



Walsall Council

Invitation To Tender

For three services for disabled children;

Service 1 'Buddy Service'

Service 2 'Activity with Care Support'

Service 3 'Care in Childs home'

Ref: ITT AH181209

TENDER FOR:

Aiming High for Disabled Children and Children's Care Services

Service 1 'Buddy Service'

Service 2 'Activity with Care Support'

Service 3 'Care in Childs home'

CONTRACT DURATION PERIOD:

1 April 2010 – 31 March 2011

with the Option to Extend in yearly increments up to 31 March 2013

TENDER RETURN:

12.00 noon on 21 January 2010 for Services 1 and 2

12:00 noon on 4 February 2010 for Service 3

Name of Tenderer:

Address:

(To be completed by the Tenderer)

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SECTION 1 – INSTRUCTION AND GUIDANCE

1.1 Introduction

- 1.1.1 Previously this tender had been referred to as 4 lots. For clarification Lot 1 is Service 1, Lot 2 is Service 2, Lot 3 has been incorporated into Service 2 and Lot 4 is Service 3.
- 1.1.2 The Procuring Authority Walsall Council wishes to thank you for the interest which you continue to show in this project. It is aware that any submission is “resource hungry” and intends to make the process no more resource hungry than it has to be for Services of this magnitude and importance.
- 1.1.2 Whilst the Authority makes no general representation or warranty, expressed or implied, in relation to the accuracy or completeness of any of the information contained in the Invitation to tender document, it is provided in the belief that it is accurate to the best of the Authority’s knowledge.
- 1.1.3 This Invitation to Tender (ITT) has been prepared by the Authority in relation to the Aiming High for Disabled Children and Walsall Children's Services invites potential Service Providers to submit their responses to this ITT.
- 1.1.4 Tenderer’s are free to submit tenders for one or more of the Services available.
- 1.1.5 Tenderers of multiple Services must take into account the different deadlines for Tender Submission relating to Service 1 and 2 and for Service 3. Tenderers of multiple Services which include Service 3 may refer to their tender submission for Service 1 and 2 in their tender submission for Service 3 rather than duplicate the entire tender.

1.2 Structure of the Invitation to Tender Document (ITT)

- 1.2.1 A table of contents is set out at the beginning of this document which comprises eight sections and appendices. Tenderers should ensure that they are fully conversant with document before completing their bid.

Section 1 – Instruction and Guidance

This section provides instructions, guidance and details as to the structure of the document generally and specifically the eight sections. It also contains other back ground information.

Section 2 – Terms and Conditions

The purpose of this section is to provide the potential Providers with details of the terms and conditions of the contract and includes Schedule 1 - Service Delivery Specifications, Schedule 2 - Extension of the Term, Schedule 3 - Authorised Representatives and Key

Personnel, Schedule 4 - TUPE, Schedule 5 - Health and Safety and Schedule 6 - Service Provider's Schedule of Prices.

Section 3 – Key Performance Indicators

This section includes service performance information data that links to the required key outcomes.

Section 4 – Transfer of Undertaking (Protection of Employment) TUPE

This section considers some the TUPE implications relating to Service3 of the tender, extracts from the ITT will be included within the Agreement through a series of schedules attached to the Agreement.

Section 5 – Qualification Questionnaire

This requires information from the provider on a range of key aspects of the performance of the contract

Section 6 – Evaluation Process and Award Criteria

This section explains how the tender and proposals are to be evaluated on the basis of price and quality.

Section 7 – Pricing Schedules

This section is to be completed by the Tenderers and contains separate Pricing Tables relating to the different Services segmentations.

Section 8 - Tender Response Document and Declarations

This section contains the tender response document which acts as a check list and clarifies explicitly what is to be returned and in which order. It also contains the declarations around the qualification questionnaire, tender and anti collusion which must be signed and returned to the Authority.

Annex A – Service scenarios

For use in the tender submission quality criteria

1.3 Invitation To Tender (ITT)

- 1.3.1 After the initial 12 month period, the Agreement will be subject to review and may result in a possible further extension at the end of the period subject to the agreement of all Parties.

1.3.2 Tenders are invited for the provision of the Service as specified in this document for a maximum of a thirty six month period from the 1st April 2010 to 31st March 2013.

1.3.3 This is a Framework Agreement for Part B services and as such the Council does not guarantee that the Service Provider will receive any order.

1.4 Submission of Tender

1.4.1 Tenders for Service1 and/or 2 should be returned no later than **12:00 hours (Noon) on Thursday 21 January 2010**.

1.4.2 Tenders for Service 3 should be returned no later than **12:00 hours (Noon) on Thursday 4 February 2010**.

Additional time has been permitted to Tenderers of Service 3 to take into consideration the TUPE implications as explained with Section 5.

1.4.3 The tender documents duly completed must be returned in suitable packaging which shall be securely sealed. The return label below or an accurate replicate must be affixed to the front of the package/envelope and must bear no name or mark revealing or likely to reveal the identity of the sender (such marks include identification through postal franking or details revealed through express carriers or "Datapost" etc).

IMPORTANT NOTE: Failure to comply with the above may invalidate your tender submission.

RETURN LABEL - For Tenders for Service 1 and/or 2

TENDER DOCUMENT ENCLOSED

PORTFOLIO HOLDER: Councillor Rachel Walker

TENDER TITLE: Aiming High for Disabled Children and Children's Care Services

SERVICE NUMBERS: 1 (one) and/or 2 (two)

TO BE RETURNED NO LATER THAN 12:00 NOON 21/01/2010

Documents for the Attention of:

The Monitoring Officer
C/O Steve Phipps
Head of Business Support
Walsall Metropolitan Borough Council
Civic Centre
Darwall Street
Walsall
WS1 1TP

RETURN LABEL - For Tenders for Service 3 (below)

TENDER DOCUMENT ENCLOSED

PORTFOLIO HOLDER: Councillor Rachel Walker

TENDER TITLE: Aiming High for Disabled Children and Children's Care Services

SERVICE NUMBER: 3 (three)

TO BE RETURNED NO LATER THAN 12:00 NOON 04/02/2010

Documents for the Attention of:

The Monitoring Officer
C/O Steve Phipps
Head of Business Support
Walsall Metropolitan Borough Council
Civic Centre
Darwall Street
Walsall
WS1 1TP

1.4.4 A receipt will be issued for hand delivered Tender documents complying with the above delivered between 09:00 hours and 17:00 hours, Monday to Friday (excluding public holidays).

1.4.5 The Authority reserves the right to reject Bids delivered after the closing date, to the incorrect address or in the incorrect format.

1.4.6 Tenders may be submitted for all or any of the Services categories with Section 3 and Section 6 but only where the categories are consistent with the Providers Registration by the appropriate regulatory and/or inspection body.

1.5 Correspondence and Queries

1.5.1 It is the responsibility of all Tenderers to thoroughly read and understand all aspects of this ITT, and to raise any queries or to highlight any apparent inconsistencies within the ITT, in a timely manner, and no later than one week prior to the submission date. The risk of submitting poor or inappropriate Bids due to a misunderstanding of the ITT rests with Tenderers.

1.5.2 Email correspondence should be sent to: procurement@walsall.gov.uk for the attention of Ashley Murtagh (Contracts Officer).

1.5.3 All other written correspondence should be addressed to: Ashley Murtagh, Procurement Room 17a, Walsall Metropolitan Borough Council, Civic Centre, Darwall Street, Walsall WS1 1TP. Fax: 01922 653534.

1.5.4 All enquiries should initially be in writing.

1.5.5 Tenderers shall not make any changes to the document as issued by the Authority.

1.6 Acceptance of Tenders

1.6.1 The Authority does not bind itself to accept any Tender and reserves the right to accept a Tender either in whole or in part, or enter into post tender negotiations for such service specified in the Invitation to Tender.

1.6.2 In no circumstances is the Authority liable for any expenses incurred by Tenderers in relation to this procurement. In the event that the Authority withdraws from or cancels the procurement process, no costs or expenses incurred by any Tenderer will be reimbursed.

1.7 Scope of Requirements

1.7.1 The scope of services are as defined in Section 3.

1.7.2 Variant bids will not be accepted.

1.8 Timetable

1.8.1 Services 1, 2, and 3 are subject to the time table below:

Task	Dates	Number of Days
Tender Period for Services 1 and 2	18/12/09 – 21/01/10	35 days (Inc B/Hols)
Tender Period for Service 3	18/12/09 – 04/02/10	49 days (Inc B/Hols)
Open Tenders For Services 1 and 2	22/01/10	1 day
Evaluate Tenders for Services 1 and 2	25/01/10 – 22/02/10	28 days
Open Tenders For Service 3	05/02/10	1 day
Evaluate Tenders for Service 3	08/02/10 – 08/03/10	28 days
Tender Presentations for Services 1 and 2	23/02/10 – 24/02/10	2 days
Draft Tender Recommendations Services 1 and 2	25/02/10 – 01/03/10	3 days
Recommendations Approval for Services 1 and 2	01/03/10 – 05/03/10	5 days
Standstill Period for Services 1 and 2	08/03/10 – 17/03/10	10 days
Tender Presentations for Service 3	09/03/10 – 10/03/10	2 days
Draft Tender Recommendations Service 3	11/03/10 – 16/03/10	3 days
Recommendations Approval for Service 3	16/03/10 – 22/03/10	5 days
Contract Award Dispatch for Services 1 and 2	18/03/10	1 day
Provider Signing/Contract Return Period Services 1& 2	18/03/10 – 25/03/10	7 days
Standstill Period for Service 3	23/03/10 – 02/04/10	10 days
Contract Sealing for Services 1 and 2	25/03/10 – 31/03/10	5 days
Contract Award Dispatch for Service 3	05/04/10	1 day
Provider Signing/Contract Return Period Service 3	05/04/10 – 12/04/10	7 days
Contract Sealing for Service 3	12/04/10 – 16/04/10	5 days

1.8.2 The anticipated timetable is as detailed however the Authority reserves the right to vary the stages and dates in this timetable. All Tenderers will be notified of any changes.

SECTION 2 – TERMS AND CONDITIONS OF AGREEMENT

DATE _____ **2010**



Walsall Council

WALSALL COUNCIL

-and-

[SERVICE PROVIDER]

FRAMEWORK AGREEMENT

**for the provision of
Service 1 - 'Buddy Service'
Service 2 - 'Activity with Care Support'
Service 3 - 'Care in Child's Home Services'**

**Walsall Council
Civic Centre
Darwall Street
Walsall, WS1 1TP**

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Schedule 1 Service Delivery Specification

Schedule 2 Extension of the Term

Schedule 3 Authorised Representatives and Key Personnel

Schedule 4 TUPE

Schedule 5 Health and Safety

Schedule 6 Service Provider's Schedule of Prices

This Agreement is made on the ***** day of ***** 2010

BETWEEN:

- (1) Walsall Metropolitan Borough Council, of Civic Centre, Darwall Street, Walsall, WS1 1RG (the "Council" which expression shall include its successors in title, transferees and permitted assignees); and
- (2) [*****], a company (registered no. *****), whose [registered office/principal place of business] is at [*****] (the "Service Provider")

Each being a "Party" and together being the "Parties"

WHEREAS:

- (A) The Service Provider has the necessary skill, knowledge and experience to perform the Services.
- (B) In reliance upon the Service Provider's skill, knowledge and experience the Council appoints the Service Provider and the Service Provider agrees to provide the Services in accordance with the terms of this Agreement.

NOW IT IS HEREBY AGREED as follows

1. Definitions and Interpretation

In this Agreement the following words have the following meanings:

- "Agreement" means this agreement between the Council and the Service Provider, including the Schedules, any appendices, invitation to tender and tender response and any other documents expressly incorporated, each as amended from time to time;
- "Agreement Standard" means such standard as complies in each and every respect with all relevant clauses of this Agreement and Specification, and where, and to the extent that no standards are stated in this Agreement, the standard is to be gauged as being to the entire satisfaction of the Council's Authorised Representatives;

“Authorised Representative”	means the people appointed from time to time as representatives for the Council and the Service Provider respectively, the first of whom are set out in Schedule 6;
“Business Day”	means any day that is not a Saturday, Sunday or public holiday in England;
“Commencement Date”	means [] 2010;
“Complaint”	means any complaint whether oral or in writing from any person who is or feels aggrieved from any action or lack of action arising from the Services;
“Confidential Information”	means any information received from the disclosing Party for the purposes of providing or receiving Services or otherwise relating in any way to the business, operations and activities of the disclosing Party that if disclosed in tangible form is marked confidential or if disclosed otherwise is confirmed in writing as being confidential or, whether disclosed in tangible form or otherwise, is manifestly confidential. Confidential Information includes this Agreement and the relationship between the parties;
“Convictions”	means other than in relation to minor road traffic offences, any previous or pending prosecutions, convictions, cautions and binding over orders (including any spent convictions as contemplated by s1 (1) Rehabilitations of Offenders Act 1974 by virtue of the exemptions specified in Part II of Schedule 1 Rehabilitation of Offenders Act 1974 (Exemptions Order) 1975 (SI 1975/1023) or any replacement or amendment of that Order.)
“CRB”	means the Criminal Records Bureau established pursuant to Part V of the Police Act 1997;
“Documentation”	means all reports, documents, correspondence, specifications, papers, data, drawings, designs, inventions, plans, programs and other material (in any format) produced or acquired by the Service Provider for the Authority in connection with the Services;
“Default”	means to commit a breach of this Agreement or any other default, act, omission, negligence or negligent statement of the relevant Party or the Personnel in connection with or in relation to the subject matter of this Agreement and in respect of which such Party is liable to the

other.

“Default Notice” means a written warning notice, given by the Council to the Service Provider if the Services, or any part of the Services, have not been undertaken, provided or carried out to the Council’s reasonable satisfaction or not in accordance with the relevant Specification or any other provision of this Agreement, which sets out in general terms the matter or matters not undertaken, provided or carried out and requiring it or them to be remedied;

"Dispute Resolution Procedure" means the procedure for dispute resolution as set out in clause 27;

“Employment Liabilities” means all actions, proceedings, costs including legal expenses and other professional expenses incurred, losses, damages, fines, penalties, compensation, awards, demands, orders, expenses and liabilities connected with or arising from all and any laws or contractual rights (and for the avoidance of doubt, any collective agreements) relating to or connected with:

(1) the employment and dismissal of employees (including their health and safety at work); and

(2) the engagement, use and termination of individuals (including their health and safety at work);

means the information required by regulation 11 of TUPE;

“Employment Liability Information”

“Employment Costs” means all salaries, wages, commissions, bonuses, all statutory contributions, holiday pay (including payment for accrued but untaken holiday), national insurance contributions, pension contributions made to or on behalf of an employee, taxation (including all income tax deductible under PAYE) and all other employment costs of the Service Provision Employees;

“Equipment” means all articles, apparatus or utensils identified within the services equipment inventory, or any other article, apparatus or utensil required for the provision of the Service to the satisfaction of the Service Provider’s Authorised Representative;

“Fees”	means the fees payable by the Council in accordance with the Service Provider’s Schedule of Prices as set out at Schedule 6
“Further Transfer Date”	means the date on which the Services (or any part of them) cease to be provided by the Service Provider and are performed by the Council and/or any Future Service Provider;
“Future Service Provider”	has the meaning given to it in paragraph 3 of Schedule 7;
“Intellectual Property”	means patents, trade marks, trade names, logos, goodwill, domain names, design names, design rights, copyyearight, database rights, moral rights or related rights, topography rights, all whether registered or not, trade secrets, know how, lists, Council and other confidential and proprietary information, and other intellectual property rights current, future or contingent together with any applications for such rights that may exist anywhere in the world whether in any such case, owned or used under licence;
“ISA”	means the Independent Safeguarding Authority established pursuant to the Safeguarding Vulnerable Groups Act 2006
“Key Personnel”	means the personnel of the Parties identified in Schedule 3;
“Legislation”	means in relation to the United Kingdom: <ul style="list-style-type: none"> (a) Any act of Parliament; (b) Any subordinate Legislation within the meaning of Section 21(1) Interpretation Act 1978; (c) any exercise of the Royal Prerogative; and (d) any enforceable community right within the meaning of Section 2 European Communities Act 1972.
“Loss”	includes losses, liabilities, claims, costs, charges and outgoings of every description (including legal expenses assessed on a solicitor and own client basis), compensation payable under agreements with suppliers and/or Councils, loss of normal operating profits, loss of opportunity, loss of goodwill, loss of revenue from related agreements and pure economic loss;
“Order”	means an order for Services to be provided in accordance with the Specification.

“Party”	the Council, or the Service Provider, and “parties” shall be construed accordingly;
“Persistent Breach”	<p>means a breach in respect of which the Council has:</p> <ul style="list-style-type: none"> (i) served on the Service Provider 3 or more Default Notices within one calendar month, or (ii) served on the Service Provider 3 or more Default Notices in any 12 calendar month period, <p>whether or not, in either case, any such breach was originally waived</p>
“Personnel”	shall include the relevant party’s employees, suppliers, contractors, officers and agents, including students on work experience, and volunteers who, in each case, are from time to time engaged or employed in connection with the Services;
“Prohibited Act”	<p>means offering, giving or agreeing to give any servant of the Council any gift or consideration of any kind as an inducement or reward:</p> <ul style="list-style-type: none"> (a) for doing or not doing (or having done or not done) any act in relation to obtaining or performance of this Agreement or any other agreement with the Council; or (b) for showing favour or disfavour to any person in relation to this Agreement or other agreement with the Council; <p>Committing any offence:</p> <ul style="list-style-type: none"> (a) under the Prevention of Corruption Acts 1889-1916; (b) under legislation creating offences in respect of fraudulent acts; (c) at common law in respect of fraudulent acts in relation to this Agreement or any other agreement with the Council; or <p>Defrauding or attempting to defraud or conspiring to defraud the Council</p>
“Quality Standard”	means any quality standard published by the British Standards Institute, the International Organisation for Standardisation or any

	other equivalent body, with which a skilled and experienced service provider engaged in the same type of industry or business as the Service Provider would reasonably and ordinarily be expected to comply, as supplemented by the Specification;
Regulatory Body	means the Care Quality Commission and any of its successors in title;
“Relevant Transfer”	means a transfer pursuant to this Agreement to which TUPE applies;
“Retail Price Index”	means the index published in Table 5 of Business Monitor (MM23) published by the Office for National Statistics or failing such publication or in the event of a fundamental change to the Retail Price Index, such other index as the Parties may agree, or such adjustments to the Retail Price Index as the Parties may agree (in each case with the intention of putting the Parties in no better nor worse position than they would have been had the Retail Price Index not ceased to be published or the relevant fundamental change not been made) or, in the event that no such agreement is reached, as may be determined in accordance with clause 27 (Dispute Resolution Procedure);
“R.I.D.D.O.R”	means the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations;
“Service Provision Employees”	means any Personnel who are assigned to the Services immediately before the Further Transfer Date whose employment contract will transfer to either the Council or a Future Service Provider pursuant to TUPE with effect from the Further Transfer Date;
“Services”	means the services to be delivered in accordance with the Specification as set out in Schedule 1;
“Service User”	means the person identified by the Council to receive Services from the Service Provider;
“Specification”	means the specification for and description of the Services as set out in Schedule 1;
“Staff Vetting Procedures”	means the Council’s procedures for the vetting of personnel and as advised to the Service Provider by the Council;
“Sub-Contractor ”	means any business that the Service Provider has entered into an agreement with in relation to the provision or operation of all or any of the Services;

“Term”	the duration of this Agreement set out in clause 3;
“Transfer Date”	means the Commencement Date;
“Transferor”	means the service provider providing all or part of the Services immediately prior to the Commencement Date and who employs the Transferring Employees;
“Transferring Employees”	means the employees of the Transferor listed in Schedule 7 (if any) or any replacements for such employees;
“TUPE”	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 and the EU Directive 2003/23;
“Valid Invoice”	means the invoice matches the Order placed and the Services as specified in the Order, which meets the requirements of the Council and the requirements of Her Majesty’s Revenue and Customs for VAT purposes;
“VAT”	means Value Added Tax;
“Working Hours”	means the hours within which the Services are to be provided as set out in Schedule 1.

1.1 In this Agreement:

- 1.1.1 clause headings are for convenience and do not affect this Agreement’s interpretation;
- 1.1.2 references to schedules and appendices are to schedules to and appendices of this Agreement;
- 1.1.3 the words "subsidiary" and "holding company" have the meanings given to them by section 736 of the Companies Act 1985;
- 1.1.4 any reference to a statute, statutory provision or subordinate legislation shall be construed as referring to:
 - 1.1.4.1 such legislation as amended and in force from time to time and to any legislation that (either with or without modification) re-enacts, consolidates or enacts in rewritten form any such legislation; and
 - 1.1.4.2 any subordinate legislation made under the same before (but not after) the date of this Agreement;

- 1.1.5 reference to a date that is not a Business Day shall be treated as a reference to the next Business Day;
- 1.1.6 references to “include” and “including” are to be construed without limitation.
- 1.1.7 references to words in the masculine gender shall include the feminine, and those in the singular shall include the plural and vice versa.
- 1.1.8 In the event of any conflict between the provisions of this Agreement and the other parts of this Agreement including Schedules, invitation to tender, tender response and any other documents expressly incorporated in the Agreement shall be interpreted so that the provisions of the following parts shall take precedence in the following order:
 - 1.1.8.1 These terms and conditions; then
 - 1.1.8.2 The Schedules; then
 - 1.1.8.3 Any other document expressly incorporated; then
 - 1.1.8.4 Any supplementary information issued to the Tenderers following the invitation to tender; then
 - 1.4.5 Invitation to tender; then
 - 1.4.6 Tender response.
- 1.1.9 Except as otherwise expressly provided, all elements of this Agreement are to be taken as mutually explanatory of one another. Any ambiguities or discrepancies shall be referred in the first instance to the Authorised Representative of the Council who shall thereupon issue to the Service Provider an explanation together with any appropriate instructions, which the Service Provider shall carry out and be bound by.

