## APPENDIX A

**SERVICE SPECIFICATIONS**

|  |  |
| --- | --- |
| **Service Specification No.**  | **3** |
| **Service** | **National NHS Counterweight 1:1 Weight Loss Programme** |
| **Authority Lead** | **Valerie Little**  |
| **Service Lead**  | **Catherine Goodridge** |
| **Provider Lead** | **Pharmacy/GP**  |
| **Period** | **1st April 2014- 31st March 2016-15** |
| **Date of Review** | **January 2015** |

|  |
| --- |
| **1. Population Needs** |
| **1.1 National/local context and evidence base**In 2009 the Health Survey for England (HSE) reported that 61.3% of adults (16 yrs and over) were classed as overweight or obese, of this, 23% of adults were obese1. These figures account for almost a quarter of adults in England (22% men & 24% women) were obesity is classified as (BMI 30kg/m2 or above). A recent survey in Dudley found that 21% of respondents were obese in 2009, an average increase of 0.9 percentage points per year since the last survey in 2004. Evidence shows that as many as 30,000 people die prematurely every year from obesity-related conditions, such as Diabetes, CHD, CVD, high blood pressure & certain cancers. Other obesity related conditions include; sleep apnoea, respiratory issues, fertility issues, arthritis and depression. It has recently been forecast that if no action is taken; obesity will continue to rise to 60% of men and 50% of women by 20502. Dudley’s Weight Management Pathway has been in place since June 2006 & offers effective, cost effective services for patients with a BMI over 30. Currently all providers offer group based interventions which are not suitable for all patients. Counterweight is the only fully evaluated, evidence based primary care weight management programme in the UK which offers a consistent evidence based model of care for patients requiring weight management intervention on a 1:1 basis. Counterweight will therefore address the needs of individuals that are not suited to group intervention and will ensure that these individuals receive an appropriate patient centred service tailored to meet their individual needs. A recent audit of current users of Dudley’s weight management services revealed that both men and minority ethnic groups were under-represented. Informal feedback from both referrers and members of these groups suggest that group settings can be seen as intimidating and impersonal and that a 1:1 consultation would be preferred.The Counterweight programme was launched in 2000 and is an evidence based, RCT, 1:1 weight management programme for adults. The programme aims to promote behavioural strategies which seek to change eating habits, activity levels, sedentary behaviours and thinking processes that contribute to a person being overweight or obese. The programme provides a range of options which promote active weight lossfor 3 to 6 months followed by long term weight loss managementand obesity management. Counterweight offers a structured approach to care and an interactive model of communication which is critical to empowering patientsThe intended health outcomes are to:* enable more people to be achieve the recommended 5-10% weight loss target set out by NICE weight management guidelines. To achieve the associated health benefits –reduced blood pressure, diabetes, mortality and physical complications
* enable the prevention of diabetes in many of those at increased risk of this disease;
* sustain the continuing increase in life expectancy and reduction in premature mortality that are under threat from the rise in obesity and sedentary living; and offer a real opportunity to make significant inroads into health inequalities, including socio- economic, ethnic and gender inequalities.

1 Health Survey for England (2009)2 The Foresight Report, Tackling Obesities: Future Choices project (2007) |
| **2. Key Service Outcomes** |
| **2.1 Insert any locally agreed outcomes and quality requirements which are NOT Quality** **Outcomes Indicators which should be set out in Appendix C (*Quality Outcomes Indicators*)*** The provider will deliver the service in accordance with the standard operating procedures attached; the Counterweight Programme Adult Weight Management Reference manual; and in line with Dudley clinical pathways for the management of identified diseases and conditions.
* The provider will recruit a minimum of six Counterweight clients per annum.
* Counterweight will be provided as an appointment based service following referral

 from the triage provided by Dudley Public Health.* The provider will deliver the Counterweight intervention over 12 months using the appointment schedule below:

|  |  |  |
| --- | --- | --- |
| **Appointment** | **Length** | **When** |
| Initial | 20 – 30 mins | Week 1 |
| Appointments 2 - 6 | 15 – 20 mins | Within 3 months (fortnightly) |
| Appointment 7  | 20 mins | Within 6 months |
| Appointment 8 | 20 mins | Within 9 months |
| Appointment 9 | 30 mins | At 12 months |

