
 - familiarisation with the individual Service User Care Plans and risk assessments
 - Health and Safety
 - basic First Aid
 - non-aversive intervention
 - the Council’s Multi-Agency Protection Policy
- 9.2 New members of Staff who provide care directly and have no qualification will be required to show they have met the induction standards within the first six weeks of starting work
- 9.3 Staff will not be allowed to work unsupervised (out of sight of another appropriately trained member of Staff) until they have met the induction standards
- 9.4 Induction standards will lead to Foundation Standards followed by NVQ II
- 9.5 The Service Provider will provide Staff training opportunities both in- house and in conjunction with other agencies.

10.0 STAFFING – Training

- 10.1 An ongoing Programme of training which underpins knowledge for NVQ’s and enables Staff to continually improve their performance should be available.
- 10.2 The manager should undertake regular appraisals of Staff performance and training needs. Targets should be set to ensure all Staff achieve an appropriate NVQ Level 3 Award.

11.0 STAFFING – Supervision

- 11.1 Supervision will take place between all Staff and their line manager in accordance with the requirements of the Regulatory Body and as a minimum on a two monthly basis and written records will be kept on the content and outcome of each meeting

12.0 STAFFING – Use of Agency Staff and Volunteers

- 12.1 The Service Provider may use volunteers and agency Staff to deliver some of the activities provided as part of the Service.
- 12.2 In all cases volunteers and agency Staff must be recruited in line with the Guidance of the DBS and as a minimum must provide 2 references which must be taken up by the Service Provider prior to any voluntary or agency work being undertaken.
- 12.3 Volunteers and agency Staff must receive adequate training for any duties they are to undertake. In particular if volunteers or agency Staff are to be used in any instances for care duties they must receive and comply with the training and skills expected of care Staff.
- 12.4 Agency Staff may only be employed from an Agency accredited with Shropshire Council or registered with the National Care Standards Commission.
- 12.5 The Service Provider will ensure that all Staff know that:
- they are exempt from the Provisions of Rehabilitation of Offenders Act 1974
 - they must sign a declaration of all previous criminal convictions
 - it is a disciplinary offence to make a false declaration.
- 12.6 In circumstances where the Council has a concern in relation to a member of Staff a meeting will be arranged within 24 hours or within other such time as shall be agreed to discuss any action required to address the concerns of the Council.
- 12.7 Staff are employed in accordance with the code of conduct and practice set by the general social care council and all Staff must be given copies of the code by the Service Provider.
- 12.8 The Service Provider will keep current and accurate records of all Staff including training records. Such records will be available to the Council on request in accordance with the Data Protection Act 1998
- 12.9 The Service Provider will ensure that Staff are suitable and competent to perform the tasks required of them in accordance with the requirements of the Regulatory Body. The Service Provider will ensure that the minimum

qualification and experience criteria of the Health and Social Care Act 2008 standard 31 are met and that Staff are suitably qualified and trained in accordance with TOPPS National Standards.

The Council has an approved list of training providers from which the Service Provider may wish to select. Any Provider using a training organisation which is not approved by the Council must if requested by the Council be able to demonstrate to the satisfaction of the Council that the training provided meets both National Minimum Standards and any additional requirements detailed in the Service Specification.

In addition the Service Provider will ensure that all Staff know that it is not acceptable for there to be a relationship between Staff and Service Users either physical or financial and this should be seen as a disciplinary matter. This position also applies to any relationship between Staff and Service Users that could be perceived as being of an exploitative nature.

13.0 TRANSPORT

- 13.1 The Service Provider will be responsible for transporting Service Users in a safe and appropriate manner. Risk Assessments in respect of each Service User should be carried out in respect of transfers from the Homes and Risk Assessments must be made available for inspection. The Risk Assessments will take account of any aids used by the Service User such as wheelchairs to ensure they comply with any regulations.
- 13.2 Staff must monitor the escort arrangements as required by each Individual Care Plan.
- 13.3 Vehicles used by Staff to transport the Service Users must have a current MOT certificate if over 3 years old and have adequate third party and passenger liability insurance. The Service Provider must ensure that they have satisfied themselves of the roadworthiness of any Staff transport used to transport Service users.
- 13.4 Vehicles used to transport the Service Users should be regularly serviced and any concerns about road worthiness and safety reported to the Manager.
- 13.5 Any driver used by the Service Provider to transport the Service Users MUST:
- be authorised by management for inspection.
 - hold a current driving license suitable for the vehicle being driven.
 - make a declaration of any license endorsements or penalty points.
- 13.6 Staff may not use their cars for work purposes unless they have appropriate business class insurance.

14.0 HEALTH & SAFETY

- 14.1 The Service Provider must have a Health and Safety Policy in line with the Health & Safety at Work Act 1974 and of the Health & Safety at Work Regulations 1992 and any amendments thereof and Management must make Staff aware of its contents.
- 14.2 Staff should be required to follow good practice in moving and handling and be provided with appropriate training and refresher training.
- 14.3 Records of all Health & Safety training, including refresher training must be kept and held locally.
- 14.4 A full written risk assessment should be undertaken on both the Service at the Home and in respect of each Service User when he/she is first admitted and when any changes to his/her care needs arise.
- 14.5 All accidents, incidents including violent incidents and 'near misses' at the Home and on trips involving Staff and Service Users outside the Home must be recorded. This record should include any steps taken to prevent a recurrence. Accidents must also be recorded in an Accident Book.
- 14.6 The Service Provider must adhere to the multi agency policy for dealing with violence, aggression and challenging behaviour.

15.0 QUALITY ASSURANCE

- 15.1 The Service Provider must be able to demonstrate to the Council that it has a commitment to the quality of the Service.
- 15.2 The Service Provider must have documented systems which enable it to:
 - 15.2.1 check on whether it is delivering the Service in accordance with the Service Specification.
 - 15.2.2 check whether it is doing this efficiently and effectively
 - 15.2.3 check on whether Staff are provided with safe systems of work
 - 15.2.4 check whether the Service is being delivered in a way which takes account of Service User's needs, preferences and satisfaction
 - 15.2.5 check to ensure that all records are up to date and retain the records of such audits.
 - 15.2.6 check whether Service Users the Council and other relevant agencies consider the quality of the Service can be improved
 - 15.2.7 provide information to the Council evidencing that the systems are in place and being used.

16.0 MONITORING

- 16.1 The Service Provider shall co-operate with the Council and shall comply with all reasonable requests from the Council to allow monitoring and evaluation of the effective provision of the Service by the Service Provider which shall

include the recruitment and selection of Staff adherence to policies and procedures statutory legislation and the Council's Multi Agency Adult Protection Policies and Procedure.

16.2 Without prejudice to the generality of the foregoing the Service Provider shall permit Officers of the Council at all reasonable times to have access to all records for the purpose of monitoring and complaint investigation and to inspect or witness the Service Provider's provision of the Service for the purpose of monitoring the Service Provider's performance of its obligations under this Contract. The Council will have careful regard to the nature of the Service provided and shall when on premises controlled by the Service Provider respect Service Provider's rules as to security health and safety.

16.3 The Service will be monitored by the following:

16.3.1 An inspection of the Service if required by the Council from time to time. This will be carried out by a nominated Officer from the Council's Community Services Directorate Contracts Unit who will undertake a review on the operation of the Service and compliance with this Contract. A report will be prepared on this and shared with the Service Provider.

16.3.2 The Service Provider and the Council ensuring that the parties meet at regularly agreed intervals and set an agenda to discuss:

- Finance
- Staff (recruitment / leavers / sickness and agency)
- The Service (existing and developments)
- Feedback from Service Users on the Service
- Summary details of any concerns raised about the Service and actions taken to address these.
- Liaison with Health Care professionals
- Results of the Service Provider's own quality assurance mechanisms

(The above is not an exhaustive list of agenda items)

16.3.3 The Service Provider demonstrating that the Service provided is in accordance with the standard of support as detailed in the Service Specification

16.3.4 Policies, procedures and working practices appropriate to the Service detailed within this Contract made available for inspection, during any visit arranged to monitor or review the Service.

Healthwatch

- 16.4 The Service Provider will allow an Authorised Representative of Healthwatch to access the Home to enter and view the Home and observe the carrying on of activities and the Services at the Home.
- 16.5 The duty on the Service Provider to allow the Authorised Representative access in accordance with paragraph 16.4 above shall not apply where:
- 16.5.1 the presence of the Authorised Representative at the Home or in a part of the Home would compromise either the effective provision of the Services or the privacy or dignity of any person;
 - 16.5.2 the Authorised Representative does not comply with the following:
 - a. any viewing or observation carried out by the Authorised Representative is to be carried out for the purposes of Healthwatch and;
 - b. whilst at the Home pursuant to paragraph 16.4 above the Authorised Representative does not act in any way that compromises the effective provision of the Services or the privacy or dignity of any person;
 - 16.5.3 access is requested to Excluded Premises;
 - 16.5.4 the Authorised Representative wishes to observe the carrying-on of Excluded Activities;
 - 16.5.5 the Authorised Representative requests to enter and view the Home or part of the Home for the purpose of observing the carrying-on of Excluded Activities;
 - 16.5.6 access is requested to the Home or part of the Home at any time when the Services are not being provided at the Home or any part of the Home;
 - 16.5.7 in the opinion of the Service Provider the Authorised Representative is not acting reasonably and proportionately in seeking to enter and view and observe the carrying-on of activities at the Home; or
 - 16.5.8 the Authorised Representative does not provide the Service Provider with written evidence that he or she is authorised by Healthwatch

HEALTHWATCH REQUESTS FOR INFORMATION

- 16.6 Upon receipt from Healthwatch of a request in writing for information which in the opinion of Healthwatch representative making the request is necessary for the effective carrying on of Healthwatch's activities the Service Provider will respond as follows:

- 16.6.1 where the information requested is held by the Service Provider and is not exempt information in accordance with paragraph 16.7 below, the Service Provider must provide the information to Healthwatch within 20 Working Days following the date of receipt of the request for information by the Service Provider;
- 16.6.2 where the Service Provider holds the information and it is exempt information in accordance with paragraph 16.8 the Service Provider must:
 - 16.6.3 a. if paragraph 16.8 applies provide the information to Healthwatch in a form in which the identity of the individual cannot be ascertained, within 20 Working Days following the date of receipt of the request for information by the Service Provider; or
 - b. in any other case, within 20 Working Days following the date of receipt of the request for information by the Service Provider notify Healthwatch that the Service Provider is not required to disclose the information requested;
- 16.6.4 where the Service Provider does not hold the information, notify Healthwatch of this within 20 Working Days following the date of receipt of the request for information by the Service Provider;
- 16.7 For the purposes of paragraph 16.6 information is exempt if it is:
 - 16.7.1 confidential and relates to a living individual, unless the individual consents to the information being disclosed;
 - 16.7.2 prohibited from disclosure by any enactment or order of court; or
 - 16.7.3 prohibited or restricted from disclosure by any rule of common law.
- 16.8 This paragraph shall apply where information requested under paragraph 16.6 is exempt by virtue of:
 - 16.8.1 the application of sub-paragraph 16.7.1; or
 - 16.8.2 the application of sub-paragraph 16.7.2 or 16.7.3 because the information is capable of identifying an individual; and which can be disclosed in a form from which the identity of the individual to whom that information relates or is capable of identifying cannot be ascertained.

17. ACCESS TO SERVICE USER'S FILES

- 17.1 The Service Provider will allow the Head of Contracts and Care Manager prompt access to any file information or record held by the Service Provider in respect of the Service User excluding nursing and medical records.

18. PROTECTION OF VULNERABLE ADULTS

- 18.1 In cases of actual or suspected abuse to a Service User there must be strict adherence to the Councils Multi Agency Adult Protection Policy in order to protect the Service User and compliance with any investigation carried out by the Council.
- 18.2 The Service Provider is required to adhere to the Council's Multi Agency Adult Protection Policy.
- 18.3 Abuse includes physical psychological sexual neglect/acts of omission financial and discriminatory. The Service Provider will adopt the Councils Multi Agency Adult Protection Policy and communicate this to Staff.
The Service Provider will co-operate with the Council's policy on the reporting and investigating procedures of suspected or actual incidents of abuse. The Service Provider will always notify the Care Manager and the Regulatory Body of incidents of concern.

Schedule Three

Residents at the homes:

NOTIFICATION TO SHROPSHIRE COUNCIL

(As required by Clause 40 of the Contract)

DATE:

FAXED TO: Duty Officer

1. NAME AND ADDRESS OF HOME:	2. SERVICE USER DETAILS:
	Surname: _____ First Name: _____
Post Code: _____ Telephone Number: _____	Individual Placement _____ Contract Number: _____ Date of Birth: _____
3. NOTIFICATION regarding: (Please tick appropriate box and detail below)	
<input type="checkbox"/> hospital admission of a Service User: Date: <input type="checkbox"/> hospital Discharge of a Service User to the Service Provider: Date: <input type="checkbox"/> the death of a Service User: Date: <input type="checkbox"/> written complaints received from the Service User or their family; <input type="checkbox"/> allegation of or actual abuse to a Service User; <input type="checkbox"/> serious accident to the Service User <input type="checkbox"/> disappearance of the Service User <input type="checkbox"/> any circumstances where a Service User has refused provision of the Services e.g. where a Service User has failed to take up their place <input type="checkbox"/> significant change to physical or mental condition of the Service User; <input type="checkbox"/> major injury to a Service User as defined in the “Reporting of Injuries Diseases and Dangerous Occurrences” Regulations 1995; <input type="checkbox"/> voluntary discharge by a Service User and/or their representative; <input type="checkbox"/> holiday periods of the Service User; <input type="checkbox"/> unplanned over-night absence even if the Service User subsequently returns <input type="checkbox"/> allegation of or actual racial harassment abuse or discrimination <input type="checkbox"/> the Service User being absent from the Home overnight for any reason <input type="checkbox"/> any other issues causing concern about the well being of a Service User	
DETAILS:	
.....	

For SC Use: Notified Payments Team (if applicable) of above DATE on: _____

Action: _____

IN THE WITNESS of which the Parties hereto have executed this document on the above date by their duly authorised officers

SIGNED by an authorised signatory Signature:.....

on behalf of SHROPSHIRE

COUNCIL

Print Name:.....

Position: Corporate Head of Legal and
Democratic Services

SIGNED by an authorised signatory Signature:.....

on behalf of SHROPSHIRE

COUNCIL

Print Name:.....

Position: Legal Services Manager
Places/People

SIGNED by an authorised

signatory on behalf of the

SERVICE PROVIDER

Signature:.....

Print Name:.....

Position:.....

SIGNED by an authorised

signatory on behalf of the

SERVICE PROVIDER

Signature:.....

Print Name:.....

Position:.....

MacIntyre

Tender Response Document

EMC 005 - Block Contract for Residential Care Services for
Adults with a Learning Disability





Tender Response Document

EMC 005 - Block Contract for Residential Care Services for Adults with a Learning Disability

Name of TENDERING
ORGANISATION
(please insert)

MacIntyre

Shropshire Council Tender Response Document



Contract Description:

Block Contract for Residential Care Services for Adults with a Learning Disability

Shropshire Council is committed to providing a high quality service in residential care for adults with a learning disability which facilitates access to enable Service Users to remain in the community.

Service Users shall remain at the homes that they are currently living at.

Contracts for two residential care services for people with learning disabilities are due to expire. The homes are:-

Home	Number of residents	Location	Landlord
Beulah House 5 Cemetery Road Market Drayton Shropshire TF9 3BD	5	Market Drayton	Shropshire Council
Glenview 54 Gravel Hill Ludlow Shropshire SY8 1QS	6	Ludlow	Shropshire Council

These schemes are funded by Shropshire Council. Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council's involvement

The homes are owned by Shropshire Council and the successful tenderer will be required to enter into a lease agreement. The heads of terms of this agreement are in **Appendix 5**. The General Terms and Conditions, given in Appendix 1, will also apply.

Tenders are invited from providers for the care and support element of these services with some hotel costs outlined in the Home Costs section. Shropshire Council will act as Commissioning Authority for the tender process. If the successful tenderer/s is/are not already registered with the Care Quality Commission then registration will be required following award of contract.

The contracts for the homes will be let for a period of three years with an option to extend for a further two years; however, the terms, conditions and standards contained in the enclosed sample form of contract will be reviewed from time to time to ensure that it contains the Council's up to date contract clauses.

Shropshire Council is tendering the two services in order to meet the ongoing requirement of demonstrating Best Value. It is anticipated that providers tendering for these services will be



able to identify improved efficiencies whilst still maintaining a quality service.

Each home is already established and registered with the Care Quality Commission for Adults with Learning Disabilities. For the avoidance of doubt we wish to make it clear that each service user has their own complex needs which may range from challenging behaviour, sensory impairment, autism, and Learning and Physical disabilities.

- 1.1 You may:
 - tender to supply services for each individual home (individual lots). You may tender for only one home if you wish. (Option1)
 - both homes together (combined bid) showing any additional financial benefits (Option 2)
- 1.2 Although we have given an indication of the level of need of service users in **Appendix 3** we would expect any potential provider to be able to:
 - accommodate service users' needs for care and social activity
 - adjust accordingly should service users' needs change or a new service user is introduced
- 1.3 The Council is looking to appoint an innovative provider:
 - who can easily meet the varied needs of current residents
 - to develop the current service in line with the Council's priorities
 - that has a track record in providing high quality services of a similar nature
 - that has proven abilities to think imaginatively about service development and improvement
 - that can demonstrate an awareness of the local and national agendas for both health and social care
- 1.4 There is a current staff team at both homes whose continued employment would need to be considered for transfer under TUPE rules these are listed in **Appendix 2**
- 1.5 Performance of each home shall be monitored and contributes to the Council's overall performance framework. The Council supports the development of appropriate local performance targets by and for individual services.

Service User Profiles

The Service User profiles are outlined in **Appendix 3**. Please see section 1.1.2 above.

The support hours for Service Users are included in **Appendix 4**.

Instructions for the completion of this document

**MacIntyre Response – November 2013**

1. This document must be completed in its entirety with responses being given to all questions. If you are unsure of any section and require further clarification, please contact: [REDACTED], Contracts Officer on (01743) 253911 or via email quoting the contract reference EMC 005 to procurement@shropshire.gov.uk
2. Tenderers must also complete and sign the four certificates in Sections A1 to A4. These must be signed;
 - a) Where the tenderer is an individual, by that individual;
 - b) Where the tenderer is a partnership, by two duly authorised partners;
 - c) Where the tenderer is a company, by two directors or by a director and the secretary of the company, such persons being duly authorised for the purpose.
3. All questions require specific responses from you relating to the organisation named in Section B Question 1.1. All information supplied must be accurate and up to date. The Council reserves the right to refuse to consider your application if the Tender Response Document is not fully completed or is found to be inaccurate.
4. Where copies of certificates and other details are requested **a copy must** accompany the **hard copy** of your Tender Response Document.

Contents

Section	Description	Page
A1	Form of Tender	7
A2	Non-Canvassing Certificate	8
A3	Non-Collusive Tendering Certificate	9
A4	Declaration of Connection with Officers or Elected Members of the Council	10
You must sign all 4 certificates in sections A1 to A4		
B	Applicant Organisation Details	11
C	Financial & Insurance Information	12
D	Outstanding Claims & Contract Terminations	14
E	Health & Safety and Equal Opportunities	16
F	Contract Experience and References	22
G	Accreditations and Skills Level	24
H	Tender Schedule	28

Award Criteria

Tenderers will be evaluated on the answers they provide in the 'Tender Response Document'. The following award criteria is made up of 'pass/fail' (selection) questions and 'weighted marked' (award) questions and shows how each section is to be marked.

Selection Criteria - Pass/Fail Questions

This information will be provided for proof of compliance and will be judged on a pass or fail basis. Tenderers must comply with these issues to demonstrate their proven competence, financial stability, resources and other arrangements. Questions marked 'For information only' will not be assessed; however they must still be answered in full.



Section / Question No.	Selection Criteria
Section B / Q 1 & 2	Applicant details – For information only
Section C / Q 1 & 2	Adequate Financial Stability & Insurance
Section D / Q 1 & 2	Adequate Outstanding Claims & Terminations
Section E / Q 1 & 2	Adequate Health & Safety and Equal Opportunities
Section F / Q1 & 2	Adequate Contract Experiences and References
Section G / Q 1	Adequate Accreditations and Skills Level

Section C Financial viability: Responses will be analysed and evaluated by the Authority's Audit sections and will include checks via an independent agency (currently Equifax).

If the financial analysis of the Applicant (please note financial information provided by consortium members will be evaluated to assess the Applicant consortium as a whole) gives cause for concern as to its ability to deliver the Contract, the Applicant will fail this section.

If the financial analysis of the Applicant does not give any cause for concern as to its ability to deliver the Contract – it shall be deemed to have passed the section.

Please note the Contracting Authority reserves the right to further check the Financial Stability and Capacity of an applicant prior to any award of contract in the manner set out above in order to ensure that they still pass that requirement.

Section D Outcome of previous contracts: If in the opinion of the Contracting Authority the nature and level of outstanding claims and previous contract early terminations casts serious doubt on the Applicant's ability to perform this contract, they may be excluded.

Section E Health & Safety and Equalities: If in the opinion of the Contracting Authority the responses in this section are sufficiently poor as to cast serious doubt on the Applicant's abilities to perform this contract safely or to perform this contract with due regard for equalities, they may be excluded.

Section F Contract Experience and References: If, in the opinion of the Contracting Authority the responses in this section are sufficiently poor as to cast serious doubt on the Applicant's abilities to perform this contract they may be excluded.

Section G Accreditations and Skills Level: If, in the opinion of the Contracting Authority the responses in this section are sufficiently poor as to cast serious doubt on the Applicant's abilities to perform this contract they may be excluded.

Award Criteria – Weighted Marked Questions

Tenders will be evaluated on the answers provided in this Tender Response Document and judged against the criteria shown in the table below. The following award criteria is made up of 'Quality' and 'Price' and shows how each criteria is to be weighted against each other.

Section / Question No.	Award Criteria	Weighting / Max Marks Available
Price 50% (500 marks)		
Section H / Q 1	Price	50% / 500 max marks
Total for price		50% / 500 max marks
Quality 50% (500 marks)		
Section H / Q 2	Service Delivery	25% / 250 max marks
Section H / Q 3	Safeguarding	10% / 100 max marks
Section H / Q 4	Management & Auditing of Service	5% / 50 max marks
Section H / Q 5	Staff Induction & Training	5% / 50 max marks
Section H / Q 6	Staff Recruitment	5% / 50 max marks



Total for quality	50% / 500 max marks
--------------------------	----------------------------

Quality Questions/ Scoring Scheme

Questions within the quality sections shown above will be scored using the following scoring scheme. Each answer from the questions identified below will be given a mark between 0 and 10 with the following meanings:

Assessment	Mark	Interpretation
Excellent	10	<i>Exceeds the requirement. Exceptional demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures. Response identifies factors that demonstrate added value, with evidence to support the response.</i>
	9	
Good	8	<i>Satisfies the requirement with minor additional benefits Above average demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures. Response identifies factors that demonstrate added value, with evidence to support the response.</i>
	7	
Acceptable	6	<i>Satisfies the requirement. Demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures, with evidence to support the response.</i>
	5	
Minor Reservations	4	<i>Satisfies the requirement with minor reservations Some minor reservations regarding how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with limited evidence to support the response.</i>
	3	
Serious Reservations	2	<i>Satisfies the requirement with major reservations. Considerable reservations regarding how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with little or no evidence to support the response.</i>
	1	
Unacceptable	0	<i>Does not meet the requirement Does not comply and/or insufficient information provided to demonstrate how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with little or no evidence to support the response.</i>

The use of odd numbers indicates an answer's allocated mark lies between definitions.

The tender receiving the highest mark for quality as a whole will receive the full % available for quality. Other tenders will receive a % that reflects the difference in the marks between those tenders and the tender receiving the highest mark for that category.

Price Evaluation and scoring



MacIntyre Response – November 2013



The most competitively priced tender will receive the maximum mark for price being 500. **Less competitive tenders will receive a % of the maximum mark that represents the difference in cost between that tender and the most competitively priced tender.**

The price used in the evaluation will be the Total Annual Costs for each home (in the completed Section H, Pricing Schedule).



Section A:

1. Form of Tender

personal info

Form of Tender

Shropshire Council

Tender for Block Contract for Residential Care Services for Adults with a Learning Disability

We confirm that this, our tender, represents an offer to Shropshire Council that if accepted in whole, or in part, will create a binding contract for the for the provision of Residential Care Services for Adults with a Learning Disability at the prices and terms agreed and subject to the terms of the invitation to tender documentation and the General Terms and Conditions, copies of which we have received.

Signed  Name 

Date 14/11/13

Designation 

Company **MacIntyre**

Address **602 South Seventh Street
Milton Keynes
Buckinghamshire**

Post Code **MK9 2JA**

Tel No **01908 230100** Fax No

E-mail address customer.solutions@macintyrecharity.org

Web address www.macintyrecharity.org



personal info

Section A:
2. Non-Canvassing Certificate

Non-Canvassing Certificate

To: Shropshire Council (hereinafter called “the Council”)

I/We hereby certify that I/We have not canvassed or solicited any member officer or employee of the Council in connection with the award of this Tender or any other Tender or proposed Tender for the Services and that no person employed by me/us or acting on my/our behalf has done any such act.

I/We further hereby undertake that I/We will not in the future canvass or solicit any member officer or employee of the Council in connection with the award of this Tender or any other Tender or proposed Tender for the Services and that no person employed by me/us or acting on my/our behalf will do any such act.

Signed (1)

Status

Signed (2)

Status

(For and on behalf of MacIntyre)

Date 14/11/13



Section A:
3. Non-Collusive Tendering Certificate

personal info

Non-collusive Tendering Certificate

To: Shropshire Council (hereinafter called “the Council”)

The essence of selective tendering is that the Council shall receive bona fide competitive Tenders from all persons tendering. In recognition of this principle:

I/We certify that this is a bona fide Tender, intended to be competitive and that I/We have not fixed or adjusted the amount of the Tender or the rates and prices quoted by or under or in accordance with any agreement or arrangement with any other person.

I/We also certify that I/We have not done and undertake that I/We will not do at any time any of the following acts:-

- (a) communicating to a person other than the Council the amount or approximate amount of my/our proposed Tender (other than in confidence in order to obtain quotations necessary for the preparation of the Tender for insurance); or
- (b) entering into any agreement or arrangement with any other person that he shall refrain from Tendering or as to the amount of any Tender to be submitted; or
- (c) offering or agreeing to pay or give or paying any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other Tender or proposed Tender for the Services any act or omission.

Signed (1)

[Redacted Signature]

Status

[Redacted Status]

Signed (2)

[Redacted Signature]

Status

[Redacted Status]

(For and on behalf of **MacIntyre**)

Date **14/11/13**



Section A:

4. Declaration of Connection with Officers or Elected Members of the Council

personal info

Are you or any of your staff who will be affected by this invitation to tender related or connected in any way with any Shropshire Council Elected Councillor or Employee?

No

If yes, please give details:

Name	Relationship

Please note:

This information is collected to enable the Council to ensure that tenders are assessed without favouritism. Whether or not you have a connection with elected members or employees will have no bearing on the success of your tender, but your tender will not be considered unless this declaration has been completed.