2. Scope of Services

- 2.1 The Council appoints the Service Provider to provide the Services.
- 2.2 Upon acceptance of any Order, the Service Provider shall provide the Services in accordance with the terms of this Agreement and the Specification, all applicable Legislation, European laws and regulations, all applicable guidance and Quality Standards, all applicable Regulatory Bodies and in accordance with any reasonable instructions given by the Council from time to time under the terms of this Agreement.

- 2.3 The Council may at any time during the Term issue an Order to the Service Provider for the provision of the Services.
- 2.4 The Service Provider shall have the right to either accept or reject the Order issued by the Council.
- 2.5 Nothing in this Agreement gives the Service Provider a right to receive any Order and therefore the Council does not guarantee the level of Services it may require from the Service Provider and makes no representation or warranties that any Order undertaken by the Service Provider at the Council's request shall continue to be undertaken by the Service Provider for the Term of this Agreement.
- 2.6 Nothing in this Agreement shall prevent the Council procuring similar Services from other sources.

3. Performance of the Services

- 3.1 Subject to the terms of clause 23, and unless otherwise expressly provided for to the contrary in Schedule 2, this Agreement shall commence on the Commencement Date, and continue for a period of one (1) year when it will terminate automatically.
- 3.2 Three months prior to automatic termination, this Agreement may be extended by the Council giving written notice to the Service Provider in accordance with the terms of Schedule 2.
- 3.3 The Service Provider shall provide at its own expense all Personnel, equipment, tools, appliances, materials or items required for the provision of the Services.
- 3.4 If the Specification provides for performance of the Services in stages, the Service Provider undertakes to perform the Services in strict compliance with the timetable and to the appropriate standard for stages as provided for in the Specification.
- 3.5 The Parties will co-operate with each other in good faith and will take all reasonable action necessary for the efficient transmission of information and instructions and to enable the Council to derive the full benefit of this Agreement.
- 3.6 The Service Provider shall provide any information in a format, medium at times specified by the Council related to the performance of the Services as may be reasonably required.
- 3.7 In providing the Services, the Service Provider shall use good industry practice to ensure that any computer systems and/or related hardware and/or software it uses are free from

corrupt data, viruses, worms and any other computer programs which might cause harm or disruption to the Council's computer systems.

4. Service Provider's Obligations

- 4.1 The Service Provider shall collaborate and assist in a productive and positive manner, where requested to do so, with the Council to develop and improve the Services;
- 4.2 The Service Provider shall ensure that its Personnel carry out their duties and behave in a professional, quiet and orderly manner, having regard to the nature of the duties being performed by them;
- 4.3 The Service Provider shall employ sufficient Personnel to ensure that the Services are provided in accordance with the Specification. Without prejudice to the generality of this obligation, it shall be the duty of the Service Provider to ensure that sufficient Personnel are available to provide the Services to the requisite standard during any breaks for holidays or absence through sickness or voluntary absence;
- 4.4 The Service Provider shall be deemed to have fully acquainted himself with all conditions likely to affect the provision of the Service prior to delivery of the Service.
- 4.5 To minimise disruption to the Services, no more than three calendar months prior to any termination date, or any revised termination date following an extension of the Term in accordance with Schedule 2, the Service Provider and the Council shall make arrangements for the Services to be decommissioned, or, if required, handed over to a Future Service Provider. The Service Provider shall be responsible for any decommissioning or transfer costs required to maintain the Service until termination.

5. Payment

- 5.1 The Council agrees to pay the Fees to the Service Provider in accordance with the provisions of this clause. If Schedule 6 is not completed the parties shall refer to the Fees contained in the Service Provider's tender submission and apply the Fees set out therein to the provision of the Services,
- 5.2 Any Fees due and payable to the Service Provider which are undisputed shall be paid by the Council within thirty (30) Business Days of receipt by the Council of a Valid Invoice from the Service Provider at the address set out in Schedule 3. Such Valid Invoices are to be submitted on a quarterly basis and broken down to show the Fees breakdown as per the supplied quarterly monitoring claim forms. Any disputed payments will require agreement from the Council and the thirty (30) Business Day period will not apply. If an

agreement can not be reached the matter will be referred to the Dispute Resolution Procedure.

- 5.3 The Council shall be entitled at any time to set off any liability of the Service Provider to the Council against any liability of the Council to the Service Provider (whether that liability is present or future, liquidated or unliquidated and irrespective of currency). Any exercise of the Council's rights under this clause is without prejudice to other rights or remedies available to the Council under this Agreement or otherwise.
- 5.4 Payment by the Council of all or any part of any invoice is without prejudice to any rights or remedies that the Council may otherwise have against the Service Provider and does not constitute any acceptance by the Council as to the performance by the Service Provider of all, or any part of its obligations.
- 5.5 The Service Provider will keep accurate books and records in relation to the provision of the Services in accordance with sound and prudent financial management. All such books and records shall be made available to the Council or any person, firm or organisation authorised by the Council for examination and/or audit at regular intervals of not less than quarterly. The Service Provider shall assist the Council or any party authorised by the Council (as the case may be) in the conduct of any examination and/or audit.

6. Key Personnel and Personnel

- 6.1 The Service Provider acknowledges that performance of the Services will require Personnel to work with vulnerable Service Users, children or such other members of the public towards whom the Council owes a special duty of care. The Service Provider shall comply with all Staff Vetting Procedures and the Walsall Safeguarding Children Board policies and procedure in respect of all Personnel engaged in the provision of the Services. The Service Provider confirms that all persons engaged or employed by the Service Provider were vetted and recruited on a basis that is equivalent to and no less strict than the Staff Vetting Procedures.
- 6.2 All Personnel engaged by the Service Provider in providing the Services shall be suitably skilled, qualified and experienced and entitled to be engaged by the Service Provider. The Service Provider will be responsible for all costs (including the cost of training any replacement Personnel) incurred in connection with any replacement of its Personnel providing the Services. On request the Service Provider will supply the Council with a list of Personnel utilised or proposed to be utilised in the provision of the Services.

- 6.3 The Service Provider shall ensure that all Personnel have undergone an enhanced CRB check within the last three years and that such checks of the most extensive available kind are repeated every three years in respect of all Personnel performing the Services under this Agreement. The Service Provider shall ensure that no Personnel shall provide the Services and be in contact with vulnerable Service Users, children or such other members of the public towards whom the Council owes a special duty of care until such enhanced CRB check has been attained and is appropriately clear.
- 6.4 To the extent that an enhanced CRB check is not appropriately clear the Service Provider shall inform the Council of the contents of the enhanced CRB check and that person shall not deliver any Services unless the Service Provider has obtained written approval from the Council that the person may do so.
- 6.5 To the extent that an enhanced CRB check reveals that a Personnel member has any Convictions, the Service Provider shall ensure that such Personnel are questioned immediately prior to the commencement of their employment in relation to their Convictions and are questioned during the term of their employment concerning any Convictions which arise during the term of their employment and they shall notify the Council of any such instances and that person shall not deliver any Services unless the Service Provider has obtained written approval from the Council that the person may do so.
- 6.6 The Service Provider shall inform the Council immediately should it have any suspicion or learn any relevant information that would reasonably induce suspicion that a member of Personnel may be unsuitable to hold that position, may be a danger to vulnerable Service Users, children or such other members of the public towards whom the Council owes a special duty of care or may be considered by the Council to be such a danger and they shall suspend such person immediately.
- 6.7 The Service Provider will remove and/or replace at the Council's request any of the Service Provider's Personnel performing the Service if the Council reasonably believes that individual is not qualified to perform the Services, has behaved in an inappropriate fashion, or as a result of the enhanced CRB check.
- 6.8 Any member of Personnel removed shall be replaced promptly with a properly qualified replacement, in such time as is acceptable to the Authorised Representative of the Council and at no extra cost to the Council. The Council shall in no circumstances be liable to the Service Provider in respect of any such removal or ensuing disciplinary action and the Service Providers shall fully and promptly indemnify the Council against any claim made by such Personnel.

- 6.9 Any change of Key Personnel is subject to the Council's prior written approval.
- 6.10 Any notice, information, instruction or other communication given or made to the Service Provider's Authorised Representative or any Key Personnel shall be deemed to have been given or made to the Service Provider.
- 6.11 The Service Provider shall ensure that the Service Provider's Authorised Representative or one of the Key Personnel is available to the Council at all times when any Personnel are on duty for the provision of the specified Services.
- 6.12 The Service Provider and Service Provider's Personnel performing the Services will comply with all personnel, and conduct policies of the Council that are communicated to it. The Service Provider will ensure that its Personnel carry out their duties ethically, correctly and behave in an appropriate manner while delivering the Services.
- 6.13 The Service Provider acknowledges and agrees that with effect from July 2010 the ISA will impose new obligations upon the Service Provider in accordance with the Safeguarding Vulnerable Groups Act 2006 ("the 2006 Act"). The Service Provider shall be required to comply with all legislation, directions, guidance and best practice issued by the ISA or instructions provided by the Council in relation to compliance with the 2006 Act.

7. Warranties and Indemnities

- 7.1 The Service Provider warrants, represents to and undertakes with the Council, on a continuing basis that:
- 7.1.1 it shall provide the Services in a competent, effective and safe manner to the satisfaction of the Council, in accordance with this Agreement, and in compliance with all applicable Legislation, Regulatory Body guidance, regulations and similar instruments;
- 7.1.2 it shall provide the Services to a reasonable standard of care, which shall include, without limitation, a duty to act with utmost good faith and diligence with respect to its obligations under this Agreement and in accordance with Quality Standards;
- 7.1.3 it has and will during the continuance of this Agreement and for six (6) years following its termination or expiry, maintain public liability insurance of up to ten (£10) million pounds (in respect of a single claim); employers' liability insurance covering all relevant Personnel, professional indemnity minimum of two (£2) million pounds and where appropriate road risks insurance and any other insurances as may be required by law, all

- to be taken out with a reputable insurer. The Service Provider shall provide evidence of such insurances as the Council may reasonably request from time to time;
- 7.1.4 any vehicle used by the Service Provider and Personnel in connection with the Services will be appropriately insured. Any driver of such vehicle/s shall hold appropriate motoring insurance and a driving licence, which the Council will be entitled to inspect from time to time.
- 7.1.5 it shall comply with the reasonable instructions of the Council where these have been notified to them;
- 7.1.6 all information, representations and matters of fact made to the Council in connection with the Service Provider's bid were at the time they were made and remain, true, complete and accurate in all respects
- 7.1.7 it has full capacity and authority and all necessary consents to enter into and perform its obligations under this Agreement and the Agreement is executed by a duly authorised representative of the Service Provider;
- 7.1.8 in entering into this Agreement it has not committed any fraud;
- 7.1.9 all information, representation and matters of fact made to the Council in connection with the tender response were at the time they were made and continue to remain true, complete and accurate in all respects and are not misleading.
- 7.10 no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform its obligations under this Agreement.
- 7.11 all members of staff who are or may be involved with the delivery of the Services pursuant to this Agreement and who have or may have unsupervised contact with Service Users have undergone and obtained prior to the Commencement Date a clear enhanced CRB check and satisfied the requirements of Clause 6 of this Agreement.
- 7.2 The Service Provider will indemnify on demand and keep indemnified the Council from and against all Loss including all indirect losses arising out of or in connection with:
- 7.2.1 its breach of any of the warranties it gives under this Agreement;

- 7.2.2 any action or demand of any third party against the Council arising out of any breach or negligence or other default by the Service Provider of, or in connection with, this Agreement;
 - 7.2.3 any wilful default by the Service Provider in respect of its obligations under this Agreement; and
 - 7.2.4 any acts or omissions of the employees, agents or other personnel employed by the Service Provider outside the course of their employment.
- 7.3 If any third party makes a claim against, or notifies an intention to make a claim against the Council that may reasonably be considered to give rise to a liability under the indemnity in clause 7.2, the Council will:
- 7.3.1 give the Service Provider written notice of the matter as soon as reasonably practicable, and tell the Service Provider the nature of the claim in reasonable detail; and
 - 7.3.2 not make any admission of liability, agreement or compromise in relation to the claim without the Service Provider's written consent which will not be unreasonably withheld or delayed.

8. Change to Services

- 8.1 The Council may at any time request changes to the Services including changes in the Specification and/or any Orders issued to the Service Provider pursuant to the terms of this Agreement as it deems necessary and shall endeavour to provide written notice of such variation to the Service Provider at the earliest opportunity.
- 8.2 In the event of the changes issued in accordance with Clause 8.1 above not being agreed to by the Service Provider the Council may terminate this Agreement with immediate effect or terminate the Services or part of the Services or the individual Order subject to the variation with immediate effect.
- 8.3 Where the Council makes any change to the Services or part of the Services it can seek quotations for the revised Services from other Service Providers participating in the Agreement to ensure that it is receiving Best Value.
- 8.4 Save as provided for in clause 8.1 above, no variation to this Agreement shall be effective unless made in writing and signed by both Parties' Authorised Representatives

9. Time of the essence

9.1 Except as regards payment of sums due, time is of the essence in this Agreement, both as regards times, dates and periods specified in the Agreement and as to any times, dates or periods that may by agreement between the Parties be substituted for any of them. This shall include delivering the service as specified by all orders for service.

10. Environmental Considerations

10.1 The Service Provider shall comply in all material respects with applicable environmental laws and regulations in force from time to time in relation to the Service. Where the provisions of any such legislation are implemented by the use of voluntary agreements or codes of practice, the Service Provider shall comply with such agreements or codes of practices as if they were incorporated into English law subject to those voluntary agreements being cited in the tender documentation.

10.2 The Service Provider shall meet all reasonable requests by the Council for information evidencing the Service Provider's compliance with the provisions of this clause.

10.3 The Service Provider must perform this Agreement in accordance with the Environmental Act 1990.

11. TUPE

11.1 The Parties hereby acknowledge and agree that the provisions in Schedule 4, if applicable, shall have effect.

12. Confidentiality

12.1 None of the Parties will disclose Confidential Information of the other Parties to any third party without the prior written consent of the disclosing Party. Each Party agrees that any Confidential Information received from the other Party shall only be used for the purposes of providing or receiving Services under this Agreement. These restrictions will not apply to any information that:

12.1.1 is or becomes generally available to the public other than as a result of a breach of an obligation under clause 12.1;

12.1.2 is acquired from a third party who owes no obligation of confidence in respect of the information; or

- 12.1.3 is or has been independently developed by the recipient or was known to it prior to receipt.
- 12.2 Notwithstanding clause 12.1, each Party will be entitled to disclose Confidential Information of the other;
- (i) to their legal advisers (for the purposes of any actual or threatened dispute between the Parties), and
 - (ii) to a third party to the extent that this is required, by any court of competent jurisdiction, or by a governmental or regulatory authority or a professional body of which the Party wishing to make the disclosure or its Personnel are members, and which is relevant to the Services, and
 - (iii) where there is a legal right, duty or requirement to disclose, provided that (and without breaching any legal or regulatory requirement) where reasonably practicable, written notice is given to the other Party as soon as practicable.
- 12.3 Notwithstanding clause 12.1 above, the Service Provider may disclose Confidential Information to its Personnel and approved Sub-Contractors on a need to know basis for use for the purpose of providing the Services subject to
- (i) the Service Provider ensuring that such persons are advised of the confidential nature of the information and are bound by appropriate obligations of confidentiality before such disclosure is made; and
 - (ii) (ii) the Service Provider being primarily liable for any breach of confidentiality by any such Personnel or Sub-Contractors.
- 12.4 Notwithstanding clause 12.1 above, the Council may disclose any information referred to in clause 12.1 to:
- 12.4.1 its Personnel, approved Sub-Contractors or any other entity that is otherwise associated or connected with or within (or associated or connected with an entity within) or a correspondent entity of the Council; and
 - 12.4.2 to such person(s) as may be notified to the Service Provider in writing by the Council from time to time to the extent only as is necessary for the purposes of auditing and collating information so as to ascertain a realistic market price for the Services supplied in accordance with the Agreement, such exercise being commonly referred to as "benchmarking" (as described in the invitation to tender), provided that the Council shall use all reasonable endeavours to

ensure that such person(s) keeps the Confidential Information confidential and does not make use of the Confidential Information except for the purpose for which the disclosure is made.

13. Announcements

13.1 Unless required by law or by any government or regulatory authority, the Service Provider shall not make any announcement relating to this Agreement or its subject matter or their appointment hereunder without the prior written approval of the Council which it may grant or withhold at its sole discretion nor will either Party advertise its relationship with the other except with the other's prior written consent. Where required by the Council to display the trademark of the Council, the Service Provider will be required to obtain the exact dimension and colour and other conditions of licence for display purposes from the Council.

14. Data Protection

14.1 The Service Provider shall, at all times during and following the ending of this Agreement:

14.1.1 comply with all relevant obligations of the Data Protection Act 1998 (the "1998 Act") and any other applicable data protection and privacy legislation;

14.1.2 only process the Council's Personal Data (as defined in the 1998 Act) as directed by the Council and in accordance with the terms of this Agreement;

14.1.3 maintain at least the level of security and safeguards needed to comply with the data protection principles set out in the relevant legislation, and in particular take appropriate technical and organisational measures against unauthorised and unlawful processing of Council's Personal Data and against accidental loss or destruction or, damage to, the Council's Personal Data;

14.1.4 permit only those of its Personnel or Sub-Contractors that it reasonably believes are reliable and need to do so to have access to any of the Council's Personal Data, such access being for the purposes of the Agreement only; and

14.1.5 not transfer or make available any of the Council's Personal Data outside the United Kingdom without the Council's prior written consent, which the Council may give or withhold at its absolute discretion.

14.2 Both parties agree to use all reasonable efforts to assist each other to comply with the 1998 Act. For the avoidance of doubt, this includes the Service Provider providing the Council with reasonable assistance in complying with subject access requests served on the Council under Section 7 of the 1998 Act and the Service Provider consulting with the Council prior to the disclosure by the Service Provider of any Personal Data in relation to such requests.

15. Freedom of Information Act 2000

15.1 Each Party acknowledges that the other may be subject to the requirements of the Freedom of Information Act 2000 ("FOIA") and the Environment Information Regulations 2004 and where any such Party (the "Recipient") receives a request for information that falls under such legislation and is related to this Agreement the other Party shall offer reasonable assistance and cooperation with the Recipient (at the Recipient's expense) to enable the Recipient to comply with its obligations.

15.2 The Recipient shall be responsible for determining whether the information requested is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations 2004, taking into account any representations of any other Party to this Agreement who may be prejudiced by such disclosure (an "Affected Person"). In making such determination the Recipient shall notify any Affected Person that it has received a request for information falling under the FOIA or the Environmental Information Regulations 2004 as soon as reasonably practicable and, in any event, within 5 Business Days of receiving the request.

15.3 The Service Provider as Recipient shall contact the Council and take account of its views on whether any requested information is exempt from disclosure under the FOIA or the Environmental Information Regulations. The Council as Recipient shall contact the Service Provider where necessary and practical.

15.4 As regards any request for information that falls under the FOIA, the Parties' charging rates to each other for responding to such a request and for providing assistance in responding to a request shall be no more than the rates set out in Regulation 4 of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 as may be amended from time to time.

16. Review

16.1 If requested by the Council, the Service Provider shall attend review meetings ("a Review") to discuss the Council's levels of satisfaction in respect of the Services provided under this Agreement and to agree any necessary action to address areas of

dissatisfaction. The Service Provider will not obstruct or withhold its agreement to any such necessary action. Such Reviews shall be attended by duly authorised and sufficiently senior staff of both the Council and Service Provider (including the Key Personnel) together with any other relevant attendees. The Parties shall agree a standing agenda in advance of such Reviews, to include (without limitation) the items referred to in the Specification, and any reports required under this Agreement, or specifically requested by the Council, will be produced by the Service Provider prior to such Reviews.

17. Electronic Communications and Information

- 17.1 The Parties may wish to communicate electronically with each other. Unless the Service Provider notifies the Council otherwise, the Council may communicate with it electronically including by electronic mail (email) and facsimile transmission (fax). Electronic transmission of information cannot be guaranteed to be secure or virus or error free and such information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete or otherwise be adversely affected or unsafe to use. Each Party recognises that systems and procedures cannot be a guarantee that transmissions will be unaffected by such hazards, and both Parties accept the risks of, and authorise, electronic communications between them.
- 17.2 Each Party agrees to use appropriate methods to check for the most commonly known viruses before sending information electronically and to take responsibility for ensuring that an electronic communication is not misaddressed. Each Party is responsible for protecting its own systems in relation to electronic communications.
- 17.3 Each Party shall ensure that it makes daily back-ups of information relevant to the Services and its provision and stores those back-ups in a secure fashion.