* The provider will employ and manage staff to deliver the service and ensure all staff delivering Counterweight has attended the 2 day Counterweight training provided by the Office of Public Health and have been signed off as competent to deliver the service.
* The provider will ensure all Counterweight staff attend annual refresher training.
* The provider will monitor outcomes using the bespoke Counterweight data collection

 methods and provide data on a quarterly basis including nil returns.* The provider will provide (and maintain/calibrate to the appropriate standards) all

 necessary equipment as specified in the SOP.* The commissioner will provide training, resources and ongoing support to

 Counterweight staff. |
| **3. Scope**  |
| **3.1 Aims and objectives of service**The Counterweight Programme is an evidence-based weight management programme for adults. The Counterweight Programme promotes behavioural strategies, which seek to change eating habits, activity levels, sedentary behaviours and thinking processes that contribute to an individual being overweight or obese. The Programme provides a range of options which promote active weight loss for three to six months, followed by long-term weight loss maintenance. **Aims:*** To achieve and maintain medically valuable weight loss of 5 – 10%.
* To make sustainable changes to eating and physical activity behaviours.
* To maintain weight loss long term.
* To improve health status.

**3.2 Service description/pathway** Please refer to the Standard operating procedures.All patients will be referred to the Weight Management Team where motivation will be assessed and the most suitable service determined.The service is expected to: * address the reasons why someone might find it difficult to lose weight
* be tailored to individual needs and choices
* be sensitive to the person’s weight concerns
* be based on a balanced, healthy diet
* encourage regular physical activity
* support people to lose no more than 0.5–1 kg (1–2 lb) a week;approximately 5–10% of their original weight
* identify and address barriers to change.
* focus on long-term lifestyle changes rather than a short-term, quick-fix approach
* include some behaviour-change techniques, such as keeping a diary and advice on how to cope with ‘lapses’ and ‘high-risk’ situations
* recommend and/or provide ongoing support (including appropriate written materials)

**3.3 Population covered**To be eligible for Counterweight patient must:– * Be a resident or work within the Metropolitan Borough of Dudley.
* Have a BMI above 30 or above BMI 27.5 (for patients of South Asian origin) or BMI of 28 or 23 (South Asian origin) with co morbidities.
* Have stated that a group intervention is not suitable.

**3.4 Any acceptance and exclusion criteria and thresholds** The Weight Management Service provide a range of weight management services. Patients are only eligible for referral into one service at a time.**3.5 Interdependencies with other services****3.6 Any activity planning assumptions**  |
| **4. Applicable Service Standards**  |
| 4.1 Applicable national standards eg NICEEnable more people to be achieve the recommended 5-10% weight loss target set out by NICE weight management guidelines.4.2 Applicable local standards* The local standard operating procedure and Counterweight Programme Reference Manual must be used for delivery of this service
* Providers will meet all national and local standards of service quality and clinical governance including those set out in Standards for Better Health .
* Any communications strategy or provision should be coherent with and follow local policies and the NHS Confidentiality Code of Practice, vulnerable adult protection procedures, and should outline the mechanisms to safeguard patient information when shared within an integrated service. Procedures should be put in place to obtain patient consent for the onward transmission of their records. Providers should comply with the Dudley Local Authority policies on secure data transmission.
* Dudley Obesity Strategy
 |
| **5. Location of Provider Premises** |
| **The Provider’s Premises are located at:** * Pharmacies and GP Practices across Dudley Borough
 |
| **6. Required Insurances** |
| **6.1 If required, insert types of insurances and levels of cover required** |
| **APPENDIX B**

|  |
| --- |
| **CONDITIONS PRECEDENT**1. Provide the Authority with a copy of the Provider’s registration with the CQC where the Provider must be so registered under the Law.
2. The provider must be:
* Registered with the Dudley (NHS England Local Area Team) performers list.
* Registered with the General Pharmaceutical Council (GPhC).
* Demonstrate compliance with the standards for registered pharmacies set out by GPhC. <http://www.pharmacyregulation.org/sites/default/files/Standards%20for%20registered%20pharmacies%20September%202012.pdf>
* Demonstrate compliance with the standards of conduct, ethics and performance set by the GPhC. <http://www.pharmacyregulation.org/sites/default/files/Standards%20of%20conduct%20ethics%20and%20performance%20July%202012.pdf>
 |
|  |