Signed (1)	[Redacted]	Status	[Redacted]
Signed (2)	[Redacted]	Status	[Redacted]
(For and on behalf of MacIntyre)			
Date	14/11/13		



Section B:
Applicant Organisation Details

1.	Applicant Details	
1.1	Name of contracting Company/Organisation: MacIntyre Address: 602 South Seventh Street Milton Keynes Postcode: MK9 2JA Tel: 01908 230100 Email: customer.solutions@macintyrecharity.org	
1.2	Registered name (if different from above): MacIntyre Care Registered Office Address: 602 South Seventh Street Milton Keynes Postcode: MK9 2JA Company registration number: 00894054	
1.3	Details of the individual completing this application and to which we may correspond: Name: [REDACTED] Job title: [REDACTED] Correspondence Address: 602 South Seventh Street Milton Keynes Postcode: MK9 2JA Tel: 01908 230100 [REDACTED] Email: customer.solutions@macintyrecharity.org or [REDACTED]	
1.4	Type of Organisation (please <u>tick</u> all those appropriate):	
(a)	Sole trader	<input type="checkbox"/>
(b)	Partnership	<input type="checkbox"/>
(c)	Private Limited Company	<input type="checkbox"/>
(d)	Public Limited Company	<input type="checkbox"/>
(e)	Charity/Social enterprise	<input checked="" type="checkbox"/>



Section C: Financial & Insurance Information

1.	Insurance Details	
*	<p><i>Why do we need to know this?</i></p> <p><i>We need to ensure that all of our suppliers have adequate insurance. The Council has set minimum insurance requirements which all companies working with the Council must adhere to.</i></p> <p><i>Please note that on some limited occasions the council may agree to vary these levels dependant on the nature of the contract.</i></p>	
1.1 (a)	Please Confirm that you hold a minimum of £5,000,000 Public Liability Insurance	YES
(b)	<p>Please detail the relevant policy information and state if any conditions or exceptions apply to the policy.</p> <p>Name of Insurance Company QBE Insurance (Europe) Ltd</p> <p>Date policy taken out 6th August 2013</p> <p>Expiry date of the policy 5th August 2014</p> <p>Policy number/reference [REDACTED]</p> <p>Conditions/Exceptions [REDACTED]</p>	
1.2 (a)	Please confirm that you hold a minimum of £5,000,000 Employer's Liability Insurance	YES
(b)	<p>Please detail the relevant policy information and state if any conditions or exceptions apply to the policy.</p> <p>Name of Insurance Company QBE Insurance (Europe) Ltd</p> <p>Date policy taken out 6th August 2013</p> <p>Expiry date of the policy 5th August 2014</p> <p>Policy number/reference [REDACTED]</p> <p>Conditions/Exceptions</p>	
1.3	<p>Please enclose photocopies of your Certificates of Insurance duly signed as authentic copies of the originals</p> <p>Please find broker's letter and certificates enclosed in Appendix A</p>	<p>Enclosed</p> <p>YES</p>
2.	Financial Details	
*	<p><i>Why do we need to know this?</i></p> <p><i>Financial details are required in order to check that your company has sufficient financial resources to undertake the contract. This information will also ensure that your company is in</i></p>	



	<p><i>a stable position and is likely to fulfil the contract for the period required.</i></p> <p><i>How the Council evaluates this information will vary given the nature of the contract to be awarded.</i></p>																						
2.1	<p>Please provide a brief summary of your annual turnover and profit in the last 3 years. (Please insert figures – do not refer to attached accounts) Also provide copies of your last 3 years audited accounts. If audited accounts are not available please provide copies of your management accounts</p> <table border="1"> <thead> <tr> <th colspan="3"><u>Company</u></th> <th>Accounts Enclosed</th> </tr> <tr> <th><u>Year</u></th> <th><u>Turnover</u></th> <th><u>Profit(Loss)</u></th> <th></th> </tr> </thead> <tbody> <tr> <td>2010/11</td> <td>████████</td> <td>████████</td> <td>YES</td> </tr> <tr> <td>2011/12</td> <td>████████</td> <td>████████</td> <td>YES</td> </tr> <tr> <td>2012/13</td> <td>████████</td> <td>████████</td> <td>YES</td> </tr> </tbody> </table> <p>(If exact figures are not available please provide your best estimate of the figures required)</p> <p>Please find copies of our last 3 years of Audited Accounts in Appendix B.</p>			<u>Company</u>			Accounts Enclosed	<u>Year</u>	<u>Turnover</u>	<u>Profit(Loss)</u>		2010/11	████████	████████	YES	2011/12	████████	████████	YES	2012/13	████████	████████	YES
<u>Company</u>			Accounts Enclosed																				
<u>Year</u>	<u>Turnover</u>	<u>Profit(Loss)</u>																					
2010/11	████████	████████	YES																				
2011/12	████████	████████	YES																				
2012/13	████████	████████	YES																				
2.2	<p>Please show below your company's turnover in the provision of Residential Care Services for Adults with a Learning Disability in the last three financial years. (Please insert figures – do not refer to attached accounts)</p> <table border="1"> <thead> <tr> <th><u>Year</u></th> <th>Turnover in relation to Residential Care Services for Adults with a Learning Disability</th> </tr> </thead> <tbody> <tr> <td>2011/11</td> <td>████████</td> </tr> <tr> <td>2011/12</td> <td>████████</td> </tr> <tr> <td>2012/13</td> <td>████████</td> </tr> </tbody> </table> <p>(If exact figures are not available please provide your best estimate of the figures required)</p>			<u>Year</u>	Turnover in relation to Residential Care Services for Adults with a Learning Disability	2011/11	████████	2011/12	████████	2012/13	████████												
<u>Year</u>	Turnover in relation to Residential Care Services for Adults with a Learning Disability																						
2011/11	████████																						
2011/12	████████																						
2012/13	████████																						

Section D: Outstanding Claims and Contract Terminations

1.	Outstanding Claims / County Court Judgements
-----------	---



1.1	Do you have any outstanding claims, litigations or judgements against your organisation?	No
1.2	If YES to 1.1 please provide further details. N/A	

2.	Contract Terminations/Deductions	
2.1	Please give details of all contracts in the last 3 years which have been terminated early giving the name of the client company/authority, the date of termination and the reasons for termination. MacIntyre has not had any contract terminated early in the past 3 years.	
2.2	Please give details of all fines, penalties or deductions incurred in the last 3 years as a result of non-performance under any contract. MacIntyre has not been issued with a fine, penalty or deduction in the last 3 years.	

Section E:
Health & Safety and Equal Opportunities

1.	Health & Safety at Work	
*	<i>Why do we need to know this?</i>	



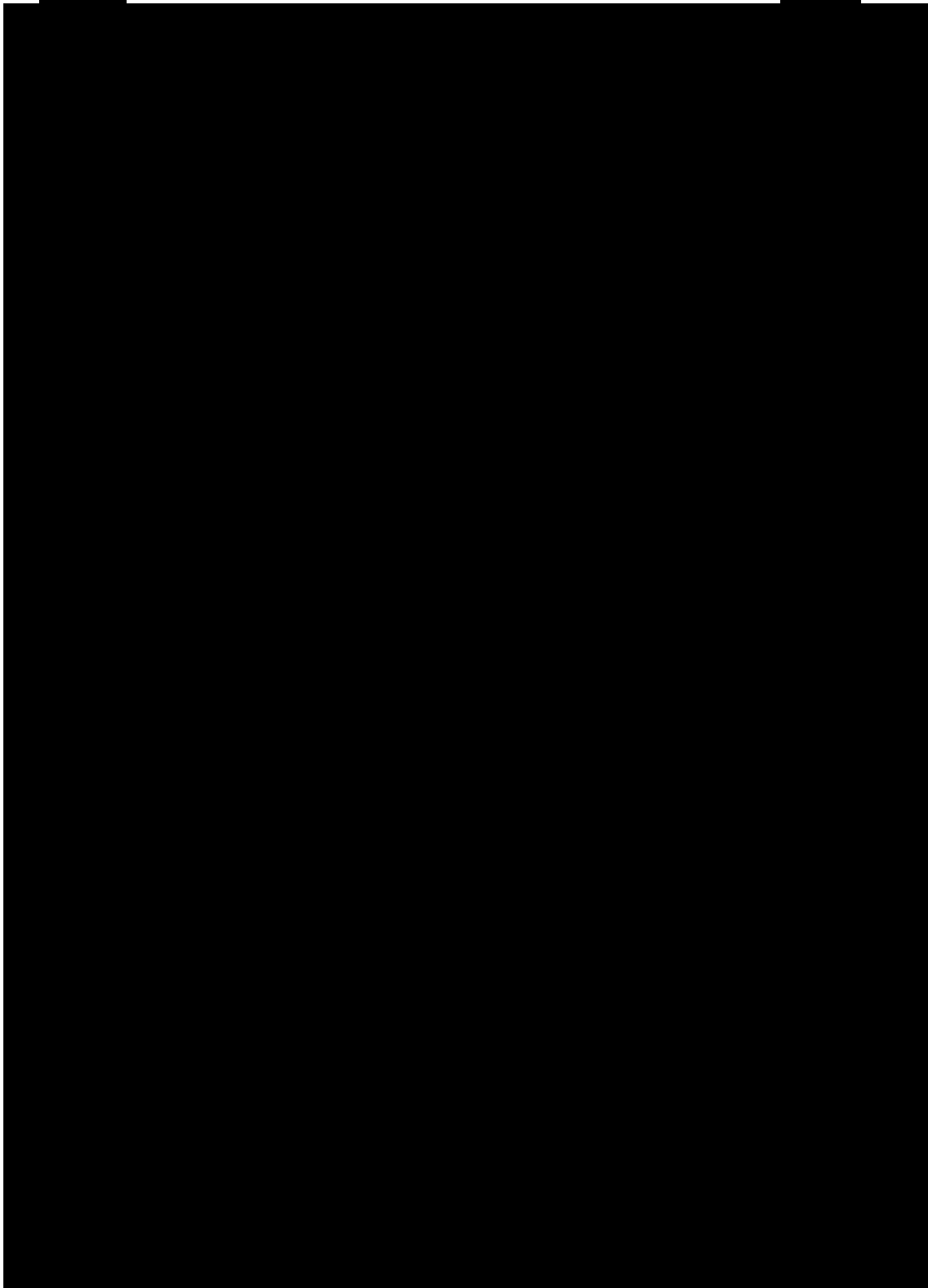
MacIntyre Response – November 2013

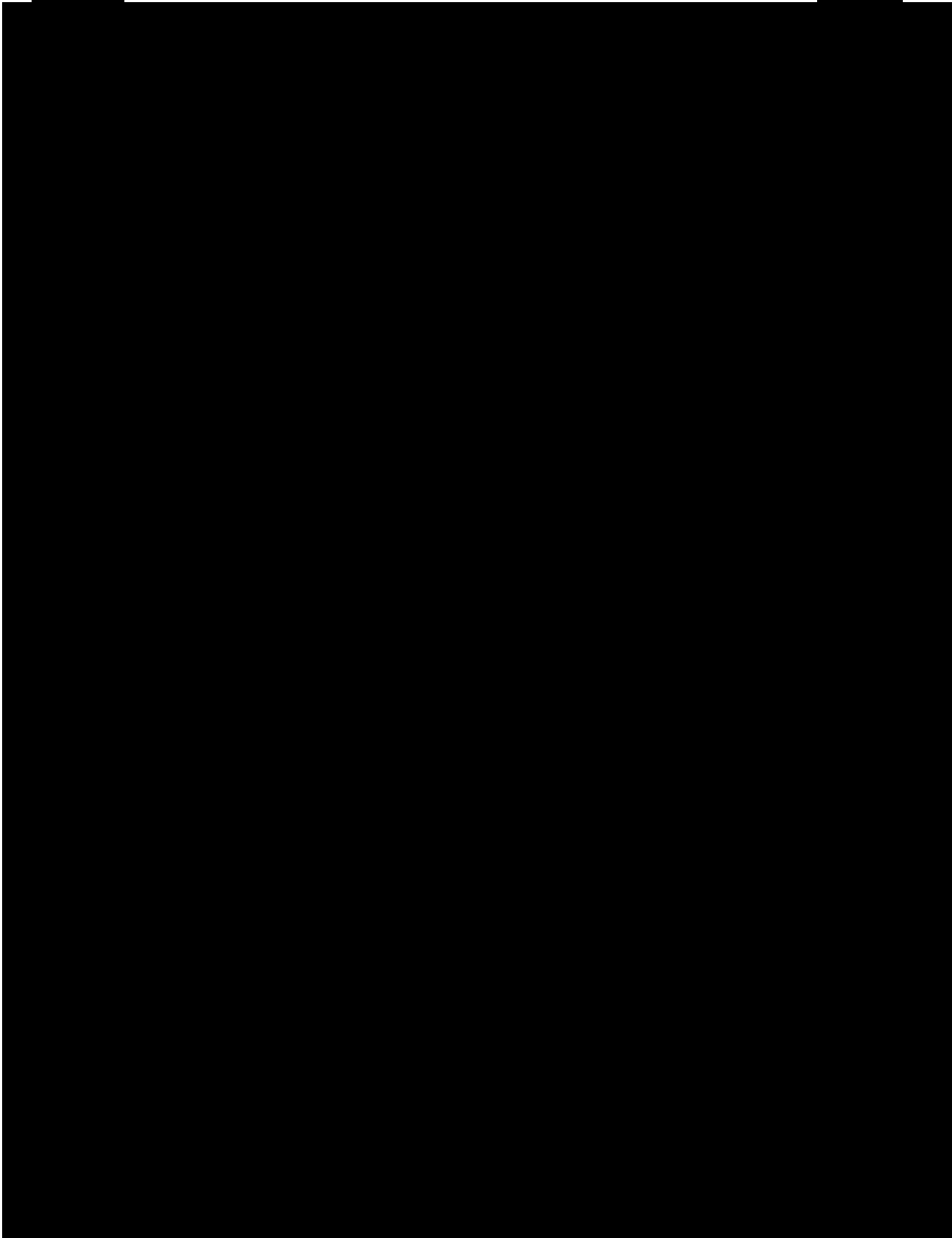


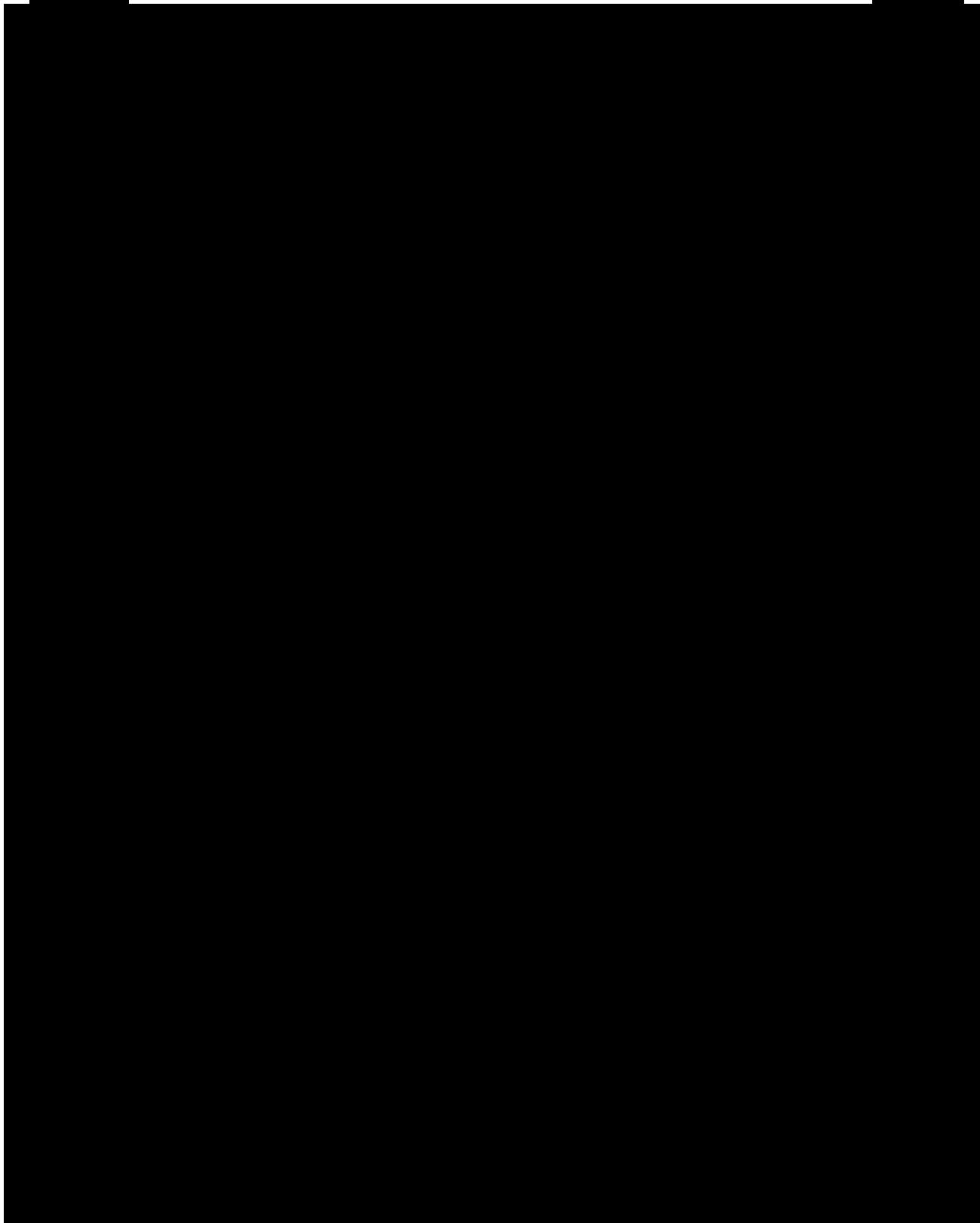
	<p><i>We need to ensure that all companies that work with Shropshire Council are able to operate safely. We assess this by asking questions about arrangements at the contract stage and continue to monitor ongoing performance with all companies working on our behalf.</i></p> <p><i>Health & safety measures do not have to be expensive, time consuming or complicated – especially for smaller companies. In fact, safer and more efficient working practices can save money and greatly improve working conditions for employees. Shropshire Council is committed to promoting safe and proportionate working practices to companies as it recognises the benefits this can bring for companies competing for business both for local authority contracts and elsewhere.</i></p> <p><i>Information to help small companies is available on the Health and Safety Executive's (HSE) website.</i></p> <p><i>Health and Safety Executive's website: http://www.hse.gov.uk/</i></p> <p><i>Looking after your Business: http://www.hse.gov.uk/business/</i></p> <p><i>Getting Started Step-by-step: http://www.hse.gov.uk/business/must-do.htm</i></p>	
1.1	<p>Does your organisation have a formal health and safety policy or statement?</p> <p>*(if you employ 5 or more employees you are required to produce a Health and Safety Policy/Statement under the Health & Safety at Work Act 1974)</p> <p>Please tick here if copy enclosed <input checked="" type="checkbox"/></p> <p>A copy of MacIntyre's Health & Policy Statement is provided under Appendix C:</p>	YES
1.2	<p>Do you currently hold any external health and safety accreditations, such as CHAS (Contractors Health and Safety Assessment Scheme), or equivalent?</p>	YES
1.3	<p>If YES to 1.2 please supply the following details as well as a copy of any certificates.</p> <p>Accrediting Organisation: BSI</p> <p>Reference No: [REDACTED]</p> <p>Date accreditation expires or is to be renewed: 28th March 2014</p> <p>Please tick here if a copy of certificate attached <input checked="" type="checkbox"/></p> <p>Accrediting Organisation: CHAS</p> <p>Reference No: N/A</p> <p>Date accreditation expires or is to be renewed: 23th February 2014</p> <p>Please tick here if a copy of certificate attached <input checked="" type="checkbox"/></p> <p>A copy of MacIntyre's Health & Policy accreditation certificates are provided under Appendix D</p>	
1.4	<p>Has your company been served with an enforcement notice or been prosecuted in</p>	

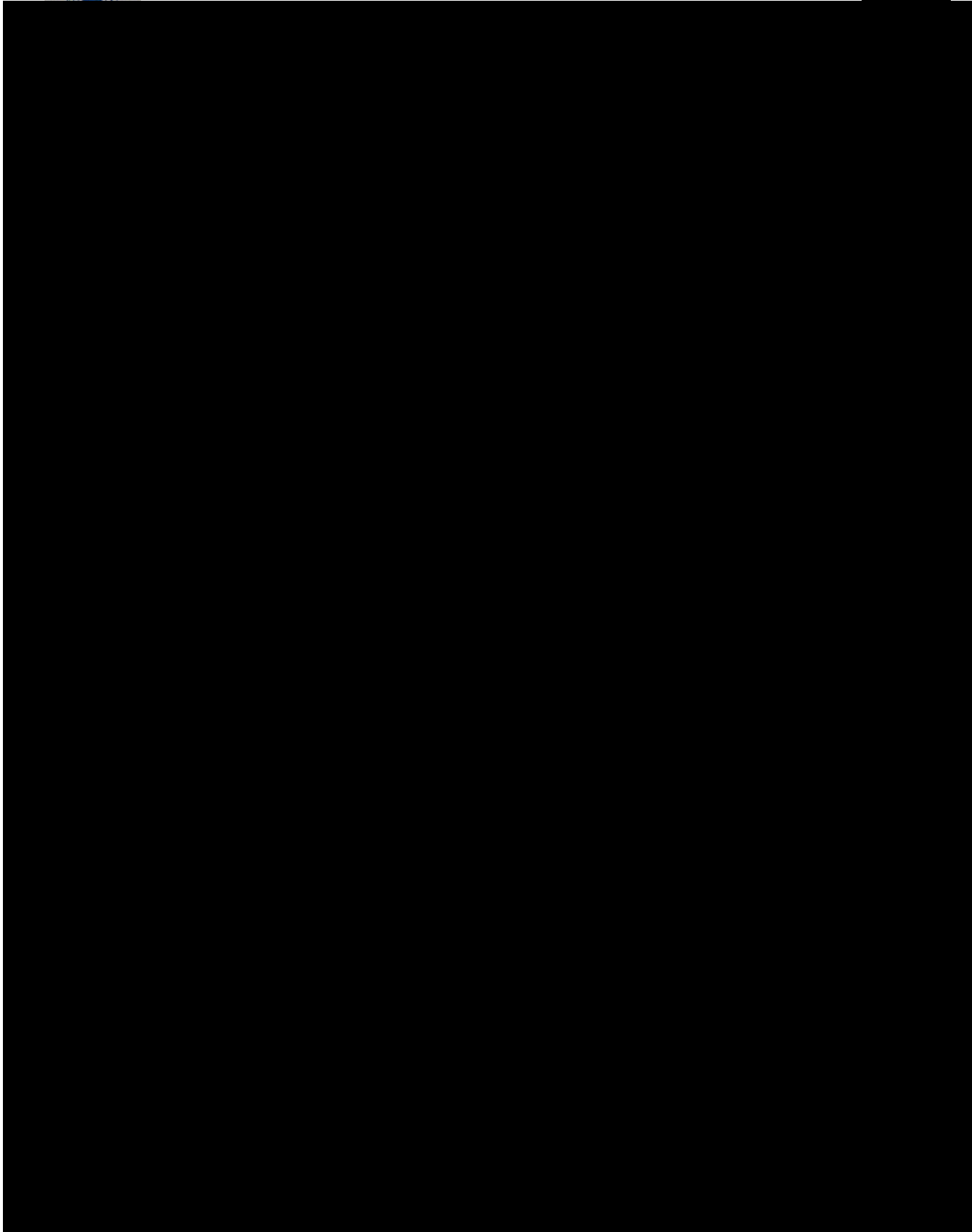


	the past 3 years for breaches of health and safety legislation?	NO
1.5	<p>If YES to 1.4 please give details of the prosecution or notice (and what measures you have taken to ensure the issue(s) will not re-occur).</p> <p>N/A</p>	
1.6	Do you routinely carry out Risk Assessments?	YES
1.7	<p>If YES to 1.6 please state what has been assessed. (At certain times, the Council may request copies of risk assessments, safe working procedure, or safety method statements.)</p> <div style="background-color: black; width: 100%; height: 100px; margin-bottom: 10px;"></div> <div style="border-left: 1px dashed black; padding-left: 10px;"> <div style="background-color: black; width: 100%; height: 100%; min-height: 400px;"></div> </div> <div style="background-color: black; width: 100%; height: 20px; margin-top: 10px;"></div>	









1.10	Does your company monitor: (a) Accidents (b) Ill health caused by work (c) Health & Safety Performance	YES YES YES



1.11 Does your company have a recognised health & safety management system?
 Please give details below:

[Redacted]

[Redacted]

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

[Redacted]

- [Redacted]
- [Redacted]
- [Redacted]

[Redacted]

YES

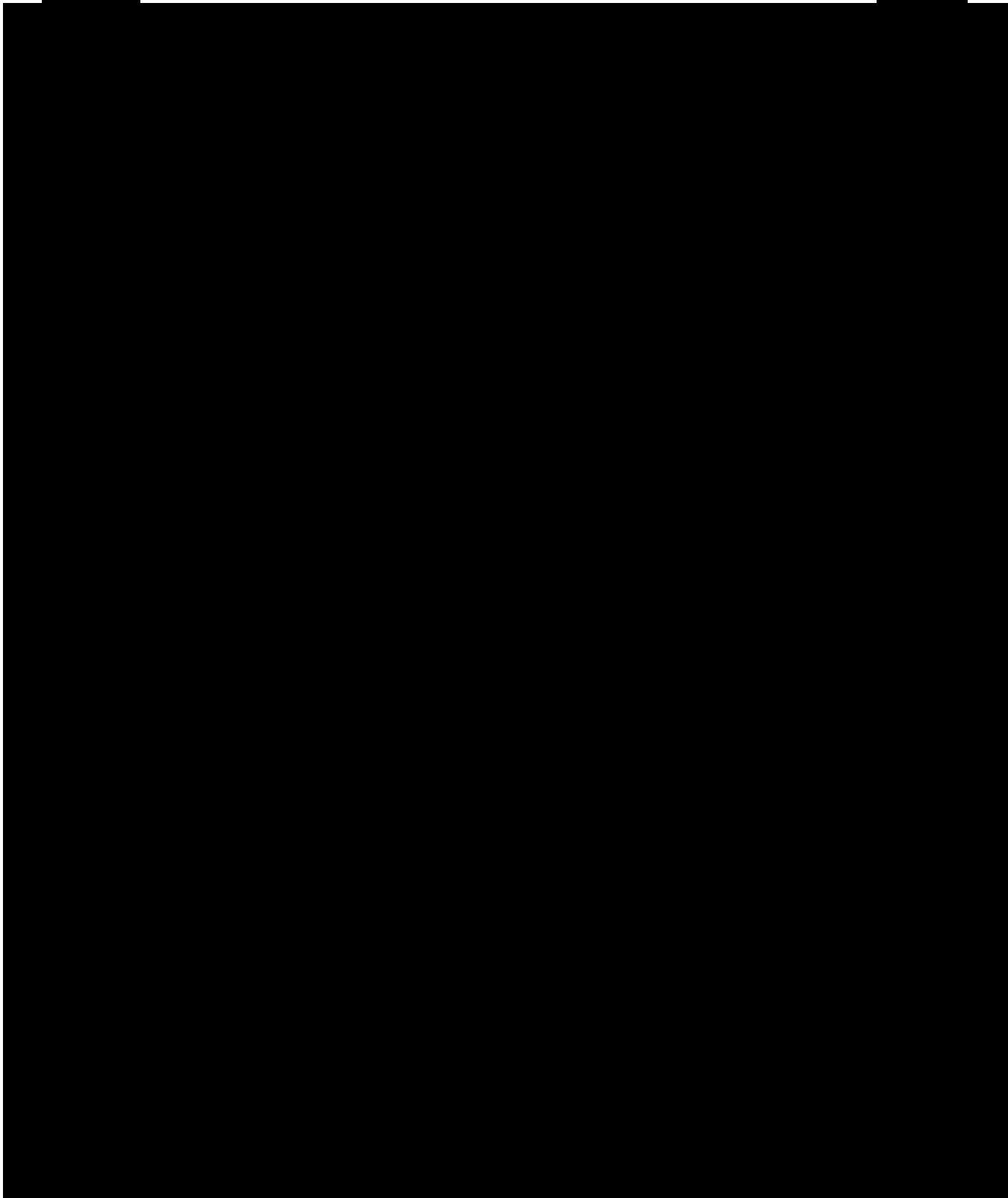
1.12

Please state how many accidents have been reported to your Enforcing Authority under RIDDOR (The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations) in the last 2 years:-