18. Entire agreement

- 18.1 This Agreement constitutes the entire agreement between the Council and the Service Provider relating to the Services. It replaces and supersedes all previous communications, representations and agreements between the Parties (except for any fraudulent pre-contractual misrepresentations made by a Party upon which the other Party can be shown to have relied)

19. Agency

- 19.1 The Service Provider is an independent service provider and neither Party is an agent or partner of the other.

20. Force Majeure

- 20.1 Provided it complies with this Agreement, a Party shall not be liable to the other for failure to perform its obligations under this Agreement if that failure is caused by events beyond its reasonable control ("Force Majeure"). These events are fire, flood war, civil war, armed conflict or terrorist attack, nuclear, chemical or biological contamination. The other Party shall be relieved of any obligation to make payment in respect of the affected Services.
- 20.2 If a Party is prevented or delayed in performing any of its obligations under this Agreement by Force Majeure, it shall promptly tell the other in writing setting out the nature of the circumstances and its actions to mitigate its effect. The notifying Party must take all reasonable steps to avoid or minimise its failure caused by such prevention or delay.
- 20.3 If a Party is prevented from performing its obligations for thirty (30) days or more, the other Party may immediately end this Agreement by giving written notice.

21. Severance

- 21.1 If any provision of this Agreement is found by any competent court or administrative body to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Agreement which shall remain in full force and effect.

22. Notices

- 22.1 Any notice given under this Agreement must be in writing and signed by or on behalf of the Party giving it and sent to the other Party's Authorised Representative. Notices must be served by personal delivery or by sending it by first class mail or registered post (or registered airmail in the case of an address for service outside the United Kingdom) to the address set out set out at the head of this Agreement (or as afterwards notified by that Party) or by fax to the number set out in Schedule 3. Any notice shall be deemed to have been received:

22.1.1 if delivered personally, at the time of delivery;

22.1.2 if sent first class or registered post, two (2) Business Days from the date of posting;

22.1.3 if sent by registered airmail, five (5) Business Days from the date of posting;
and;

- 22.1.4 if sent by fax, at the time of transmission, but if deemed receipt occurs after 5.00 p.m. on a Business Day, or at any time during a day that is not a Business Day, the notice shall then be deemed received at 9.00 a.m. on the next Business Day.
- 22.2 In proving service it shall be sufficient to prove delivery to show that the envelope containing the notice was addressed to the address of the relevant Party set out at the head of this Agreement (or as notified by that Party) and delivered either to that address or into the custody of the postal authorities as a pre-paid first class, registered post or where the notice was transmitted by fax that the sender's facsimile machine produced confirmation of error-free transmission to the correct fax number of the relevant Party.
- 22.3 Notices (including accompanying papers) given under or in connection with this Agreement shall be in English.
- 22.4 Notices to terminate the Agreement in accordance with clause 23 may not be given by email.
- 23A Suspension of Services**
- 23A.1 The Council shall have the right to suspend any or all Orders for whatever reason.
- 23A.2 Where the Council provides the Service Provider with at least sixteen (16) hours written notice prior to Orders commencing the Council shall not be liable for any costs whatsoever in relation to the suspended Order.
- 23A.3 Where the minimum sixteen (16) hours prior written notice is not provided for suspension for the provision of Orders the Service Provider shall be able to charge the Fee for the first day of the suspension period but no other Fees or charges shall be payable for the period the suspension remains in force.
- 23A.4 The Council may move from suspension of Orders to a termination of the Orders in accordance with the provisions of this clause 23A.
- 23A.5 Where a suspension period is equal to or greater than the notice period for termination in accordance with clause 23 then the notice period for termination of the Order shall be deemed to have been served at the time that the suspension began and no other notice period shall be required. In the event that the suspension period is less than the termination notice as required in accordance with clause 23, the Council shall be obliged to provide the Service Provider with the required amount of termination notice having deducted any suspension period there from or alternatively, at the Council's discretion,

provide the Service Provider with payment in lieu of notice for any sums that may have been payable by the Council to the Service Provider had the Service Provider received the appropriate termination notice.

23A.6 The Service Provider may not suspend the Order without the prior written permission of the Council.

23A.7 The Service Provider shall not receive any remuneration for any Order suspended by it.

23. Termination

23.1 The Council may terminate an Order by giving one week's written notice for any Order that shall last for more than one week from the date that the Services detailed in the Order was first provided by the Service Provider.

23.2 The Council may terminate an Order by giving twenty four (24) hours written notice for any Order that shall last for less than one week from the date that the Services detailed in the Order was first provided by the Service Provider.

23.3 For the avoidance of doubt termination of an Order shall not affect the continuing obligations of the Parties in relation to any remaining Orders to be provided in accordance with the terms of this Agreement.

23.4 This Agreement may be terminated by either Party on giving ninety (90) calendar days notice in writing to the other at any time and this shall terminate all Orders being undertaken pursuant to this Agreement.

23.5 This Agreement may be terminated by the Council with immediate effect:

23.5.1 if there is a material breach by the Service Provider of any part of this Agreement, a breach that cannot be remedied, or a Persistent Breach;

23.5.2 if any of the warranties given by the Service Provider in this Agreement prove to be untrue or incorrect;

23.5.3 if there is a change in control of the Service Provider or, where the Service Provider is a subsidiary company, its holding company (for the purposes of this clause, "control" means the ability to direct the affairs of another whether by virtue of the ownership of shares, or otherwise); or

23.5.4 in accordance with clause 20 (Force Majeure).

- 23.5.5 If the Service Provider defaults the Council may at its sole discretion suspend the Agreement or any Orders in writing until the Service Provider remedies the default in such reasonable time as directed by the Council in writing (“Suspension Notice”)
- 23.5.6 If the Council serves a Suspension Notice in accordance with Clause 23.5.5 above the Service Provider will receive no new Orders from the date specified in the Suspension Notice.
- 23.5.7 Following the service of the Suspension Notice by the Council to the Service Provider, as soon as possible after the Service Provider has rectified the default the Council, acting reasonably and having regard to the steps taken by the Service Provider to rectify the default, will decide whether or not the Service Provider is to resume provision of the Service or that part of the Service that was subject to the suspension.
- 23.5.8 Further to clause 23.5.7, if the Council decides that the Service Provider is to resume the provision of the Service or that part of the Service that was subject to the suspension then the Council will serve on the Service Provider written notice which will set out the date upon which the Service, or part thereof is to be resumed together with such conditions relating to the Service Provider’s resumption of the Service or part of the Service as the Council reasonably decides are necessary. Alternatively, the Council may decide to serve a written notice terminating this Agreement with written effect in accordance with Clause 23.5.1 above
- 23.5.9 If the Service Provider’s Regulatory Body suspends or withdraws the relevant registration certificate or takes any action that means the Service Provider is unable to continue to provide the Service.
- 23.6 The Council shall be entitled to recover from the Service Provider the amount of any Loss resulting from termination under clause 23.5.1 to 23.5.3 (inclusive). For the purpose of this clause, Loss shall include reasonable cost to the Council of the time spent by its officers in terminating the Agreement and in making alternative arrangements for the provision of the Services.
- 23.7 This Agreement may be ended by terminated by the Council with immediate effect:
- 23.7.1 if the Service Provider convenes a meeting of its creditors;

- 23.7.2 if the Service Provider shall make a voluntary arrangement within Part 1 of the Insolvency Act 1986 or makes a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors;
- 23.7.3 if the Service Provider shall be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- 23.7.4 if a trustee receiver, administrative receiver or similar officer is appointed in respect of all or any material part of the business or assets of the other Party;
or
- 23.7.5 if a meeting is convened for the purpose of considering a resolution, or other steps are taken for the winding up of the Service Provider (otherwise than for the purpose of an amalgamation or reconstruction) or for the making of an administration order or other appointment of an administrator in respect of the Service Provider.
- 23.8 The Service Provider agrees that upon termination for any reason or expiry of this Agreement it shall not be entitled to make a claim against the Council in relation to costs incurred by the Service Provider in providing the Services or costs incurred in acquiring equipment and/or materials used in the provision of the Services or in engaging third parties in connection with the Services whether or not such costs were amortised in the calculation of the Fees payable by the Council under the Agreement. For the avoidance of doubt, the Service Provider will not be restricted from making any claim in respect of the Fees to the extent the Fees are outstanding and due and payable.
- 23.9 Unless otherwise terminated or agreed, this Agreement shall end at the conclusion of the Term.
- 23.10 If a breach or three Default Notices relates to only a part of the Services, the Council may end the provision of the affected Services under this Agreement on giving written notice with immediate effect and the Fees shall be reduced accordingly.
- 24. Consequences of Termination**
- 24.1 On this Agreement or any part of the Services terminating for any reason, the Service Provider will provide the Council with any reasonable assistance, requested in writing, for a period not exceeding ninety (90) calendar days following termination to ensure an orderly transfer of the Services to the Council, or a Future Service Provider as nominated by the Council.

- 24.2 Such assistance may include continued performance of an Order and / or all or any of the Services performed by the Service Provider in the same manner as required prior to the termination until such transfer is completed. Notwithstanding the generality of this provision the Service Provider's assistance shall include on a non-exhaustive basis the provision of all relevant information that the Council requests in relation to the Services provided by the Service Provider under this Agreement. All employee information supplied by the Service Provider to the Council is to be in accordance with Schedule 4.
- 24.3 To the extent that the Service Provider continues to provide the Services following termination, the Council shall pay the Fees for such Services on a pro-rata basis.
- 24.4 For the avoidance of doubt, if the Council terminates the Agreement the Service Provider shall continue to provide the Services to the Council during any period of notice unless requested by the Council to do otherwise and the Council will continue to pay the Service Provider the amount due under clause 5 (Payment) on a pro-rata basis throughout the notice period.
- 24.5 In the event that upon termination, the Council instructs the Service Provider to cease providing the Services with immediate effect the Council shall
- (a) cease to be under any obligation to make further payment of Fees until the costs, and any loss and/or damage resulting from or arising out of the termination have been calculated and agreed;
 - (b) be entitled to make other arrangements and if necessary pay other persons to provide the Services and seek reimbursement of any additional losses, costs or expenses incurred by the Council in doing so from the Service Provider;
 - (c) be entitled to deduct from any sum or sums which would have been due from the Council to the Service Provider under this Agreement and to recover the same from the Service Provider as a debt. Such loss or damage shall include the reasonable cost to the Council of the time spent by its officers in terminating this Agreement including professional fees and in making alternative arrangements for the provision of the Services or any part thereof.
- 24.6 On expiry or termination of the Agreement for any reason, the Service Provider shall promptly return to the Council or any person designated by the Council, or if directed by the Council, dispose of, any and all property including software and data of the Council in

its custody or control, except that the Service Provider may retain one copy of any documentation or software received by it in connection with the Services or upon which the Services are based for its records.

24.7 Termination of this Agreement for any reason is without prejudice to any other rights or remedies to which a Party may be entitled.

24A Recovery of Sums Due

24A.1 Any overpayment by the Council to the Service Provider, whether of the Fees or otherwise, shall be a sum of money recoverable by the Council from the Service Provider as a debt.

24A.2 Wherever under this Agreement any sum of money, including any sum which the Service Provider is liable to pay to the Council in respect of any breach of this Agreement, is recoverable from or payable by the Service Provider, the Council may unilaterally deduct that sum from any sum then due or which may become due to the Service Provider from the Council under this Agreement.

24A.3 The Service Provider shall make any payments due to the Council without any deduction whether by way of set-off, counterclaim, discount or otherwise unless the Service Provider has a valid court order requiring an amount equal to such deduction to be paid by the Council to the Service Provider

25. Survival

25.1 Any provisions of this Agreement that expressly or by implication are intended to do so shall survive the termination of this Agreement for whatever reason.

26. Waiver and Remedies

26.1 Any waiver, concession or extra time given is limited to the specific circumstance for which it was given. It does not affect any other rights a Party may have.

27. Dispute Resolution

27.1 If any dispute arises between the Parties in relation to this Agreement which can not at first instance be resolved by the Authorised Representatives of the Council and the Service Provider, then:

27.1.1 either Party may request the other to participate in a meeting of their respective managers, in order to discuss the dispute and to agree a strategy

to resolve it. The Parties shall liaise in good faith to meet within ten (10) Business Days and shall exchange statements at least three (3) clear Business Days prior to the date of the meeting, setting out their respective views of the issues, which are in dispute.

- 27.1.2 in the event the matter still remains unresolved it shall be referred to a Director of the Council and the Managing Director of the Service Provider or Senior Manager of similar level in the organisation without delay. Both parties will seek to meet and resolve the dispute within a further period of fifteen (15) Business Days, each providing the other with further statements of the issues to assist resolution within that time (if appropriate).
- 27.2 If, notwithstanding any steps taken by the Parties pursuant to clause 27.1, the dispute between them remains unresolved within two (2) months of the date on which the dispute arose, then at the request of either Party, the dispute shall be referred to an independent and professional mediator to be nominated without delay by agreement between the Parties. Any such mediation shall be carried out in confidence and on a without prejudice basis in relation to any subsequent proceedings.
- 27.3 If, notwithstanding the intervention of a mediator under clause 27.2, the Parties fail to resolve the dispute between them within six (6) weeks of the appointment of the mediator, then either Party may serve notice on the other to require the dispute to be referred to arbitration in accordance with the Arbitration Acts 1950 and 1996.
- 27.4 The mediator or arbitrator appointed under clauses 27.2 or 27.3 (as applicable) shall:
- 27.4.1 set a strict (but nevertheless reasonably fair) timetable, not exceeding two (2) months in its entirety, within which the Parties must comply in order to secure a resolution of the dispute without undue delay or expense;
 - 27.4.2 invite the Parties (or their respective agents) to submit written representations to him to explain their respective cases in relation to the dispute;
 - 27.4.3 disclose any such representations to the other Party so that they can submit written comments on the same to the mediator/arbitrator;
 - 27.4.4 have power to determine how the costs of the referral shall be borne by the Parties and may require either of the Parties to bear more than one half of

the costs if the mediator/arbitrator concludes (acting reasonably) that either of the Parties has acted unreasonably in relation to the dispute.

- 27.5 The Parties agree that if a mediator is appointed under clause 27.2, then:
- 27.5.1 the arbitrator shall not be fettered or bound by any representations (or comments on the same) made by either of the Parties;
 - 27.5.2 the decision of any arbitrator shall not be final and binding on the Parties unless the appointed person provides each of the Parties with a detailed statement setting out their reasons for making the decision which they have arrived at;
 - 27.5.3 the arbitrator shall not have exclusive jurisdiction on questions of construction of law.
- 27.6 If the Parties reach agreement on the resolution of the dispute pursuant to the provisions of any of clauses 27.2 to 27.5 (inclusive) then the Parties shall record the agreement in writing and shall sign the same and this signed document shall then form a legally binding agreement.
- 27.7 For the avoidance of doubt, the Parties will not be required to follow the procedure set out in clauses 27.2 to 27.6 where the issue relates to a simple non-payment of monies owed but may instead (acting reasonably) resort directly to court proceedings, having first exhausted the process set out in clause 27.1.
- 27.8 During any dispute, including a dispute as to the validity of the Agreement, it is agreed that the Service Provider shall continue its performance of the provisions of the Agreement (unless the Council requests in writing that the Service Provider does not do so).

28. Limitation of Liability

- 28.1 Each Party accepts unlimited liability for:
- 28.1.1 death or personal injury caused by its or its Personnel's negligence if, in the case of Personnel, they were acting in the course of their employment;
 - 28.1.2 any fraudulent misrepresentation made by it upon which the other Party relied; and

28.1.3 any other liability that cannot be limited or excluded.

28.2 Subject to clause 28.1, the Service Provider's liability to the Council under or in relation to this Agreement shall not exceed ten million pounds (£10,000,000.) Except for Fees properly due under this Agreement, the Council's liability to the Service Provider under or in relation to this Agreement shall not exceed ten million pounds (£10,000,000).

29. Insurance

29.1 The Service Provider shall maintain insurance policies to cover the following risks:

29.1.1 Public liability insurance (ten (£10) million pounds)

29.1.2 Employer's liability insurance

29.1.3 Professional indemnity insurance; (minimum two (£2) million pounds)

and where they relate to the Specification:

29.1.3 Fire and other risks to property

29.1.4 Risks arising from the use of vehicles, and

29.1.5 Theft or damage to property and its contents

29.2 The Council shall be entitled to call for copies of the Service Provider's insurance policies if it so requests.

29.3 Failure by the Service Provider to put appropriate insurance policies in place shall be construed as a breach of this Agreement

30. Non-solicitation

30.1 For the duration of this Agreement and for six (6) months after its termination or expiry neither Party will directly or indirectly solicit for employment any of the other's Key Personnel or other Agreement Team Members of this Agreement. This does not restrict either Party from employing Personnel who apply unsolicited in response to a general advertising or other general recruitment campaign. For the purposes of this clause 30.1 "Agreement Team Member" means any person who is or was directly involved in the provision or receipt of the Services but excludes any Personnel who have been involved on a purely administrative or secretarial basis.

31. Assignment and Sub – contracting

- 31.1 The Service Provider shall not assign the whole or any part of the Agreement without the prior written consent of the Council.
- 31.2 The Council will be entitled to transfer, assign, novate or otherwise dispose of or make over its rights and obligations under this Agreement whether whole or in part to any Contracting Authority; or
- 31.3 Transfer assign or novate or otherwise make over its rights and obligations where required by law to a body assuming the whole or part of the Council's functions.

32. Notice of Investigations

- 32.1 The Service Provider shall notify the Council immediately if it becomes the subject of any investigation of or proceedings by any police, government or regulatory body and provide the Council with any information it reasonably requests concerning that investigation.
- 32.2 The Council may suspend performance of the Services or an individual Order with immediate effect whilst awaiting the outcome of the investigation or proceedings and dependent on the outcome of the investigation and or proceedings terminate this Agreement with immediate effect in accordance with clause 23.

33. Performance Measurement

- 33.1 The Service Provider shall institute and maintain a properly documented system of quality control to the satisfaction of the Council's Authorised Representative to ensure that the standards required by this Agreement are met.
- 33.2 If required by the Council, the Parties shall co-operate in sharing information and developing performance measurement criteria with the object of improving the Parties' efficiency. Any such agreements shall be fully recorded in writing by the Council as the case may be.
- 33.3 In addition to any other rights of the Council under the Agreement, the Council's Authorised Representative shall be entitled to inspect the Service Provider's quality control system.
- 33.4 If any part of any Services is found to be defective or different in any way from the Specification or otherwise has not been provided to the standard required by the Agreement other than as a result of a default or negligence on the part of the Council, the Service Provider shall at its own expense re-perform the Services in question (without additional remuneration) within such time as the Council may reasonably specify, failing which, the Council shall be entitled to procure performance of the defective Services from

a third party or to execute the tasks in question itself. If the cost to the Council of executing or procuring such Services exceeds the amount that would have been payable to the Service Provider for such Services, the excess shall be paid by the Service Provider to the Council on demand in addition to any other sums payable by the Service Provider to the Council in respect of the breach of the Agreement.

33.5 The Council shall ascertain whether the Service Provider's provision of the Services in question meets any performance criteria as specified in the Specification or, if the criteria are not so specified, meets the standards of a professional provider of the Services. The Council may at any time:

33.5.1 in respect of each of the Services during the preceding calendar month, provide to the Service Provider a Default Notice which shall set out a statement of the Council's dissatisfaction with the Service Provider's performance and provision of the Services;

33.5.2 each Default Notice issued by the Council may include a proposed rebate of the Fees commensurate to the under-performance of the Service Provider together with any reasonable administrative costs incurred by the Council as a result of such under performance;

33.5.3 if the Service Provider disputes any matter referred to in any Default Notice and/or the proposed rebate of the Fees, the Service Provider may raise this objection with the Council and if this matter is not resolved within seven (7) days the matter shall be referred to the Dispute Resolution Procedure;

33.5.4 if the Service Provider has not raised any objection to the Default Notice within seven (7) days of receipt (or such other period as agreed between the parties) then that Default Notice shall be deemed to have been accepted by the Service Provider and any rebate on the Fees referred to therein shall become immediately effective.

34. Monitoring and Health and Safety

34.1 The Council will undertake regular monitoring of the Service, which will include site visits to assess work in progress, audit inspections and identifying any further information required for the programme file, as well as any monitoring any variance to the performance of the Services.

- 34.2 A copy of any report documenting such inspections will be sent to the Service Provider at the Service Provider's last known place of abode or business or, if the Service Provider is a company, to the registered office of the company.
- 34.3 The Service Provider will supply to the Council's Authorised Representative copies of any reports that are received in respect of the inspections.
- 34.4 The Service Provider shall take all necessary measures to comply with the requirements of the Health and Safety at Work etc Act 1974 and any other acts, orders, regulations, Legislation, guidance and codes of practice relating to health and safety which may apply to Personnel or Service Users.
- 34.5 The Service Provider shall promptly notify the Council of any health and safety hazards which may arise in connection with the performance of this Agreement including any health and safety hazards which may exist or arise at any sites and locations to which the Service Provider is transporting Service Users,
- 34.6 The Service Provider shall notify the Council immediately in the event of any incident occurring in the performance of the Agreement on any other sites and locations to which the Service Provider is required to transport Service Users where that incident causes any personal injury or damage to property which could give rise to personal injury.
- 34.7 The Service Provider shall adopt and implement procedures in respect of violence at work that includes responses to any incident in which a member of its staff is abused, threatened or assaulted by a member of the public or a Service User in circumstances arising out of the course of his/her employment in accordance with the requirements of the Service Specification.
- 34.8. The Service Provider shall produce, not less than once per annum, or as required by the Council from time to time satisfactory records of instruction and training of its staff and its written procedures showing compliance with the relevant Legislation and guidance.
- 34.9. The Service Provider shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc Act 1974) is made available to the Council on request.