**APPENDIX C** |
|  |

**QUALITY OUTCOMES INDICATORS**

|  |  |  |  |
| --- | --- | --- | --- |
| **Quality Outcomes Indicators** | **Threshold** | **Method of Measurement** | **Consequence of breach** |
| **Recruitment**Recruitment of new clients | Minimum of 1 new client every 2 months to a minimum of 6 new clients per annum | Data extraction spreadsheet  | Quarterly email.If the provider fails to recruit new clients for 6 consecutive months the agreement will be terminated. |
| **Training**All Counterweight staff to have completed the 2 day Counterweight Training and signed off as competent to deliver the programme.All counterweight staff to complete annual refresher training | 100% of Counterweight staff100% of Counterweight staff | WMT Counterweight Training record. | Service provider unable to provide Counterweight serviceService suspended. |
| **Counterweight Delivery**Deliver the Counterweight service to staff as per Counterweight Programme Reference Manual | >5% weight loss for 40% of clients completing the programme  | Data extraction spreadsheet | Review contract on a quarterly basis – recovery plan required if not meeting threshold.Withdrawal of contract |
| **Monitoring**Fully complete bespoke Counterweight data collection tool and return on a quarterly basis. | 100% | Data extraction spreadsheet/or Patient data form | Non payment to provider |

**Expected Outcomes**

|  |  |  |
| --- | --- | --- |
| **Outcome** | **Measure** | **Report** |
| Clients attend all 6 sessions | Consultation form | Data Extraction Spreadsheet or Patient Data form |
| Client have achieved 5% weight loss target  | Consultation form | Data Extraction Spreadsheet or Patient Data form |
| Client attended follow up appointments 7-9  | Consultation form | Data Extraction Spreadsheet or Patient Data form |
| Client has continued to lose/maintain weight | Consultation form | Data Extraction Spreadsheet or Patient Data form |

**APPENDIX D**

**SERVICE USER, CARER AND STAFF SURVEYS**

|  |  |  |  |
| --- | --- | --- | --- |
| **Specification** | **Form** | **Frequency** | **Reporting process** |
| The Weight Management Team will carry out 1 service user survey per year with a minimum of 50% of service users. | Weight Management Team Client satisfaction survey | Annually | Report completed and any issues reported back to service providers |

.

**APPENDIX E**

**CHARGES**

|  |  |
| --- | --- |
| Telephone Contact | To arrange 1st appointment |
| Phase 1 – Appointment 1-6 (week 1- 12)  | £25 for individuals who attend all 6 appointments+ £10 if individual meets 5% weight loss target(Payment released following return of data) |
| Phase 2 – Appointment 7-9 Over a 9 month period within 12 months from the initial appointment | £40 for individuals who have maintained a 5% weight loss or continued to lose weight£20 for individuals who have achieved and maintained a 5% weight loss in phase 2 of the programme £10 for individuals who are lighter than their initial referral weight (Payment released following return of data) |

Service providers will receive payments only on completion and submission of the data extraction spreadsheet.

**APPENDIX F**

**SAFEGUARDING POLICIES**

Dudley Office of Public Health shares a commitment to safeguard and promote the welfare of children and young people. All Services provided by Dudley Group NHS Foundation Trust must comply with the statutory duty under Section 11 of the Children’s Act 2004 <http://www.legislation.gov.uk/ukpga/2004/31/section/11>. This safeguarding section of this service specification should be read and acted upon in conjunction with:

* *NHS Dudley Safeguarding Children Post CQC/Ofsted Visit. Master Action Plan, Version 5.0 (8th February 2012).*
* *Right Services, Right Time, Right Place. (Dudley Children & Young People’s Partnership and Dudley Safeguarding Children Board, September 2011).*
* *Working Together* (HM Government, 2010).
* *What to do if you are worried about a child is being abused* (DfES, 2010).
* *Working Together* (HM Government, 2010).
* *Statutory Guidance on Promoting the Health and Well-being of Looked After Children (DH & Department for Children, Schools and Families, 2009).*
* *Dudley Safeguarding Children’s Board* - Policy and Procedures (2008).
* *NHS Dudley Child Protection procedures (2011)*.