Total	
No. of accidents reported under RIDDOR last year	■
No. of accidents reported under RIDDOR this year	■

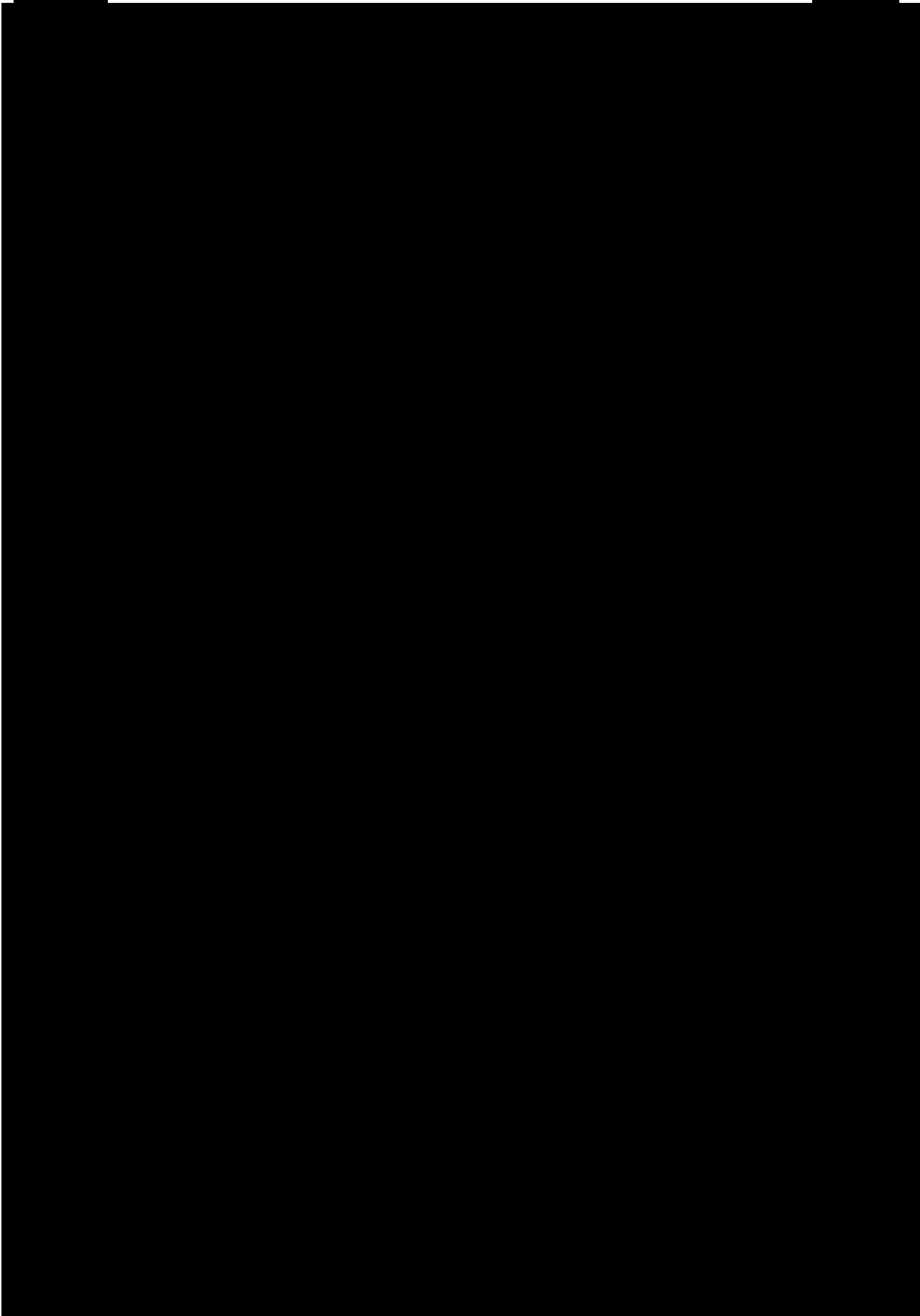
[Redacted]

[Redacted]





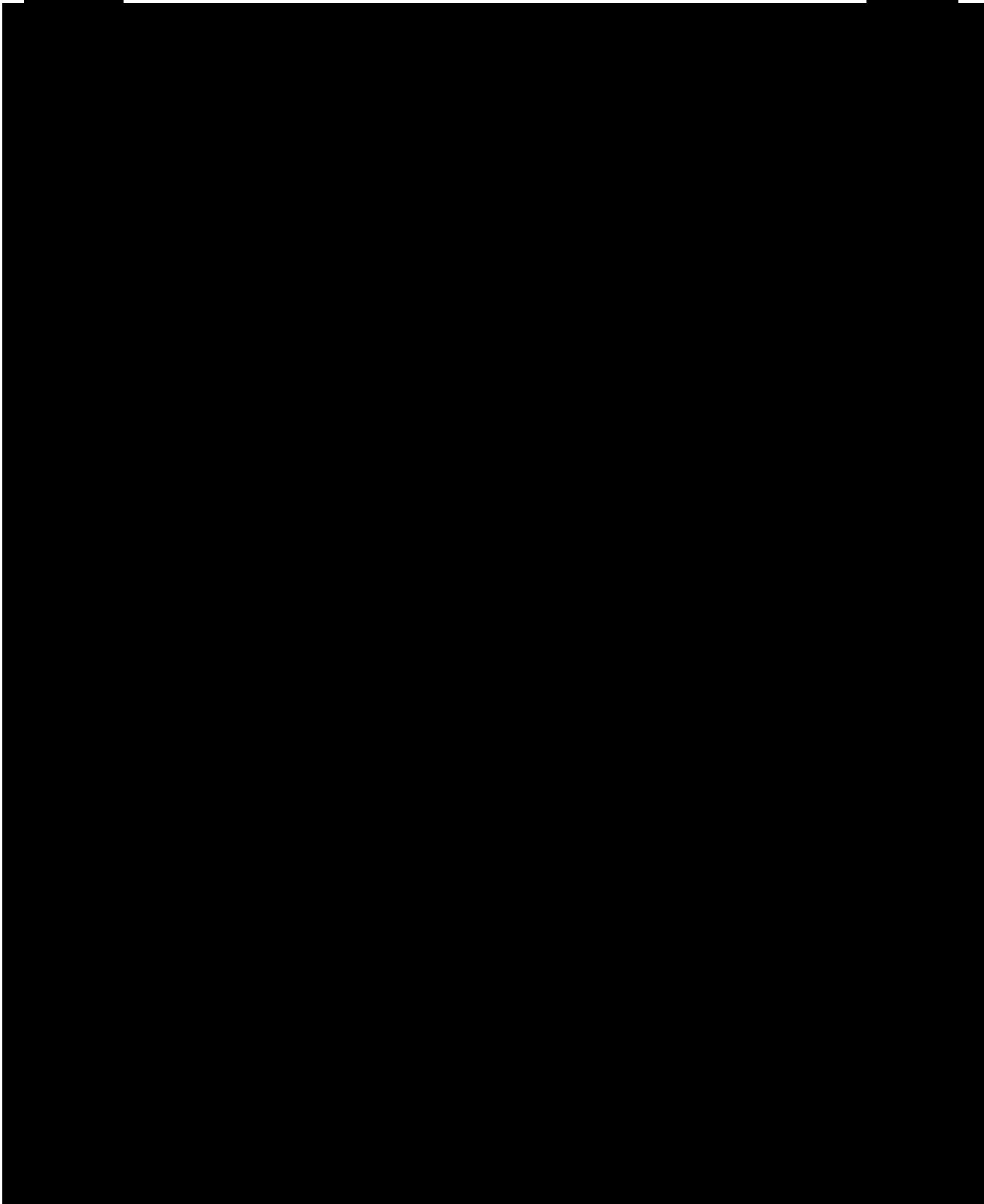
1.13	Does your company consult with employees on health and safety? If YES, please give details below.	YES



1.14	Will you be using any sub contractors as part of this contract?	NO
------	---	----



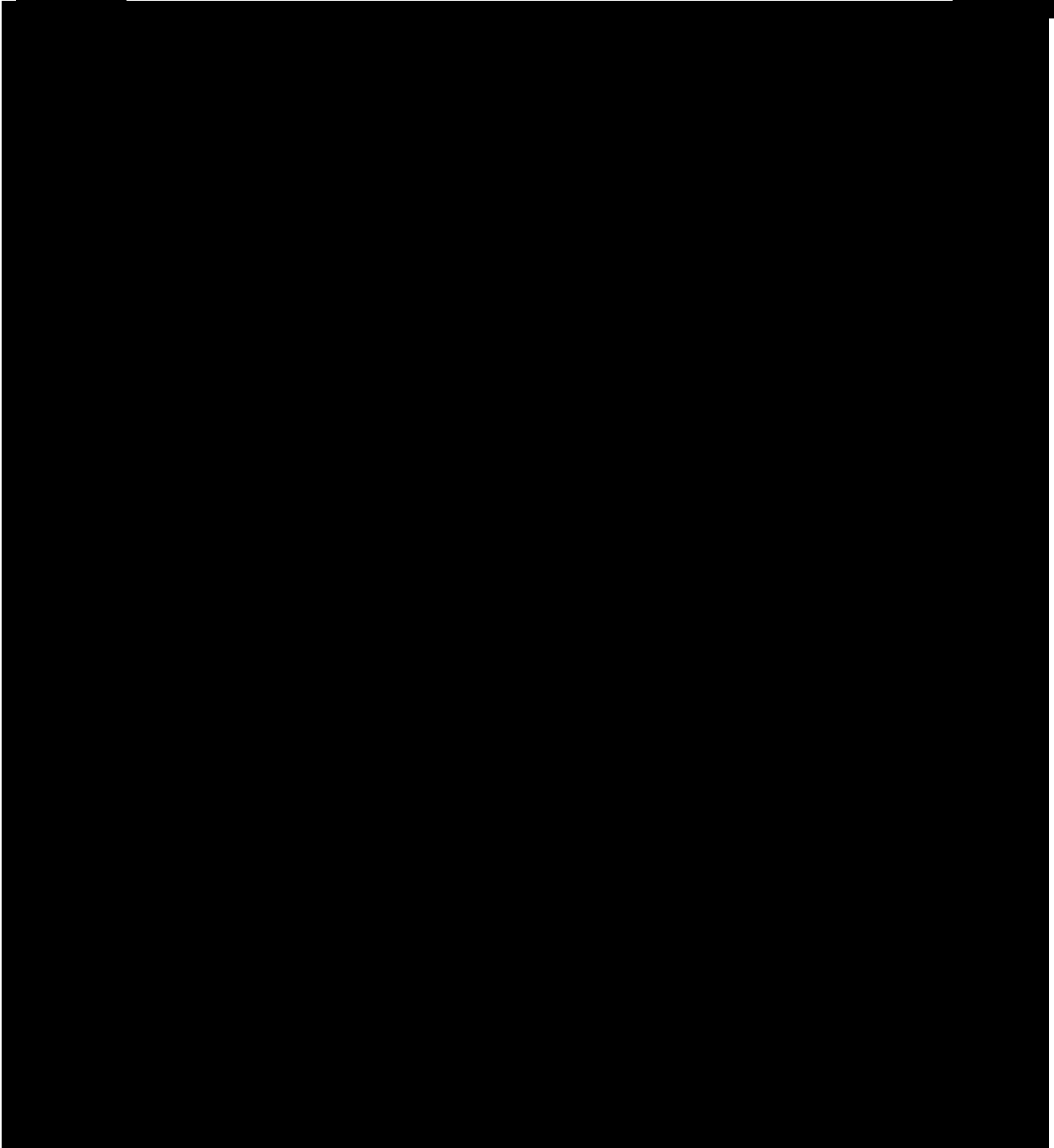
1.15	<p>If YES to 1.14 please give details of who your sub contractors are.</p> <p>N/A</p>	
1.16	<p>If YES to 1.14 how do you ensure they are competent?</p> <p>N/A</p>	
1.17	<p>Where do you get your competent health and safety advice?</p> <p>To meet your legal responsibilities in 'The Management of Health and Safety at Work Regulations 1999' you must appoint one or more competent people to help you comply with your duties under health and safety law so you can prevent accidents and ill health at work. In practice, you can be that competent person as long as you know enough about what you have to do. If the risks are complex and you do not have access to competent advice in-house, you may want to appoint a safety consultant to help you.</p> <div data-bbox="217 1088 1428 2029" style="background-color: black; width: 100%; height: 420px; margin-top: 10px;"></div>	



--	--



2.	Equal Opportunities	
*	<p><i>Why do we need to know this?</i></p> <p><i>The equality duties placed on public authorities requires the Council to have due regard to the need to eliminate unlawful discrimination.</i></p> <p><i>We need to ensure all companies that work with Shropshire Council comply with both UK and EU regulations regarding equal opportunities and discrimination law. The Council actively promotes equal opportunities in procurement and partnership.</i></p> <p><i>The Council also needs to ensure that there are no outstanding claims against your organisation regarding discrimination.</i></p> <p><i>Information to help small companies is available at:</i></p> <p><i>Equality and Human Rights Commission -</i></p> <p>http://www.equalityhumanrights.com/advice-and-guidance/here-for-business/</p> <p><i>Useful links for guidance & Information -</i></p> <p>http://www.equalityhumanrights.com/advice-and-guidance/here-for-business/guidance-for-small-and-medium-size-businesses/related-links/</p>	
2.1	<p>How do you comply with your statutory obligation under UK/EU equalities and discrimination legislation (or equivalent legislation and regulations in the countries in which you employ staff)?</p> <ul style="list-style-type: none"> - UK/EU equalities and discrimination legislation includes:- - Human Rights Act 1998 - Equality Act 2010 <p>Please enclose evidence for the above e.g. documents, instructions, recruitment advertisements or other literature.</p> <div style="background-color: black; width: 100%; height: 60px; margin-top: 10px;"></div> <div style="margin-top: 10px;"> <ul style="list-style-type: none"> █ <div style="background-color: black; width: 100%; height: 15px; display: inline-block;"></div> █ <div style="background-color: black; width: 100%; height: 15px; display: inline-block;"></div> █ <div style="background-color: black; width: 100%; height: 15px; display: inline-block;"></div> █ <div style="background-color: black; width: 100%; height: 15px; display: inline-block;"></div> </div> <div style="background-color: black; width: 100%; height: 20px; margin-top: 10px;"></div>	Enclosed YES



2.2	<p>As a contractor providing a public service on behalf of a local authority, you have a duty to comply with the General Duties of the Public Sector Equality Duty as outlined below.</p> <ul style="list-style-type: none"> • Eliminate discrimination, harassment and victimisation that is unlawful under the Equality Act 2010; • Advance equality of opportunity between those who share protected characteristics and those who do not; • Foster good relations between those who share protected characteristics and those who do not. 	



How do you promote equality in your service delivery and towards your employee management as part of your operations?

[Redacted]

[Redacted]

[Redacted]

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

[Redacted]

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]



[Redacted text block]



[Redacted content]



	<ul style="list-style-type: none"> █ [Redacted] █ [Redacted] <p>[Redacted]</p> <ul style="list-style-type: none"> █ [Redacted] █ [Redacted] █ [Redacted] █ [Redacted] █ [Redacted] █ [Redacted] █ [Redacted] 	
--	---	--

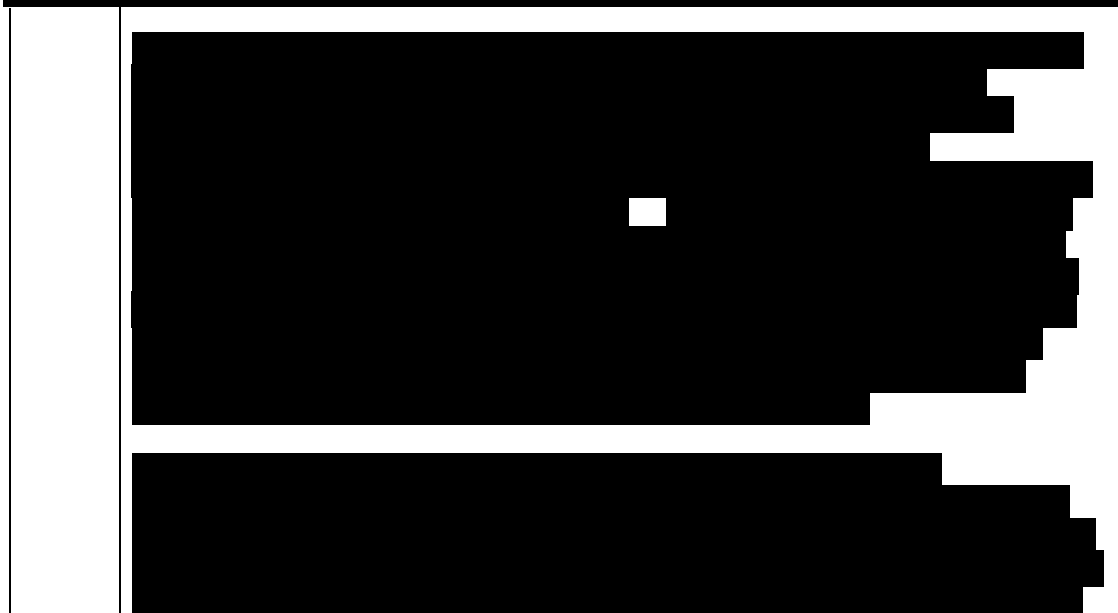
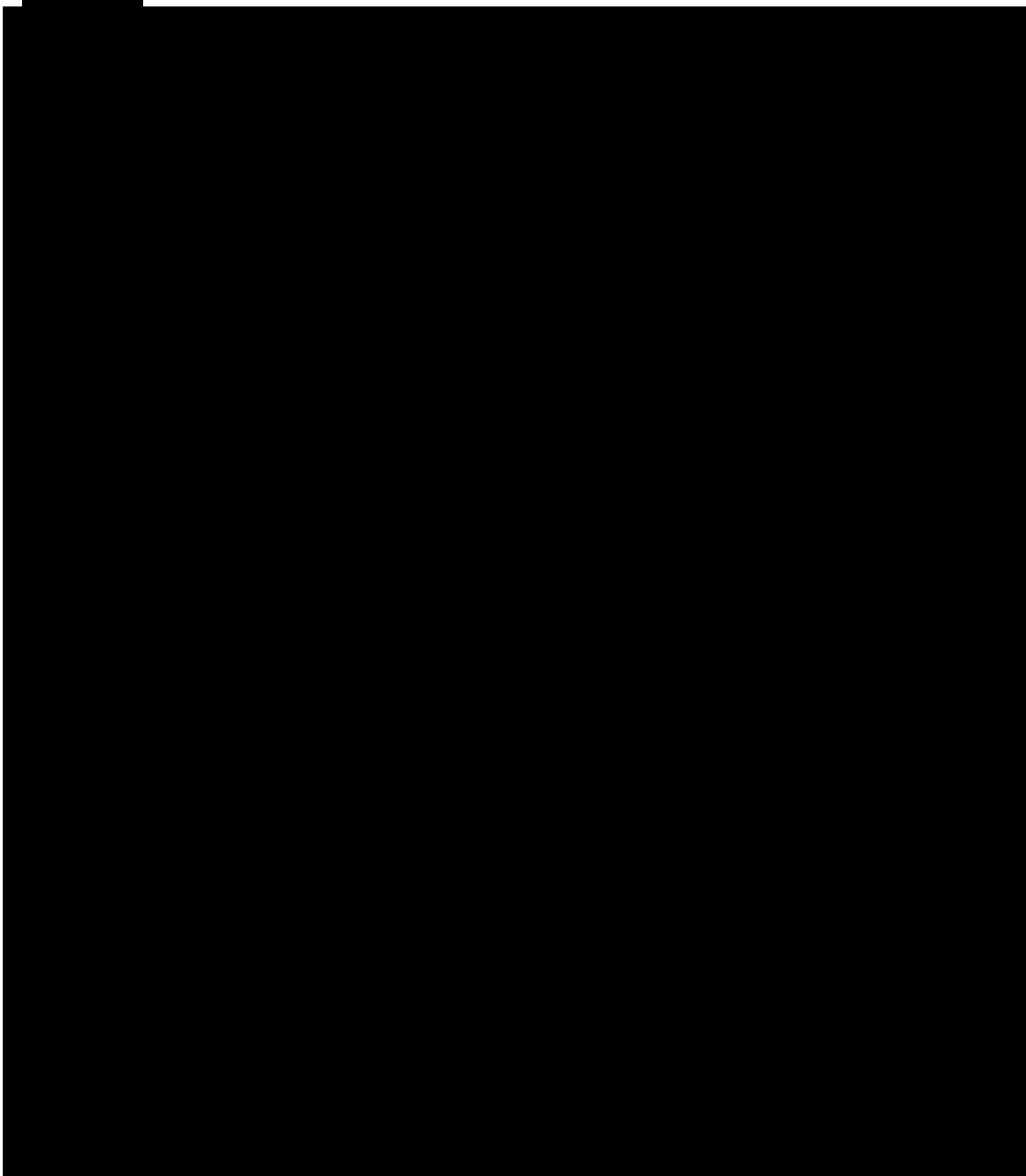
2.3	In the last 3 years, has any claim or finding of unlawful discrimination been made against your organisation by any court?	YES



2.4	<p>If YES to 2.3, please give details.</p> <p>[REDACTED]</p>	
2.5	<p>In the last 3 years, has your organisation been the subject of formal investigation by the Equality and Human Rights Commission?</p>	NO
2.6	<p>If YES to 2.5, please give details.</p>	
2.7	<p>(NB Organisations with less than 5 employees are not required to respond to questions 2.8 and 2.9)</p> <p>How do you promote the diversity of your workforce e.g. do you take steps to encourage people from under-represented groups to apply for jobs or take up training opportunities and career progression?</p> <p>Please provide evidence of the above.</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	



	<ul style="list-style-type: none">■ [Redacted]■ [Redacted]■ [Redacted] <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	
--	--	--





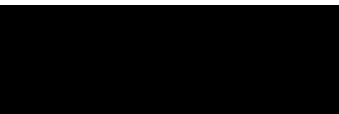

	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	
<p>2.8</p>	<p>Do you have a grievance process to address all complaints relating to perceived discrimination?</p> <p>Provide evidence for the above</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>YES</p>



	<p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	
2.9	<p>Organisation with less than 5 employees must confirm below that they will meet the requirements set out in questions 2.8 and 2.9 if they increase their number of staff above 5.</p> <p style="text-align: center;">Confirmed</p>	N/A

3.	Safeguarding of adults
-----------	-------------------------------



	<p>We need to ensure all companies that work with Shropshire Council are clear about our safeguarding expectations and are committed to meet our expectations. The Council also needs to ensure that your organisation has a good record for safeguarding adults</p> <p>For information: our requests for references will include a question relating to your organisation's record for safeguarding.</p>	
3.1	<p>Do you have a Safeguarding Policy or statement for safeguarding adults?</p> <p>MacIntyre's Safeguarding Vulnerable Adults Policy is included in Appendix Q.</p>	<p>Enclosed YES</p>
3.2	<p>As a contractor providing a public service on behalf of a Shropshire Council, we expect that you will be familiar and committed to the local safeguarding procedures as prescribed by Shropshire Council's approach to adult protection http://www.shropshire.gov.uk/adultcarer.nsf/open/F54E8A80CF1343BC80257AAF0058F760</p> <p>I/We certify that I/We are familiar with and committed to deliver our service in compliance with local safeguarding processes.</p> <p>Signe  Status </p> <p>(For and on behalf of MacIntyre)</p> <p>Date 14/11/13</p>	



Section F: Contract Experience and References

1. Contract Experience and References					
1.1 Please list below up to a maximum of 10 similar contracts undertaken by your company in the past 3 years or currently being handled. Any previous Public Sector experience will be of particular interest. Please ensure that the referee is able to give a reference and that their contact details are the most current.					
	Name of Organisation/Company	Contact Name, Address & Contact Details	Value of Contract (£)	Nature of work undertaken	Contract Dates (From – To)
1	[Redacted]	[Redacted]	[Redacted]	[Redacted]	2001 on-going
2	[Redacted]	[Redacted]	[Redacted]	[Redacted]	2001 Ongoing