35A Fraud and Corruption

- 35A.1 Neither the Service Provider nor its staff shall commit a Prohibited Act.

35 A.2 The Service Provider shall not enter into this Agreement if in connection with its commission it has paid or has agreed to pay to any member of staff or representative of the Council, unless before this Agreement is made particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in writing to the Council.

35 A.3 Where the Service Provider or Service Provider's staff, or anyone acting on the Service Provider's behalf, commit such a Prohibited Act in relation to this or any other Agreement with the Council, the Council has the right to:

35 A.3.1 terminate the Agreement with immediate effect and recover from the Service Provider the amount of any loss suffered by the Council resulting from the termination;

35 A.3.2 recover from the Service Provider the amount or value of any such gift, consideration or commission; and

35 A.3.3 recover in full from the Service Provider any other loss sustained by the Council in consequence of any breach of this clause 35A, whether or not the Agreement has been terminated.

35 A.4 In exercising its rights or remedies under this clause 35A, the Council shall:

35 A.4.1 act in a reasonable and proportionate manner having regard to such matters as to the gravity of, and the identity of the person performing the Prohibited Act;

35 A.4.2 give all due consideration, where appropriate, to action other than termination of the Agreement.

35. Audit And Accounting Controls

35.1 The Council or its auditors may from time to time, in writing detail control systems and procedures to the Service Provider deemed necessary for the proper control of the Service. The Service Provider shall install and operate the control systems detailed upon receipt of a request in writing to do so by the Council, at no cost to the Council.

36. Complaints Procedure

36.1 The Service Provider is hereby required to adhere to its approved procedure for dealing with Complaints from Councils and officers of the Council and report all Complaints in the first instance to the person in charge. A record must be kept of all Complaints, and produced at each Review referred to in clause 16. This record must state the detail of the

Complaint, including date, time, name of complainant and action taken or to be taken to avoid repetition and any other details reasonably required by the Council from time to time. A working protocol will identify the process for recording and responsibilities for responding to Complaints between the Council and Service Provider.

37. The Human Rights Act 1998

- 37.1 The Service Provider shall use reasonable endeavours to ensure that its Personnel shall, at all times, act in a way which is compatible with the Convention rights within the meaning of Section 1 of the Human Rights Act 1998.
- 37.2 The Service Provider shall ensure that appropriate monitoring procedures are in place to ensure compliance with clause 37.1 and, upon request by the Council, shall provide reports of such monitoring and compliance to the Council.
- 37.3 The Service Provider agrees to indemnify and keep indemnified the Council against all Loss arising out of or in connection with any breach by the Service Provider of its obligations under this clause.

38. Equal Opportunity

38.1 The Service Provider shall not:

- 38.1.1 discriminate against any person directly or indirectly or by way of victimisation or harassment or subject any such person to a detriment on grounds of;
- 38.1.1.1 race within the meaning of the Race Relations Act 1976 (“the 1976 Act”) contrary to Part II (Discrimination in the Field of Employment) and/or Part III (Discrimination in Other Fields) of the 1976 Act;
 - 38.1.1.2 sex (contrary to the Sex Discrimination Act 1975) (“the 1975 Act”);
 - 38.1.1.3 disability (contrary to the Disability Discrimination Act 1995) (“the 1995 Act”);
 - 38.1.1.4 sexual orientation (contrary to the Employment Equality (Sexual Orientation) Regulations 2003) (“the Sexual Orientation Regulations”);
 - 38.1.1.5 religion or belief (contrary to the Employment Equality (Religion or Belief) Regulations 2003) (“the Religion or Belief Regulations”); or

38.1.1.6 age (contrary to the Employment Equality (Age) Regulations 2006) (“the Age Regulations”)

38.1.1.7 contravene Part IV of the 1976 Act, Part IV of the 1975 Act, Part II (16A-C) of the 1995 Act or Part III of the Sexual Orientation Regulations, the Religion or Belief Regulations or the Age Regulations (Other Unlawful Acts).

38.2 The Service Provider shall notify the Council immediately of any investigation of or proceedings against the Service Provider under any of the above legislation pursuant to this clause 38 and shall cooperate fully and promptly with any requests of the person or body conducting such investigation or proceedings, including allowing access to any documents or data required, attending any meetings and providing any information requested.

38.3 The Service Provider shall indemnify the Council against all Loss incurred or suffered by the Council arising out of or in connection with any investigation conducted or any proceedings brought under any of the above legislation pursuant to this clause 38 due directly or indirectly to any act or omission by the Service Provider or its Personnel.

38.4 Without prejudice to clauses 38.1 to 38.4 the Service Provider shall comply and procure that its Sub-Contractors comply with all and any equal opportunities legislation from time to time in force (including without limitation all of the above legislation pursuant to this clause 38 and that it and its Sub-Contractors provide such assistance, cooperation and information as the Council may from time to time require in order to ensure compliance by the Council with any equality or diversity duty to which it is subject or with any policy or procedure related to equality or diversity.

38.5 The Service Provider shall impose on any Sub-Contractor obligations substantially similar to those imposed on the Service Provider by clause 38.

39 **Intellectual Property**

39.1 The Service Provider acknowledges that all Intellectual Property in the Documentation will at all times and for all purposes vest and remain vested in the Authority. Notwithstanding the foregoing, all Intellectual Property which the Service Provider might otherwise acquire as a result of its performance of the Agreement is hereby irrevocably assigned to the Authority.

- 39.2 At the request and expense of the Authority and as required, the Service Provider shall, and will use its best endeavours to procure that the Service Provider's Key Personnel shall, do all such things including signing all documents or other instruments reasonably necessary in the opinion of the Authority to confirm or vest in the Authority the rights assigned or otherwise transferred to the Authority under this Agreement.
- 39.3 If, as part of the Services the Service Provider has supplied to the Authority any software or other Documentation in which the intellectual property rights are owned by the Service Provider and the use of which by the Authority is necessary in order to exploit the Services, then the Service Provider grants to the Authority an exclusive, perpetual, irrevocable, royalty free licence to use, reproduce, modify, adapt and enhance such software, with a right to grant sub-licences to any third party.
- 39.4 If the Service Provider shall incorporate into any such Documentation, any idea, invention, innovation or design in respect of which the Service Provider shall, prior to the date of this Agreement, have obtained or applied for any patent under the Patent Acts or registered a design under the Registered Designs Act 1949, the foregoing provisions of this clause shall not operate to prevent the free use and exploitation by the Service Provider of such idea, invention innovation or design for any purpose other than providing the Services.
- 39.5 On the completion or termination of this Agreement all documents and materials purchased by the Service Provider at the expense of the Authority for the purpose of the Agreement shall be handed to the Authority and become its property.

40 Governing law and jurisdiction

- 40.1 This Agreement shall be governed by and construed in accordance with the laws of England and Wales.
- 40.2 Each Party irrevocably agrees to submit to the exclusive jurisdiction of the courts of England and Wales over any matter arising under or in connection with this agreement or the legal relationships established by this Agreement.
- 40.3 The Service Provider irrevocably appoints **[name]** of **[address]** **[fax number]** as its agent to receive on its behalf in England service of any proceedings arising out of or in connection with this Agreement. Service shall be deemed completed on delivery to its agent (even if the Service Provider does not then receive those proceedings). If its agent ceases to be able to act as agent or no longer has an address in England, the Service

Provider will immediately appoint a substitute acceptable to the Council and deliver the new agent's name, address and fax number to the Council.

- 40.4 Save unless expressly provided for in this Agreement no term of this Agreement is intended for the benefit of any third party and the Parties do not intend that any term of this contract, with the exception of Schedule 4, should be enforceable by a third party either under the Contracts (Rights of Third Parties) Act 1999 or otherwise. The terms of Schedule 4 shall, where applicable, be enforceable by a Future Service Provider.

IN WITNESS whereof this Agreement has been signed and delivered as a deed on the date and year stated at the beginning of this Deed.

EXECUTED as a DEED by)
WALSALL COUNCIL with the)
affixing of its COMMON SEAL)
in the presence of:)

Authorised Signatory

THE COMMON SEAL of)
(CONTRACTOR) LIMITED was)
affixed in the presence of:)
Director / Company Secretary

2.1 SCHEDULE 1 - SERVICE DELIVERY SPECIFICATION

2.1.1 Common Core specification for all three services

2.1.2 Introduction

The transformation of short break services forms a central component of the wider Aiming High for Disabled Children (AHDC) change programme. By providing additional resources through a specific grant the Government wishes to see local authorities creating a corresponding growth in short break provision.

Short break services are specialist additional services required to support disabled children and their families; in other words, short breaks services are over and above the universal services available to all families. Short breaks usually provide opportunities for disabled children and young people to spend time away from their primary carers. These include day, evening, overnight or weekend activities and take place in the child's own home, the home of an approved carer, or a residential or community setting. Short breaks can however also be provided through a temporary carer relieving the primary carer of their caring responsibilities without their being separated from the disabled child or young person.

It is important to note that in taking forward the programme, local authorities work in partnership with Primary Care Trusts; securing effective service, joint planning and commissioning arrangements for the provision of short break services. Local authorities are also expected to work constructively with independent short break service providers and secure a diverse market for the provision of short break services - in line with short break guidance.

With regard to service 3, this is not part of the Aiming High programme. This service will employ a number of support workers who will work in the family home to provide holistic care to the child/ young person with disabilities

2.1.3 Principles

The Aiming High for Disabled Children (AHDC) programme launched in May 2007 aims to deliver:

- Improved access to universal and specialist services

- Empowerment for disabled children and families
- Responsive services and timely support
- Improved service quality and capacity

In AHDC the Government made a commitment to 'establish a "core offer" for disabled children and their families. Disabled children, young people and their families can expect:

- **Information** which is accessible, available, relevant, joined up and user focussed.
- **Transparency** in the delivery of services, regarding how services are accessed, allocation criteria, assessment processes; how services work together in the provision of individual children's care; how services work together to plan and commission services and allocate resources.
- **Participation** through choice and control over the services provided to them; opportunities to shape local services through forums, networks and service user groups; and through user satisfaction surveys.
- **Assessments** to be holistic and co-ordinated, be based on shared information, with parent's consent, as a platform for more specialist assessments.
- **Feedback** which is routinely and systematically sought and analysed properly, and which is fed back to parents forums and groups and to meetings which develop the Children and Young Person's Plan; robust complaints procedures and the availability of advocacy services where necessary to enable disabled children and young people to provide feedback.

2.1.4 Our Commitment

Our commitment to support provision of short breaks for children with a disability and their parents is demonstrated by the following Council priorities from the Children and Young People's Plan (CYPP) 2009/10 – 2011/12:

1. Encourage healthy lifestyles
2. Promote mental health, well-being and enjoyment of life and school
3. Target early intervention to ensure safety
4. Promote social inclusion and reduce child poverty
5. Value and support our young people
6. Improve our service delivery

The Children and Young People's Plan (2009/10 to 2010/12) is available at the following web address: <http://www.Walsallchildrenstrust.org.uk>

The CYPP has a range of success measures including the following which is specifically aimed at the Aiming High for Disabled Children Short Breaks provision:

- To increase range and quality of short breaks and support for disabled children

The University of Wolverhampton have completed a needs analysis for entitled *Access to services for children and young people with disabilities* (January 2009) commissioned by Walsall Local Authority in order to investigate the experiences and concerns of children and young people (C&YP) with learning difficulties and, or disabilities and the barriers they encounter when accessing leisure, play and recreational provision in Walsall.

Wolverhampton University were commissioned by NHS Walsall to explore families perceptions of recreational and short term break provision, for school-aged children and young people (C&YP) with Autistic Spectrum Disorder (ASD) and/or Attention Deficit Hyperactivity Disorder (ADHD) concluding in a report entitled *The perceptions of children and young people with Autistic Spectrum Disorder or ADHD and their parents/carers*.

2.1.5 Children's needs

The service is for disabled children and young people, between the ages of 0 and up to their 18th birthday who are:

- Group A: children and young people with Autistic Spectrum Disorder – who have severe learning disabilities or behaviour which is challenging OR those children and young people whose challenging behaviour is associated with other impairments such as severe learning disabilities.
- Group B: children and young people with complex health needs including those with disability and life limiting conditions, and/or those who require palliative care and/or those with associated impairments such as cognitive or sensory impairments and/or have moving/handling needs and/or require special equipment/adaptations.

Children who will access the service will have medium to high level needs in the following areas:

- Challenging Behaviour predominantly Group A
- Communication both Group a and Group B
- Mobility predominantly Group B
- Nutrition, Food and Drink predominantly Group B
- Contenance or Elimination both Group A and Group B
- Skin and Tissue Viability predominantly Group B
- Breathing predominantly Group B
- Drug Therapies and Medicines both Group A and B
- Psychological and Emotional Needs predominantly Group A
- Seizures both Group A and B
- Positive Activities both Group A and B

For a detailed profile of the scales of need for each of these domains please see specifications for each service.

The exact configuration of support provided to a particular family will be agreed between the provider and individual families. A Needs Assessment will be carried out on each child/ young person, which will identify the skills and competences that support workers would need to demonstrate

2.1.6 Outcomes

Tenders will be assessed by the extent to which improvements in these headline outcomes will be achieved.

Be Healthy:

Short Break services that support disabled children and young people to be physically, mentally, emotionally and sexually healthy means:

- That disabled children have appropriate access to universal and specialist health care whilst receiving the service
- That providers empower and support disabled children to take responsibility for their own health and well being

- That disabled children are supported to achieve maximum mobility and independence through the provision of appropriate equipment and adaptations whilst receiving the service
- That disabled children have access to appropriate advice and support on their emotional well being and mental health

Living a healthy lifestyle whilst receiving the service means:

- That disabled children have the right medicine; that clinical procedures are safely administered and appropriate therapy or behaviour management is carried out by staff and carers who are trained and competent
- That staff and carers are trained and are competent in basic first aid, moving and handling and child resuscitation with regular opportunities to update and refresh their training in these areas
- That families of disabled children receiving the service are supported to work in partnership with the service provider concerning their child's development

Stay Safe:

Being safe from maltreatment, neglect, violence and sexual exploitation within a short break service means:

- That disabled children can recognise and have opportunities to talk about maltreatment and neglect
- That staff are trained specifically in safeguarding disabled children and are given regular opportunities to update and refresh this training
- That services have robust safeguarding procedures to ensure that swift and appropriate action is taken to protect disabled children at all times
- That maltreated disabled children are subsequently protected
- That families of disabled children receiving the service are supported to work in partnership with the service provider concerning safeguarding and protection

Being safe from accidental injury/death means:

- That disabled children have accessible and safe transport to and from their short break service and whilst receiving it

- That disabled children have access to specialist health support whilst in their short break service

Being safe from bullying and discrimination means:

- That disabled children do not feel bullied or discriminated against whilst receiving the service

Having security, stability and appropriate care means:

- That disabled children do not have a multiplicity of carers whilst receiving the service
- That disabled children are cared for by the same staff members or carers who develop an understanding of the child's unique way of communicating

Enjoy and Achieve:

Achieving personal and, social and recreational development and enjoying recreation within a short break service means:

- That disabled children are happy and have fun whilst receiving the service
- That disabled children have access to activities, organised leisure, sport and outings that are age appropriate and of their choice whilst receiving the service
- That disabled children develop social networks and friendships through the service
- That disabled children have appropriate systems and support to enable them to communicate effectively whilst receiving the service

Making a positive contribution:

Engaging in decision making within a short break service means:

- That disabled children are enabled and supported to communicate their views about the service
- That disabled children have the opportunity to participate in planning and decision making about the service they receive and that their views, however expressed, are routinely gathered and recorded

Developing self-confidence and successfully dealing with significant life changes and challenges means:

- That a range of methods are used to ensure that disabled children participate in the planning and review of the service they receive
- That disabled children and their families are involved in service design, delivery and development
- That short breaks positively support disabled children and young people through key transitions

Achieve Economic Well-Being:

Taking part in short breaks in an appropriate environment means:

- That disabled children have access to accessible and safe transport, both to and from the short break service, and whilst receiving it

Access to transport and material goods means:

- That appropriate and accessible transport arrangements are made which enable disabled children and young people to maximise opportunities within their short break

How can families access the service?

All decisions to grant short breaks are made by the Walsall Council Short Breaks Complex Care panel. Any health professional or social worker can assess a child/ young person and family and make a recommendation to this panel.

The panel will make the decision whether to commission the short break and determine the time period for which the support is granted.

2.1.7 Service Delivery

The Provider shall:

- (a) Establish clear guidelines for all support workers and volunteers identifying the different services provided by them in relation to individual needs of the child
- (b) Provide a personalised service as agreed between lead professional and service users in the individual care plan, including sensitivity to diverse needs for example culture, religion and sexuality. Parent carers will have an opportunity to be

involved in the choice of support worker and in all aspects of the arrangement i.e. times / days support offered; choice of activity, transport arrangements etc

- (c) Ensure continuity of the service for the disabled child /young person receiving it by arranging a regular service from the same support worker /volunteer wherever possible.
- (d) Undertake introductory interviews including risk assessments, including reassessment in relation to new activities, to ensure the needs of every individual child/young person will be met. This must be a consultative interview in which the parent carer and child has an opportunity for their wishes to be heard.
- (e) Inform lead professional of any changes in the level of need for service to clients who will decide by re-assessment if any change of service is required. Providers may not change a service without the Councils permission.

2.1.8 Entitlement Criteria

Walsall Children's Services operate an Entitlement criteria (see page 78). Children whose needs are assessed as being Medium or High level needs are likely to benefit from the service(s).

2.1.9 Staffing and staff development

The provider shall:

Recruit, train, supervise and support workers/volunteers who will provide the service within the context of a Staff Development Programme

All support workers and volunteers are required to have an enhanced current CRB check in accordance with Child Care legislation and the Care Standards Act 2000 and complete re-checks as required by Walsall Safeguarding Children Board policies and procedures.

All support workers /volunteers will be expected to have an understanding of the principles of disability equality and have experience of working with disabled children/young people.

All support workers will be expected to have access to training and/or guidance in relation to the following:

- (a) child protection
- (b) safeguarding
- (c) confidentiality and data protection
- (d) complaints procedure
- (e) health and safety
- (f) manual handling
- (g) anti-racist and anti-discriminatory practices
- (h) managing challenging behaviour
- (i) communication skills
- (j) working with parents
- (k) managing challenging behaviour

All staff should hold, or be encouraged to work towards achieving the National Occupational standards specifically for supporting **children** with disabilities and special educational needs which can be accessed at the following links:

http://www.cwdCouncil.org.uk/assets/0000/0426/CCLD_209.pdf (level 2)

http://www.cwdCouncil.org.uk/assets/0000/0571/CCLD_321.pdf (level 3)

2.1.10 Target user group and eligibility:

The service is for disabled children and young people (and their siblings where appropriate), between the ages from the age of 13 up until their 18th birthday.

2.1.11 Walsall's Charter for Active Involvement

Tenderers must support the principles established within the Walsall Childrens' Trust Active Involvement Charter. This charter is in line with the national Hear by Right standards. The Walsall Active Involvement Charter can be found at:

<http://www.walsallchildrenstrust.org.uk/>

2.1.12 Transport

Where the employed carer accompanies the child on any form of transport (including that owned by them);

- a) they will undertake a risk assessment and ensure the child is safe and supervised

- b) the cost of the transport (fares, mileage allowance) will be paid by the child's parent/carer where they have agreed prior in writing (mileage allowances shall not exceed 40 pence per mile)
- c) where the transport is owned by the employed carer they will ensure it is safe (e.g. valid MOT and road tax) and the provider will ensure it is properly insured to include transporting the child.

2.1.13 User and Parent satisfaction

The provider shall measure user and parent satisfaction on a regular basis specified by the Council and provide the results to the Council twice per year. The Council will also measure satisfaction, and these results will take precedence. Orders for service will take into account satisfaction.

2.1.14 CARE DOMAINS.

1. Challenging behaviour.

Culturally abnormal behaviours of such intensity, frequency, or duration that the physical safety of the person or others is likely to be placed in jeopardy or behaviour which is likely to seriously limit use of or result in the person being denied access to ordinary community facilities.

A specialist assessment of an child / young person with serious behavioural issues will usually be required which includes an overall assessment of the risk(s) which are likely to impair a child / young person's personal growth, development and family life.