**APPENDIX G**

**INCIDENTS REQUIRING REPORTING PROCEDURE**

Definition:

A serious incident (SI) is an accident or incident (or series of incidents) when a patient/client, member of staff (including those working in the community), or a member of the public suffers (or potentially could suffer) serious injury, major permanent harm or unexpected death (or the risk of death or serious injury) on either premises where the service is provided, or whilst in receipt of the service, or where actions of service staff are likely to cause significant public concern.

* All identified serious incidents must be notified by the Provider to the Office of Public Health without delay and within **two working days.**
* The Provider will comply and participate in the Nationally recognised reporting mechanisms for Serious Incidents (SI) and/or Clinical Incident Reporting systems and operate an internal system to record, collate and implement learning from incidents and events and agree to share such data with the Office of Public Health.
* The Provider will conduct a SI investigation in accordance with national standards and in agreement with the Office of Public Health as specified in Healthcare Guidance (referenced below) within a specified time scale.
* The Provider will designate a senior member of staff to have responsibility for reporting and follow-up of serious incidents within given timescales.
* Following the investigation of a serious incident an action plan will be drawn up by the Provider.
* The Office of Public Health will give feedback within **20 working days** of receipt of the action plan and if it requires further development, will refer back to the Provider requesting additional information within a specified timescale.
* The serious incident will be deemed ‘closed’ with the agreement of the Office of Public Health, following the receipt of evidence of implementation of actions, and dissemination of lessons learnt within the Provider organisation.
* The Office of Public Health shall have complete discretion to use the information provided by the Provider in any report internally, or to any other appropriate regulatory or official body in connection with such serious Incident or in relation to the prevention of Serious Incidents, provided that they shall in each case notify the Provider of the information disclosed, and the body to which they have disclosed it.

All notifications in respect of Serious Incidents should be sent

to: Catherine Goodridge

cc: Bal Kaur

References:

*Revised Framework for Serious Incident Management in the NHS*, NHS England May 2013

*National Framework for Reporting and Learning form Serious Incidents Requiring Investigation,* National Patient Safety Agency (NPSA) 2010

**APPENDIX H**

**INFORMATION PROVISION**

|  |  |  |  |
| --- | --- | --- | --- |
| ***Information Type*** | ***Format*** | ***Frequency*** | ***Timescale*** |
| Weight Loss Data | Data extraction spreadsheet or patient data form | Quarterly | 5th of month following quarter |

**APPENDIX I**

**TRANSFER OF AND DISCHARGE FROM CARE PROTOCOLS**

***N/A***

**APPENDIX J**

**SERVICE QUALITY PERFORMANCE REPORT**

**Monitoring reports and evaluation**

The data collection tool will deliver the following minimum data set to the Dudley Public Health and the provider:

* Number of people referred
* Numbers of people attending initial appointment
* Numbers of people completing 5 fortnightly appointments
* Numbers of people completing 3 quarterly follow up appointments
* Patient demographics- age, ethnicity, gender and postcode
* % weight loss
* Numbers prescribed anti obesity drugs

**APPENDIX K**

**DETAILS OF REVIEW MEETINGS**

(This will be agreed once all expressions of interest are in - whether there is one review meeting with a GP/Pharmacy covering all services or separate reviews.)

Review of number of candidates accessing the service in line with Standard operating procedures and the proportion of candidates achieving 5% weight loss and programme adherence.

**APPENDIX M: DISPUTE RESOLUTION**

**Part 1 of Appendix M – Dispute Resolution Process**

* + 1. ESCALATED NEGOTIATION
	1. Except to the extent that any injunction is sought relating to a matter arising out of clause B36 (Confidentiality), if any Dispute arises out of or in connection with this Contract, the Parties must first attempt to settle it by either of them making a written negotiation offer to the other, and during the 15 Business Days following receipt of the first such offer (the “Negotiation Period”) each of the Parties shall negotiate in good faith and be represented:
		1. for the first 10 Business Days, by a senior person who where practicable has not had any direct day-to-day involvement in the matter that led to the Dispute and has authority to settle the Dispute; and
		2. for the last 5 Business Days, by its chief executive, director, or board member who has authority to settle the Dispute,provided that no Party in Dispute where practicable shall be represented by the same individual under paragraphs 1.1.1 and 1.1.2.
1. MEDIATION

2.1 If the Parties are unable to settle the Dispute by negotiation, they must within 5 Business Days after the end of the Negotiation Period submit the Dispute to mediation by CEDR or other independent body or organisation agreed between the Parties and set out in Part 2 of this Appendix M.