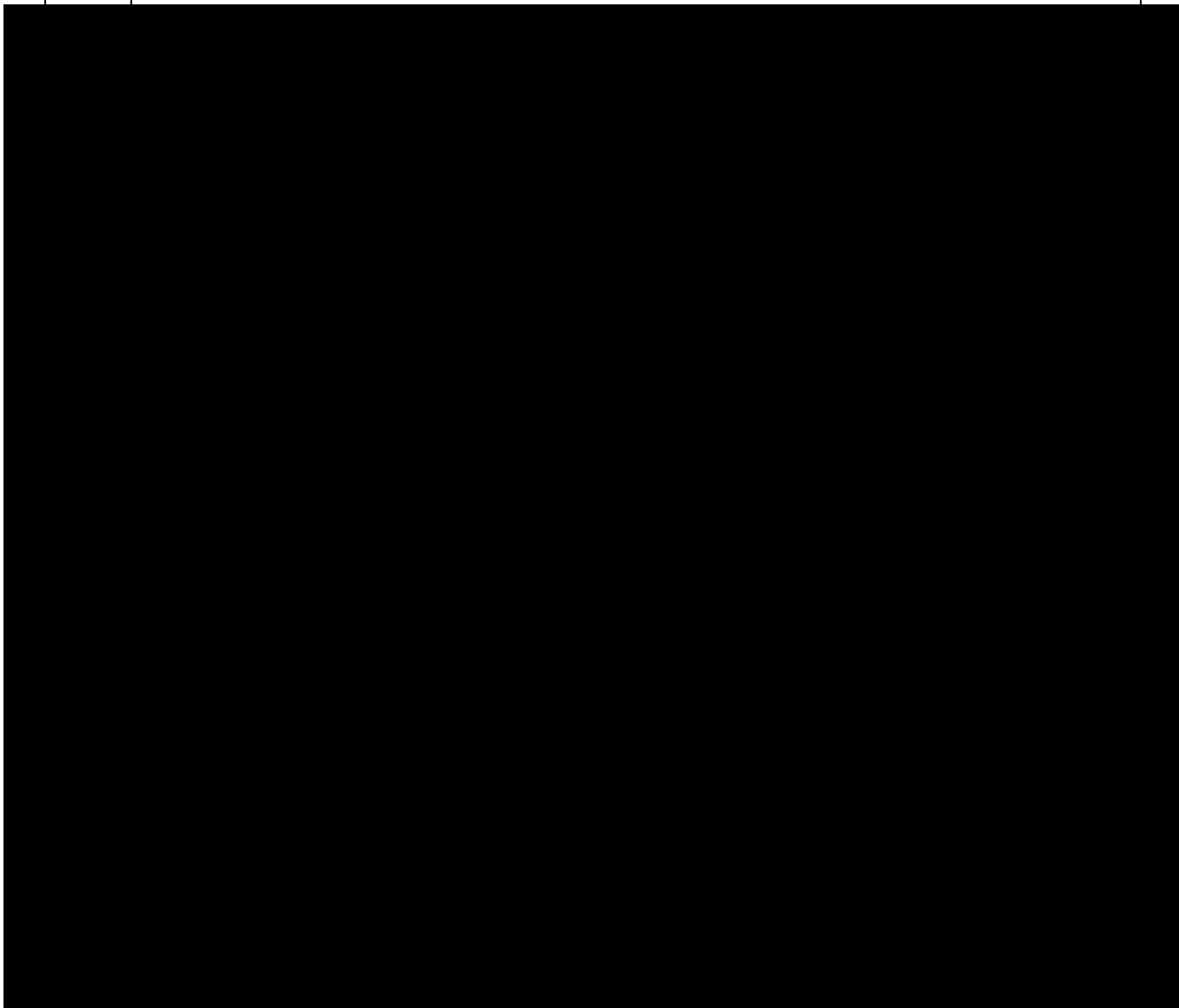
MacIntyre Response – November 2013

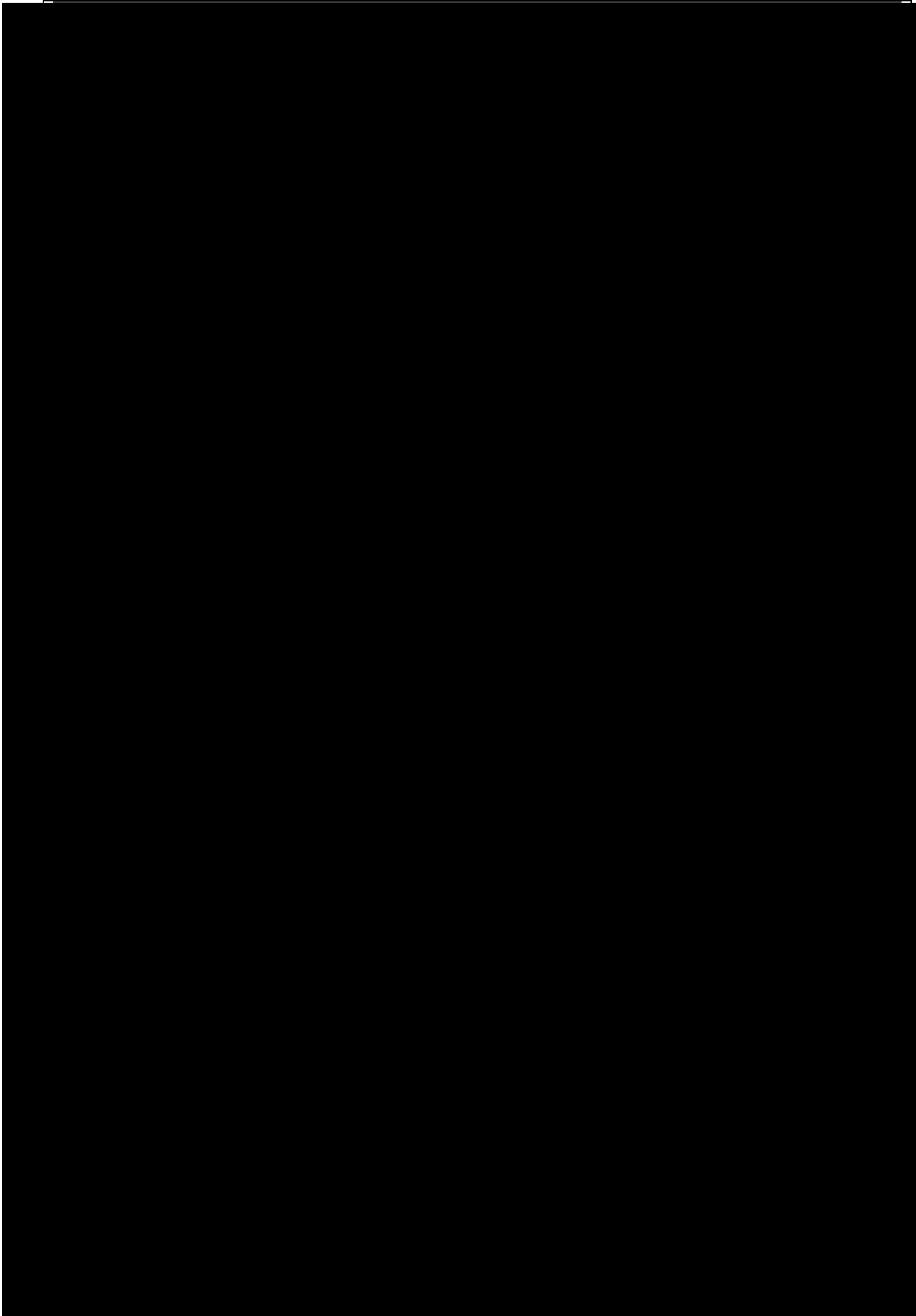


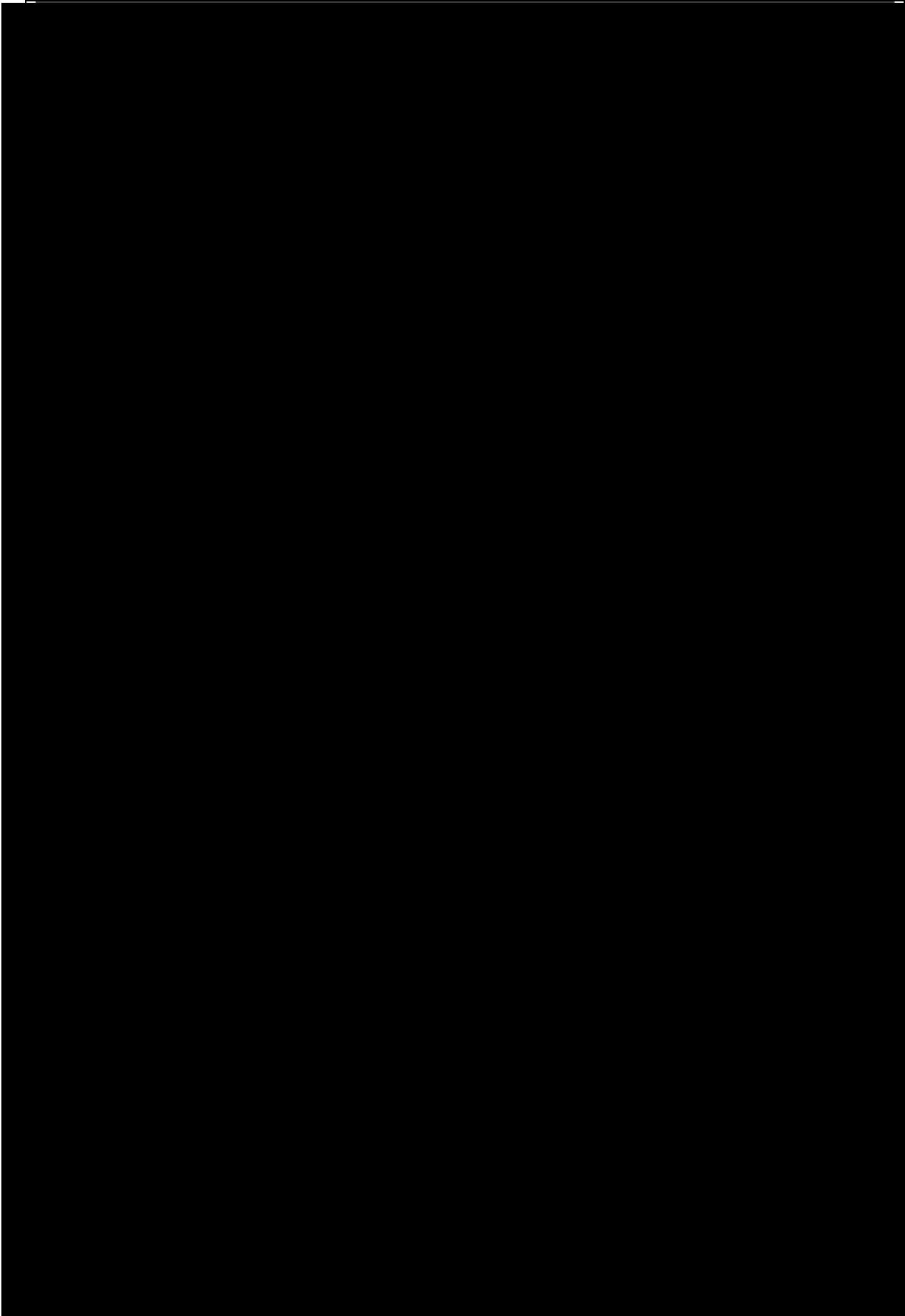
3				2007 to 2012
4				1992 ongoing

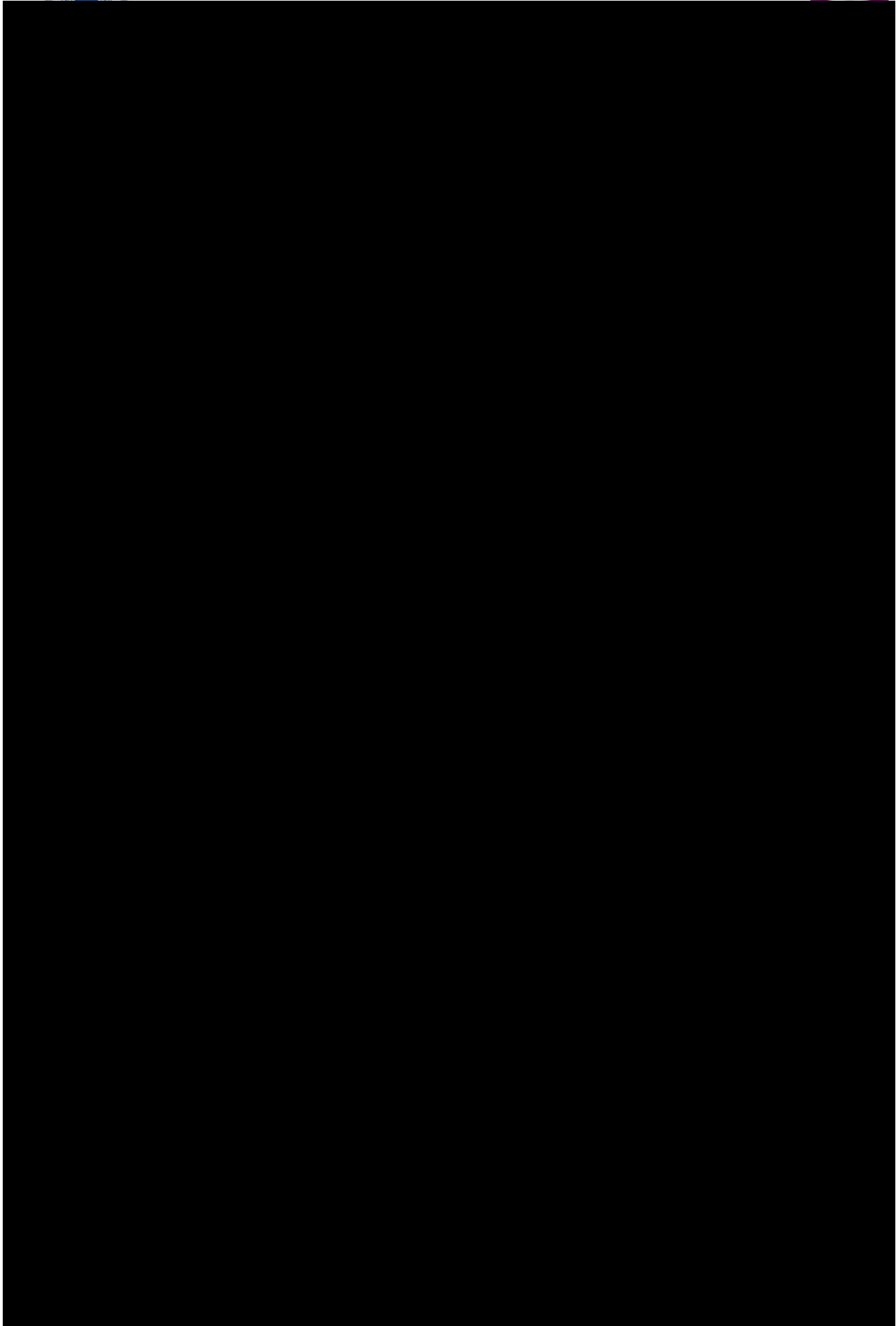


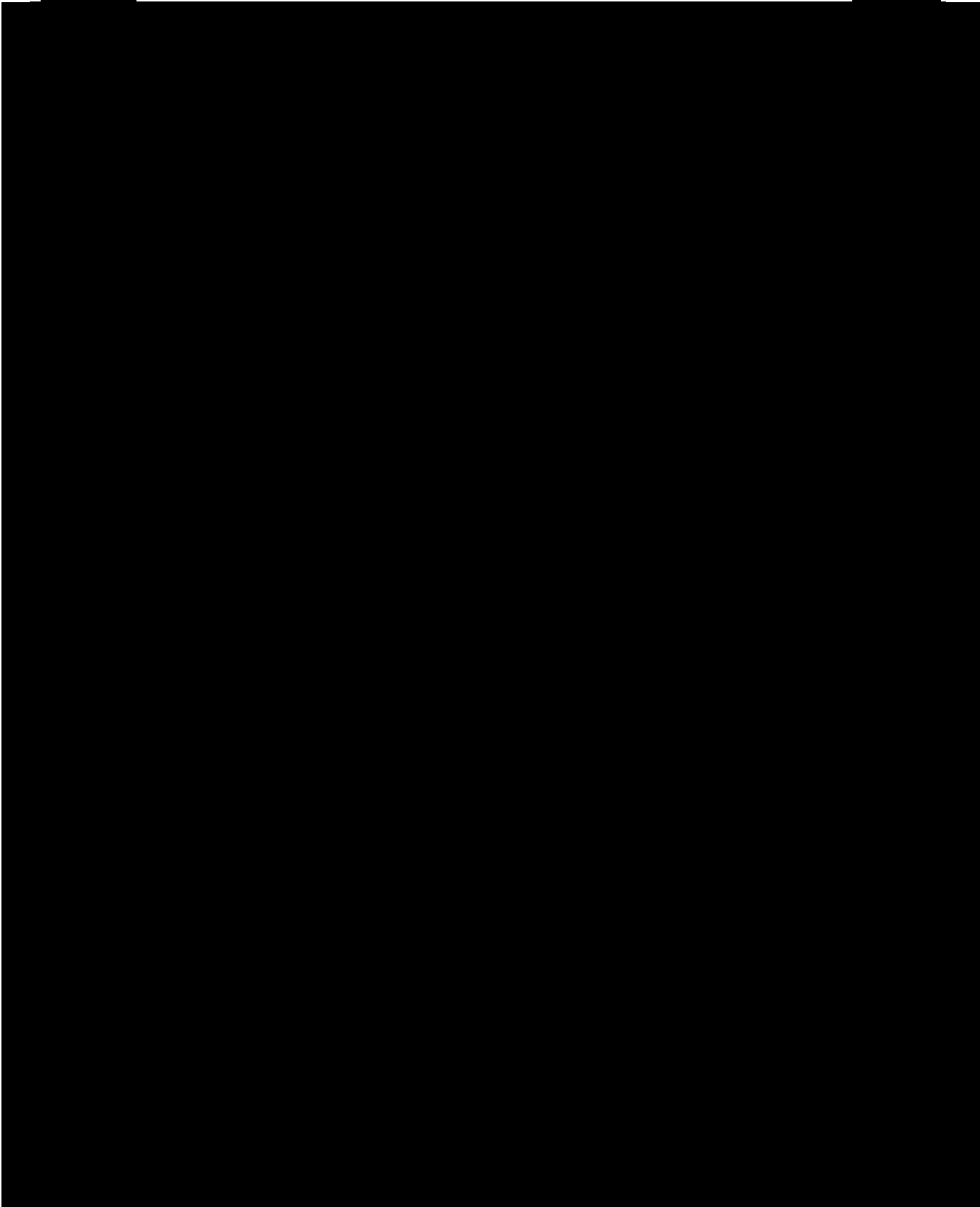
2.	Care Quality Commission (CQC)
2.1	<p>Please List your entire organisation’s Care Quality Commission (CQC) regulated services including other services within the same group. Please state:</p> <ul style="list-style-type: none">• The name of service• Service address• Type of service• Number of service users• Type of client• If the service is assessed as compliant by the CQC and the date of this assessment. <p>Please include your most recent CQC reports on the services.</p>













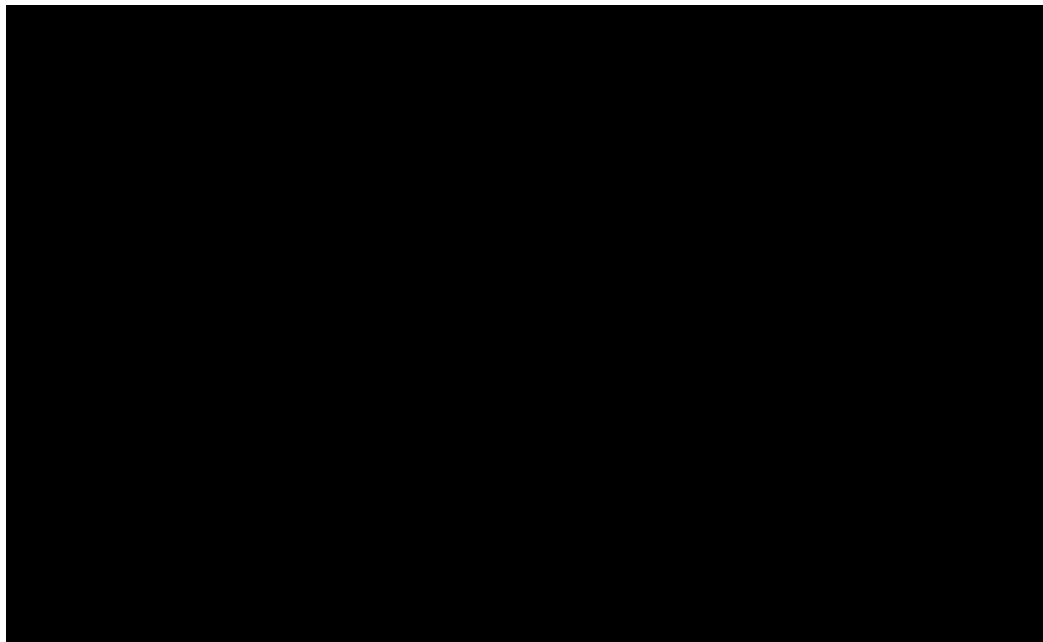
<p>2.2</p>	<p>In the past 3 years has the CQC:-</p> <p>Issued your organisation with a warning notice requiring improvements within a short period of time? NO</p> <p>Restricted the services that your organisation can offer? NO</p> <p>Stopped referrals to your organisation for a period? NO</p> <p>Issued your organisation with a fixed penalty notice? NO</p> <p>Suspended or cancelled registration of a service which fell under the umbrella of your organisation? NO</p> <p>If yes to any of the above please give full details:-</p>
<p>2.3</p>	<p>Please give details of all institutional safeguarding issues raised at any of the care homes operated by your organisation in the past 2 years and (anonymised) details about this including learning outcomes for the organisation:-</p> <p>None</p>



2.4

Please give details of:-

The total number care staff employed by your organisation	████
The number of care staff employed in the past 12 months.	████
The number of care staff who have left the organisation in the past 12 months.	████
The number of care staff who have been dismissed from your organisation in the past 2 years and reason for the dismissal (do not include staff names)	████



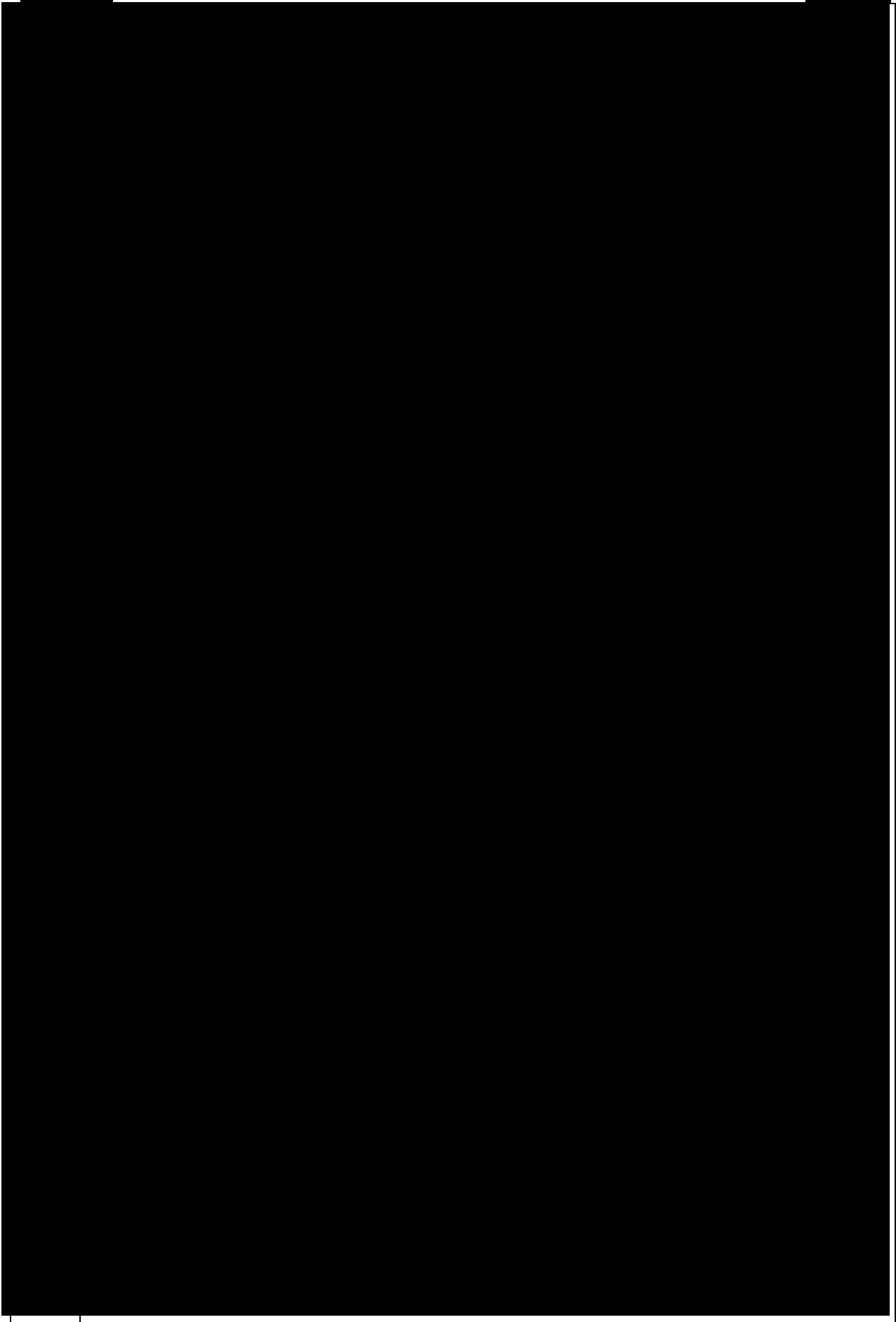
2.5

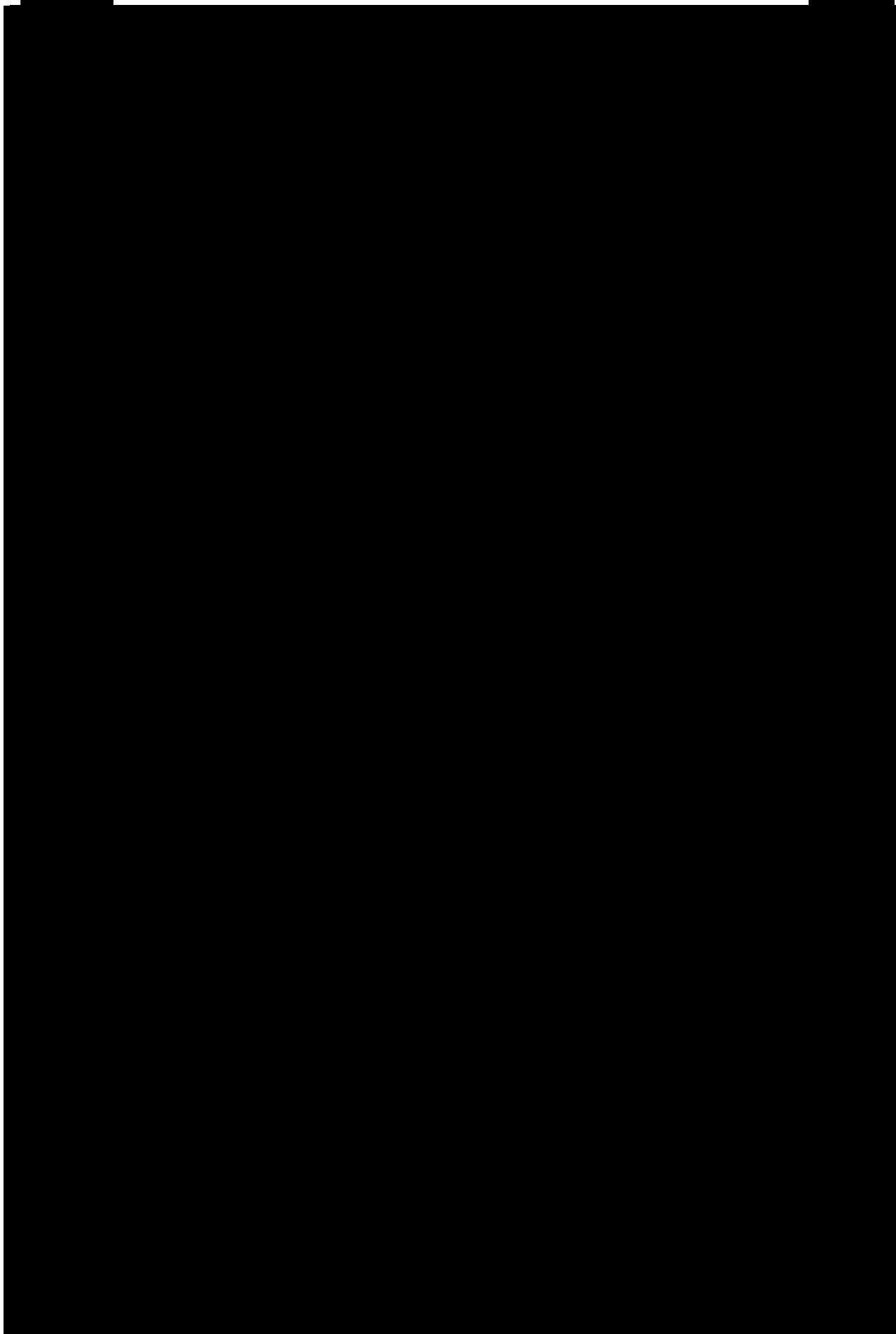
Please set out below why you feel your organisation is well placed to undertake this contract. You should include in your answer a brief history of your organisation and details of any previous similar contracts and experience in order to illustrate proven competency for the provision of residential care services for Adults with a Learning Disability:-

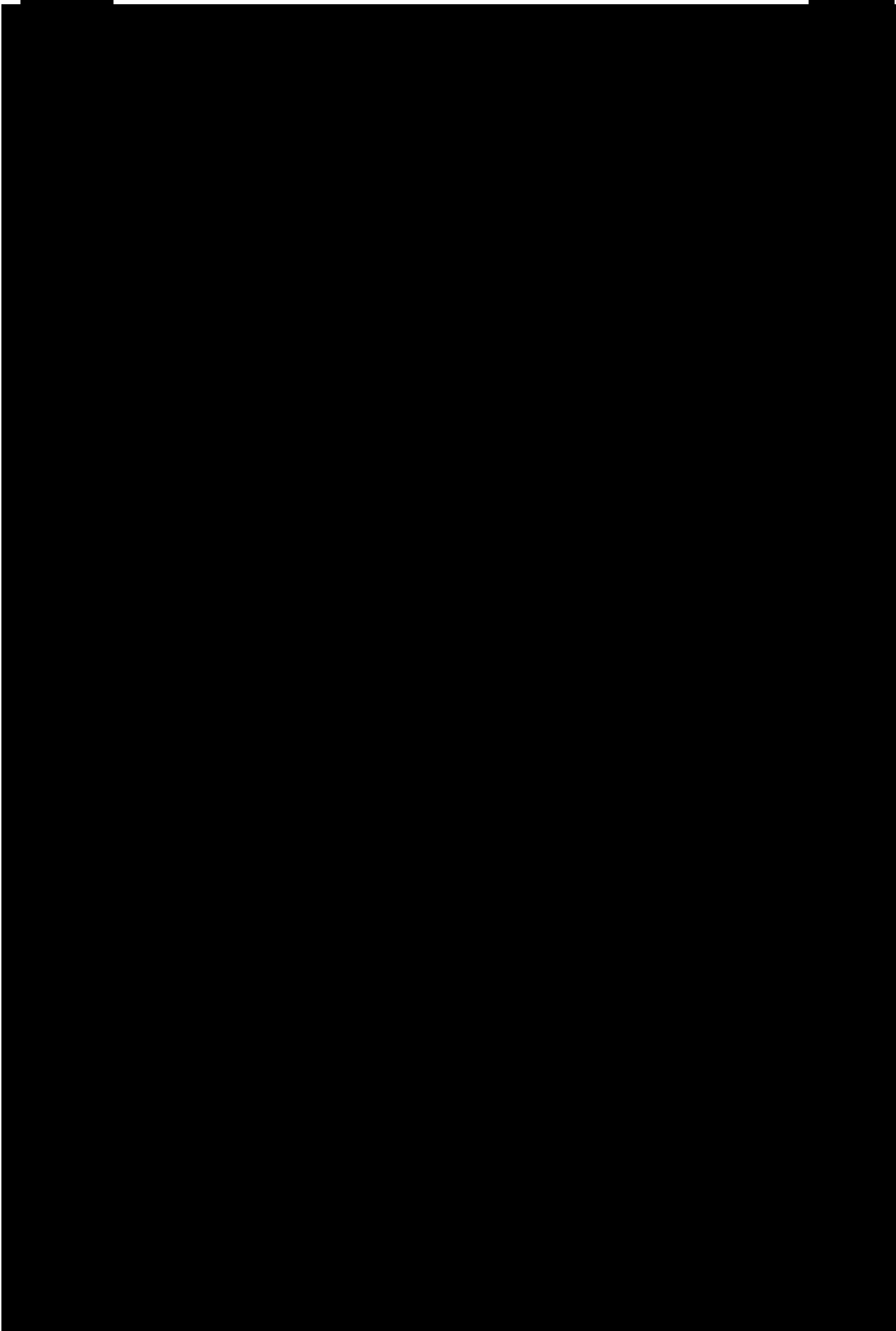
Why MacIntyre?