Description	Level of Need
<p>Challenging behaviour that follows a predictable pattern and can be managed by a skilled carer or care worker who is able to maintain a level of behaviour that does not pose a risk to self or others.</p> <p>Behaviours that do not jeopardise the young person's place within their existing infrastructure (home, school etc) and do not pose a significant risk or barrier to intervention but that require some additional direct / indirect input from specialist workers in addition to those of frontline services.</p> <p>OR</p> <p>Behaviours that indicate a marked difficulty in self-regulating his or her own behaviours. This may include impulsive behaviours and or self-neglect (self-neglect differs from parental neglect and is more applicable to adolescents). This is also separate from peer or cultural trends/ uniform or identity.</p>	Medium
<p>Behaviours that jeopardise the young person's placement within their existing infrastructure and continue to manifest despite specialist health intervention. Likely to require intense multi-agency involvement to maintain existing infrastructure and additional high-level support from several agencies.</p>	High

2. Communication.

This section relates to difficulties with receptive and expressive language, both verbal and non-verbal, or technology assisted that is not commensurate with age and developmental milestones. It does not include those children that do not speak English as their first language but are able to communicate in other languages.

Description	Level of Need
<p>Communication about basic needs is difficult to understand or interpret, even when prompted, unless with familiar people, and requires regular support.</p> <ul style="list-style-type: none"> • Communication about basic needs is difficult to understand or interpret even when prompted except by those who know the child / young person's needs well. • Support is always required to facilitate communication e.g. use of choice boards, signing, communication aids. 	Medium
<p>Even with frequent or significant support from carers and professionals the child / young person is rarely able to communicate basic needs, requirements or ideas, even with familiar people.</p> <ul style="list-style-type: none"> • Communication about basic needs is difficult to understand or interpret even when prompted by those who know the child / young person's needs well. • Support is always required to facilitate communication e.g. use of choice boards, signing, communication aids. <p>OR</p> <p>The child/young person demonstrates severe frustration around their communication e.g. through challenging behaviour or withdrawal</p>	High

3. Mobility.

Description	Level of Need
<p>Completely unable to stand but able to assist or co-operate with transfers and / or repositioning by one carer or care worker to a level appropriate for developmental age.</p> <p>OR</p> <p>Sleep deprivation due to underlying medically / mobility related need – occurring 3 times a night (at least 2 nights per week).</p>	Medium
<p>Unable to move in a developmentally appropriate way. Cared for in one position (bed or chair) and due to risk of physical harm, loss of muscle tone, tissue viability, or pain on movement, needs careful positioning and is unable to assist or needs more than one carer to reposition or transfer.</p> <p>OR</p> <p>At a high risk of injuries, requiring a structured management plan to minimise risk, appropriate to stage of development.</p> <p>OR</p> <p>Involuntary spasms placing themselves and carers at risk.</p> <p>OR</p> <p>Extensive sleep deprivation due to underlying medical / mobility related needs occurring 1-2 hourly (at least 4 nights a week).</p>	High

4. Nutrition, Food and Drink.

Description	Level of Need
<p>Completely unable to stand but able to assist or co-operate with transfers and / or repositioning by one carer or care worker to a level appropriate for developmental age.</p> <p>OR</p> <p>Sleep deprivation due to underlying medically / mobility related need – occurring 3 times a night (at least 2 nights per week).</p>	Medium
<p>Unable to move in a developmentally appropriate way. Cared for in one position (bed or chair) and due to risk of physical harm, loss of muscle tone, tissue viability, or pain on movement, needs careful positioning and is unable to assist or needs more than one carer to reposition or transfer.</p> <p>OR</p> <p>At a high risk of injuries, requiring a structured management plan to minimise risk, appropriate to stage of development.</p> <p>OR</p> <p>Involuntary spasms placing themselves and carers at risk.</p> <p>OR</p> <p>Extensive sleep deprivation due to underlying medical / mobility related needs occurring 1-2 hourly (at least 4 nights a week).</p>	High

5. Continence or Elimination.

Description	Level of Need
<p>Doubly incontinent but care is routine.</p> <p>OR</p> <p>Self catheterisation</p> <p>OR</p> <p>Has a stable stoma but may have occasional faecal incontinence.</p>	Medium
<p>Continence care is problematic and requires timely intervention by a skilled practitioner or trained carer.</p> <p>OR</p> <p>Intermittent catheterisation by a trained carer or care worker.</p> <p>OR</p> <p>Has a stoma that needs extensive attention every day.</p>	High

6. Skin and Tissue Viability.

Description	Level of Need
<p>Open wound(s), which is (are) responding to treatment.</p> <p>OR</p> <p>Active skin condition requiring a minimum of weekly re-assessment and which is responding to treatment.</p> <p>OR</p> <p>High risk of skin breakdown which requires preventative intervention from a skilled carer or care worker several times each day without which skin integrity would break down.</p>	<p>Medium</p>
<p>Open wound(s), which is (are) not responding to treatment and require a minimum of daily monitoring/reassessment.</p> <p>OR</p> <p>Active skin condition, which requires a minimum of daily monitoring or reassessment.</p> <p>OR</p> <p>Specialist dressing regime, several times weekly in place, which is responding to treatment and requires regular supervision by a Consultant.</p>	<p>High</p>

7. Breathing.

Description	Level of Need
<p>Episodes of acute breathlessness, which do not respond to self-management and need specialist-recommended input.</p> <p>OR</p> <p>Requires the use of intermittent or continuous low-level oxygen therapy to prevent secondary health issues.</p> <p>OR</p> <p>Has profoundly reduced mobility leading to increased susceptibility to chest infection.</p> <p>OR</p> <p>Requires daily physiotherapy to maintain optimal respiratory function.</p> <p>OR</p> <p>Breathing difficulties, which require oral suction.</p>	Medium
<p>Is able to breath unaided during the day but needs to go on to a ventilator for supportive ventilation. The ventilation can be discontinued for up to 48 hours without clinical harm.</p> <p>OR</p> <p>Is on Continuous Positive Airways Pressure (CPAP).</p>	High

8. Drug Therapies and Medicines

Description	Level of Need
<p>Requires administration of medicine regime by a registered nurse or formal carer or teaching assistant specifically trained for this task.</p> <p>and</p> <p>Monitoring because of potential fluctuation of the medical condition that can be non-problematic to manage.</p> <p>OR</p> <p>Sleep deprivation due to essential medication management – occurring more than once a night (at least twice a week).</p>	Medium
<p>Has a drug regime that requires management by a registered nurse (within prescription) due to a fluctuating and/or unstable condition or symptom management.</p> <p>OR</p> <p>Sleep deprivation due to severe distress due to pain requiring medication management occurring 4 times a night (4 times a week).</p> <p>OR</p> <p>Extensive sleep deprivation due to essential pain medication management occurring 1 -2 hourly.</p>	High

9. Psychological and Emotional Needs.

Beyond what is normally expected from a child of this age.

Description	Level of Need
<p>Requiring prompts or support to remain within existing infrastructure. Periods of variable attendance in school / college.</p> <p>Noticeable fluctuating levels of concentration evident.</p> <p>Noticeable deterioration in self-care (outside of cultural / peer group norms and trends) which often demands prolonged intervention from additional key staff.</p> <p>OR</p> <p>Evidence of low mood or depression. Reduced social functioning, increasingly solitary with a marked withdrawal from social situations. Limited response to prompts to remain within existing infrastructure (marked deterioration in attendance / concentration within lessons, deterioration in self-care outside of cultural / peer group norms and trends).</p>	<p>Medium</p>
<p>Rapidly fluctuating moods of depression, anxiety or periods of distress necessitating specialist support and intervention and that have a severe impact on the child or young person's health and well-being.</p> <p>Acute and or prolonged presentation of emotional / psychological deregulation, poor impulse control placing the young person or others at serious risk and or symptoms of serious mental illness that places the young person at risk to self and others.</p> <p>OR</p> <p>Withdrawn from any attempts to engage in care plan and/or daily activities.</p>	<p>High</p>

10. Seizures.

Description	Level of Need
<p>Occasional seizures or periods of unconsciousness that have occurred within the last three months which require the supervision of a carer or care worker to minimise the risk of self-harm.</p> <p>OR</p> <p>Sleep deprivation due to essential seizure management – occurring 3 times a night.</p>	Medium
<p>Seizures that result in unconsciousness and that may require frequent (more than monthly) skilled intervention to reduce the risk of harm and may require the administration of medication by a registered nurse or specially trained carer.</p> <p>OR</p> <p>Sleep deprivation due to essential seizure management occurring 4 times a night.</p>	High

Service 1 'Buddy Service'

This service will employ a number of buddies who will accompany children/ young people from the age of 13 until their 18th birthday to access facilities in the community, either on a 1:1 basis or within a group that may be the child's family or with a group of the child's friends. The buddy will accompany and support the child to take part in activities including, but not limited to, swimming, bowling, watching a film at the cinema or going to a local park. The Buddy will participate in activities as requested by the child/ young person. Providers are required to deliver a service to children with challenging behaviour (Group A), complex physical needs (Group B) or both of these groups.

The Buddy service will operate in all district areas of the Walsall Borough.

The Service will operate 7 days a week, including school holidays, weekends and Bank Holidays with flexibility to respond to individual family needs as appropriate.

Services are needed in the following four areas:

<p><u>Group A Medium Level Need</u></p> <p>The Buddy will support the child with moderately challenging behaviour to access recreational facilities in the community. The buddy will support the child/ young person either alone, or in a group situation and will work with the child/ young person to maintain behaviour so that it does not become a risk to self or others.</p>	<p><u>Group B Medium Level Need</u></p> <p>The Buddy will support the child/ young person with moderate physical disabilities to access recreational facilities in the community. The buddy will safely mobilise the child/ young person either individually or if safe to do so, as part of a group of family or friends.</p>
<p><u>Group A High Level Need</u></p> <p>This service will provide a Buddy to work with a child/ young person with challenging behaviour which requires constant supervision and interventions to prevent self harm, damage to property and others. The Buddy will be required to accompany the child/ young person to access recreational facilities outside of the family home and ensuring that in doing so the child/ young person and others in the community are safe. The buddy will accompany the child alone, or if safe to do so, as part of a group.</p>	<p><u>Group B High Level Need</u></p> <p>This service will involve a Buddy to enable a child/ young person with complex physical disabilities to access recreational facilities outside of the family home providing 1:1 support, either alone or if safe to do so, within a group situation with family/ friends. The Buddy will be responsible for ensuring that the child/ young person is safely mobilised and that all personal care needs such as toileting are managed and that any medication is administered as per the care plan.</p>

Providers are required to deliver a service to group A or B, or both of these groups.

Groups A and B have differing needs and preferences from a service therefore providers will need to demonstrate how they can meet the needs specified.

The exact configuration of support provided to a particular family will be agreed between the provider and individual families. A Needs Assessment will be carried out on each child/ young person, which will identify the skills and competences that their buddy would need to demonstrate

What children, young people and their parents and carers in Walsall want from the service:

Children with challenging behaviour and their families stated the following and these are the needs that Provider will be required to meet:

- Children and their parents would prefer the child to see their buddy on their own.
- Children/ young people would like to choose their buddy
- Children would prefer to see one buddy only, on a regular basis rather than a number of buddies.
- Children would like to see their buddy at least weekly, with a preference for Friday or Saturday.
- Children want buddies who are “fun” and “kind”
- Parents want buddies who are experienced, reliable and relate well to children.
- Children and parents want their buddies to support them to take part in activities such as Swimming, Bowling, Going to the cinema, going for walks, and going to local parks.
- Children and parents want their buddies to participate This includes actively participating if this will facilitate the young person engaging in the activities.

Children with complex medical needs and their families stated the following and these are the needs that Provider will be required to meet:

- Children and their parents would like to see their buddy to go out with a group of friends.
- Children/ young people would like to choose their buddy
- On some occasions the family would like the buddy to go out with the family.
- Children would be happy to see one of a few different buddies on each occasion.
- Children would like to see their buddy at least weekly, with a preference for Friday or Saturday.

- Children want buddies who are “fun” and “kind”
- Parents want buddies who are experienced, reliable and relate well to children.
- Children and parents want their buddies to support them to take part in activities such as Swimming, Bowling, Going to the cinema, going for walks, and going to local parks.
- Children would prefer to have a buddy of the same gender as themselves for activities that involve getting changed, e.g. sports.

Engaging the child/ young person in positive activity

Description	Level of Need
<p>The child requires someone to engage them in activities which the child/ young person will enjoy.</p> <p>The type of activities that will be offered will be agreed with the family and child/ young person. The family will be encouraged to think about the activities the child has taken part in, and enjoyed and also to think of new activities that they feel the child/ young person would appreciate.</p> <p>Wherever possible the child/ young person should take part in activities on each occasion where they receive the service.</p> <p>The child/ young person will be encouraged to choose which activity they take part in on a particular day.</p> <p>Where siblings are present, and the child/ young person wishes to engage them in the activity, this should be facilitated wherever possible.</p> <p>The provision of games/ activities/ equipment remains the responsibility of the family.</p>	<p>Medium and High</p>

Service 2 ‘Activity with Care Support’

This service is to provide short breaks for children/young people with disabilities, within their family home. Whilst receiving the service children/young people will be able to participate in activities, with a support worker whilst giving their main carer a break from their caring responsibilities. This service will employ a number of support workers who will work in the family home to provide holistic care to the child/ young person with disabilities. .The care provided will be in accordance to the child’s care plan and will be agreed with the family. .The care provided to the child may involve lifting and handling, support with feeding or medication regimes, washing and dressing. .Providers are required to deliver a service to children with challenging behaviour (Group A), complex physical needs (Group B) or both of these groups.

The service will be available to families resident within all districts of the Walsall borough.

The services will operate Monday- Friday, over weekends, some nights and out of school hours, school holidays and bank holidays, with flexibility to respond to individual family needs as appropriate.

Services are needed in the following four areas:

<u>Group A Medium Level Need</u> Support workers will engage the child/ young person in positive activities on a 1:1 basis or with the family within the family home which will maintain behaviour so that it does not pose a risk to self or others within the family home and to provide support to children/ young people with moderately challenging behaviour.	<u>Group B Medium Level Need</u> Support workers will engage the child/ young person in positive activities on a 1:1 basis or with the family within the family home and to provide support to children who have moderate disabilities who will require support in activities of daily living and personal care such as toileting and washing, feeding and dressing, and support.
<u>Group A High Level Need</u> Support workers will engage the child/ young person in positive activities on a 1:1 basis or with the family within the family home and provide intensive support to children/ young people with challenging behaviour which will require constant supervision and interventions to prevent self harm, damage to property and to others.	<u>Group B High Level Need</u> Support workers will engage the child/ young person in positive activities on a 1:1 basis or with the family within the family home and provide intensive support to children/ young people with complex physical disabilities. This will involve providing 1:1 support with moving and handling, feeding and administering medicines, toileting, and will require support

	workers to utilise specialist equipment in doing so.
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What children, young people and their parents and carers in Walsall want from the service:

Children with challenging behaviour and their families stated the following and these are the needs that Provider will be required to meet:

- Families require support at mealtimes.
- Parents value someone to help the child with reading and to support the completion of homework.
- Children would prefer to have the same person supporting them on a regular basis rather than a number of people.
- Children want people who are “fun” and “kind”
- Parents want people who are experienced, reliable and relate well to children.

Children with complex medical needs and their families stated the following and these are the needs that Provider will be required to meet:

- Children would be happy to see one of a few different people on each occasion.
- Children want people who are “fun” and “kind”
- Parents want people who are experienced, reliable and relate well to children.

Providers are expected to deliver a Personalised service to each child/ young person.

Engaging the child/ young person in positive activity

Description	Level of Need
<p>The child requires someone to engage them in activities which the child/ young person will enjoy.</p> <p>The type of activities that will be offered will be agreed with the family and child/ young person. The family will be encouraged to think about the activities the child has taken part in, and enjoyed and also to think of new activities that they feel the child/ young person would appreciate.</p> <p>Wherever possible the child/ young person should take part in activities on each occasion where they receive the service.</p>	<p>Medium and High</p>

<p>The child/ young person will be encouraged to choose which activity they take part in on a particular day.</p> <p>Where siblings are present, and the child/ young person wishes to engage them in the activity, this should be facilitated wherever possible.</p> <p>The provision of games/ activities/ equipment remains the responsibility of the family.</p> <p>In taking parts in positive activities children/ young people will be encouraged to develop independence skills where possible.</p>	
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Service 3 'Care in Childs home'

This service will employ a number of support workers who will work in the family home to provide holistic care to the child/ young person with disabilities. The care provided will be in accordance to the child's care plan and will be agreed with the family. The care provided to the child may involve lifting and handling, support with feeding or medication regimes, washing and dressing. Providers are required to deliver a service to children with challenging behaviour (Group A), complex physical needs (Group B) or both of these groups.

The service will be available to families resident within all districts of the Walsall borough.

The services will operate Monday- Friday, over weekends, some nights and out of school hours, school holidays and bank holidays, with flexibility to respond to individual family needs as appropriate.

Services are needed in the following four areas:

<u>Group A Medium Level Need</u> This service is to provide support to children/ young people with moderately challenging behaviour. Support workers will engage the child/ young person in positive activities which will maintain behaviour so that it does not pose a risk to self or others within the family home.	<u>Group B Medium Level Need</u> This service provides support to children who have moderate disabilities who will require support in activities of daily living and personal care such as toileting and washing, feeding and dressing, and support to take part in activities on a 1:1 basis or with the family within the family home.
<u>Group A High Level Need</u> This service is to provide intensive support to children/ young people with challenging behaviour which will require constant supervision and interventions to prevent self harm, damage to property and to others. Support workers will be required to support the child/ young person at home.	<u>Group B High Level Need</u> The service is to provide intensive support to children/ young people with complex physical disabilities. This will involve providing 1:1 support with moving and handling, feeding and administering medicines, toileting, and will require support workers to utilise specialist equipment in doing so.

Providers are expected to deliver a Personalised service to each child/ young person.

Walsall Children's Services Short break Entitlement Criteria:

Our Vision

We believe that all children and young people in Walsall have the right to be healthy, happy and safe, to be loved, valued and respected and to have high aspirations for a successful future.

Our Mission statement

To ensure all children and young people achieve the best possible levels of education, health and development and to support those who are most vulnerable. We will encourage children and young people to build on their achievements, to develop and improve their confidence, resilience and self esteem, to participate in their communities and economic well being. Our service delivery model will integrate services in localities through Children's Centres, extended schools and other appropriate venues, focusing on providing early multi-agency support to families. We will safeguard children by early recognition of risks and the provision of local support, with specialist intervention when needed.

Our Values

We **respect** all children, young people and their families – by listening carefully to their views and acting on them wherever possible.

We are **open** and **trustworthy** – by making decisions transparently, involving others and doing what we say we will.

We believe in the **potential** of all children – by doing all we can to support their development and talents.

We are **caring** and **responsible** – by acting as good corporate parents and going the 'extra mile' in our supportive approaches to all children.

We will **protect** vulnerable children and young people – by taking firm urgent action when needed, sharing information and not tolerating oppressive behaviour.

We engage with children and young people, helping to **empower** them through supporting their **aspirations** and giving them **responsibility**.

We **celebrate** and support cultural diversity and children's sense of identity.

Introduction

Children and young people who have a disability have the same rights as other children; they need the same opportunities to develop their social skills and become as independent as they are able to be. Just like other children and young people they need opportunities to enjoy activities separately from their parents and families

However, we recognise that children and young people with a disability can experience much more difficulty in accessing the ordinary activities many of us take for granted and that they may need some support to access those activities.

We also recognise that coping with a child or young person who has additional needs due to a physical or learning disability can be very demanding on a family. Many parents find there are not enough hours in the day to look after their disabled child and give their other children the attention they need. We will offer an assessment of need, arrange and fund services where there is a risk to the child's health or development, or where the demands of coping with the needs of a child or young person with a disability put the health and wellbeing of the immediate family at risk.

There are guidelines set out in our entitlement banding which help us to decide what level of support a family needs; however these are guidelines and we will consider with you the needs of you and your family before making any decisions.

At all stages all professionals will provide you and your family with advice and information about other organisations that may be able to help.

Legislation

Assessment of the needs of children and young people who have a disability and their families, and the provision of services following assessment is covered by a number of different pieces of legislation:

The Chronically Sick and Disabled Persons Act 1970: Section 2 of this act provides a wide ranging duty to provide support to any person living in their area.

The Children Act 1989 makes an absolute duty on all local authorities to recognise children with a disability as children in need and further, imposes a general duty on every local authority to provide a range of services and at a level appropriate to those children's needs.

Section 20(4) of the Children Act provides that a local authority may provide accommodation for any child or young person if in doing so they believe they will be promoting the child's welfare or safeguarding them.

The Disability Discrimination Act 1995 lays out a general duty to all public authorities to eliminate discrimination and to have due regard to the steps they need to take to overcome the effects of any disability.

The Community Care (Direct Payments) Act 1996 and the Health and Social Care Act 2001 (Direct Payments) provide that where a child or young person has had their needs identified following an assessment under the Children Act then person with parental responsibility can ask for a direct payment so that they can arrange services themselves to meet the child's needs rather than receive services directly from the Council. Direct provided services from the Council can still be provided to meet those needs that the Direct Payment does not cover, or which a parent does not wish to take on themselves.

The Carers and Disabled Children Act 2000, Section 6, provides that a person with parental responsibility for a disabled child has the right to an assessment from the local authority of their ability to provide, and continue to provide, care for the child.

The Carers (Equal Opportunities) Act 2004 states that local authorities have a legal duty to inform carer's of their right to a carers' assessment. Section 2 of this act amends earlier legislation to ensure that assessments must include consideration of whether the carer works, or wishes to work and is undertaking or wishes to undertake, education, training or any leisure activities; there is therefore a duty to ask carers about these issues and to take into account their wishes when planning any care package.

