



**NHS Standard Contract 2017/18  
and 2018/19  
Particulars (Shorter Form)**

**Comparison document (March 2018  
draft / May 2018 final edition)**



NHS England INFORMATION READER BOX		
<b>Directorate</b>		
Medical	Operations and Information	Specialised Commissioning
Nursing	Trans. & Corp. Ops.	<b>Commissioning Strategy</b>
Finance		
<b>Publications Gateway Reference:</b>		<b>08045</b>
<b>Document Purpose</b>	Resources	
<b>Document Name</b>	Comparison document: NHS Standard Contract shorter-form Particulars 2017-19 (published for consultation in March 2018 edition) / 2017-19 (May 2018 edition)	
<b>Author</b>	NHS Standard Contract Team, NHS England	
<b>Publication Date</b>	May 2018	
<b>Target Audience</b>	Parties to an NHS Standard Contract (commissioners and providers)	
<b>Additional Circulation List</b>		
<b>Description</b>	This comparison document shows the 'tracked changes' between the NHS Standard Contract 2017-19 shorter-form Particulars published for consultation in March 2018, and the final version published in May 2018. This document should be used for comparison purposes only.	
<b>Cross Reference</b>	NHS Standard Contract <a href="https://www.england.nhs.uk/nhs-standard-contract/">https://www.england.nhs.uk/nhs-standard-contract/</a>	
<b>Superseded Docs (if applicable)</b>	NA	
<b>Action Required</b>	NA	
<b>Timing / Deadlines (if applicable)</b>	NA	
<b>Contact Details for further information</b>	NHS Standard Contract team NHS England 4E64 Quarry House Leeds LS2 7UE nhs.cb.contracts.help@nhs.net <a href="https://www.england.nhs.uk/nhs-standard-contract/2017-19-update-may/">https://www.england.nhs.uk/nhs-standard-contract/2017-19-update-may/</a>	
<b>Document Status</b>		
This is a controlled document. Whilst this document may be printed, the electronic version posted on the intranet is the controlled copy. Any printed copies of this document are not controlled. As a controlled document, this document should not be saved onto local or network drives but should always be accessed from the intranet.		

## **NHS Standard Contract 2017/18 and 2018/19**

### **Particulars (Shorter Form)**

#### **Comparison document (March 2018 consultation draft compared to May 2018 final version)**

First published: May 2018

Prepared by: NHS Standard Contract Team  
NHS England  
nhscb.contractshelp@nhs.net

Document Classification:

Official

<b>Contract Reference</b>	
<b>DATE OF CONTRACT</b>	
<b>SERVICE COMMENCEMENT DATE</b>	
<b>CONTRACT TERM</b>	[ ] years/months commencing [ ] [(or as extended in accordance with Schedule 1C)]
<b>COMMISSIONERS</b>	[ ] (ODS [ ])
<b>CO-ORDINATING Commissioner</b>	[ ]
<b>PROVIDER</b>	[ ] (ODS [ ]) Principal and/or registered office address: [ ] [Company number: [ ]]

# CONTENTS

## PARTICULARS

## SCHEDULES

### **SCHEDULE 1 – SERVICE COMMENCEMENT AND CONTRACT TERM**

(Schedule 1B Intentionally Omitted)

- A. Conditions Precedent
- C. Extension of Contract Term

### **SCHEDULE 2 – THE SERVICES** (Schedule 2C, 2E, 2F, 2H, 2I, 2L Intentionally Omitted)

- A. Service Specifications
- B. Indicative Activity Plan
- D. Essential Services
- G. Other Local Agreements, Policies and Procedures
- J. Transfer of and Discharge from Care Protocols
- K. Safeguarding Policies and Mental Capacity Act Policies

### **SCHEDULE 3 – PAYMENT** (Schedule 3D, 3E, 3G Intentionally Omitted)

- A. Local Prices
- B. Local Variations
- C. Local Modifications
- F. Expected Annual Contract Values

### **SCHEDULE 4 – QUALITY REQUIREMENTS** (Schedules 4B, 4E – 4G Intentionally Omitted)

- A. Operational Standards and National Quality Requirements
- C. Local Quality Requirements
- D. Commissioning for Quality and Innovation (CQUIN)

### **SCHEDULE 5 – INTENTIONALLY OMITTED**

### **SCHEDULE 6 – CONTRACT MANAGEMENT, REPORTING AND INFORMATION REQUIREMENTS** (Schedules 6B, 6D, 6E Intentionally Omitted)

- A. Reporting Requirements
- C. Incidents Requiring Reporting Procedure
- F. Provider Data Processing Agreement

### **SCHEDULE 7 – PENSIONS**

### **SCHEDULE 8 – TUPE**

## **SERVICE CONDITIONS**

**(Service Conditions 7, 9, 14, 18-20, 22, 26-27, 31 intentionally omitted)**

- SC1 Compliance with the Law and the NHS Constitution
- SC2 Regulatory Requirements
- SC3 Service Standards
- SC4 Co-operation
- SC5 Commissioner Requested Services/Essential Services
- SC6 Choice, Referrals and Booking
- SC8 Making Every Contact Count and Self Care
- SC10 Personalised Care Planning and Shared Decision Making
- SC11 Transfer of and Discharge from Care
- SC12 Communicating With and Involving Service Users, Public and Staff
- SC13 Equity of Access, Equality and Non-Discrimination
- SC15 Urgent Access to Mental Health Care
- SC16 Complaints
- SC17 Services Environment and Equipment
- SC21 Antimicrobial Resistance and Healthcare Associated Infections
- SC23 Service User Health Records
- SC24 NHS Counter-Fraud and Security Management
- SC25 Procedures and Protocols
- SC28 Information Requirements
- SC29 Managing Activity and Referrals
- SC30 Emergency Preparedness, Resilience and Response
- SC32 Safeguarding and Mental Capacity
- SC33 Incidents Requiring Reporting
- SC34 Care of Dying People
- SC35 Duty of Candour
- SC36 Payment Terms
- SC37 Local Quality Requirements and Quality Incentive Schemes
- SC38 Commissioning for Quality and Innovation (CQUIN)