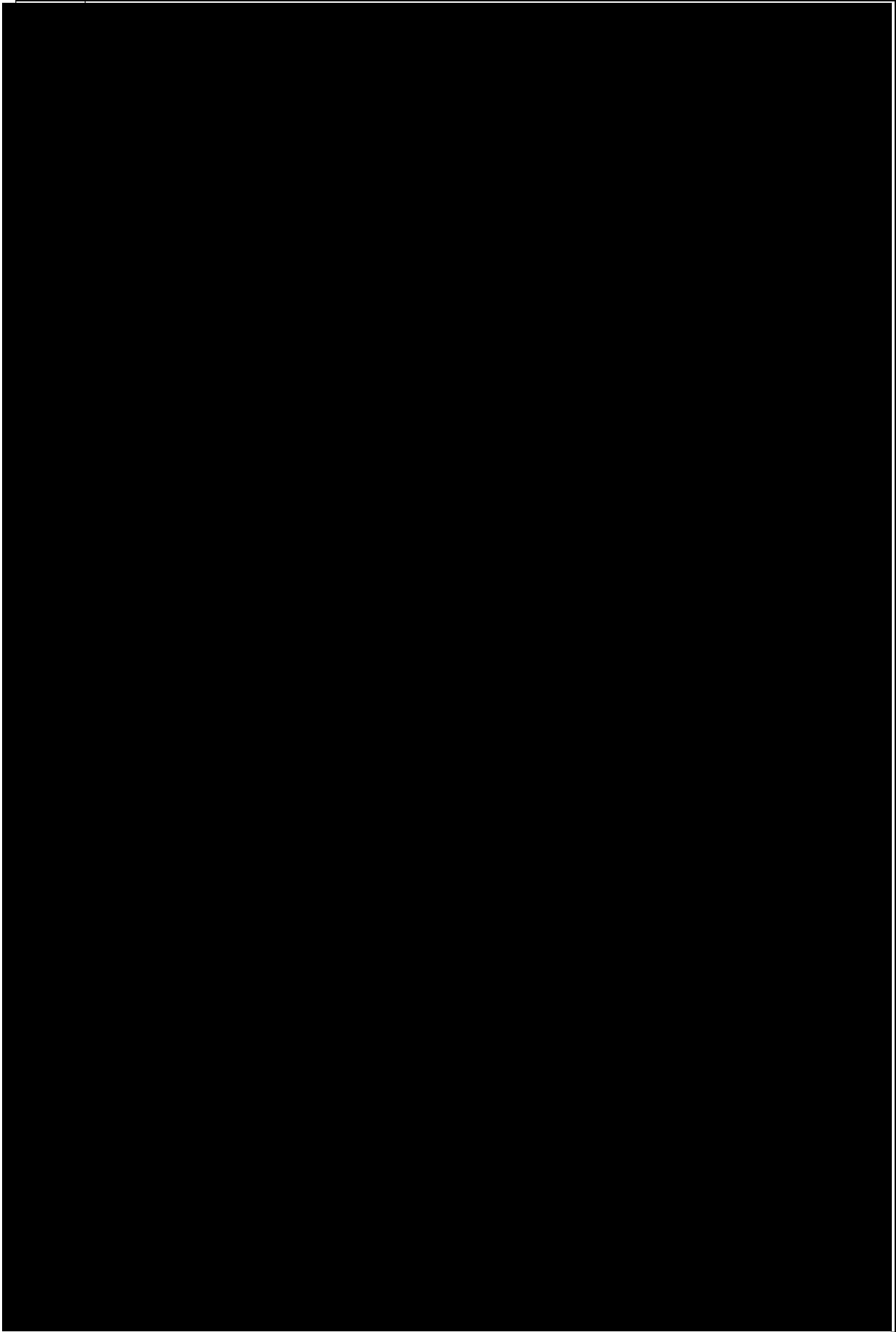


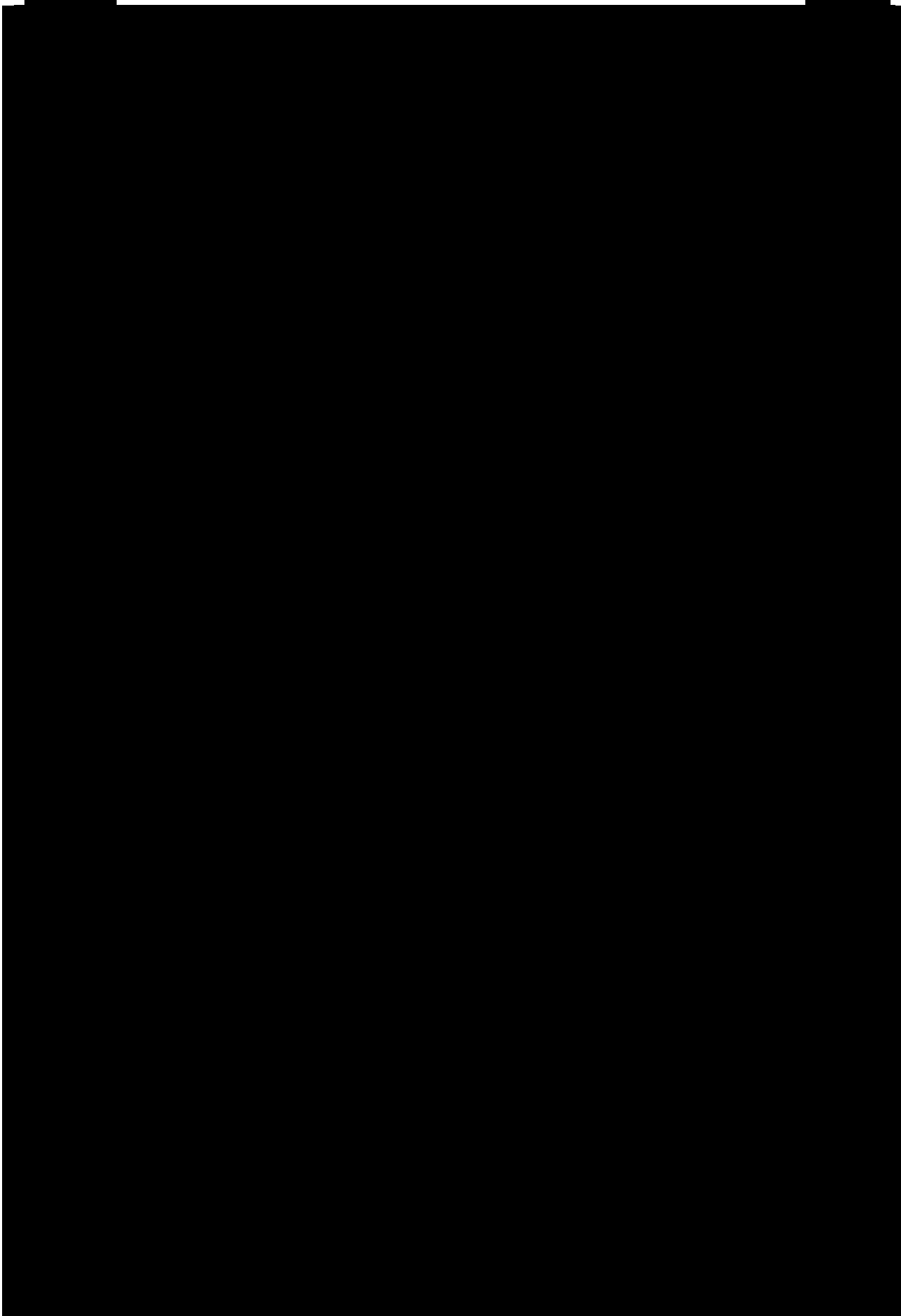
















Section G: Accreditations and Skills Level

1.	Accreditations			
1.1	<p>Please list any professional or trade organisations by which your company is accredited. You should only list those that are relevant to this contract and which will support your application.</p> <p>Please state whether the award belongs to the company or an individual.</p>			
	Name of Awarding Organisation/Body	Level of Accreditation	Date Achieved	Date of Expiry/Renewal
	Investors In People	[REDACTED]	2012	3 Years
	Association of Chief Executives of Voluntary Organisations (ACEVO)	[REDACTED]		Ongoing
	Association of Independent Specialist Colleges (NATSPEC)	[REDACTED]		Ongoing
	Association for Learning Providers (ALP)	[REDACTED]		Ongoing
	Association for Supported Living (ASL)	[REDACTED]	2010	Ongoing
	British Institute for Learning Disability (BILD)	[REDACTED]		Ongoing
	British Institute for Learning & Development	[REDACTED]	2010	Ongoing
	British Safety Institution (BSI)	[REDACTED]	2004	2014
	Charities Safety Group	[REDACTED]	2008	Ongoing
	City & Guilds	[REDACTED]		Ongoing
	Housing Options	[REDACTED]		Ongoing
	National Association of Special Schools (NASS)	[REDACTED]		Ongoing
	National Autistic Society	[REDACTED]		Ongoing
	National College Network	[REDACTED]		Ongoing
	National Institute for Adult Continuing Education (NIACE)	[REDACTED]		Ongoing



	Royal Society for the Prevention of Accidents (ROSPA)	[REDACTED]			Ongoing
	SITRA	[REDACTED]			Ongoing
	Voice UK	[REDACTED]			Ongoing
	Voluntary Organisations Disability Group (VODG)	[REDACTED]			Ongoing
	Independent Safeguarding Authority	[REDACTED]			Ongoing
	Ann Craft Trust	[REDACTED]			Ongoing
	Public Concern At Work	[REDACTED]			Ongoing
	National Skills Academy	[REDACTED]			Ongoing
	ASDAN Centre	[REDACTED]	Sept 09		Ongoing
	Self Direct	[REDACTED]	2012		Ongoing
	Challenging Behaviour Foundation	[REDACTED]	2010		Ongoing
	Please provide copies of the certificates you have given above or other proof of the qualifications.				See above
1.2	Please state any formal quality assurance systems relevant to this contract, which your company operates.				
	Name of Awarding Organisation/Body	Registration Number	Name of Quality Assurance System	Date Achieved	Date of Expiry/Renewal
	BSI	[REDACTED] Appendix D	OHSAS 18001	2012	2014
	IIP	Appendix W	Investors In People Gold	2011	2014
	Please provide copies of the certificates you have given above or other proof of the qualifications.				Yes

Section H:



Tender Schedule

1.	Pricing Schedule – 50% (500 marks)
1.1	<p>The Council may appoint one or two providers for the contract.</p> <p>Option 1 – detail the costs of each home run as an independent service (e.g. each home is awarded to different providers).</p> <p>Option 2 – detail the costs of both homes being jointly awarded (e.g. both homes being awarded to a single provider).</p> <p>If there any additional costs, please add lines as required</p>

Option 1 - Two Homes priced as Two Individual Services	Beulah £	Glenview £
ANNUAL HOME COSTS		
Property Costs		
• Rent	████	████
• Electricity & Gas	████	████
• Water	████	████
• Council Tax	████	██
• TV Licence		
• Waste collection and disposal		
• Other (please specify)		
Maintenance		
• PAT tests	████	████
• Fire Equipment testing and maintenance	████	████
• Legionella tests	████	████
• Kitchen appliances, equipment and utensils	████	████
• Garden maintenance	████	████
• Internal Decoration	████	████
• General Maintenance (inc cleaning and window cleaning)	████	████
• Furnishings – floor coverings/ furniture/ lighting/ window coverings/ bedding/ towels/ home ornamentation etc.	████	████
• Other (please specify)		
Sub - Total of Home Costs	████	████
SERVICE USER COSTS		
Meals / snacks for service users	████	████
Transport for service users	████	████



Activities		
Other (please specify)		
Sub - Total of Service User Costs		
ANNUAL MANAGEMENT AND ADMINISTRATION COSTS		
Management charge (to include Registration and Insurance Costs; Admin; Health and safety; DBS checks)		
Training		
Stationery and office supplies		
Telephone and Internet		
Photocopying postage		
Other (please specify)		
Sub-total of Management and Administration Costs		
ANNUAL STAFFING COSTS		
Please detail proposed staff structure in question 1.2.1, 1.2.2 and 1.2.3 below and enter cost here		
<ul style="list-style-type: none"> For each post the designation and salary cost (inclusive on costs) 		
<ul style="list-style-type: none"> Detail likely additional salary cost in relation to relief workers, overtime payments etc. 		
Please note as TUPE may apply it is recognised that these figures could alter when full TUPE information is provided. A list of staff currently employed by the service provider to provide the service exclusively at each home attached in Appendix 2.		
Sub total of Staffing Costs		
Total Annual Costs for each home		

Option 2: Two Homes with a single provider	Beulah	Glenview
---	---------------	-----------------



	£	£
ANNUAL HOME COSTS		
Property Costs		
• Rent	██████	██████
• Electricity & Gas	██████	██████
• Water	██████	██████
• Council Tax	██████	██████
• TV Licence		
• Waste collection and disposal		
• Other (please specify)		
Maintenance		
• PAT tests	██████	██████
• Fire Equipment testing and maintenance	██████	██████
• Legionella tests	██████	██████
• Kitchen appliances, equipment and utensils	██████	██████
• Garden maintenance	██████	██████
• Internal Decoration	██████	██████
• General Maintenance (inc. cleaning and window cleaning)	██████	██████
• Furnishings – floor coverings/ furniture/ lighting/ window coverings/ bedding/ towels/ home ornamentation etc.	██████	██████
• Other (please specify)		
Sub - Total of Home Costs	██████	██████
SERVICE USER COSTS		
Meals / snacks for service users	██████	██████
Transport for service users	██████	██████
Activities	██████	██████
Other (please specify)		
Sub - Total of Service User Costs	██████	██████
ANNUAL MANAGEMENT AND ADMINISTRATION COSTS		
Management charge (to include Registration and Insurance Costs; Admin; Health and safety; DBS checks)	██████	██████
Training	██████	██████
Stationery and office supplies	██████	██████
Telephone and Internet	██████	██████
Photocopying postage		
Other (please specify)		



Sub-total of Management and Administration Costs	██████	██████
ANNUAL STAFFING COSTS		
Please detail proposed staff structure in question 1.2.1, 1.2.2 and 1.2.3 below and enter cost here	██████	██████
<ul style="list-style-type: none"> For each post the designation and salary cost (inclusive on costs) 		
<ul style="list-style-type: none"> Detail likely additional salary cost in relation to relief workers, overtime payments etc. 		
Please note as TUPE may apply it is recognised that these figures could alter when full TUPE information is provided. A list of staff currently employed by the service provider to provide the service exclusively at each home attached in Appendix 2.		
Sub total of Staffing Costs	██████	██████
Total Annual Costs for each home	██████	██████



1.2	Staffing Structure – cost included in section 1.1 above
1.2.1	<p data-bbox="308 241 1404 313">Please note as TUPE may apply it is recognised that these figures could alter when full TUPE information is provided.</p> <p data-bbox="308 347 1404 418">A list of staff currently employed by the service provider to provide the service exclusively at each home attached in Appendix 2.</p> <p data-bbox="308 452 1404 524">Please detail the staffing structure for Beulah. This should include chain of command, role of staff, shift patterns, staff on duty:-</p> <div data-bbox="300 577 1343 1339" style="background-color: black; width: 100%; height: 340px; margin: 10px 0;"></div> <div data-bbox="304 1397 1407 1662" style="background-color: black; width: 100%; height: 118px; margin: 10px 0;"></div> <div data-bbox="304 1693 1390 1895" style="background-color: black; width: 100%; height: 90px; margin: 10px 0;"></div> <div data-bbox="304 1926 1414 2020" style="background-color: black; width: 100%; height: 42px; margin: 10px 0;"></div>



providing training and mentoring; and directing and guiding staff on a day-to-day

[Redacted]

[Redacted]

[Redacted]

1.2.2

Please detail the staffing structure for Glenview This should include chain of command, role of staff, shift patterns, staff on duty:-



[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]



[Redacted content]



[Redacted text block]

[Redacted text block]

[Redacted text block]

- [Redacted list item 1]
- [Redacted list item 2]
- [Redacted list item 3]
- [Redacted list item 4]
- [Redacted list item 5]
- [Redacted list item 6]
- [Redacted list item 7]

[Redacted text block]

- [Redacted list item 1]
- [Redacted list item 2]
- [Redacted list item 3]
- [Redacted list item 4]
- [Redacted list item 5]
- [Redacted list item 6]



MacIntyre Response – November 2013



Tenderers may find it helpful to refer to the Service Specification outlined in the Form of Contract when answering this question.

150
marks

The Council is looking for Providers to offer a person centred care plan, which takes account of the needs of each Service User. Please show how you would meet the Service Specification for service delivery. Your answer should include a demonstration of your care planning and risk assessment. Please provide any policies and procedures that contribute towards delivering the person centred care, and explain how these documents feed into this. Please also provide anonymised examples of care plans and risk assessments and any other example paperwork you feel supports the care planning:-

[Redacted]

[Redacted]

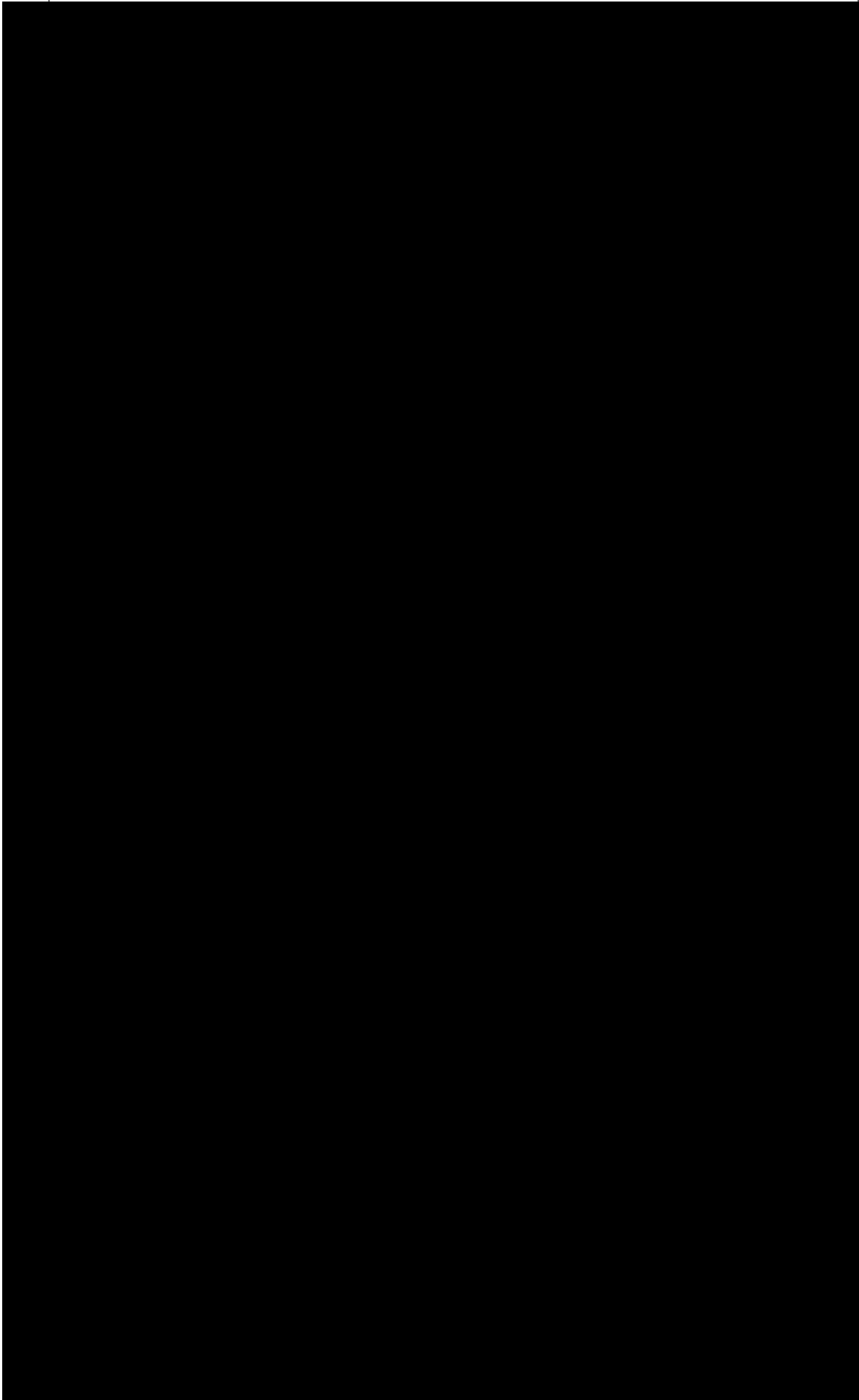
[Redacted]

[Redacted]

- [Redacted]
- [Redacted]
- [Redacted]



	<ul style="list-style-type: none">[Redacted][Redacted] <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	
--	---	--





[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]



[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]



	<p>[Redacted content]</p>	
--	---------------------------	--



--	--	--



[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

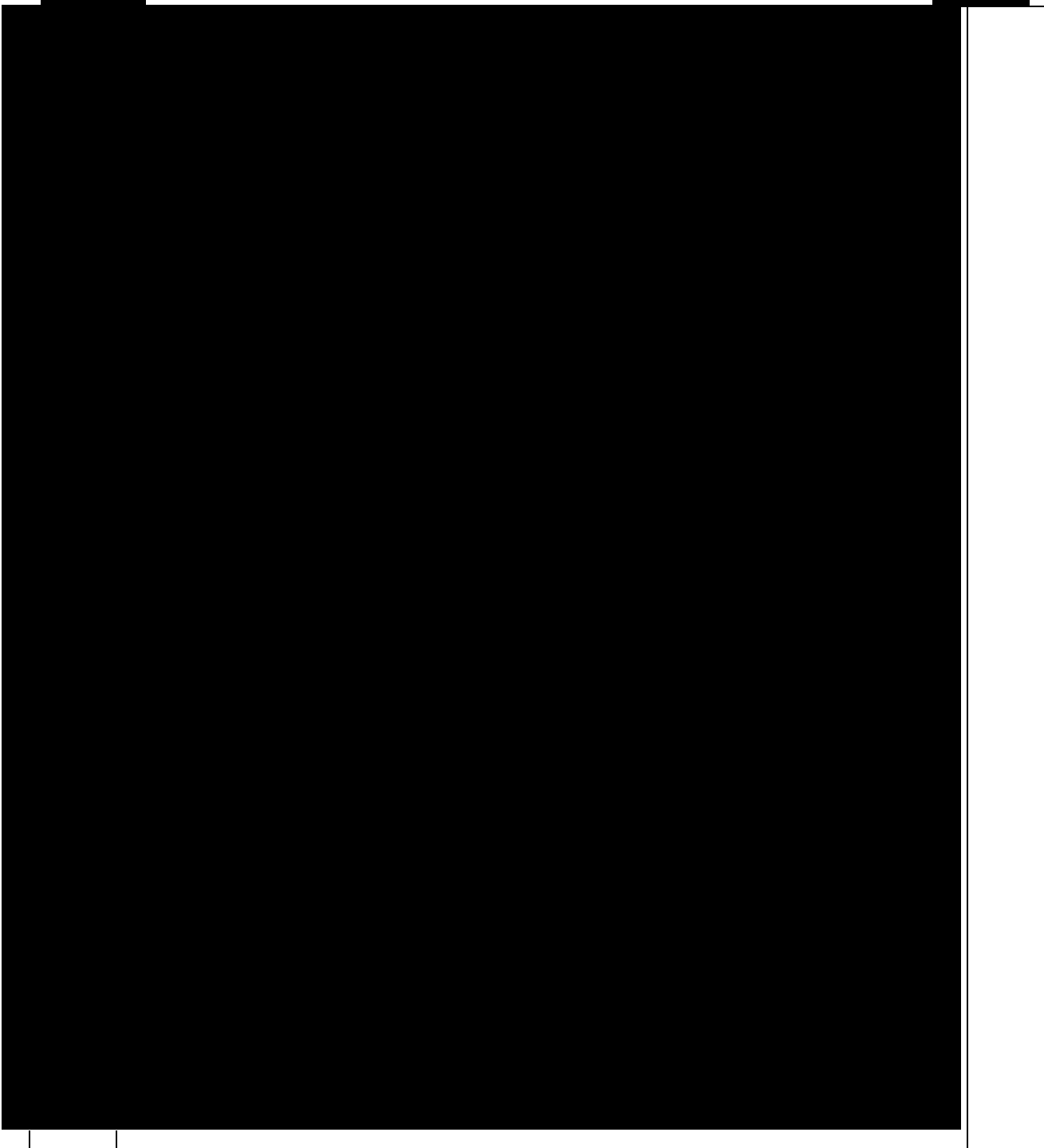
[Redacted text block]