2.2 The Parties will keep confidential and not use for any collateral or ulterior purpose all information, whether given orally, in writing or otherwise, arising out of or in connection with any mediation, including the fact of any settlement and its terms, save for the fact that the mediation is to take place or has taken place.

2.3 All information, whether oral, in writing or otherwise, arising out of or in connection with any mediation will be without prejudice, privileged and not admissible as evidence or disclosable in any current or subsequent litigation or other proceedings whatsoever.

3. EXPERT DETERMINATION

3.1 If the Parties are unable to settle the Dispute through mediation, then either Party may give written notice to the other Party within 10 Business Days of closure of the failed mediation of its intention to refer the Dispute to expert determination. The Expert Determination Notice must include a brief statement of the issue or issues which it is desired to refer, the expertise required in the expert, and the solution sought.

3.2 If the Parties have agreed upon the identity of an expert and the expert has confirmed in writing his readiness and willingness to embark upon the expert determination, then that person shall be appointed as the Expert.

3.3 Where the Parties have not agreed upon an expert, or where that person has not confirmed his willingness to act, then either Party may apply to CEDR for the appointment of an expert. The request must be in writing, accompanied by a copy of the Expert Determination Notice and the appropriate fee and must be copied simultaneously to the other Party. The other Party may make representations to CEDR regarding the expertise required in the expert. The person nominated by CEDR will be appointed as the Expert.

3.4 The Party serving the Expert Determination Notice must send to the Expert and to the other Party within 5 Business Days of the appointment of the Expert a statement of its case including a copy of the Expert Determination Notice, the Contract, details of the circumstances giving rise to the Dispute, the reasons why it is entitled to the solution sought, and the evidence upon which it relies. The statement of case must be confined to the issues raised in the Expert Determination Notice.

3.5 The Party not serving the Expert Determination Notice must reply to the Expert and the other Party within 5 Business Days of receiving the statement of case, giving details of what is agreed and what is disputed in the statement of case and the reasons why.

3.6 The Expert must produce a written decision with reasons within 30 Business Days of receipt of the statement of case referred to in paragraph 1.9, or any longer period as is agreed by the Parties after the Dispute has been referred.

3.7 The Expert will have complete discretion as to how to conduct the expert determination, and will establish the procedure and timetable.

3.8 The Parties must comply with any request or direction of the Expert in relation to the expert determination.

3.9 The Expert must decide the matters set out in the Expert Determination Notice, together with any other matters which the Parties and the Expert agree are within the scope of the expert determination. The Expert must send his decision in writing simultaneously to the Parties. Within 5 Business Days following the date of the decision the Parties must provide the Expert and each other with any requests to correct minor clerical errors or ambiguities in the decision. The Expert must correct any minor clerical errors or ambiguities at his discretion within a further 5 Business Days and send any revised decision simultaneously to the Parties.

3.10 The Parties must bear their own costs and expenses incurred in the expert determination and are jointly liable for the costs of the Expert.

3.11 The decision of the Expert is final and binding, except in the case of fraud, collusion, bias, or material breach of instructions on the part of the Expert at which point a Party will be permitted to apply to Court for an Order that:

3.11.1 the Expert reconsider his decision (either all of it or part of it); or

3.11.2 the Expert’s decision be set aside (either all of it or part of it).

3.12 If a Party does not abide by the Expert’s decision the other Party may apply to Court to enforce it.

3.13 All information, whether oral, in writing or otherwise, arising out of or in connection with the expert determination will be inadmissible as evidence in any current or subsequent litigation or other proceedings whatsoever, with the exception of any information which would in any event have been admissible or disclosable in any such proceedings.

3.14 The Expert is not liable for anything done or omitted in the discharge or purported discharge of his functions, except in the case of fraud or bad faith, collusion, bias, or material breach of instructions on the part of the Expert.

3.15 The Expert is appointed to determine the Dispute or Disputes between the Parties and his decision may not be relied upon by third parties, to whom he shall have no duty of care.