Services to carers are not defined by the Carers and Disabled Children Act; local authorities may provide any services they see fit to provide and which, in their view, help the carer care for the person cared for.

Recent case law highlights that while local authorities can use eligibility or entitlement criteria to limit access to service provided under their statutory powers, if they use such criteria they must have due regard to their duties to promote disability equality under Section 49A Disability Discrimination Act 1995.

Local authorities must do an assessment of children who may be eligible for services before applying any eligibility criteria

Pre Assessment Entitlement

Access to Universal Services: all parents can access universal services such as school, GP, Children's Centres without referral or assessment.

Access to Targeted Services/ supported universal services not subject to assessment under the Framework of Assessment of Children in Need: these services are accessed often following the completion of a CAF (Common Assessment Framework). This is a shared assessment tool used across all children's services in all local authorities. It aims to help agencies identify needs of children and their families early and to co-ordinate the provision of services where there are concerns or where it is felt that the child or young person may need additional assistance to help them take advantage of opportunities and achieve their best outcomes; the provider may carry out their own assessment.

Entitlement to Service

Children and young people who have a disability are by definition Children in Need and are entitled to a social care assessment.

The Children and Young People with a Disability Team will carry out an assessment under the Framework of Assessment of Need with children and young people up to their 18th birthday if they:

- have a physical or mental impairment which has a substantial and long term adverse effect on his or her ability to carry out normal day to day activities
- have a permanent and substantial disability
- are diagnosed with a life limiting and/or life threatening condition
- are diagnosed as being on the autistic spectrum disorder

The term physical impairment includes children who have a sensory impairment. The term mental impairment includes children with a learning difficulty.

When we assess the needs of a child or young person we take account of the needs of their parents and other children in their immediate family.

Parents and carers are entitled to a Carer's Assessment in their own right. These assessments are designed to help parents to remain healthy and to support them in fulfilling their caring responsibilities. They ensure that the impact of providing care on the parent carer are fully understood by professionals when planning services either for the child or young person.

Assessing the needs of carers should also be undertaken as part of the Assessment of Need with the carer's own needs identified and recorded along with any agreed outcomes that address the carer's needs.

Entitlement Banding

Low Level Need (Note: this does not apply to this contract): these are children and young people who, despite their disability, are leading life as normally as possible. Their disability does not impact on the functioning of family life or on their sibling's opportunities. Parents are able to provide reasonable care within their existing support networks and the impact on their work, personal and social life is minimal. This group also includes children and young people who require access to services which will broaden their experiences or prevent stress from building up within the family. They may have some developmental delay, exhibit some behavioural difficulties or have a mild learning disability. Their needs may be restricting the opportunities available to their siblings. Parents are able to provide reasonable care, but may have other caring responsibilities and families may be experiencing isolation.

An initial assessment can be carried out and children, young people and their families will be signposted to any services accepting self referrals along with any other useful local, regional or national information. Parents should also be offered a carer's assessment. **Please note that children/ young people with Low level needs would not be accessing services described within this tender.**

Medium Level Need: these are children and young people with a severe disability. They may have ongoing care needs due to mobility, general developmental delay, communication and behavioural problems, exhibit demanding behaviours and require regular supervision either at home or when in the wider community. Their siblings are unable to access leisure opportunities due to the care needs or may have Young Carer's responsibilities. Parents may have competing demands from children within the household, or experiencing significant impact on their own work,

personal and social life due to caring responsibilities. Parents will only be able to continue to provide reasonable care with support.

At this level, children, young people and the families can access all the services available at the Low Level of Need. In addition they may require additional supports such as the Buddy Scheme, Directly Commissioned Family Support Services to provide support within the family home and/or Direct Payments.

High Level Need: these are children and young people with a severe disability who require constant supervision, have complex care needs with very limited self help skills, or who display very challenging behaviours resulting in the need for regular physical restraint as a result of behaviours that may be injurious to themselves or others. These children and young people may well require night time support and attention. The impact on siblings is significant and their parents are unable to provide the support and emotional guidance that they require. Caring for the child or young person with a disability may fall mainly on a single carer who is experiencing difficulties in coping because of their physical or mental health; parents may also be providing care for more than one child with a disability, including a child whose own needs would ordinarily fall into a medium or low category.

If following an Initial Assessment, a child or young person's needs are identified as high, it is possible that a core assessment will be required. However, such services as may be required to prevent the immediate breakdown of the family unit should be made available in line with the Assessment Framework guidance.

At this level, children, young people and the families can access all the services available at the Low and Medium Level of Need. In addition an overnight break, whether away from the family home or by the provision of services within the family home may also be indicated.

2.2 Schedule 2 - Extension of the Term

1. The Term set out in this Schedule, where completed, shall take precedence over the period stated in clause 3.1.
2. The Term shall be for a period of 1 year (the “Initial Term”).
3. The Council, subject to the provisions of clause 4 below, shall have the right to extend the Initial Term in periods of up to twelve (12) months subject to a maximum Term of three (3) years by serving written notice on the Service Provider specifying the duration of the extended Term.
3. Any notice to extend the Initial Term shall be served by the Council on the Service Provider not less than three (3) months prior to the end of the Initial Term unless the Parties agree otherwise.
4. If the Council exercises its right to extend the Initial Term, the Parties shall continue to observe and perform their respective obligations under this Agreement throughout the extended Term, save that the Parties may agree a change in the Fees for the extended Term.

2.3 Schedule 3 - Authorised Representatives and Key Personnel

1. Authorised Representatives

1.1 For the Council:

The Council's Authorised Representative(s) means the Officer of the Council who is nominated to communicate and negotiate with the Service Provider in relation to the Contract on behalf of the Council from time to time. The Council's Authorised Representative may appoint one or more persons to act on his behalf generally or for specified purposes or periods. Immediately any such appointment is made, the Council's Authorised Representative shall give written notice thereof to the Service Provider. The Council shall ensure that the Council's Authorised Representative is available for consultation with the Service Provider at all reasonable times.

Name:

Position:

Contact Address:

Telephone number:

Fax Number:

Email address:

1.2 For the Service Provider:

Service Provider's Contract Manager: The person within the Service Provider's organisation responsible for implementation of the Agreement, contract monitoring and compliance.

Name:

Position:

Contact Address:

Telephone number:

Fax Number:

Email address:

2.4 Schedule 4 - TUPE

1. The Service Provider acknowledges and agrees that, subject to the right of employees under Regulation 4(7) of TUPE, TUPE will, to the extent that there are Transferring Employees; operate to transfer the Transferring Employees from the Transferor to the Service Provider on the Transfer Date. The Service Provider will employ the existing workforce on no less favourable terms and conditions as applicable at the Transfer Date, in accordance with TUPE. The Service Provider will make such pension provisions in respect of any Transferring Employees as complies with any relevant obligations under sections 257 and 258 Pensions Act 2004 and the regulations under these sections, namely the Transfer of Employment (Pension Protection) Regulations 2005.
2. The Service Provider shall maintain current and accurate records of all employees who are or are to be engaged in connection with the Services. These records shall include name and address and employee's attendances and training undertaken, and shall differentiate between those engaged as operatives and those exercising supervision and should be to the satisfaction of the Council. These records shall be open for inspection by the Council or its representative at all reasonable times, and a copy of these records shall be provided to the Council or its representative if requested. The Service Provider shall comply with the provision of law under the Data Protection Act 1998 and with the Freedom of Information Act 2000.
3. The Service Provider shall indemnify and keep indemnified the Council and, at the Council's request, each and every Service Provider who shall provide any service equivalent to any of the Services after expiry or earlier termination of this Agreement ("Future Service Provider") against Loss incurred by the Council or any Future Service Provider connected with or arising from any claim or proceedings by any trade union, elected staff representative, works Council or employee association made against the Council or any Future Service Provider in respect of any or all of the staff or any other staff of the Service Provider or Sub-Contractor and which arises from or is connected with any failure by the Service Provider or Sub-Contractor to comply with its legal obligations in relation thereto whether under TUPE or otherwise including for the avoidance of doubt Loss connected with or which relates to pension rights in respect of periods of employment on and after the Transfer Date until the date of termination or expiry of this Agreement.
4. The Service Provider shall indemnify and keep indemnified the Council or at the direction of the Council, any Future Service Provider against any Loss incurred by the

Council or Future Service Provider connected with or arising from the contract of employment or any policy applicable to, or any collective agreement in respect of any staff or of any other person at any time employed by (or engaged as a consultant by) the Service Provider or Sub-Contractor made against the Council or Future Service Provider at any time for breach of such contract, policy or any such collective agreement, pay, unfair dismissal, statutory or contractual redundancy pay, sex, race age, disability or other unlawful discrimination or victimisation, equal pay, unlawful deductions, loss of earnings, industrial or personal injury or otherwise relating to their employment by the Service Provider or Sub-Contractor or termination of employment.

5. Without prejudice to paragraph 6 the Service Provider will, within 14 days of receiving the Council's request, provide to the Council in respect of the Personnel (or any individual member of the Personnel):

5.1 a copy of any employment contract;

5.2 details of total and/or individual employments costs including salary, pension and overtime rates and policies; and

5.3 details of any other contractual and non-contractual benefits.

6. Without prejudice to paragraph 7 the Service Provider will:

(a) if so requested by the Council on each 6 month anniversary of the Commencement Date during the continuance in force of this Agreement; and

(b) not more than 7 days after the date of any notice to terminate this Agreement given by either Party for any reason whatsoever; and

(c) at any other time within 28 days of a request by the Council provide and use its best endeavours to procure that any relevant Sub-Contractor provides the following information to the Council:

6.1 a list of current Personnel and Sub-Contractors (each identified as such in the list) (the "Staff List");

6.2 Employee Liability Information supplied in accordance with Regulation 11 of TUPE together with details of the Employment Costs of the Service Provider Personnel;

6.3 a list of all persons who are engaged or have been engaged during the preceding six months in the provision of Services whom the Service Provider considers in the

event of a transfer of provision of the Services (or any part) for any reason whatsoever would not transfer under TUPE together with details of their role and a full explanation of why the Service Provider thinks such persons would not transfer, such information together being the "Staffing Information".

7. The Service Provider will notify the Council in as much detail as possible as soon as practicable and in any event within 5 days of the Service Provider becoming aware of any additional or new Staffing Information and/or any changes to any Staffing Information already provided.
8. The Service Provider undertakes to the Council that any Staffing Information which it supplies (including any copies of it) will be complete and accurate in all respects and will be kept complete and accurate in accordance with paragraph 7.
9. Subject to paragraph 10 the Service Provider will provide the Council with a list of all the Service Provision Employees (the "Final Staff List") and any changes to the Staffing Information in relation to the Service Provision Employees in each case not less than 14 days before the Further Transfer Date.
10. If the Agreement is terminated by summary notice by either Party in accordance with this Agreement then the Final Staff List will be provided by the Service Provider to the Council within 5 days of the Further Transfer Date.
11. The Service Provider warrants and undertakes that as at the Further Transfer Date:
 - 11.1 the Final Staff List and the Staff Information relating to persons on that list will be complete and accurate;
 - 11.2 the Final Staff List will identify all actual and potential Service Provision Employees; and
 - 11.3 it will have disclosed accurately to the Council or the Further Service Provider all Employment Costs and other Staffing Information relating to the Service Provision Employees.
12. From the earlier of:
 - (a) the date falling 6 calendar months before the Termination Date; and
 - (b) if this Agreement is terminated by summary notice by either Party in accordance with this Agreement, the date of the relevant termination notice; and

- (c) the date on which the Council notifies the Service Provider that a dispute has arisen or may arise

the Service Provider will not and will procure that its Sub-Contractors do not without the prior written consent of the Council:

- 12.1 terminate or give notice to terminate the employment or engagement, or replace the persons listed on the most recent Staff List and/or any Service Provision Employees;
 - 12.2 deploy or assign any person to perform the Services who is not already doing so with the effect that the number or identity of the Personnel increases;
 - 12.3 make, propose or permit any changes to the terms and conditions of employment or engagement of any persons listed on the most recent Staff List and/or any Service Provision Employees;
 - 12.4 increase to any significant degree the proportion of working time spent on the Services by any of the Personnel and/or any Service Provision Employees; or
 - 12.5 introduce any new contractual or customary practice (including for the avoidance of doubt any payments on termination of employment) applicable to any Service Provision Employee or person listed on the most recent Staff List or the Final Staff List.
13. The Service Provider will promptly notify the Council of any notice of resignation received from any person listed on the most recent Staff List or the Final Staff List (if any) during the period referred to in paragraph 12 regardless of when such notice takes effect.
14. For the avoidance of doubt, the Service Provider confirms that the Council will be permitted to disclose any information provided to it under this Schedule 7 in summary and/or anonymised form to any person who has been invited to tender for the provision of the Services (or similar services) and to any Future Service Provider.
15. The parties acknowledge that TUPE may apply on the expiration or termination of the Agreement and/or the appointment of a Future Service Provider and agree that in the event that TUPE does so apply:
- 15.1 the contracts of employment all the Service Provision Employees will have effect from the Further Transfer Date as if originally made between the Service Provision Employees and the Council or Future Service Provider (as

appropriate) (except in relation to rights under any occupational pension scheme excluded under Regulation 10 of TUPE which will be treated (if applicable) in accordance with the provisions of the Pensions Act 2004 and the Transfer of Employment (Pensions Protection) Regulations 2005).

15.2 During the period commencing on the earlier of:

- (a) the date falling 6 calendar months before the Further Transfer Date; and
- (b) if the Agreement is terminated by summary notice by either Party in accordance with this Agreement, the date of the relevant termination notice; and
- (c) the date on which the Council notifies the Service Provider of any dispute

and ending on the Further Transfer Date the Service Provider will:

- 15.2.1 provide the Council with access to such employment records as the Council may require to put in place the administrative arrangements for the transfer of the contracts of employment of the Service Provision Employees to the Council or Future Service Provider (as appropriate);
- 15.2.2 allow the Council to have copies of any of the documents referred to in paragraph 15.2.1; and
- 15.2.3 provide all original employment records relating to the Service Provision Employees to the Council or Future Service Provider (as appropriate).

If the Service Provision Employees are employed or engaged by Sub-Contractors, the Service Provider will procure such Sub-Contractors provide the Council or Future Service Provider (as appropriate) with the same level of access and information.

15.3 The Service Provider warrants to each of the Council and the Future Service Provider as applicable that (except where the Service Provider has notified the Council and the Future Service Provider (if appointed) in writing to the contrary) as at the Further Transfer Date no Service Provision Employee to the Service Provider's knowledge:

- 15.3.1 is under notice of termination;
 - 15.3.2 is on long-term sick leave;
 - 15.3.3 is on maternity, parental or adoption leave;
 - 15.3.4 has committed any serious security breach or engaged in any serious fraudulent activity or misconduct amounting to a breach of any applicable regulations;
 - 15.3.5 is entitled or subject to any additional terms and conditions of employment other than those disclosed to the Council or Future Service Provider including any secondment to another part of the Service Provider's Business (as appropriate);
 - 15.3.6 is the subject of formal disciplinary proceedings;
 - 15.3.7 has received a written warning (other than a warning that has lapsed);
 - 15.3.8 has taken or is the subject of a grievance procedure; or
 - 15.3.9 has objected, or has indicated an intention to object, in accordance with TUPE to his or her employment transferring to the Council or Future Service Provider (as appropriate) under TUPE.
- 15.4 The Service Provider undertakes to each of the Council and any Future Service Provider (as appropriate):
- 15.4.1 that it will continue to perform and observe all of its obligations and those of any of its predecessors under or in connection with the contracts of employment of the Service Provision Employees up to the Further Transfer Date;
 - 15.4.2 to pay to the Service Provision Employees all sums to which they are entitled from the Service Provider and/or any Sub-Contractor up to the Further Transfer Date (regardless of when such sums fall due) including, without limitation, all wages and salaries, sick pay, maternity pay, any liability to taxation, expenses, accrued bonus, commission and other sums payable in respect of any period up to the Further Transfer Date; and

15.4.3 to comply in all respects with its information and consultation obligations under TUPE and to provide to the Council or Future Service Provider (as appropriate) such information as the Council or Future Service Provider may request in order to verify such compliance.

15.5 In respect of the Service Provision Employees the parties agree that all Employment Costs will be apportioned on a time basis (regardless of when such sums fall to be paid) as follows:

15.5.1 up to and including the Further Transfer Date the Service Provider will be responsible for the Employment Costs;

15.5.2 after the Further Transfer Date the Council and/or Future Service Provider (as appropriate) will be responsible for the Employment Costs

except that there will be no apportionment in respect of the Employee's holiday entitlements.

15.6 The Service Provider will indemnify and keep the Council and any Future Service Provider indemnified from and against all Losses which the Council and/or the Future Service Provider (as appropriate) incurs or suffers arising directly or indirectly out of or in connection with:

15.6.1 any failure by the Service Provider to comply with its obligations under paragraphs 15.4 or 15.5;

15.6.2 any act, omission or default by or on behalf of the Service Provider or any Sub-Contractor in respect of any person who is or was employed or engaged by it;

15.6.3 the employment or termination of employment by the Service Provider or any Sub-Contractor of any of the Service Provision Employees up to and including the Further Transfer Date;

15.6.4 the Service Provider's failure to inform or consult appropriate representatives as required under Regulation 13 of TUPE (except to the extent that any such action or claim or part of any such action or claim arises from any failure by the Council or the Future Service Provider to give the Service Provider the information required from it

or them to enable the Service Provider to comply with its obligations under TUPE);

15.6.5 any failure or delay by the Service Provider to provide Employee Liability Information to the Council or the Future Contractor concerning the Service Provision Employees in accordance with regulation 11 of TUPE;

15.6.6 any claim brought or other action taken by or on behalf of any of the Service Provision Employees which arises from or in connection with (directly or indirectly) any act or omission and/or communication made to any of them before the Further Transfer Date by, on behalf of and/or at the instruction of the Service Provider including without limitation any claim under regulations 4(9), 4(11) or 7(1) of TUPE;

15.6.7 any claim or demand or other action taken against the Council and/or Future Service Provider by any person employed or engaged by the Service Provider (other than the Service Provision Employees as disclosed on the Final Staff List) who claims (whether correctly or not) that the Council or Future Service Provider has inherited any liability from the Service Provider in respect of them by virtue of TUPE.

15.7 The Service Provider will:

15.7.1 maintain such documents and information as will be reasonably required to manage the pension aspects of any onward transfer of any Service Provision Employees;

15.7.2 promptly provide to the Council such documents and information which the Council may reasonably request in advance of the expiry or termination of this Agreement; and

15.7.3 fully co-operate (and where applicable procure that the trustees of any occupational pension scheme of which the Service Provision Employees have membership will fully co-operate) with the reasonable requests of the Council relating to any administrative tasks necessary to deal with the pension aspects of any onward transfer of any Service Provision Employees.

16. For the avoidance of doubt, where it is alleged by an individual or deemed or held that TUPE does not apply in connection with the expiration or termination of this Agreement (or any part of the Services) and/or the appointment of a Future Service Provider the Service Provider shall be solely liable for any Employment Costs and/or any redundancy or severance costs or any other matter concerning that person and the Service Provider shall indemnify and keep indemnified the Council and any Future Service Provider against any Loss in relation thereto.

17. In the event that the Service Provider enters into any sub-contract in connection with this Agreement, it shall impose obligations on its Sub-Contractors (of any tier) in the same terms as those imposed on it pursuant to this Schedule 7 and shall procure that the Sub-Contractor (of any tier) complies with such terms. The Service Provider shall indemnify and keep indemnified the Council in full against all Losses, incurred by the Council or any Future Service Provider as a result of or in connection with any failure on the part of the Service Provider to comply with this paragraph and/or the Sub-Contractor's failure to comply with such terms. Further, all references in this Schedule 7 to the Service Provider's employees shall be deemed to include any employees of any Sub-Contractor (of any tier).

2.5 Schedule 5 - Health and Safety

- 1.1 The Service Provider will comply with the requirements of the Health and Safety at Work Act 1974, insofar as they apply to the provisions of this Agreement.
- 1.2 For as long as this Agreement is in force the Service Provider must have in place a Health and Safety Policy, which complies with all statutory requirements and a copy shall be made available to the Council upon request.
- 1.3 The Service Provider shall provide to the Council a detailed response to the Council's Health and Safety at Work Questionnaire and such information relating to any instances of the Service Provider or any members of its Personnel being charged with or being found guilty of any breach of any health and safety at work regulations and any other acts, Regulations or orders retaining to the health and safety of staff and any other persons otherwise affected by the Service Provider.
- 1.4 The Service Provider shall produce as required by the Council from time to time satisfactory records of instruction and training of its Personnel and its written procedures showing compliance with the relevant legislation.
- 1.5 The Service Provider shall adopt and implement procedures in respect of violence at work that includes responses to any incident in which a member of staff is abused, threatened or assaulted by a member of the public in circumstances arising out of the course of his/her employment.
- 1.6 The Service Provider is required to follow the requirements of the written risk assessment which will cover COSHH moving and handling and general risks.
- 1.7 Using Council Premises and Equipment;
 - 1.7.1 The Service Provider shall forthwith nominate a person to be responsible for Health and Safety matters. Whilst on premises owned or occupied by the Council, the Service Provider shall ensure that its staff complies with the Council's General Statement of Safety Policy and with the lawful requirements of the Council's Principal Safety Officer.
 - 1.7.2 The Council's Authorised Representative, the Council's Principal Safety Officer, or their representative shall be empowered to suspend the provision of the Service or part thereof in the event of non-compliance by the Service Provider with this Schedule or with its legal duties in Health and Safety matters. The Service Provider shall not

resume provision of the Service or such part until the Principal Safety Officer is satisfied that the non-compliance has been rectified.