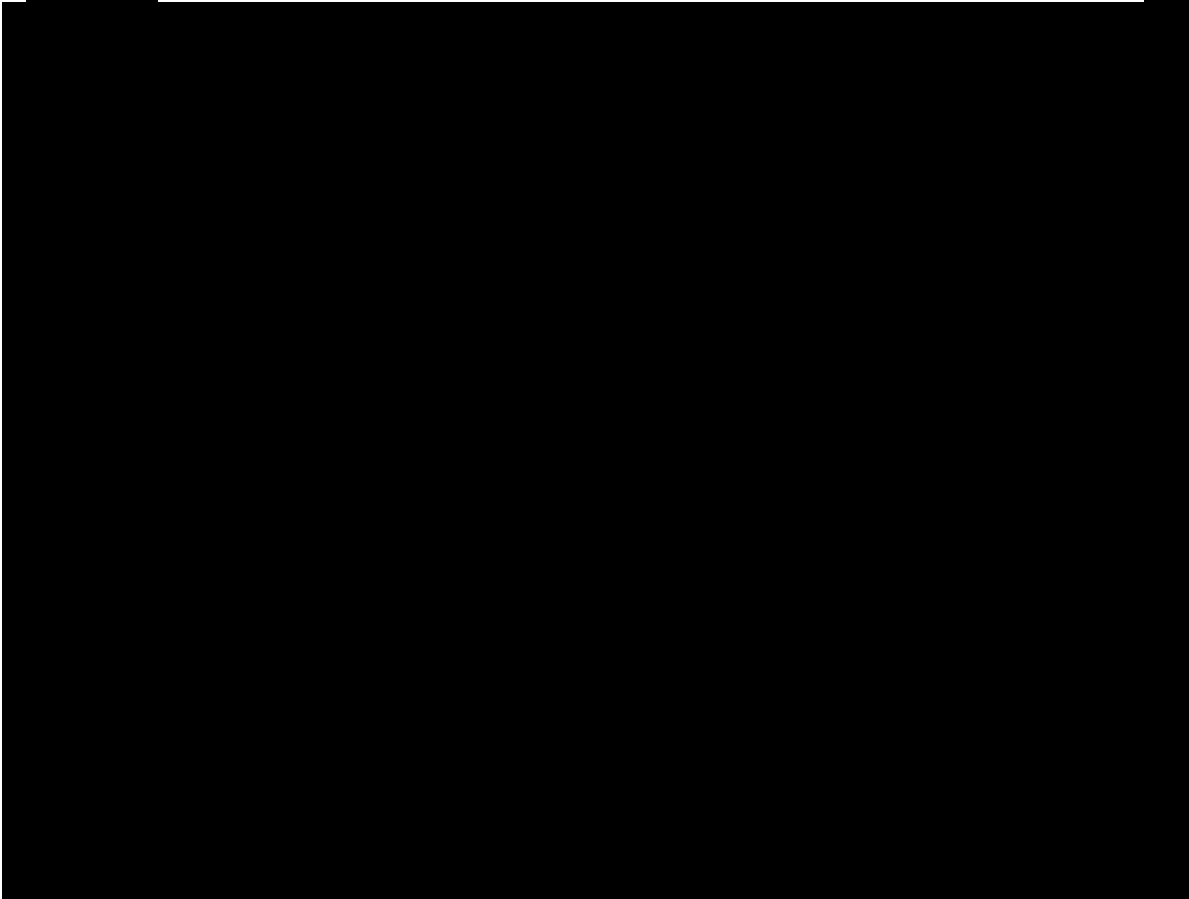
[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]



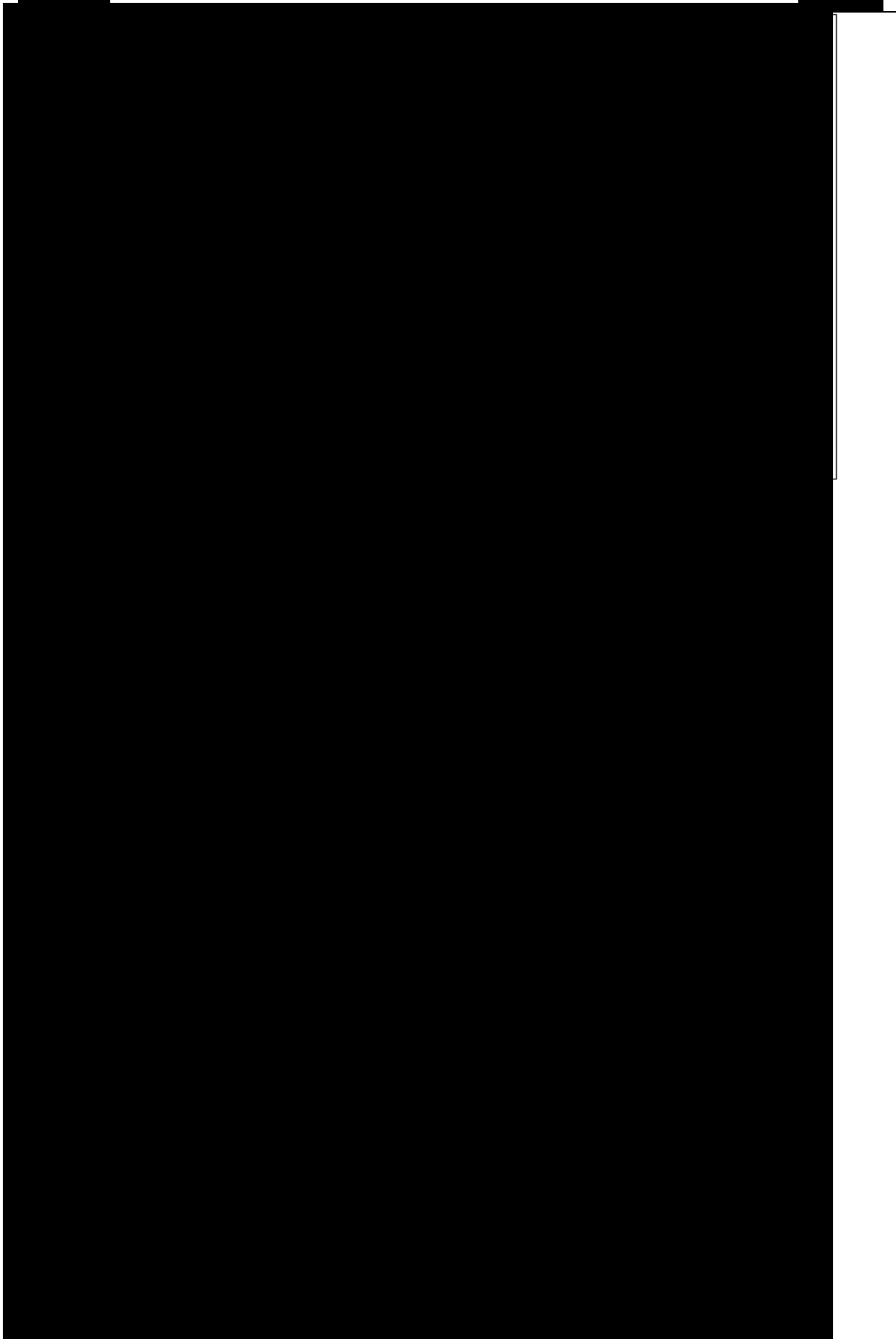


[Redacted]

[Redacted]

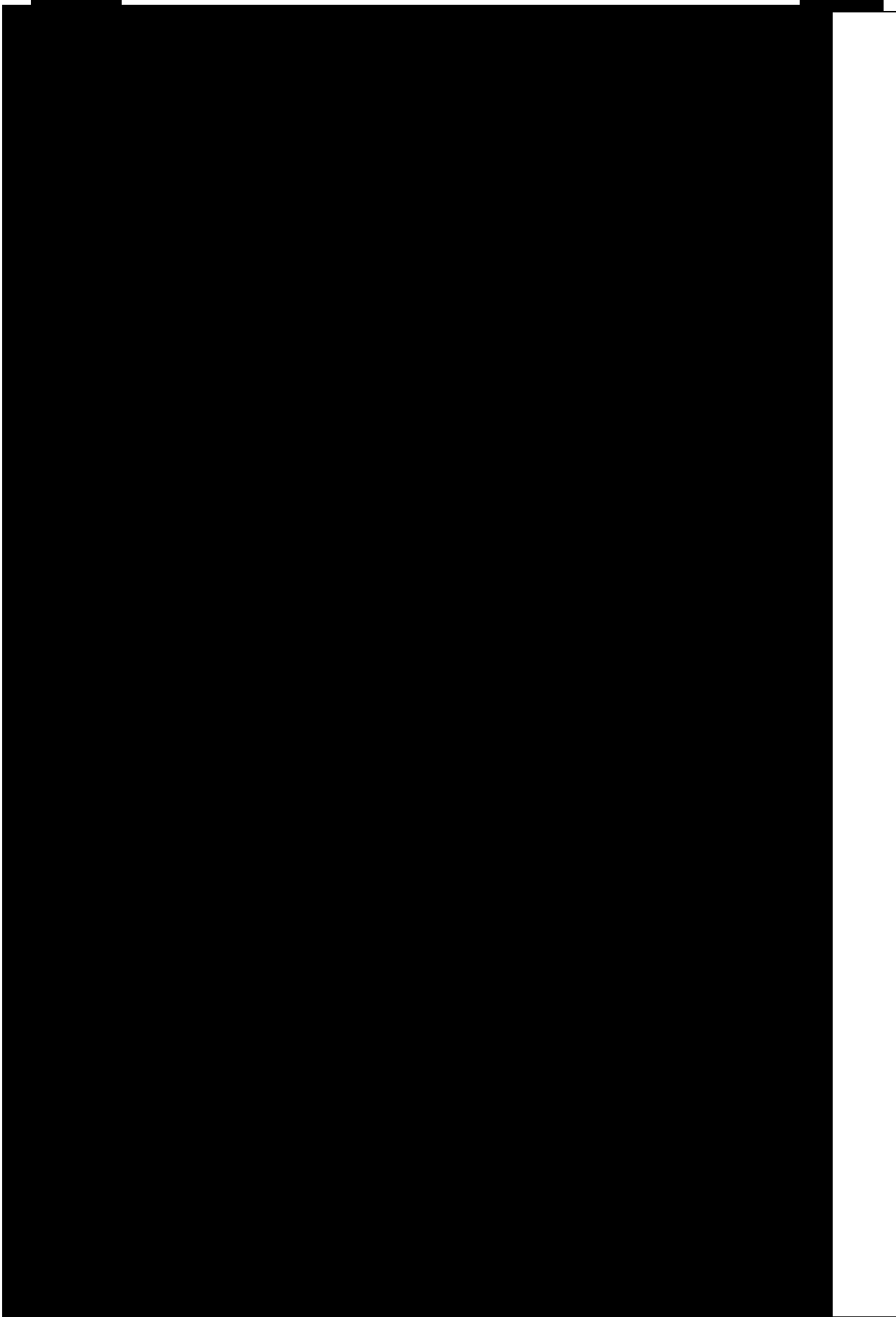
[Redacted]

[Redacted]





	<p>[Redacted text block]</p> <p>[Redacted text block]</p> <ul style="list-style-type: none">[Redacted list item][Redacted list item][Redacted list item][Redacted list item][Redacted list item][Redacted list item][Redacted list item] <p>[Redacted text block]</p> <p>[Redacted text block]</p> <p>[Redacted text block]</p> <p>[Redacted text block]</p>	
--	--	--





	<p>[Redacted content]</p>	
--	---------------------------	--



[Redacted content]



[Redacted content]

- [Redacted content]
- [Redacted content]
- [Redacted content]

[Redacted content]

[Redacted content]

[Redacted content]

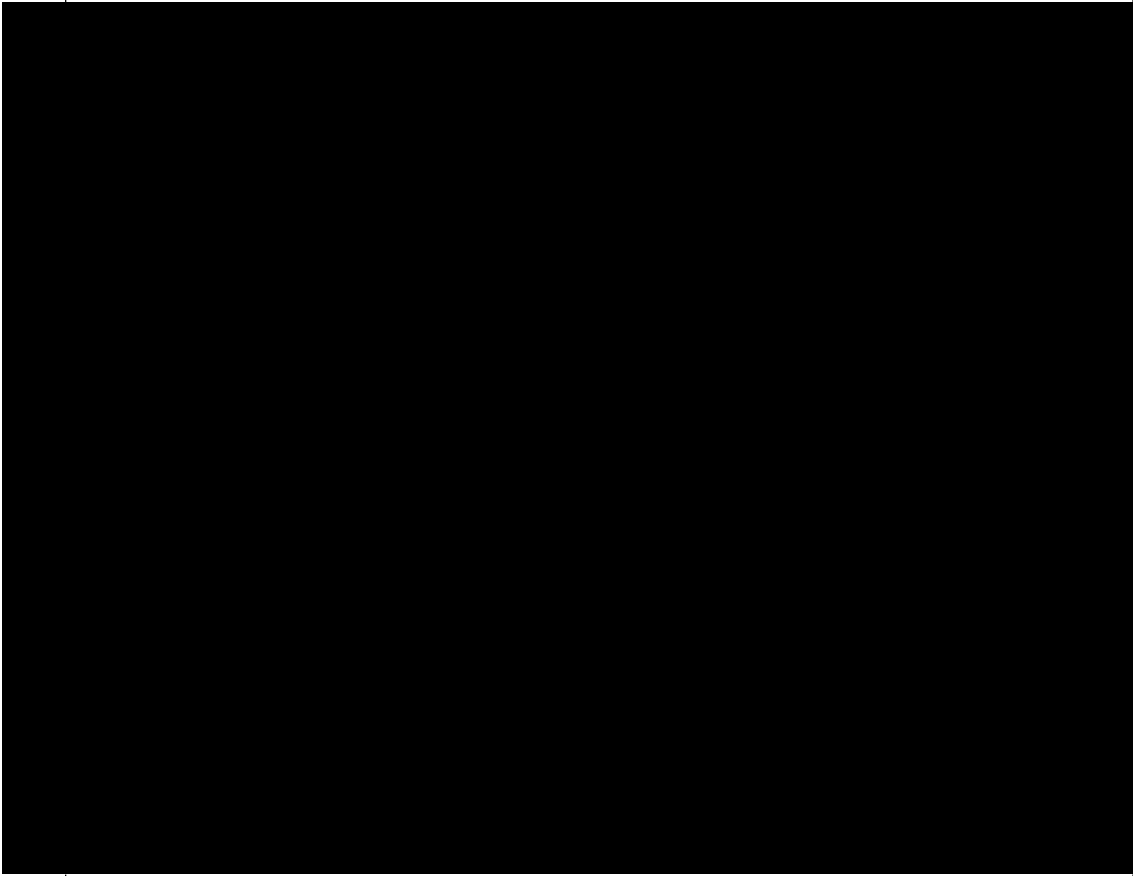
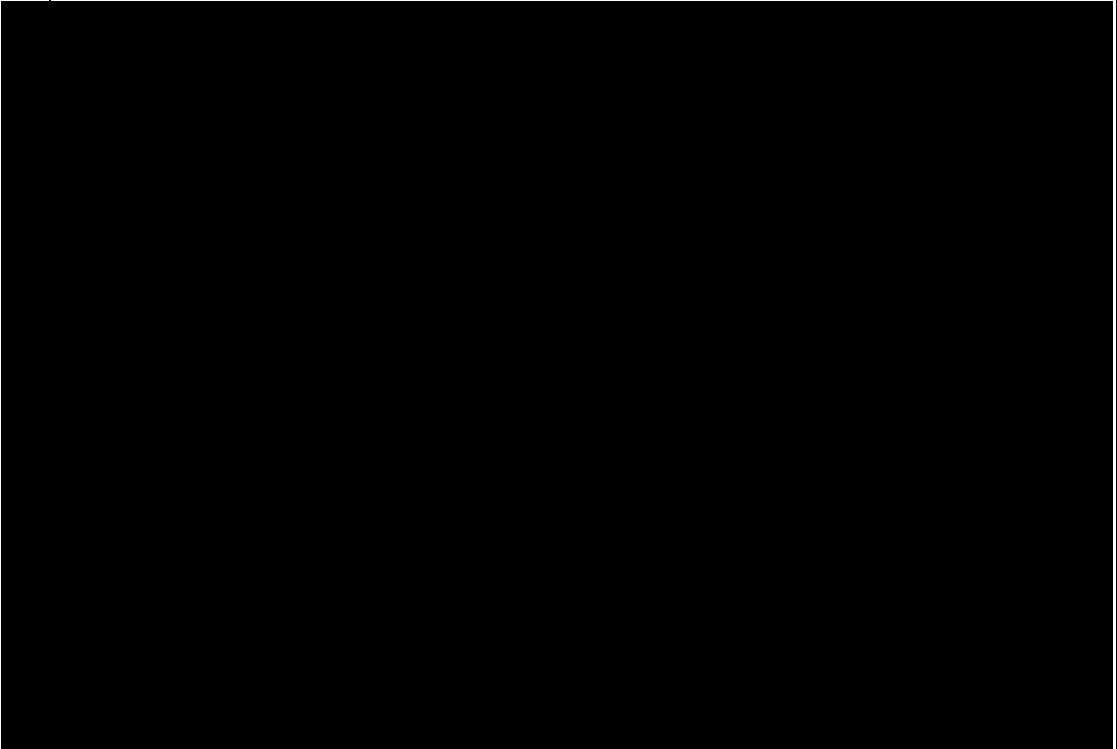
- [Redacted content]
- [Redacted content]

[Redacted content]

[Redacted content]

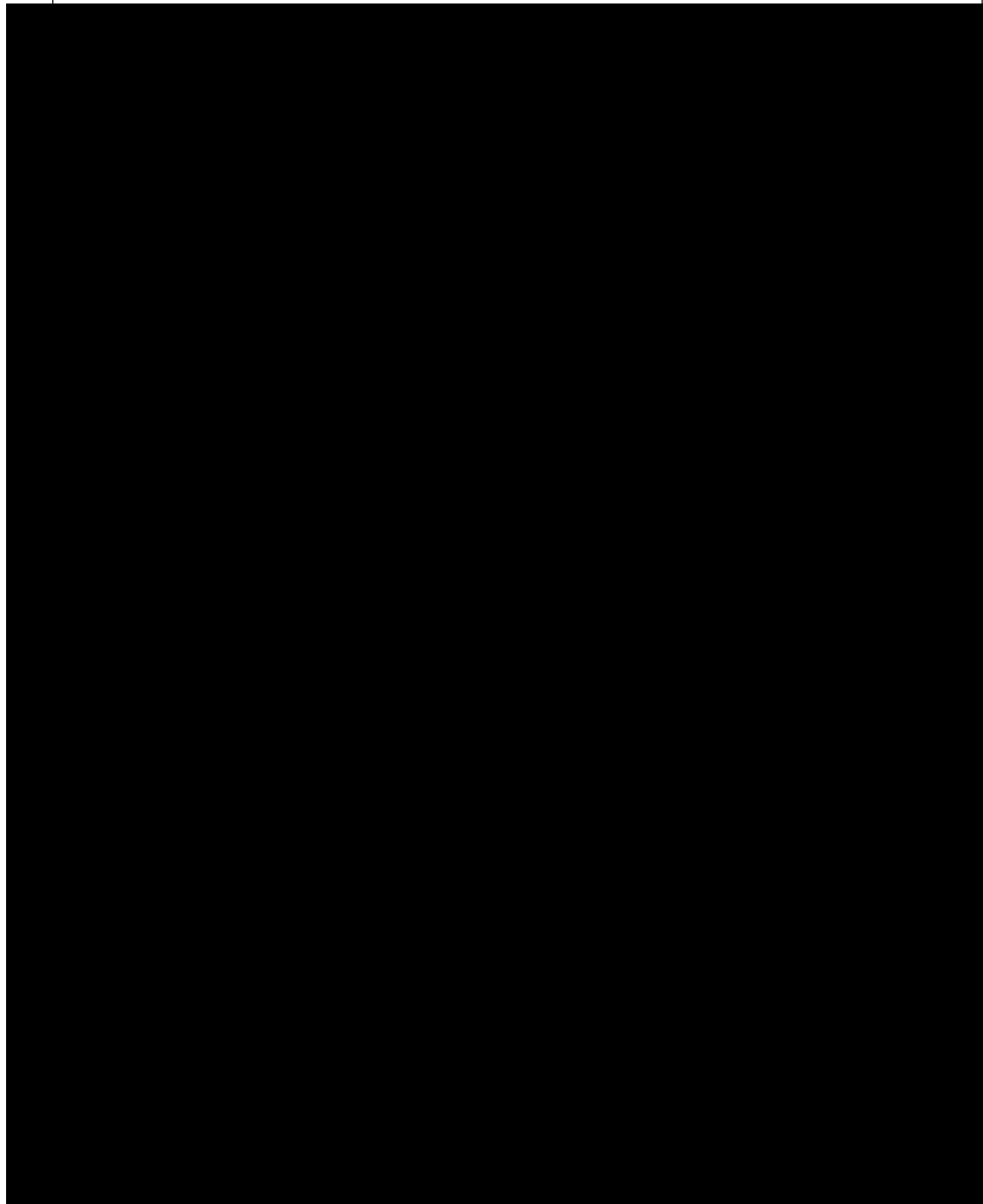
[Redacted content]



		
2.2	<p>In the near future the Council will not be delivering traditional day care services.</p> <p>Please show how you will support the service users to engage in person centred activities throughout the day:-</p> 	50 marks



[Redacted content]





2.3	<p>The service users with whom we are working have a range of differing support needs.</p> <p>Please summarise how you would work with service users who, in addition to their learning disabilities, may have the following additional needs:-</p> <div data-bbox="225 349 1302 2016" style="background-color: black; height: 744px; width: 675px;"></div>	50 marks
-----	---	-------------



		<p>[REDACTED]</p>		
--	--	-------------------	--	--



		<p>[Redacted text block]</p>	
	<p>[Redacted text block]</p>	<p>[Redacted text block]</p> <p>[Redacted text block]</p> <p>[Redacted text block]</p> <p>[Redacted text block]</p> <p>[Redacted text block]</p> <p>[Redacted text block]</p> <p>[Redacted text block]</p> <p>[Redacted text block]</p> <p>[Redacted text block]</p> <p>[Redacted text block]</p> <p>[Redacted text block]</p>	



		[REDACTED]		
--	--	------------	--	--



		<p>[Redacted content]</p>		
	<p>[Redacted content]</p>	<p>[Redacted content]</p>		



		<p>[Redacted text]</p>		
	<p>[Redacted text]</p>	<p>[Redacted text]</p>		



		<p>[REDACTED]</p>		
	<p>[REDACTED]</p>	<p>[REDACTED]</p>		



		[REDACTED]		
--	--	------------	--	--



		<p>[Redacted]</p>	
--	--	-------------------	--

3. Safeguarding - 10% (100 marks)		
--	--	--

<p>3.1</p>	<p>Please show how you would protect the Service User group and what systems are in place to evidence and support this:-</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	<p>50 marks</p>
------------	--	-----------------



[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]



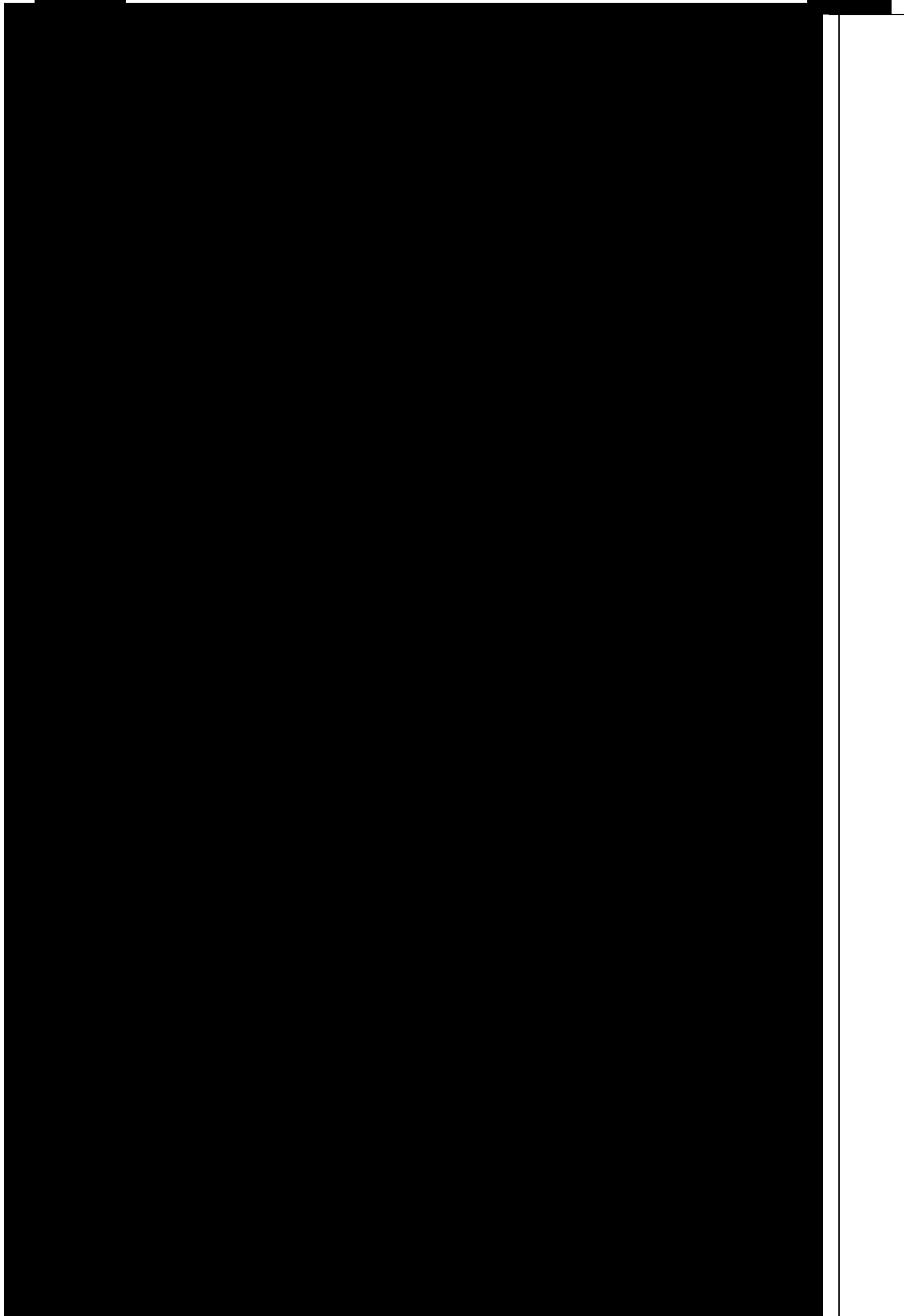
[Redacted content]



[Redacted content]