**Part 2 of Appendix M - Nominated Mediation Body**

**N/A**

**Part 3 of Appendix M - Recorded Dispute Resolutions**

## N/A

**APPENDIX N: SUCCESSION PLAN**

**N/A****APPENDIX O: DEFINITIONS AND INTERPRETATION**

1. The headings in this Contract shall not affect its interpretation.

2. References to any statute or statutory provision include a reference to that statute or statutory provision as from time to time amended, extended or re-enacted.

3. References to a statutory provision shall include any subordinate legislation made from time to time under that provision.

4. References to Sections, clauses and Appendices are to the Sections, clauses and Appendices of this Contract, unless expressly stated otherwise.

5. References to any body, organisation or office shall include reference to its applicable successor from time to time.

6. Any references to this Contract or any other documents includes reference to this Contract or such other documents as varied, amended, supplemented, extended, restated and/or replaced from time to time.

7. Use of the singular includes the plural and vice versa.

8. The following terms shall have the following meanings:

**Activity** means any levels of clinical services and/or Service User flows set out in a Service Specification

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

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

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

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

**Business Continuity Plan** means the Provider’s plan referred to in Clause B34.2 (*Business Continuity*) relating to continuity of the Services, as agreed with the Authority and as may be amended from time to time

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

**Caldicott Guardian** means the senior health professional responsible for safeguarding the confidentiality of patient information

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

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

**CEDR** means the Centre for Effective Dispute Resolution

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

**Commencement Date** means the date identified in clause A3.1.

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

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

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

Consents means:

(i) any permission, consent, approval, certificate, permit, licence, statutory agreement, authorisation, exception or declaration required by Law for or in connection with the performance of Services; and/or

(ii) any necessary consent or agreement from any third party needed either for the performance of the Provider’s obligations under this Contract or for the provision by the Provider of the Services in accordance with this Contract

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

**Contract Query** means:

1. a query on the part of the Authority in relation to the performance or non-performance by the Provider of any obligation on its part under this Contract; or
2. a query on the part of the Provider in relation to the performance or non-performance by the Authority of any obligation on its part under this Contract,

as appropriate

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

**Contract Management Meeting** meansa meeting of the Authority and the Provider held in accordance with clause B29.8 (*Contract Management*)

**CQC** means the Care Quality Commission

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

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

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

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

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

**Default Interest Rate** means LIBOR plus 2% per annum

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

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

**DPA** means the Data Protection Act 1998

**Employment Checks** means the pre-appointment checks that are required by law and applicable guidance, including without limitation, v[erification of identity checks](http://www.nhsemployers.org/RecruitmentAndRetention/Employment-checks/Employment-Check-Standards/Pages/VerificationOfIdentityChecks.aspx), r[ight to work checks,](http://www.nhsemployers.org/RecruitmentAndRetention/Employment-checks/Employment-Check-Standards/Pages/RightToWorkChecks.aspx) [registration and qualification checks,](http://www.nhsemployers.org/RecruitmentAndRetention/Employment-checks/Employment-Check-Standards/Pages/Registrationandqualificationchecks.aspx) e[mployment history and reference checks, c](http://www.nhsemployers.org/RecruitmentAndRetention/Employment-checks/Employment-Check-Standards/Pages/Employmenthistoryandreferencechecks.aspx)[riminal record checks](http://www.nhsemployers.org/RecruitmentAndRetention/Employment-checks/Employment-Check-Standards/Pages/CriminalRecordChecks.aspx)and [occupational health checks](http://www.nhsemployers.org/RecruitmentAndRetention/Employment-checks/Employment-Check-Standards/Pages/OccupationalHealthChecks.aspx)

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

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

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

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

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

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

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

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

(i) due wholly or partly to an act or omission by the Issuing Party; or

(ii) a direct result of the Receiving Party following the instructions of the Issuing Party; or

(iii) due to circumstances beyond the Receiving Party’s reasonable control but which do not constitute an event of Force Majeure

**Expert** means the person designated to determine a Dispute by virtue of paragraphs 1.6 or 1.7 of Appendix M (*Dispute Resolution*)