- 1.7.3 In addition to the statutory obligations under R.I.D.D.O.R. to investigate and report accidents, the Service Provider shall be required to report forthwith to the Council's Authorised Representative any accident, act of violence or incident occurring during the delivery of the Service.

2.6 Annex 1 – Walsall Safeguarding Children’s Board Policies and Procedures

The provider shall comply with the relevant policies, procedures and guidance issued by the Walsall Safeguarding Children’s Board (see table and links below):

Child Protection policy	http://www.wlscb.org.uk/wscbindex/wscbprotection/wscbpolicy.htm
Safe Recruitment	http://www.wlscb.org.uk/wscbindex/wscbrecruitment.htm
Allegations against people working with children	To discuss an allegation against a person working with children, please contact the Walsall Local Area Designated Officer on telephone 01922 646640
Are you worried about a child?	If you are concerned about the welfare of a child or young person you can contact any of the following: During the day Monday - Thursday, 8.45am - 5.15pm Friday, 8.45am - 4.45pm Initial Response Team, The Quest, 2nd floor 39-143 Lichfield Street Walsall WS1 1SE Telephone: 01922 658170 Fax: 01922 658195 Evenings, weekends, bank holidays Emergency Response Team 0845 111 2836
Guidance	http://www.wlscb.org.uk/wscbindex/wscbguidance.htm

2.7 Schedule 6 - Service Provider's Schedule of Prices

To be inserted following award of contract.

SECTION 3 – KEY PERFORMANCE INDICATORS

3.1 Links to Quality Assessment

3.1.1 This section includes service information data that links to the key outcomes required and the contract monitoring data and therefore can be used as evidence when making either the annual or quarterly returns.

3.1.2 It is intended that that these performance measures and indicators are:

- simple to operate and objective.
- unambiguous and objective in the evaluation of qualitative aspects for the Service.
- built upon the Providers own outcome based internal Quality Audit Management Systems.

3.1.3 To achieve this intention the Authority will work with the Providers and such organisations to develop a satisfactory and acceptable template for use in monitoring the performance of the service.

3.1.4 Such performance indicator data will only be used for the purposes of monitoring performance over the contract period and the volume of orders placed.

3.1.5 The Council will place orders taking into account performance on these KPI's.

No	Description of Performance Indicator	Frequency of Submission	Target
1	<p>Customer Satisfaction</p> <p>Percentage of Users satisfied with the Care and support Services provided by the Provider</p> <p>Numerator</p> <p>The total number of User replies that do not state at a minimum “3 sometimes” in accordance with the Question “Overall how satisfied are you with the service you receive in relation to care and support”</p> <p>Denominator</p> <p>The total number of Service User replies received.</p>	6 months	

No	Description of Performance Indicator	Frequency of Submission	Target
	<p>Commentary</p> <p>The survey will be issued 6 monthly by the Provider. The categories of answers are numbered 5 to 1, with 5 being always satisfied, 4 usually satisfied, 3 sometimes, 2 not usually, 1 never.</p> <p>If the Provider fails to issue a survey to at least 85% of eligible Users, The Provider will deemed to have achieved the lowest performance banding</p> <p>If the survey falls below the “3 sometimes” threshold, the Provider will present to the Authority an improvement plan within 14 days, and start implementation within 28 days of the results of the survey.</p>		
2	<p>Care Plan Implementation</p> <p>The number of failures within Care Plans in the contract month</p> <p>Numerator Number of failures</p> <p>Denominator Total number of Care plans within the contract month.</p> <p>Commentary Failure is where the Provider fails to facilitate daily living activities or support services. If the Service User declines the daily living activities or support services then this will not be classed as a failure by the Provider. Measurement is a percentage.</p>	Quarterly	
3	<p>Additional Performance Indicators</p> <p>Will be included during the contract consistent with the terms and conditions and specifications</p>		

SECTION 4 – TUPE

This may only apply to Service 3.

4.1. Introduction

4.1.1 The attention of Tenderers is drawn to the Transfer of Undertakings (Protection of Employment) Regulations 1981 as amended (TUPE). In the case of Service 3, work currently awarded to a contractor is subsequently awarded to another successful tendering organisation, such a transfer of work may constitute a "transfer of an undertaking" for the purposes of TUPE.

4.1.2 TUPE provides that where there is a transfer of an undertaking (or possibly part of one), the new employer takes over any employment liabilities and the responsibility for the employment contracts of the employees, who then transfer on their previous terms and conditions of service. As a successful tenderer may be a potential transferee for the purposes of TUPE, tenderers should seek legal advice as to whether TUPE will be likely to apply to the proposed contract, and if so, to reflect the financial implications of such a transfer in their tender. In such cases, as the Department will be neither transferee nor transferor for the purposes of TUPE, the application of TUPE is a matter for each tenderer to clarify with their legal advisers. If TUPE is deemed to apply then the financial implications are a matter for discussion between the prospective tenderer and the existing contractor, rather than for the Department.

4.1.3 Schedule 4 in Section 2 contains the terms and conditions applicable to TUPE.

SECTION 5 – EVALUATION PROCESS AND AWARD CRITERIA

5.1 Award of Agreement

- 5.1.1 The Authority will be awarding the contract to the most economically advantageous tender in accordance with the Public (Services) Contract Regulations 2006 taking into account quality (meeting the needs of the Service Users), and price.
- 5.1.2 The evaluation of submissions for this agreement will be based on a value assessment approach, which enables the Authority to assess a tender against a number of criteria. The evaluation will be based on:

Section 5 – Qualification Questionnaire	
Pass or Fail (clarifications may be sought)	

Section 8 - Quality sections	
Quality specification detail response	Pass or Fail (clarifications may be sought)
Quality specification for relevant care packages	
Latest Inspection report	
Staff and management competences	

Section 7 - Price
Prices will be weighted by a notional allocation of orders by time slot (see example in section 7.10) and the Council will select by the tendered prices

SECTION 6 – QUALIFICATION QUESTIONNAIRE

If you submitted a QQ for this tender previously by the deadline of 15 December 2009 and wish the Council to consider that submission for this section, **please tick here** .

If you would like to submit an amendment please do so within this section of the ITT.

If you have not previously submitted a QQ for this tender, please complete the below Qualification Questionnaire:

Qualification Questionnaire Contents

- Section A - General Company Information
- Section B - Environmental Considerations
- Section C - Financial Considerations
- Section D - Technical Resource and Capability
- Section E - Health and Safety
- Section F - Equal Opportunities Monitoring

Evaluation Criteria

Your response to the questions in this QQ will be scored using the matrix shown below.

Criteria	Assessment
Supplier Acceptability	Pass / Fail
Economic and Financial Standing	Pass / Fail
Supplier Track Record of Similar Service for Local Government	Pass / Fail
Supplier capacity and capability	Pass / Fail
Health and Safety	Pass / Fail
Equal Opportunities	Pass / Fail

Section A: General Company Information

Guidance notes:

- a. You must include all supporting documentation when returning the questionnaire.
- b. The answers should be typed or written in black ink; separate sheets may be used to answer questions if space on the form is insufficient and should be numbered accordingly making reference to the appropriate section.
- c. Please note that information such as references or financial checks may only be taken up with leading tenderers from the analysis process.

1. COMPANY/BUSINESS NAME and ADDRESS

--

Indicate what Service/s you are Bidding For: (please tick)

Service 1		Service 2		Service 3	
------------------	--	------------------	--	------------------	--

Tel No:	VAT Reg. No:
Company Registration No:	Company Registered Office:

Status (Please tick)	Public Ltd. Co	
	Private Ltd. Co	
	Sole Trader	
	Partnership	
	Charity/Social Enterprise	

CONTACT DETAILS FOR THIS APPLICATION	
Name:	
Position:	
Telephone number:	
Fax number:	
E-mail:	

2. PARENT COMPANY NAME AND ADDRESS (if applicable)

3. PARENT COMPANY GUARANTEE

<u>A3.1</u>	Yes	No
<p>Would the Parent company:</p> <p>a) guarantee the contract performance of its subsidiary</p> <p>b) be prepared to enter into the contract</p> <p>If the answer is <u>YES</u> the parent company must send written confirmation and we may require copies of accounts.</p>		

Please provide the addresses of your operating bases in the UK.

--

Please list the full name of every Director, Partner, Associate and Company Secretary.	
Directors:	Associates:
Partners:	Company Secretary:

A3.2

If the tendering company is a member of a group of companies, you must provide the Names and Registered Office, together with Registration Numbers of the Ultimate Holding Company, Associate companies and all Other Subsidiaries.

Ultimate Holding Company: Name and Address: Registration Number:	Subsidiary Company: Name and Address: Registration Number:
Subsidiary Company: Name and Address: Registration Number:	Subsidiary Company: Name and Address: Registration Number:

A3.3

Please Detail the Professional Bodies With Whom You Are Registered or Approved and the Commencement Date of Your Membership or Incorporation. Copies of Certificates / Proof of Membership / Incorporation must be enclosed.	
Body/Organisation	Date of membership/Incorporation

		Yes	No
A3.4	<p>Does your organisation act as an agent for another company?</p> <p>If yes, please enclose a copy of the agency agreement.</p> <p>Name of Company</p>		
A3.5	<p>Have any of the Directors, Partners or Associates, been involved in any company which has been liquidated or gone into receivership?</p> <p>If yes please detail the name of the company, date of liquidation, monies left owed and a general history of the company's demise.</p>		
A3.6	<p>Are there any outstanding claims or litigation against the company?</p> <p>If yes please provide details.</p>		
A3.7	<p>Have any of your Company Directors been convicted of price fixing by the Office of Fair Trading?</p> <p>If yes please provide details</p>		
A3.8	<p>Does any person referred to in A3.1 have a relative or friend who is or has been employed by the Council at a Senior level (i.e. Principal Officer designation or above) or is or has been a Councillor?</p> <p>If yes please detail the full name of the person(s), position held and the dates the position was held.</p>		
A3.9	<p>Has any person referred to in A3.1 ever been employed by or been an elected member of Walsall Council?</p>		

	If yes please detail the full name of the person(s), position held and the dates the position was held.		
A3.10	Do any Directors or Partners of the Company on whose behalf this application is made have interests in other companies carrying out similar activities? If yes please provide the name of the company and the name of the Director or Partner involved.		
A3.11	Do any Directors, Partners or Associates of your company have involvement in any other company who provide goods or services to Walsall Council? If yes please provide the name of the company and the name of the Director or Partner involved and the nature of service or goods supplied		
A3.12	In the last five years has your company: Had to pay financial penalties and or contractual damages levied in respect of failure to perform in accordance with contract conditions? Had a contract terminated? Withdrawn from a contract prematurely? If you have answered yes to any of the above 3 questions, you are required to provide full details.	Yes Yes Yes	No No No

A3.13

Please provide details of all insurance cover currently in force. If your company's tender is successful, adequate insurance cover will be required. The minimum levels required by Walsall Council are indicated below. If your current insurance is insufficient, please enclose a copy of a

quotation from your insurance company indicating that the increased cover will be available should you be awarded the contract.

Please indicate the level of cover you have plus details of the issuing company, policy number, cover provided and renewal date.

Please provide copies of all certificates of insurance detailed below.

Insurance Type	Insurer	Policy No.	Cover £	Renewal Date
Public Liability Preferred level £10Million per single claim				
Employer's Liability Preferred level £10Million per single claim				
Professional Indemnity. Preferred level £2Million				

A3.14

Does your company have its own standard policy for quality assurance	Yes	No
If yes you must enclose a copy of the policy		
Does your company have a Customer Care Policy?		
If yes you must enclose a copy of the policy.		

A3.15

Does your company have a business continuity plan in place?	Yes	No
If yes please enclose a copy of your business' plan		

SECTION B ENVIRONMENTAL CONSIDERATIONS.

General Statement.

Walsall metropolitan Borough Council has an Environmental Policy which aims to improve the Council's environmental performance and provide an example of good practice to others. In particular the Environmental Policy states that the Council will encourage contractors working on its behalf to apply the Council's Environmental Policy. The Council will also work with its suppliers to improve the environmental performance of companies through the supply chain. Some contracts issued by the authority will include a requirement by the successful applicant to meet some certain environmental criteria specific to that contract. The criteria will be specified in the tender documents. Nevertheless **all** organisations performing work on behalf of the Council will be expected to undertake contracts in an environmentally aware manner.

Does your company have an environmental policy? Yes No

If yes please enclose a copy of your policy.

SECTION C – FINANCIAL CONSIDERATIONS.

If your organisation is a private limited or public limited company that has registered trading accounts with Companies House, you are **NOT** required to provide the accounts as requested below. The Council will obtain a financial report on your company from a business information service provider, who will have assessed the last four years (where appropriate) of accounts that were registered at Companies House. The report will be obtained on the organisation you have specified in respect of this form. Therefore please ensure that the title of your organisation matched the registration number given when answering relevant questions and the Certificate of incorporation submitted. (If necessary a report will also be obtained on your parent company).

If your organisation has not logged accounts at Companies House or is not a private limited or public limited company, please enclose copies of audited accounts in statutory form and annual reports for the last 3 years, to include Balance Sheet, Profit and Loss Accounts and Cost of Sales, Full Notes on the Accounts and a signed Director's Report / Auditor's Report

Please tick if enclosed

Please note if the notes of the accounts do not state the basis of valuation on working capital equipment you must be aware that Walsall Council has the right to request further information from you. If this information is not provided on request, your application may not be considered any further.

If the last set of audited accounts is more than 9 months old please confirm that the company, as described in the last set of accounts is still trading and set out any known significant changes in the current financial position from the last available balance sheet. If the audit certificate for the last balance sheet has been delayed, please state the reason. (This should be provided by the person within your organisation who has the responsibility for financial operations.

Please tick if enclosed

SECTION D – TECHNICAL RESOURCES and CAPABILITY

D1. Staffing Numbers

Please indicate the number of employees in your company engaged specifically in the type of work for which you are applying.

Management		Professional	
Direct Care and Support		Administrators	

D2. Care and Support Staff Skills and Qualifications

Please indicate the skills, qualifications and technical expertise there is available within your organisation that can be provided by your **Care and Support Employees Staff**
 To do, this please state the name of the employee, their position within the company, their qualifications.

Name of Employee or Reference	Position Held	Qualifications Relevant to Work	CRB and Level Date obtained	Number of Years Experience	Service 1,2 or 3 or ALL

SECTION D – TECHNICAL RESOURCES and CAPABILITY Continued

D4. Names, addresses and references of workforce

		Yes	No
	Are you willing to provide the names and addresses of all directly employed workers and sub-contractors who may in the course of their duties as your employees, come into contact with vulnerable groups such as the Elderly, Young Persons, Physically or Mentally Handicapped Persons, when working for this Council		
	Does your company have a system for ensuring that employees, who may come into contact with any of the above groups, have provided the appropriate references?		
	<p>During the term of the contract, the personnel deployed by the Contractor may during the course of their duties come into contact with vulnerable groups such as the young persons and physically and mentally impaired persons.</p> <p>Does your organisation have a procedure for carrying out CRB checks on such personnel.</p> <p>If yes please provide details of the whole procedure</p>		

D5. Sub Contract

		Yes	No
	a) Are you bidding in the role of Prime Contractor		
	b) Do you intend to use third parties to provide part or all of the services		
	If your answer to (b) is Yes, please identify intended sub-contractors/partners for the bid (if currently known) below:		

Organisation name	Organisation address and contact details	Service provision responsibility

<p>Please give a brief outline on your policy regarding the use of sub-contractors and, if applicable, the extent to which you might envisage using them for this contract.</p>		

D6. Contact Details

		Yes	No
	Does your company have a central point of contact for queries?		
	Please detail where this is located		

D7. Removed - see 8.6

D 8. Experience

Please provide answers to the below questions in a separated document. You should restrict your answers to no more than one side of A4 in font size 12 (min margins top 2.54cm, bottom 2.54 cm left and right 3.17cm) for each questions.

For Service 1 Please answer the following questions:

- A) Describe how you have successfully delivered a high quality short breaks Buddy Service or similar in the last 3 years, with supporting evidence of your key impact and success.

- B) Describe how you involved young people, parents/carers and key stakeholder in shaping services that you deliver or are developing, give evidence of your key areas of impact and success

C) Briefly describe how you foresee working with the Council to facilitate a smooth implementation of the service should you be successful.

For Service 2 Please answer the following questions:

A) Describe how you have successfully delivered a high quality short break service to a child / youth whilst within the child's / youth's home or similar in the last 3 years, with supporting evidence of your key impact and success

B) Briefly describe how you foresee working with the Council to facilitate a smooth implementation of the service should you be successful.

For Service 3 Please answer the following questions:

A) Describe how you have successfully delivered a high quality holistic care support service or similar to children and young people in the last 3 years, with supporting evidence of your key impact and success

B) Briefly describe how you foresee working with the Council to facilitate a smooth implementation of the service should you be successful.

D9. Company References

Please list below five references that we may contact, (preferably for other Local Authorities), for which your firm has provided similar services. The references given should cover the whole range of work for which your company wishes to be considered.			
(1) Contact name and full address of person and organisation providing reference.	Contract value £	Start date:	Completion date:
	Description of work carried out:		

(2) Contact name and full address of person and organisation providing reference.	Contract value £	Start date:	Completion date:
	Description of work carried out:		
(3) Contact name and full address of person and organisation providing reference.	Contract value £	Start date:	Completion date:
	Description of work carried out:		

References continued

Please list below five references that we may contact, (preferably for other Local Authorities), for which your firm has provided similar services. The references given, should cover the whole range of work for which your company wishes to be considered.

(5) Contact name and full address of person and organisation providing reference.	Contract value £	Start date:	Completion date:
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	Description of work carried out:		
(6) Contact name and full address of person and organisation providing reference.	Contract value £	Start date:	Completion date:
	Description of work carried out:		
(7) Contact name and full address of person and organisation providing reference.	Contract value £	Start date:	Completion date:
	Description of work carried out:		

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SECTION E - HEALTH AND SAFETY

In order to comply with its legal duties, Walsall Council needs to ensure that only competent contractors are employed to undertake work on its behalf. Consequently, it is important that contractors are appropriately vetted and monitored at all stages of the contracting process. Part of this vetting procedure is an examination of contractor's systems for control of health and safety.

E.1 OVERALL RESPONSIBILITY

Name and position of person with overall responsibility for the implementation of your firm's safety policy.

Name:

Position:

E.2 NUMBER OF DIRECTLY EMPLOYED PERSONS

Please state the total number of directly employed persons (including Directors, Apprentices / Trainees, etc.)

Total No:

If you have 5 or more directly employed persons please comply with Question E6

E.3 COMPETENT ASSISTANT IN HEALTH AND SAFETY

Have you appointed a competent person(s) as required by Regulation 7 of the Management of Health and Safety at Work Regulations 1992? If yes, please state name, position, experience/qualifications.

Name:

Position:

Experience/Qualifications:

E.4 HEALTH AND SAFETY AWARENESS

Indicate below how your Health and Safety policies and procedures are conveyed to the workforce.

E.5 INFORMATION, INSTRUCTION, TRAINING FOR HEALTH AND SAFETY

What systems does your company use to review health and safety performance?

How do you ensure the competence of Managers/Supervisors/Staff in health and safety?

E.6 COMPANIES EMPLOYING MORE OR LESS THAN FIVE EMPLOYEES

Your tender submission will need to comply with the following requirements:

(a) For Companies employing more than 5 staff

A copy of your Health and Safety Policy **including** 'Organisation' and 'Arrangements', i.e., any rules, policies, procedures, risk assessments, etc relevant to the work applied for.

(b) For Companies employing less than 5 staff

A copy of any rules, policies, procedures, risk assessments, etc relevant to the work applied for.

Please Note

'Policy Statements' and 'Organisation' by themselves are insufficient. Applications not including information relating to 'Arrangements' (in whatever format) will be **rejected** as will applications not covering arrangements in sufficient detail for the work applied for. (NB Sample 'method statements'/previous job specific assessments are acceptable where the nature of the work applied for makes generic arrangements of limited practical value).

E.7 ACCIDENT HISTORY

Please provide accident statistics for the last three years

Year	Fatal	Major	Over 3 days	Minor

E.8 PROSECUTIONS (H&S EXECUTIVE)

Has your company been prosecuted or served with improvement or prohibition notices by the Health and Safety Executive Within the last 3 years?

(please delete) YES/NO

Please provide details below of any prosecutions or enforcement notices (Improvement or Prohibition) you have been subject to within the last 3 years.

Please note that HSE's prosecution database may be checked. A prosecution will not disbar your application, however failure to disclose a prosecution will.

E.9 HEALTH AND SAFETY MANAGEMENT

State how your Policies, etc., are brought to the attention of employees?

What health and safety information do you include in your 'Employee Induction' programme?