	<p>[Redacted text]</p>	
--	------------------------	--





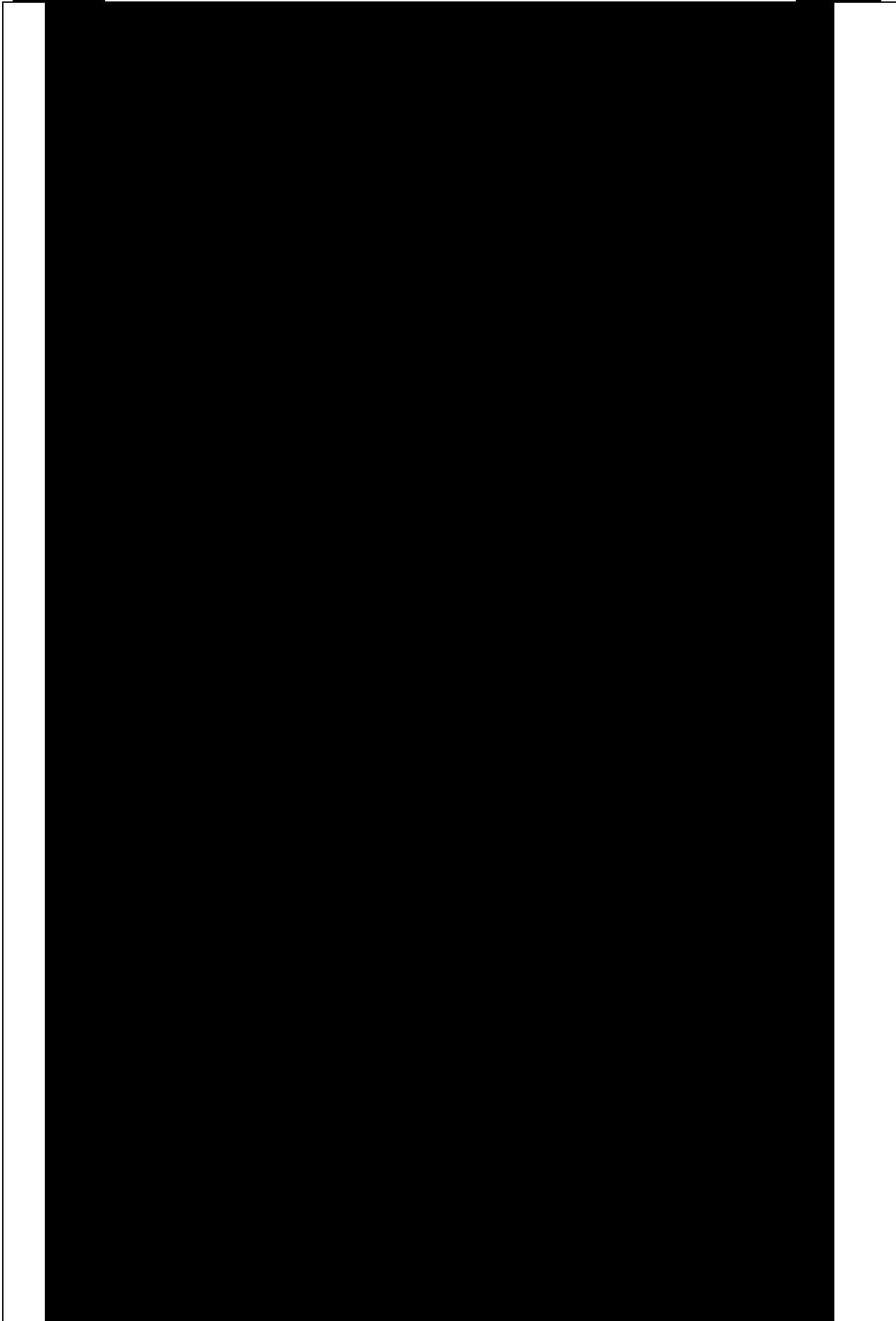
[Redacted content]

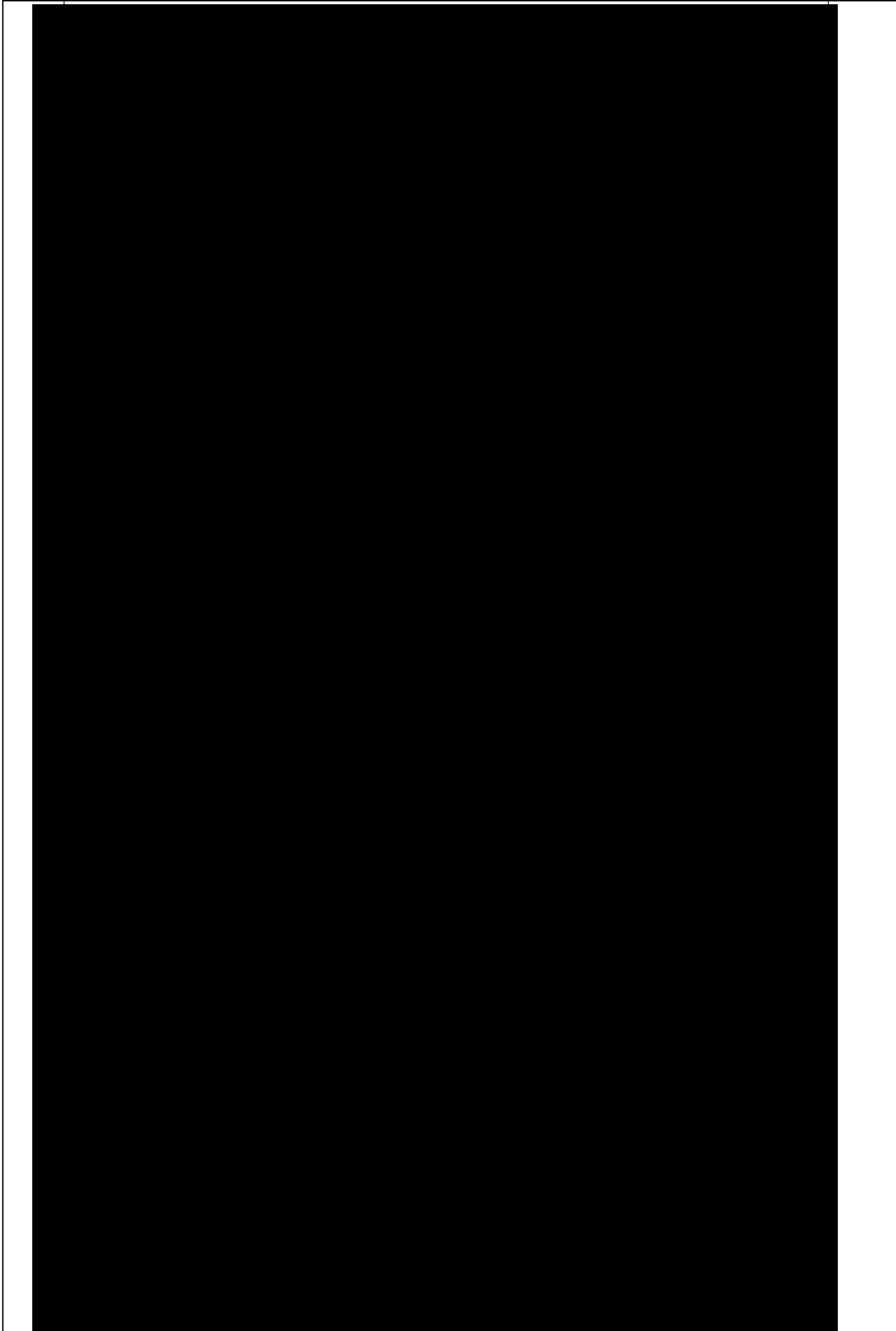


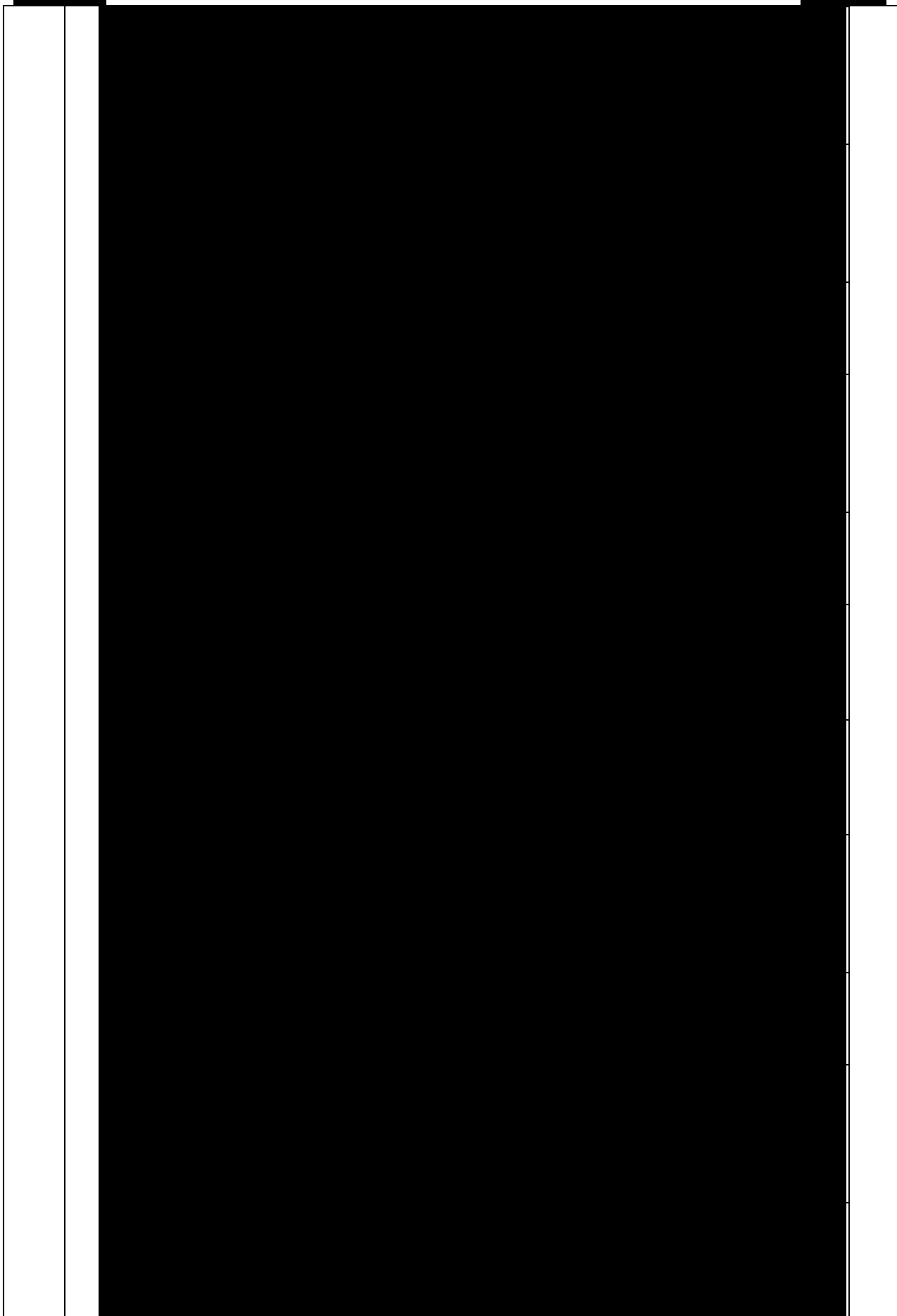
[Redacted content]



	<p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	
<p>3. 2</p>	<p>Please give evidence of safeguarding training given to staff and the dates of the training and provide information about the training such as the syllabus; accreditation; modes of training; expected frequency of this training and demonstrate how you know that this training is effective:-</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	<p>50 marks</p>

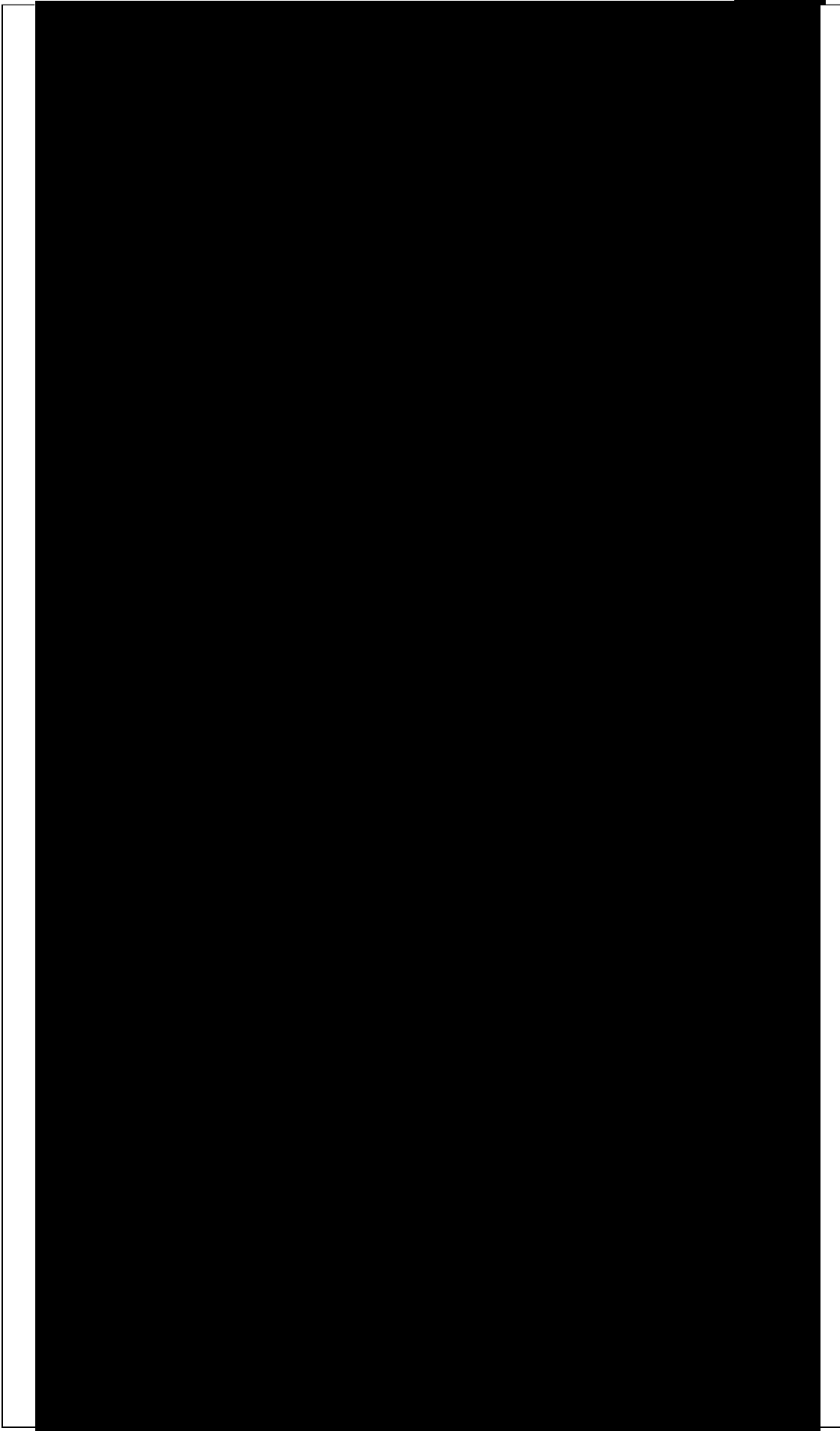








	<p>[Redacted content]</p>	
--	---------------------------	--





[Redacted text block]



	<p>[Redacted]</p> <p>[Redacted]</p>	
	<p>[Redacted]</p>	
	<p>[Redacted]</p>	
	<p>[Redacted]</p>	
	<p>[Redacted]</p>	
	<p>[Redacted]</p>	
	<p>[Redacted]</p>	
	<p>[Redacted]</p>	
	<p>[Redacted]</p>	
	<p>[Redacted]</p>	



	<p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	
4.3	<p>Please demonstrate how you will manage a smooth transition of the service:-</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	10 marks



[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]



[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]



	<p>[Redacted]</p>	
	<p>[Redacted]</p>	
	<ul style="list-style-type: none">[Redacted]	
	<ul style="list-style-type: none">[Redacted]	
	<ul style="list-style-type: none">[Redacted]	
	<ul style="list-style-type: none">[Redacted]	
	<ul style="list-style-type: none">[Redacted]	
	<ul style="list-style-type: none">[Redacted]	
	<ul style="list-style-type: none">[Redacted]	
	<ul style="list-style-type: none">[Redacted]	



	<ul style="list-style-type: none">[Redacted][Redacted][Redacted]	
--	--	--



5. Staff Induction and Training - 5% (50 marks)		
5.1	<p>Please give full details showing how staff are trained to a high standard and that there is a plan for the continuation this. Please give details of training undertaken including areas covered by the training; methods used for this. Please include all care staff that have an NVQ, or equivalent in Care, or are currently enrolled on an NVQ course. Please give details of the type and level of NVQ:-</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	25 marks



[Redacted content]



[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]



[Redacted]

[Redacted]

[Redacted]

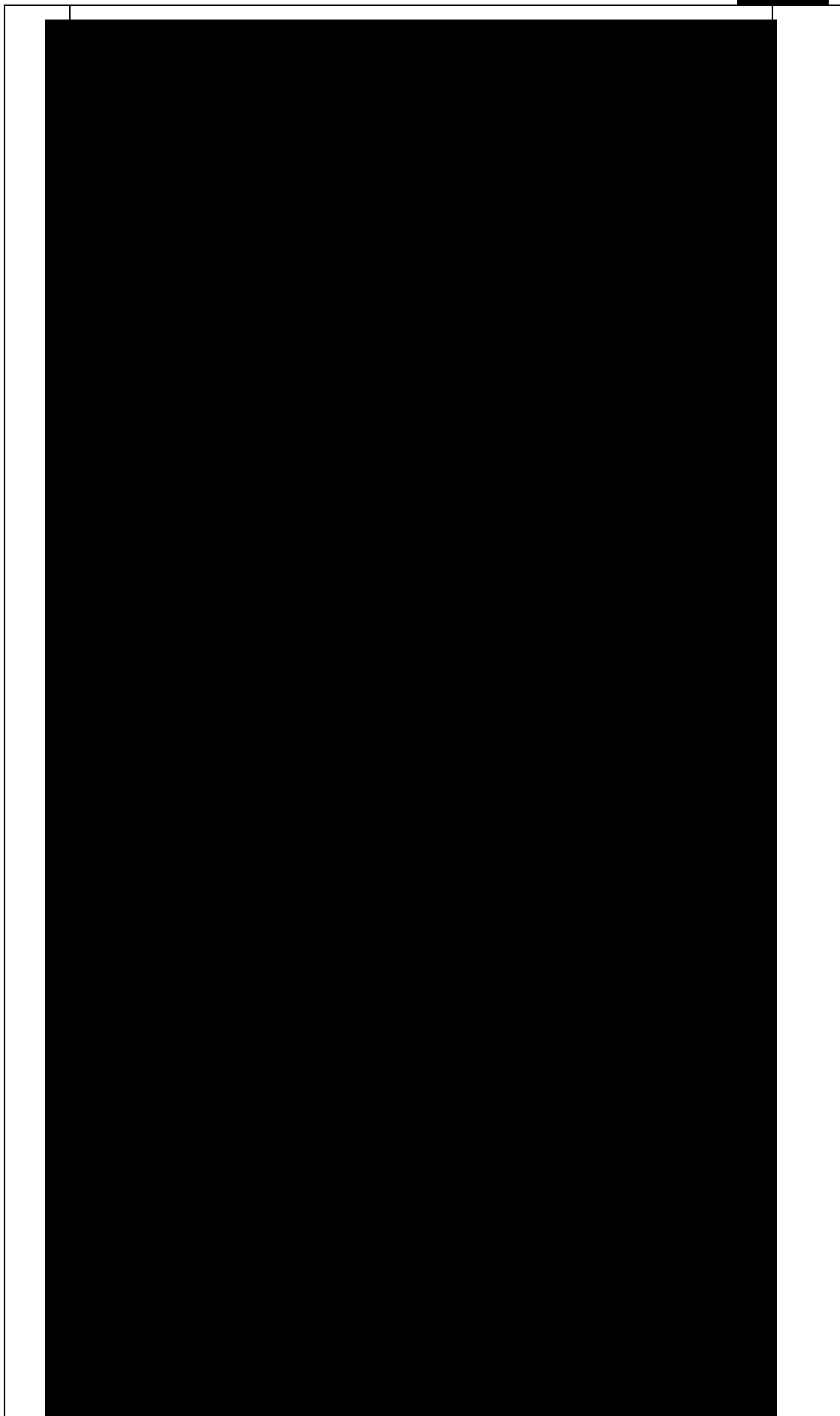
[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]





	<p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	
<p>5.2</p>	<p>Please give full details of care staff's induction process including timescales for the induction to be completed and the areas covered by the induction and how this is carried out and tested that the employee understands the information or training:-</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	<p>25 marks</p>



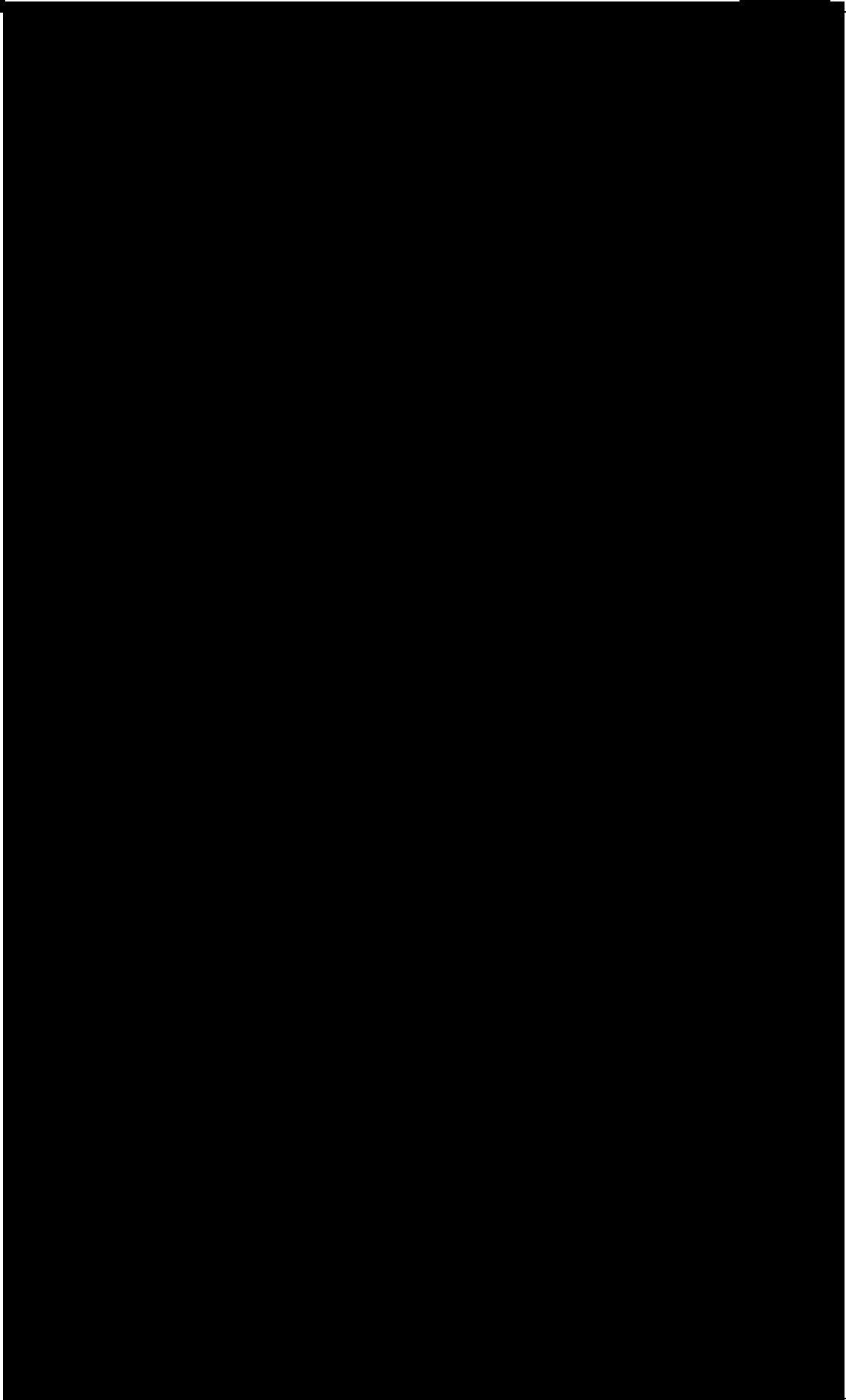


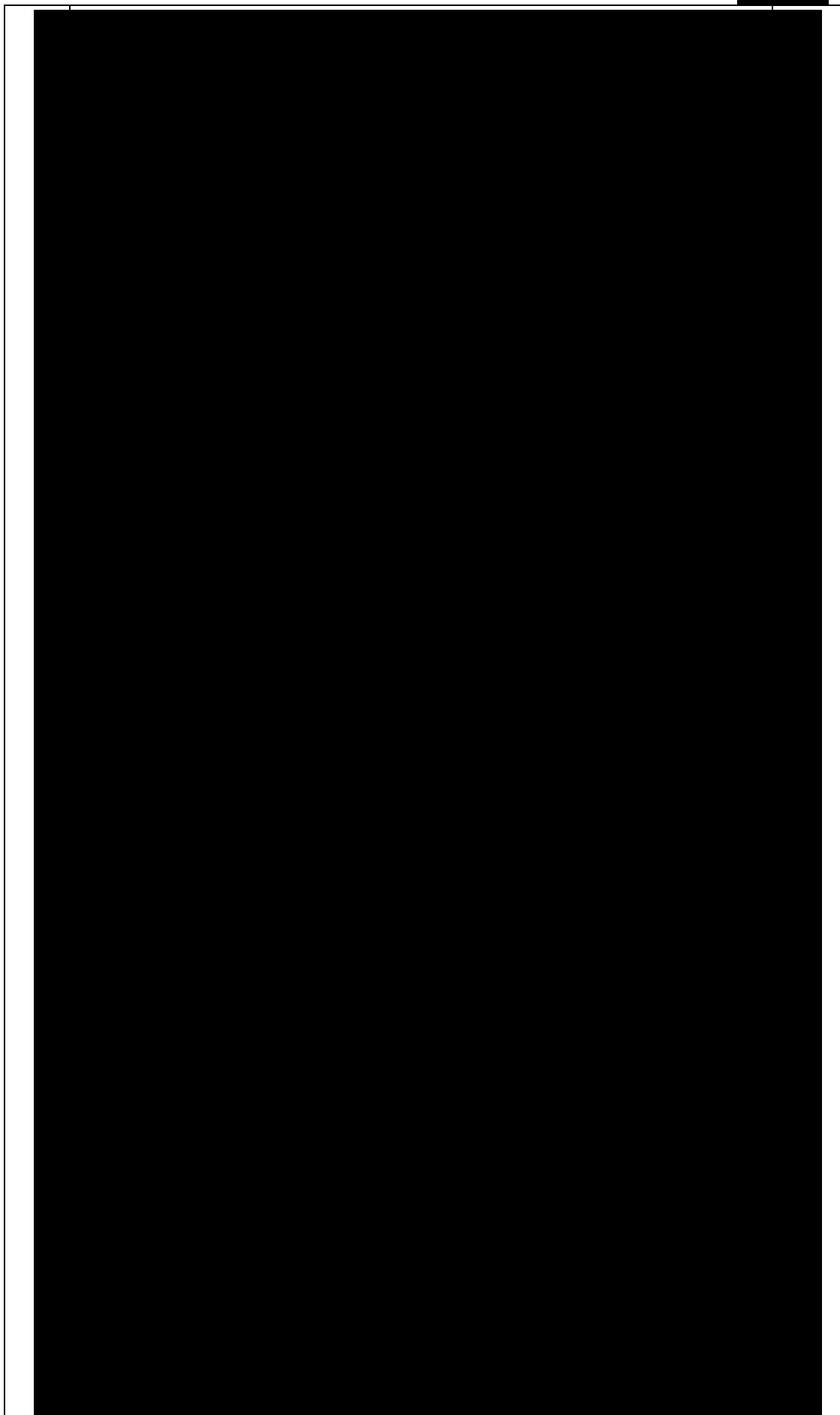
	<p>[Redacted text]</p> <p>[Redacted text]</p> <p>[Redacted text]</p> <p>[Redacted text]</p> <p>[Redacted text]</p>	
--	--	--