**Expert Determination Notice** means a notice in writing showing an intention to refer Dispute for expert determination

**Expiry Date** means the date set out in clause A3.3

**First Exception Report** mans a report issued in accordance with clause B29.21 (*Contract Management*) notifying the relevant Party’s chief executive and/or Board of Directors of that Party’s breach of a Remedial Action Plan and failure to remedy that breach

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

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

(i) any industrial action occurring within the Provider’s or any Sub-contractor’s organisation; or

(ii) the failure by any Sub-contractor to perform its obligations under any Sub-contract

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

General Conditions has the meaning given to it in clause A1

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

**Guidance** means any applicable local authority, health or social care guidance, direction or determination which the Authority and/or the Provider have a duty to have regard to including any document published under section 73B of the NHS Act 2006

**Immediate Action Plan** means a plan setting out immediate actions to be undertaken by the Provider to protect the safety of Services to Service Users, the public and/or Staff

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

**Issuing Party** means the Party which has issued a Contract Query Notice

**JI Report** means a report detailing the findings and outcomes of a Joint Investigation

**Joint Investigation** means an investigation by the Issuing party and the Receiving Party into the matters referred to in a Contract Query Notice

Law means:

1. any applicable statute or proclamation or any delegated or subordinate legislation or regulation;
2. any enforceable EU right within the meaning of Section 2(1) of the European Communities Act 1972;
3. any applicable judgment of a relevant court of law which is a binding precedent in England and Wales;
4. National Standards;
5. Guidance; and
6. any applicable industry code

in each case in force in England and Wales

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

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

**LIBOR** means the London Interbank Offered Rate for 6 months sterling deposits in the London market

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

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

**NICE** meansNational Institute for Health and Clinical Excellencebeing the special health authority responsible for providing national guidance on the promotion of good health and the prevention and treatment of ill health (or any successor body)

**National Standards** means those standards applicable to the Provider under the Law and/or

Guidance as amended from time to time

**Negotiation Period** means the period of 15 Business Days following receipt of the first offer

**NHS Act 2006** means the National Health Service Act 2006

**Parties** means the Authority and the Provider and “Party” means either one of them

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

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

**Prohibited Acts** has the meaning given to it in clause B39.1 (*Prohibited Acts*)

**Provider Representative** means the person identified in clause A4.2 or their replacement

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

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

**Quality Outcomes Indicators** means the agreed key performance indicators and outcomes to be achieved as set out in Appendix C (*Quality Outcomes Indicators*)

**Receiving Party** means the Party which has received a Contract Query Notice or Confidential Information as applicable

**Regulatory Body** means any body other than CQC carrying out regulatory functions in relation to the Provider and/or the Services

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

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

**Review Meeting** means a meeting to be held in accordance with clause B19 (*Review Meetings*) or as otherwise requested in accordance with clause B19.2 (*Review Meetings*)

**Safeguarding Policies** means the Provider’s written policies for safeguarding children and adults, as amended from time to time, and as may be appended at Appendix F (*Safeguarding Children and Vulnerable Adults*)

**Second Exception Report** means a report issued in accordance with clause B29.22 (*Contract Management*) notifying the recipients of a breach of a Remedial Action Plan and the continuing failure to remedy that breach

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

**Service Commencement Date** means the date set out in clause A3.2.

**Service Specification** means each of the service specifications defined by the Authority and set out at Appendix A (*Service Specifications*)

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

**Service Quality Performance Report** means a report as described in Appendix J (*Service Quality Performance Report*)

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

Special Conditions has the meaning given to it in clause A1

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

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

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

**Sub-contract** means a contract approved by the Authority between the Provider and a third party for the provision of part of the Services

**Sub-contractor** means any third party appointed by the Provider and approved by the Authority under clause B23 (*Assignment and Sub-contracting*) to deliver or assist with the delivery of part of the Services as defined in a Service Specification

**Succession Plan** means a plan agreed by the Parties to deal with transfer of the Services to an alternative provider following expiry or termination of this Contract as set out at Appendix N (*Succession Plan*)

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

**Transfer of and Discharge from Care Protocols** means the protocols set out in Appendix I (*Transfer and Discharge from Care Protocols*)

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

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

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

**Variation Notice** means a notice to vary a provision or part of a provision of this Contract issued under clause B22.2 (*Variations*).

**SECTION C: SPECIAL TERMS AND CONDITIONS**

**N/A**