What health and safety information do you include in your 'Site Induction' programme?

What training do you provided on health and safety (courses, dates, etc.)?

SECTION F - EQUAL OPPORTUNITIES MONITORING

As an Equal Opportunities Employer, Walsall Council is keen to know how successful its promotion of contracts is amongst different ethnic minority businesses. In order that the Council can monitor the ethnic make –up of the Service Providers to whom its issues tenders and win contracts, it would be of great assistance if you could tick the box below, appropriate to the ownership of your company.

Company Ownership

The Commission for Racial Equality defines an ethnic minority business as 'a business 51% or more of which is owned by members of one or more ethnic minority groups.	
Is your business an ethnic minority business according to the definition above?	<u>Please</u> <u>Tick</u>
Yes	

No	
Not Known – Publicly Quoted Company	
Not Prepared to Divulge	

Company Ownership Continued.

The Commission for Racial Equality defines an ethnic minority business as ‘a business 51% or more of which is owned by members of one or more ethnic minority groups.	
WHITE	<u>Please Tick</u>
British	
Irish	
Any Other White Background. Please Detail:	
MIXED	<u>Please Tick</u>
White and Black Caribbean	
White and Black African	
White and Asian	
Any Other Mixed Background. Please Detail:	
ASIAN OR ASIAN BRITISH	<u>Please Tick</u>
Indian	
Sikh	
Pakistani	
Bangladeshi	
Any Other Asian Background. Please Detail:	
BLACK OR BLACK BRITISH	<u>Please Tick</u>
Caribbean	
African	
Any Other Black Background. Please Detail:	
CHINESE, YEMENI, OR OTHER ETHNIC GROUP	<u>Please Tick</u>
Chinese	

Yemeni	
Any Other Ethnic Background. Please Detail:	
Not Coded	

SECTION 7 – PRICING SCHEDULES

7.1 SERVICES OFFERED

Please indicate by inserting an 'X' into the relevant boxes to show which services are being tendered for;

	<i>High</i>		<i>Medium</i>		<i>You must complete all questions in sections 8.2 and:</i>
	<i>A</i>	<i>B</i>	<i>A</i>	<i>B</i>	
Service 1 'Buddy Service'					8.3
Service 2 'Activity with Care Support'					8.4
Service 3 'Care in Childs home'					8.5

7.2 Volumes available

Please enter total number of hours per year that could be available in Walsall through this contract (this is not contracted, but indicative)

	<i>Hrs</i>
Service 1 'Buddy Service'	
Service 2 'Activity with Care Support'	
Service 3 'Care in Childs home'	

7.3 Tendered Prices

Please enter your tender prices for every greyed box (even if you offer the same prices) for each service you have indicated in 7.1. Do not leave boxes blank but enter NA where not applicable.

Time slot ¹	High Complexity (A&B) Hourly Price ^{2,3,4}			Medium Complexity (A&B) Hourly Price ^{2,3,4}		
	Service 1	Service 2	Service 3	Service 1	Service 2	Service 3
Weekdays Day						
Weekdays Night						
Weekends Days						
Weekends Night						
Bank Holidays Day						
Bank Holidays Night						
Overnight supervision only (enter total for whole night)						

¹Day is 8.00am to 8.00pm, Night is 8.01pm to 7.59am, Bank Holidays are Statutory only

²Service may be purchased in half hour blocks at 50% of hourly rates

³The price tendered shall be an all inclusive price (including travel time and mileage costs etc.) for each contact hour (that is time spent with the service user)

⁴The Council will create a single weighted price for all of the prices entered into 7.3 and as reduced by the rebate in 7.4 in order to assess the price offered.

7.3.1 Please enter the % of the hourly prices charged that are paid to staff as gross pay per hour	
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7.4 Volume Rebates (applies to all services)

Tenderers are requested to offer retrospective annual rebates related to the annual spend by the Council with the Provider (for all services). See example in section 7.6.

Enter % rebate appropriate to each spend band	Annual spend band (£'s)
	0-99,999
	100-299,999
	300- 499,999
	500,000+

7.5 Expected expenditure and number of Providers

Note we expect to appoint around 4-6 Providers for all the services and each financial year expect to order services up to the value of;

Service 1 'Buddy Service'	£200,000
Service 2 'Activity with Care Support'	£300,000
Service 3 'Care in Childs home'	£500,000

7.6 Annual volume rebate – worked example

This reflects economies of scale and allows Providers to offer more attractive terms to the Council related to increasing volumes of orders placed by the Council. An example is shown below

Example:

Actual annual spend on all services with one Provider

£345,000

Below Table demonstrates the amount of annual rebate due

Enter % rebate appropriate to each spend band	Annual Band Values		Example Actual Spend (£345,000)	Rebates (£'s)
	Minimum Band Value (£')	Maximum Band Value (£')		
4%	0	99,999	£99,999	£4,000
5%	100,000	299,000	£199,999	£10,000
6%	300,000	499,999	£45,002	£2,700
7%	500,000	+		

Total rebate	£ 16,700
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7.7 Orders for service

Orders for service will be **incorporated into the contract specification**;

- a.) All Providers will be sent an order request detailing
 - a. Location of service
 - b. Number of specific days and time of days and duration of service
 - c. Category of service (Services 1,2 or 3 and High ,medium, A,B)
 - d. Description of needs of child
 - e. Description of service required
- b.) The best offer will be accepted for each order at sole discretion of the Council based on
 - a. Price
 - b. Availability
 - c. Match to service request
 - d. Satisfaction with the services delivered

7.8 Late or unreliable delivery of service

When a service is ordered it will specify the time and duration for delivery. Reliability and punctuality are important for service users and their parents/carers. Please refer to paragraphs 33.4 and 33.5 of the Contract terms and conditions. Future orders for service will also be affected by past performance.

7.9 Grant conditions for Service 1 and 2

These services are funded by the Aiming High for Disabled Children grant and must adhere to the grant conditions (which may be found at the following web address - <http://www.dcsf.gov.uk/everychildmatters/research/publications/surestartpublications/1925/>)

Purchase of the service is dependent on grant income to the Council. Currently it is available only until 31 March 2011. When the Government confirms allocations to Councils from that time on, Providers will be notified and the contract term may be extended.

SECTION 8 – TENDER RESPONSES DOCUMENT AND DECLARATION

8.1 The Council cannot accept a tendered price for a service (as show in section 7.1 and 7.3 if the relevant quality specification is not completed in section 8.2, 8,3, 8.4 and 8.5.

All tenderers must complete section 8.2.1 and section 8.6, 8.7 and 8.8

Service 1 tenderers must also complete section 8.3

Service 2 tenderers must also complete section 8.4

Service 3 tenderers must also complete section 8.5

8.2 Common quality criteria for all three services – to be answered by all tenderers

8.2.1 QUALITY SPECIFICATION: General Principles

The following principles must be adhered to at all times, when working with any child/ young person and their family in Walsall. **NOTE: Maximum of 100 words per row**

THE CHILD’S NEED	DETAILS OF HOW YOUR SERVICE CAN MEET THE CHILD’S NEED	
	MEDIUM LEVEL NEEDS	HIGH LEVEL NEEDS
The family are treated with respect		
Confidentiality is maintained at all times		
All members of staff display professional standards of behaviour and dress at all times		
No member of staff will smoke whilst delivering care		

All staff have completed enhanced CRB checks		
That parents of the child have a real break from their caring responsibilities		
The child's family are supported to work in partnership with the service provider concerning their child's development		
All members of staff will report to the place agreed with the family at the agreed time on each occasion the service is to be delivered.		

8.2.1.1 Be Healthy

Services that support disabled children and young people to be physically, mentally, emotionally and sexually healthy means:

THE CHILD'S NEED	DETAILS OF HOW YOUR SERVICE CAN MEET THE CHILD'S NEED	
	MEDIUM LEVEL NEEDS	HIGH LEVEL NEEDS
That the child has appropriate access to specialist health care whilst receiving the service		
That providers empower and support The child to take responsibility for his own health and well being		
That the child is supported to achieve maximum mobility and independence through the correct and		

safe use of appropriate equipment and adaptations whilst receiving the service Ref Care Domain 3 Mobility		
That the child has access to appropriate advice and support on his emotional well being and mental health Ref: Care Domain 9 Psychological and Emotional needs		
That the child is appropriately protected from issues that do not relate to his care		

Living a healthy lifestyle whilst receiving the service means:

THE CHILD'S NEED	DETAILS OF HOW YOUR SERVICE CAN MEET THE CHILD'S NEED	
	MEDIUM LEVEL NEEDS	HIGH LEVEL NEEDS
That the child has the right medicine; that clinical procedures are safely administered and appropriate therapy or behaviour management is carried out by staff and carers who are trained and competent Ref Care Domain 1 Challenging Behaviour		
That staff and carers are trained and are competent in basic first aid, moving and handling and child resuscitation, with regular opportunities to update and refresh their training in these areas		
That the child's nutritional needs are met by an appropriate means and that staff are competent in this method. Ref: Care Domain 4 Nutrition Food and Drink		
That the child receives the prescribed		

<p>medication regime via the recommended methodology. Staff are competent in administering medications in this method.</p> <p>Ref Care Domain 8 Drug Therapies and Medications</p>		
<p>that the child has appropriate management of their elimination</p> <p>Ref: Care Domain 5 Continence or Elimination</p>		
<p>That the child's skin condition is appropriately monitored and treatment is provided as necessary</p> <p>Ref: Care Domain 6 Skin and Tissue Viability</p>		
<p>That the child is supported to breathe regularly with the procedures/ equipment conducive to the level of need</p> <p>Re: Care Domain 7 Breathing</p>		
<p>That the child has seizures or periods of unconsciousness, and that these are supervised by a support worker to minimise harm, and any medication is administered.</p> <p>Ref: Care Domain 10 Seizures</p>		

Please describe how you will demonstrate improved outcomes for the child/ young person in terms of the "Be Healthy" by meeting the needs detailed above

8.2.1.2 Stay Safe

Being safe from maltreatment, neglect, violence and sexual exploitation within a short break service means:

THE CHILD'S NEED	DETAILS OF HOW YOUR SERVICE CAN MEET THE CHILD'S NEED	
	MEDIUM LEVEL NEEDS	HIGH LEVEL NEEDS
That The child can recognise and have opportunities to talk about maltreatment and neglect		
That staff and carers are trained specifically in safeguarding The child and are given regular opportunities to update and refresh this training		
That services have robust safeguarding procedures to ensure that swift and appropriate action is taken to protect The child at the times		
That The child's family are supported to work in partnership with the service provider concerning safeguarding and protection		

Being safe from accidental injury/death means:

THE CHILD'S NEED	DETAILS OF HOW YOUR SERVICE CAN MEET THE CHILD'S NEED	
	MEDIUM LEVEL NEEDS	HIGH LEVEL NEEDS
That the care environment is appropriately adapted and the necessary equipment is in place		

That The child has accessible and safe transport to and from their place of care and whilst receiving it		
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Being safe from bullying and discrimination means:

THE CHILD'S NEED	DETAILS OF HOW YOUR SERVICE CAN MEET THE CHILD'S NEED	
	MEDIUM LEVEL NEEDS	HIGH LEVEL NEEDS
That The Child Does not feel bullied or discriminated against whilst receiving the service		

Having security, stability and appropriate care means:

THE CHILD'S NEED	DETAILS OF HOW YOUR SERVICE CAN MEET THE CHILD'S NEED	
	MEDIUM LEVEL NEEDS	HIGH LEVEL NEEDS
That The Child does not have a multiplicity of carers whilst receiving the service		
That The child is cared for by the same staff members or carers who develop and understanding of The child's unique way of communicating		
New staff have the opportunity to meet The child and his family before they start working at the family home		

Please describe how you will demonstrate improved outcomes for the child/ young person in terms of the "Stay Safe domain" by meeting the needs detailed above

8.2.1.3 Enjoy and Achieve

Achieving personal and , social and recreational development and enjoying recreation within a short break service means:

THE CHILD’S NEED	DETAILS OF HOW YOUR SERVICE CAN MEET THE CHILD’S NEED	
	MEDIUM LEVEL NEEDS	HIGH LEVEL NEEDS
<p>That The child has appropriate systems and support to enable them to communicate effectively whilst receiving care</p> <p>Ref: Care Domain 2 Communication</p>		

Please describe how you will demonstrate improved outcomes for the child/ young person in terms of the “Enjoy and Achieve” domain by meeting the needs detailed above

8.2.1.4 Making a positive contribution

Engaging in decision making within a short break service means:

THE CHILD'S NEED	DETAILS OF HOW YOUR SERVICE CAN MEET THE CHILD'S NEED	
	MEDIUM LEVEL NEEDS	HIGH LEVEL NEEDS
That The child is enabled and supported to communicate their views about the service they receive		
That The child is supported and enabled to communicate their choices and preferences whilst receiving the service		
That The child has the opportunity to participate in planning and decision making about the service they receive and that their views, however expressed, are routinely gathered and recorded		

Developing positive relationships means:

THE CHILD'S NEED	DETAILS OF HOW YOUR SERVICE CAN MEET THE CHILD'S NEED	
	MEDIUM LEVEL NEEDS	HIGH LEVEL NEEDS
That the Child does not feel bullied or discriminated against whilst receiving the service		

Please describe how you will demonstrate improved outcomes for the child/ young person in terms of the "Making a Positive Contribution" domain by meeting the needs detailed above

8.2.1.5 Achieve Economic Well-Being

Living in decent homes and sustainable communities means:

THE CHILD'S NEED	DETAILS OF HOW YOUR SERVICE CAN MEET THE CHILD'S NEED	
	MEDIUM LEVEL NEEDS	HIGH LEVEL NEEDS
That carers are responsible for maintaining required levels of stock/ consumables at The child's house.		
That carers use facilities/ consumables at The child's house sparingly and with prior arrangement with The child's family		

Access to transport and material goods means:

THE CHILD'S NEED	DETAILS OF HOW YOUR SERVICE CAN MEET THE CHILD'S NEED	
	MEDIUM LEVEL NEEDS	HIGH LEVEL NEEDS
That appropriate and accessible transport arrangements are made which enable The child and young people to maximise opportunities within their short break		

Please describe how you will demonstrate improved outcomes for the child/ young person in terms of the "Achieving Economic Wellbeing" domain by meeting the needs detailed above

8.3 SERVICE 1 specific questions (if you have tendered a price for this service you must complete all questions otherwise your tender for this service cannot be accepted)

8.3.1

THE CHILD'S NEED	DETAILS OF HOW YOUR SERVICE CAN MEET THE CHILD'S NEED	
	MEDIUM LEVEL NEEDS	HIGH LEVEL NEEDS
<p>That the child has access to activities, organised leisure, sport and outings that are age appropriate and of their choice whilst receiving the service. The activities children/ young people would like to take part in include:</p> <ul style="list-style-type: none"> ▪ Swimming ▪ Outdoor pursuits at Outdoor Education centres ▪ Sports clubs ▪ Horse riding ▪ Go Karting ▪ Play and walking in the park ▪ Abseiling and climbing ▪ Bowling ▪ Cubs and Guides, ▪ Bike riding <p>The buddy should expect to be fully involved in these activities.</p> <p>Ref: Care Domain 11 Positive Activity</p>		

8.3.2 Service Scenarios

You must describe the service you would provide to meets the needs of the child over a 6 month period (max 800 words)

Your response for each child must cover the following points;

- How would you introduce the service to the family?
- How would you identify the needs and preferences of the family?
- How would you learn whether the families needs are being met?
- How would you plan the time you will be spending with the child?
- What key skills will be buddy allocated to this family have?

See scenario description in Annex A

CHILD 1	
CHILD 2	
CHILD 3	
CHILD 4	

8.4 SERVICE 2 specific questions (if you have tendered a price for this service you must complete all questions otherwise your tender for this service cannot be accepted)

8.4.1

THE CHILD'S NEED	DETAILS OF HOW YOUR SERVICE CAN MEET THE CHILD'S NEED	
	MEDIUM LEVEL NEEDS	HIGH LEVEL NEEDS
<p>That The child has access to activities, organised leisure, sport and outings that are age appropriate and of their choice whilst receiving care. The activities children/ young people would like to take part in include:</p> <ul style="list-style-type: none"> ▪ Swimming ▪ Outdoor pursuits at Outdoor Education centres ▪ Sports clubs ▪ Horse riding ▪ Go Karting ▪ Play and walking in the park ▪ Abseiling and climbing ▪ Bowling ▪ Cubs and Guides, ▪ Bike riding <p>Ref: Care Domain 11 Positive Activity</p>		

8.4.2 Service scenarios

You must describe the service you would provide to meets the needs of the child over a 6 month period (max 800 words per child)

You must cover;

- How would you introduce the service to the family?
- How would you identify the needs and preferences of the family?
- How would you learn whether the families needs are being met?

- How would you engage the child/ young person in positive activities?
- What key skills will be support worker allocated to this family have?

See scenario description in Annex A

CHILD 5	
CHILD 6	
CHILD 7	
CHILD 8	

8.5 SERVICE 3 specific questions (if you have tendered a price for this service you must complete all questions otherwise your tender for this service cannot be accepted)

8.5.1 Service scenarios

You must describe the service you would provide to meets the needs of the child over a 6 month period (max 800 words per child)

You must cover;

- How would you introduce the service to the family?
- How would you identify the needs and preferences of the family?
- How would you learn whether the families needs are being met?
- What key skills will be support worker allocated to this family have?

See scenario description in Annex A

CHILD 5	
CHILD 6	
CHILD 7	
CHILD 8	

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8.6 Staff competences for all three services

Describe your overall approach on how you ensure that your staff are able to provide a high quality child centred service	
Describe how you ensure that your staff meet the national occupation standards http://www.cwdCouncil.org.uk/assets/0000/0426/CCLD_209.pdf (level 2) http://www.cwdCouncil.org.uk/assets/0000/0571/CCLD_321.pdf (level 3)	
Describe your staff training and development arrangements	
How many hours of staff training and development do your staff receive each year paid by yourself	
Describe specific competences your staff have for providing care to	
High level needs – group A	
High level needs – group B	
Medium level needs – group A	
Medium level needs – group B	

8.7 Staff supervision for all three services

Describe staff supervision arrangements	
---	--

How many hours per month supervision do staff receive	
One to one	
Group	

8.8 Inspection Report for all three services

Name of body that regulates and inspects your service			
Duration of current registration certificate			
What services are you registered to provide as covered by this contact	Service 1	Service 2	Service 3
Date of last inspection			
Summary of judgement			
Report attached	YES/NO If NO explain why;		
Summary of progress on implementation of any improvements required at last Inspection			
Has the regulatory body issued any improvement notices, suspended registration, carried out an investigation or other such actions in last 5 years	YES/NO If Yes provide details		

FORM OF TENDER

To: The Authority

We [.....] (the Tenderer)], Company registration number [.....] whose registered address is [.....], having examined the Invitation To Tender (ITT) and other documents made available to us hereby tender to provide all the Services described in the tendering documents sections 1 - 8 including appendices and confirm our submission of a compliant Bid.

In participating in this tendering exercise we agree to be bound by the Bid conditions set out in the ITT including without limitation the following:

- We agree that this Bid shall remain open to be accepted (or not as the case may be) by the Authority and shall not be withdrawn until the expiry of 6 months from the Bid return date;
- We agree that the Authority is not bound to accept the lowest or any Bid it may receive, and the Authority will not pay any expenses incurred by us in connection with the preparation and submission of this Bid;
- We agree that the Bid is neither qualified nor conditional;
- We agree that unless and until a formal agreement is prepared and executed, the Bid together with your written acceptance, shall constitute a binding Contract between the Authority and us.

We confirm that the information supplied by us in response this ITT is current, valid and accurate.

Anti Collusive Bidding Certificate

We hereby certify that this is a bona fide Bid Submission and except as authorised by the ITT we have not:

1. entered into any agreement with any other person with the aim of preventing any Bid being made or as to influencing the amount of any Bid or the conditions on which any Bid is made; or
2. informed any other person, other than the person calling for this Bid, of the amount or the approximate amount of the Bid, except where the disclosure, in confidence, of the amount of the Bid was necessary to obtain insurance premium quotations, or other professional advice required for the preparation of the Bid; or
3. caused or induced any person to enter into such an agreement as is mentioned in paragraph (1) above or induced any person to inform us of the amount or the approximate amount of any rival Bid for Aiming High for Disabled Children and Children's Care Services

; or

4. committed any offence under the Prevention of Corruption Acts 1889 to 1916 or under Section 117 of the Local Government Act 1972.

We also undertake that we shall not do or procure the doing of any of the acts mentioned in paragraphs 1, 2, 3 and 4 above before the hour and the date specified for the return of the Bid nor (in the event of our Bids being accepted) shall we do so before the hour and date of the completion of the Agreement.

In this certificate:

“person” includes any persons and any body of persons corporate or unincorporated; and “agreement” includes any arrangement whether formal or informal and whether legally binding or not.

Signature of Person Authorised by
the Tenderer.

Print name(s) in full

Position in Company/Firm

Date

Annex A Service requirement scenarios

These will be supplied upon request from Wayne Sheargold (Commissioning Officer) at sheargoldw@walsall.gov.uk or Gurjit Narwal (Commissioning Support Officer) at narwalgurjit@walsall.gov.uk on 01922 652361.