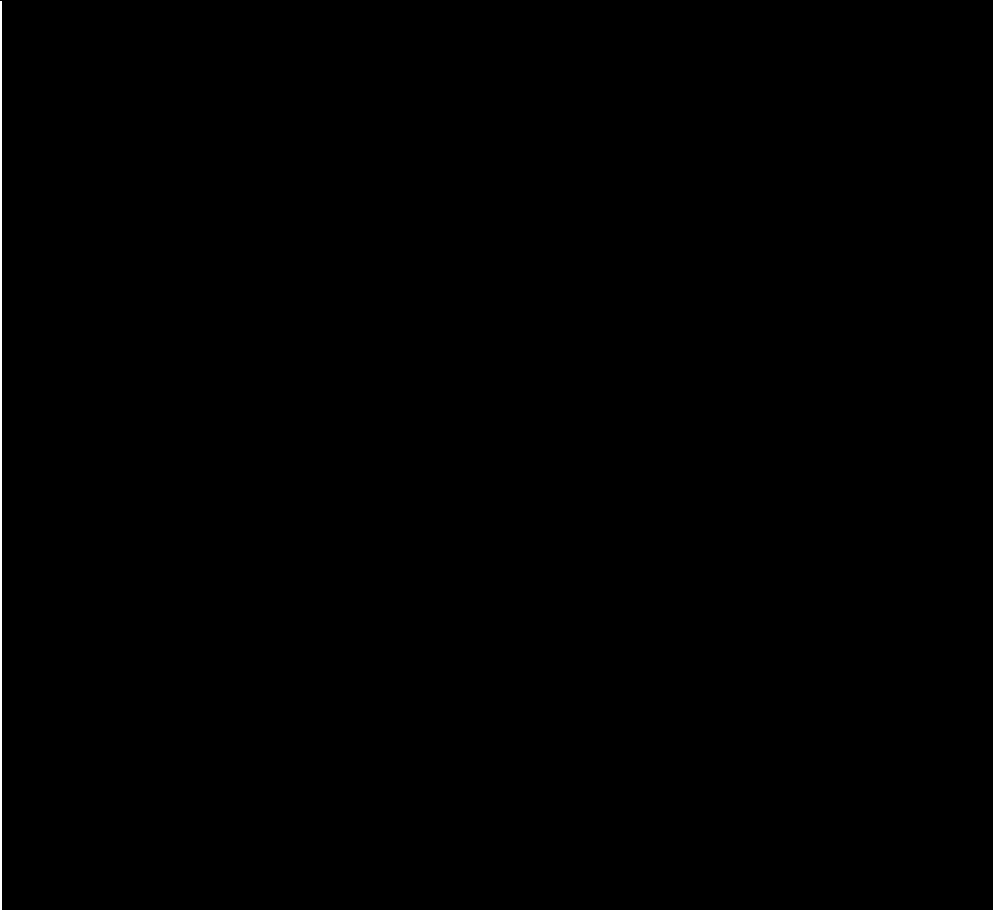


Seaside Services

Beulah Induction Checklist (to be used with PDP)	Mentor	Inductee	Date
Fire Evacuation Procedure		S Jones	5/7/13
Fire Training Record		S Jones	5/7/13
Aqua Nova Bath (operation and temperature checks)		S Jones	5/7/13
Cellar door/lift		S Jones	5/7/13
Mediation Induction <i>explained</i>		S Jones	5/7/13
Vehicle test		S Jones	9/7/13
House Guidelines		S Jones	5/7/13
Link working/forms			
Staff Handbook		S Jones	5/7/13
<i>JEAN NOT LEFT ALONE IN BATH (EPILEPSY)</i>			

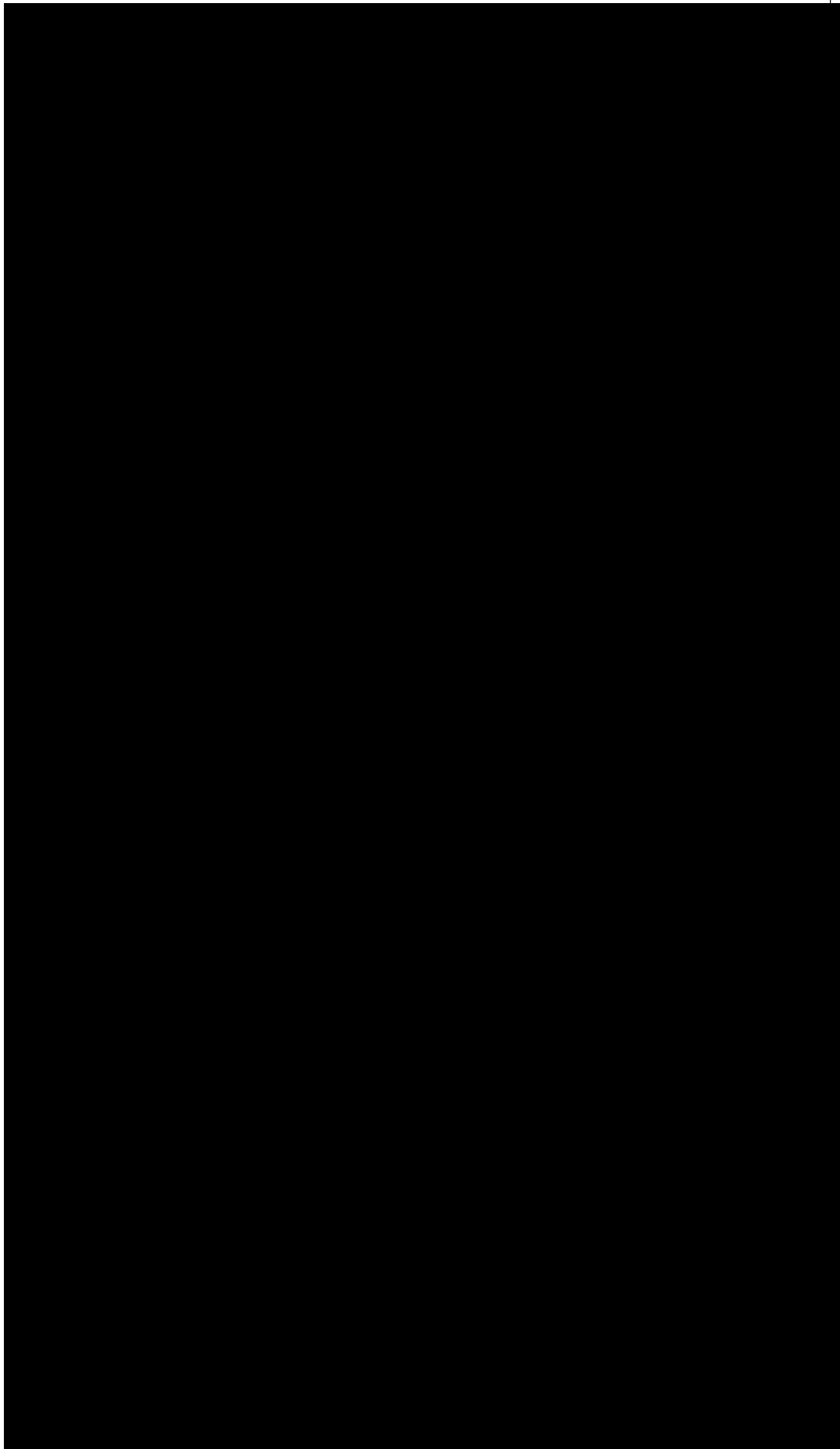








6.	Staff Recruitment – 5% (50 marks)	
6.1	<p data-bbox="276 241 1117 275">Please give full details to show how you recruit and retain Care Staff:-</p> <div data-bbox="276 315 1252 450" style="background-color: black; height: 60px; width: 100%;"></div> <div data-bbox="276 483 1289 712" style="background-color: black; height: 102px; width: 100%;"></div> <div data-bbox="276 745 1302 1364" style="background-color: black; height: 276px; width: 100%;"></div> <ul data-bbox="320 1397 663 1435" style="list-style-type: none">■ [Redacted] <div data-bbox="276 1467 1281 1653" style="background-color: black; height: 83px; width: 100%;"></div> <ul data-bbox="320 1686 991 1724" style="list-style-type: none">■ [Redacted] <div data-bbox="276 1756 1297 1977" style="background-color: black; height: 99px; width: 100%;"></div>	20 marks







	<p>[Redacted text]</p> <p>[Redacted text]</p> <p>[Redacted text]</p> <p>[Redacted text]</p> <ul style="list-style-type: none"> ■ [Redacted text] ■ [Redacted text] ■ [Redacted text] ■ [Redacted text] ■ [Redacted text] ■ [Redacted text] <p>[Redacted text]</p> <p>[Redacted text]</p>	
<p>6.2</p>	<p>Please show how Staff are supported in their jobs on an ongoing basis:-</p> <p>[Redacted text]</p> <p>[Redacted text]</p> <p>[Redacted text]</p> <p>[Redacted text]</p> <p>[Redacted text]</p> <p>[Redacted text]</p> <p>[Redacted text]</p>	<p>10 mark s</p>



[Redacted text block]

- [Redacted list item 1]
- [Redacted list item 2]
- [Redacted list item 3]
- [Redacted list item 4]
- [Redacted list item 5]
- [Redacted list item 6]
- [Redacted list item 7]
- [Redacted list item 8]
- [Redacted list item 9]
- [Redacted list item 10]

[Large redacted text block]

[Redacted text line]

[Redacted text block]



[Redacted text block]

- [Redacted list item 1]
- [Redacted list item 2]
- [Redacted list item 3]
- [Redacted list item 4]
- [Redacted list item 5]
- [Redacted list item 6]
- [Redacted list item 7]

[Redacted text block]

[Redacted text block]

[Redacted text block]



6.3

Please provide 3 anonymised staff supervisions and discuss why your way of supervising staff achieves the outcomes for service users and the objectives of the organisation:-

20 marks

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

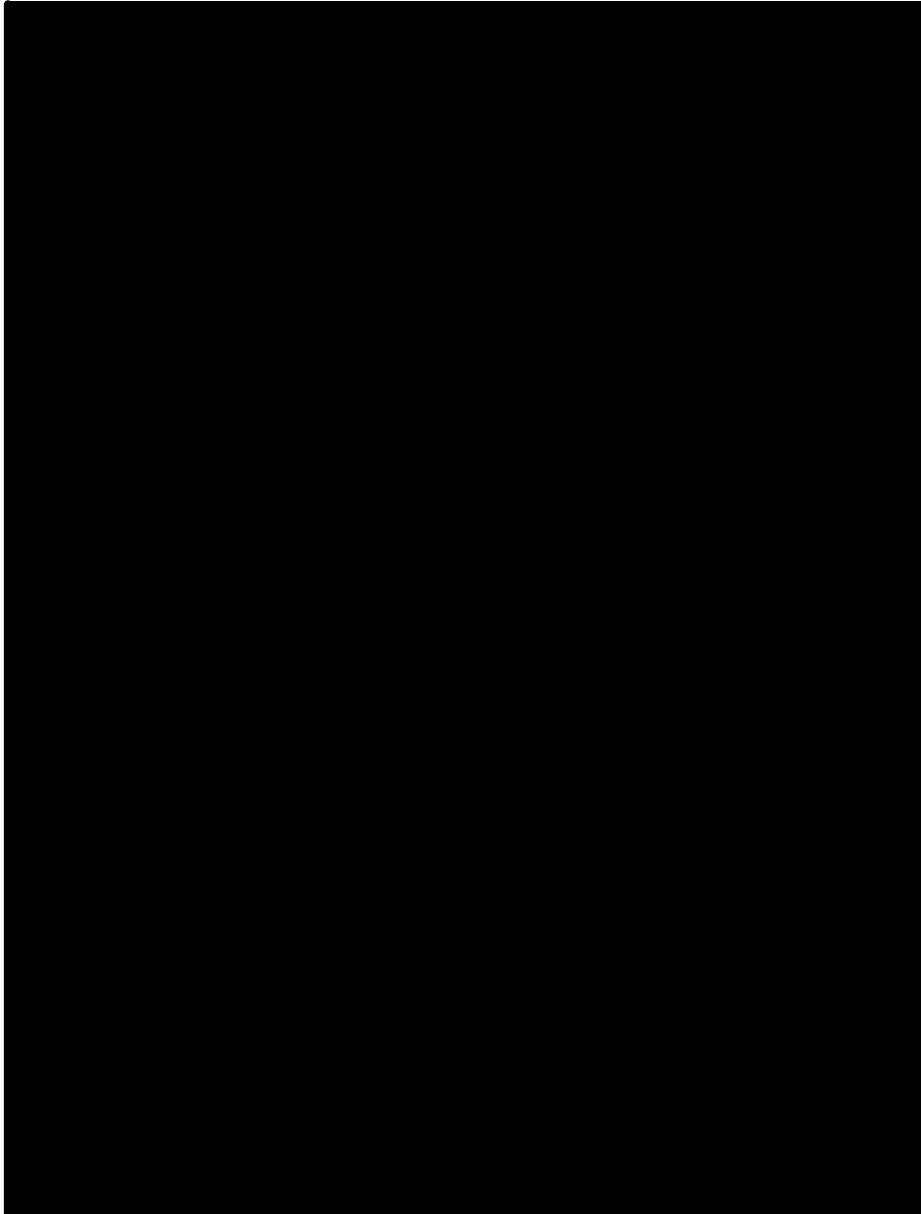


	<p>[Redacted text]</p> <ul style="list-style-type: none">[Redacted text][Redacted text][Redacted text][Redacted text] <p>[Redacted text]</p> <p>[Redacted text]</p> <ul style="list-style-type: none">[Redacted text][Redacted text][Redacted text] <p>[Redacted text]</p>	
--	---	--



commercial info

MY ACTION PLAN FOR 2013





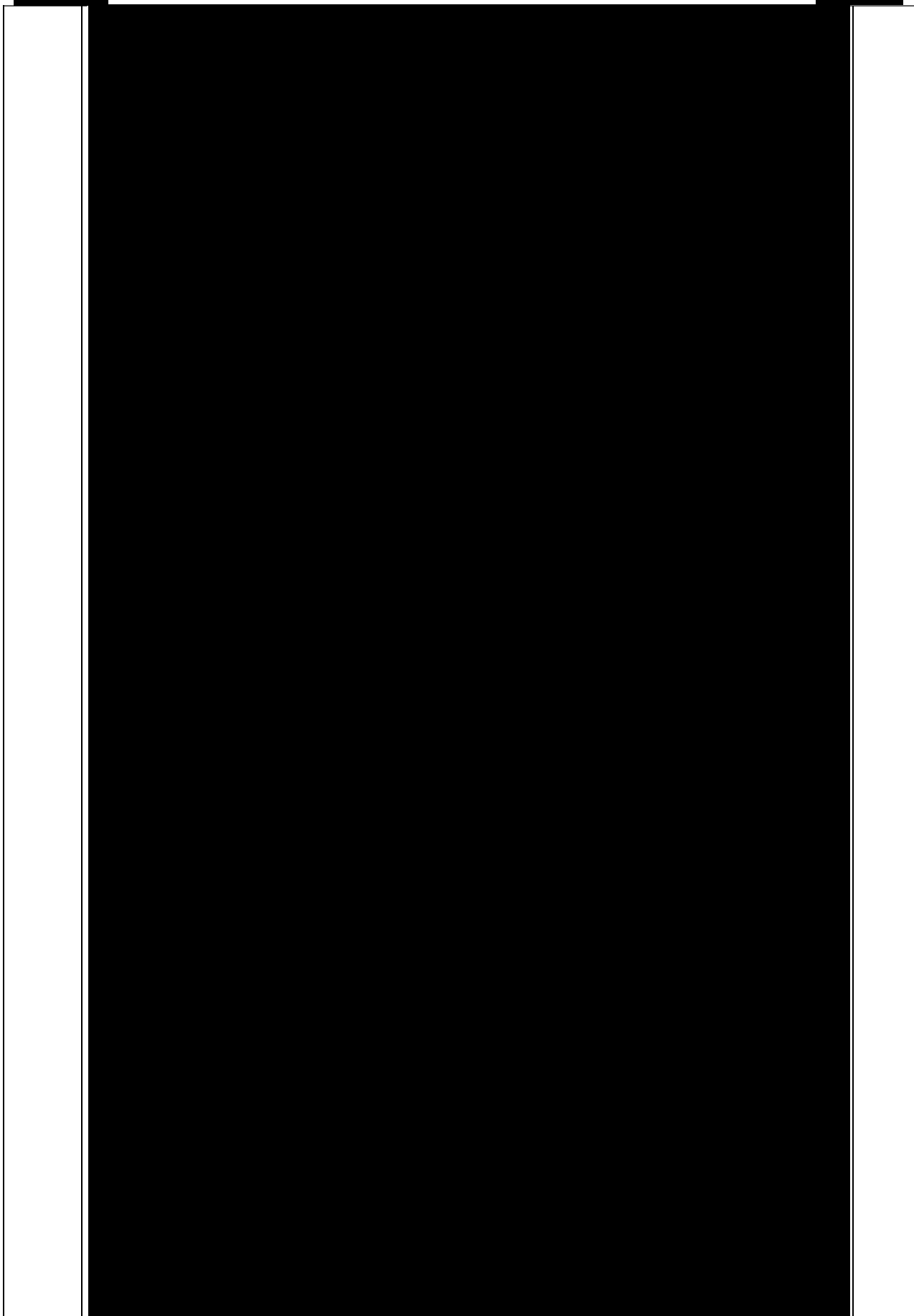
[Redacted text block]

[Redacted text block]

[Large redacted text block]

[Redacted text block]

[Redacted text block]





personal & commercial info

MacIntyre
602 South Seventh Street
Milton Keynes
MK9 2JA
[REDACTED]

Shropshire Council
Shirehall
Abbey Foregate
Shrewsbury
Shropshire SY2 6ND

Date: 20 March 2014

Dear Anna

**EMC 005: Block Contract for Residential Care Services for Adults with a Learning Disability
AT BOTH BEULAH HOUSE AND GLENVIEW
For a period of 3 years with the option to extend for a further 2 years
SUBJECT TO CONTRACT & NEGOTIATION**

This is an Award Decision Notice pursuant to Regulation 32 of The Public Contracts Regulations 2006 (the "Regulations").

We are pleased to inform you that, following the evaluation process, Shropshire Council proposes to accept your offer for the provision of the above contract at both Beulah House and Glenview as set out in your recent tender.

However, this letter is not, at this stage, a communication of Shropshire Council's formal acceptance of your offer. A mandatory "standstill" period is now in force pursuant to Regulation 32A of the Regulations; this period will end at midnight on 31 March 2014.

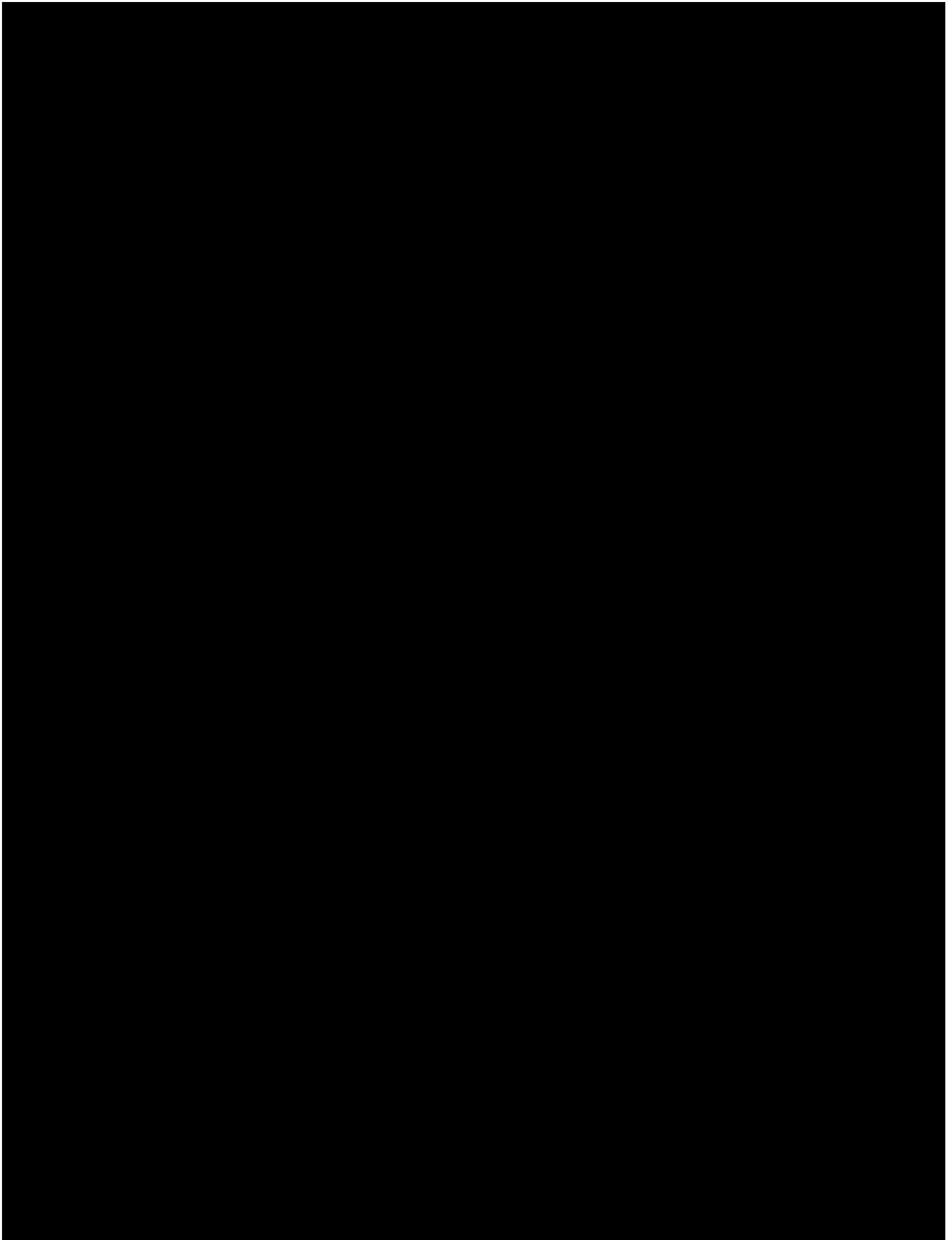
Subject to Shropshire Council receiving no notice during the standstill period of any intention to legally challenge the award process, the Council aims to conclude the award of the contract after the expiry of the standstill period.

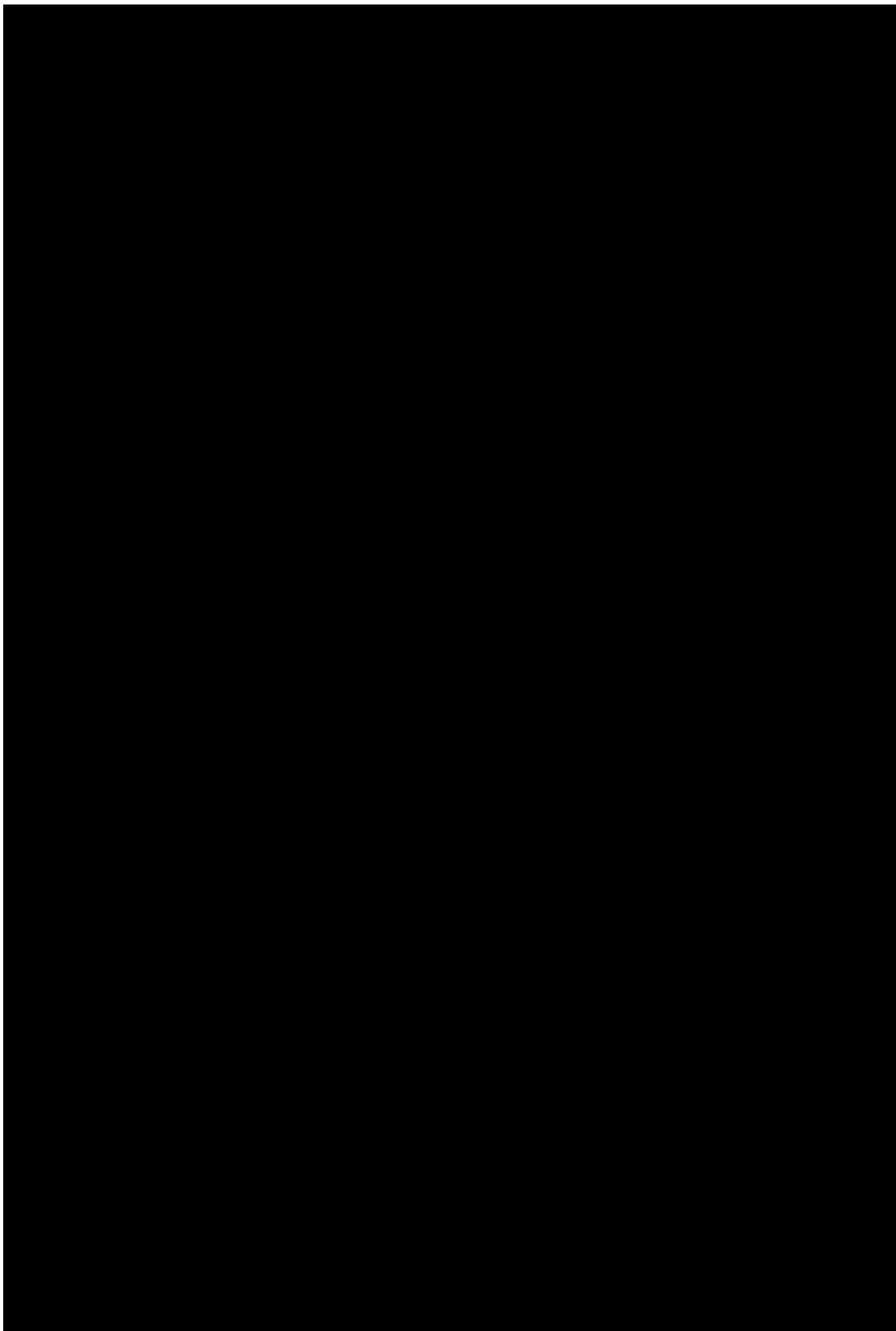
The award criteria for this tender was set out in full in the Invitation to Tender with quality accounting for 50% and price for 50% of the total marks.

Criteria	Your Weighted Score	Winning Tenderer's Total Weighted Marks	Your Rank (out of all 15 tenders received)
Price (out of 500 marks)	[REDACTED]	[REDACTED]	[REDACTED]
Quality (out of 500 marks)	[REDACTED]	[REDACTED]	[REDACTED]
Overall	[REDACTED]	[REDACTED]	[REDACTED]

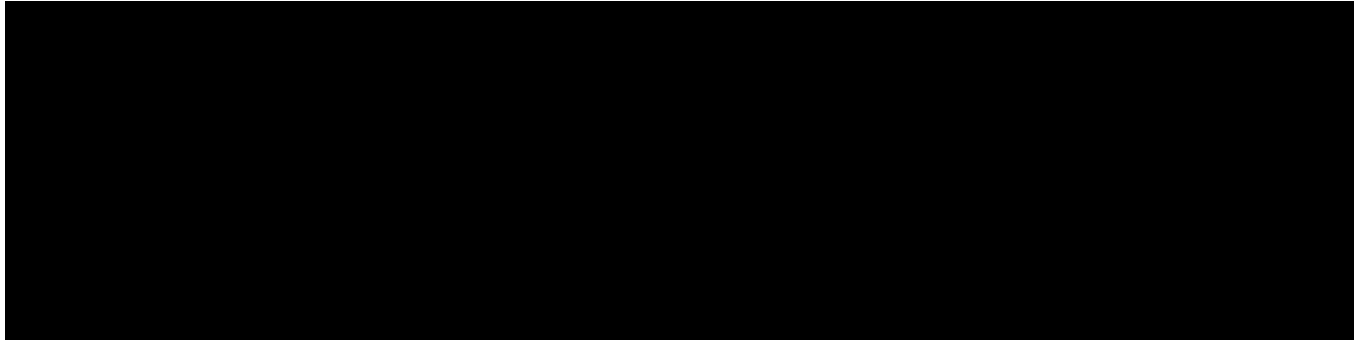
commercial info

Please find details of the marks allocated to you for Quality and reasoning behind the Quality marks as follows:-





commercial & personal info



We will be in touch with you again at the end of the standstill period, when we may need to negotiate prices and the requirements for future monitoring.

Yours sincerely



Shropshire Council

Shropshire Council