## **GENERAL CONDITIONS**

**(General Conditions 6-7, 34-35 intentionally omitted)**

- GC1 Definitions and Interpretation
- GC2 Effective Date and Duration
- GC3 Service Commencement
- GC4 Transition Period
- GC5 Staff
- GC8 Review
- GC9 Contract Management
- GC10 Co-ordinating Commissioner and Representatives
- GC11 Liability and Indemnity
- GC12 Assignment and Sub-Contracting
- GC13 Variations
- GC14 Dispute Resolution

- GC15 Governance, Transaction Records and Audit
- GC16 Suspension
- GC17 Termination
- GC18 Consequence of Expiry or Termination
- GC19 Provisions Surviving Termination
- GC20 Confidential Information of the Parties
- GC21 Patient Confidentiality, Data Protection, Freedom of Information and Transparency
- GC22 Intellectual Property
- GC23 NHS Identity, Marketing and Promotion
- GC24 Change in Control
- GC25 Warranties
- GC26 Prohibited Acts
- GC27 Conflicts of Interest and Transparency on Gifts and Hospitality
- GC28 Force Majeure
- GC29 Third Party Rights
- GC30 Entire Contract
- GC31 Severability
- GC32 Waiver
- GC33 Remedies
- GC36 Notices
- GC37 Costs and Expenses
- GC38 Counterparts
- GC39 Governing Law and Jurisdiction

## **Definitions and Interpretation**



## CONTRACT

This Contract records the agreement between the Commissioners and the Provider and comprises

1. the **Particulars**;
2. the **Service Conditions (Shorter Form)**;
3. the **General Conditions (Shorter Form)**,

as completed and agreed by the Parties and as varied from time to time in accordance with GC13 (*Variations*).

**IN WITNESS OF WHICH the Parties have signed this Contract on the date(s) shown below**

**SIGNED by** .....  
**Signature**

**[INSERT AUTHORISED SIGNATORY'S NAME] for** .....  
**Title**

**and on behalf of**  
**[INSERT COMMISSIONER NAME]** .....  
**Date**

**[INSERT AS ABOVE FOR EACH COMMISSIONER]**

**SIGNED by** .....  
**Signature**

**[INSERT AUTHORISED SIGNATORY'S NAME] for** .....  
**Title**

**and on behalf of**  
**[INSERT PROVIDER NAME]** .....  
**Date**

<b>SERVICE COMMENCEMENT AND CONTRACT TERM</b>	
Effective Date	[The date of this Contract] [or as specified here]
Expected Service Commencement Date	
Longstop Date	
Service Commencement Date	
Contract Term	[ ] years/months commencing [ ] [(or as extended in accordance with Schedule 1C)]
Option to extend Contract Term	YES / NO
Notice Period (for termination under GC17.2)	[ ] months
<b>SERVICES</b>	
Service Categories	Indicate <u>all</u> that apply
Continuing Healthcare Services (CHC)	
Community Services (CS)	
Diagnostic, Screening and/or Pathology Services (D)	
End of Life Care Services (ELC)	
Mental Health and Learning Disability Services (MH)	
Patient Transport Services (PT)	
<b>Service Requirements</b>	
Essential Services (NHS Trusts only)	YES/NO
Is the Provider acting as a Data Processor in order to deliver the Services?	YES/NO
<b>PAYMENT</b>	
National Prices Apply to some or all Services (including where subject to Local Modification or Local Variation)	YES/NO
Local Prices Apply to some or all Services	YES/NO
Expected Annual Contract Value Agreed	YES/NO

<b>GOVERNANCE AND REGULATORY</b>	
Provider's Nominated Individual	[ ] Email: [ ] Tel: [ ]
Provider's Information Governance Lead	[ ] Email: [ ] Tel: [ ]
Provider's Data Protection Officer <u>(if required by Data Protection Legislation)</u>	[ ] Email: [ ] Tel: [ ]
Provider's Caldicott Guardian	[ ] Email: [ ] Tel: [ ]
Provider's Senior Information Risk Owner	[ ] Email: [ ] Tel: [ ]
Provider's Accountable Emergency Officer	[ ] Email: [ ] Tel: [ ]
Provider's Safeguarding Lead	[ ] Email: [ ] Tel: [ ]
Provider's Child Sexual Abuse and Exploitation Lead	[ ] Email: [ ] Tel: [ ]
Provider's Mental Capacity and Deprivation of Liberty Lead	[ ] Email: [ ] Tel: [ ]
Provider's Freedom To Speak Up Guardian(s)	[ ] Email: [ ] Tel: [ ]
<b>CONTRACT MANAGEMENT</b>	
Addresses for service of Notices	Co-ordinating Commissioner: [ ] Address: [ ] Email: [ ]  Commissioner: [ ] Address: [ ] Email: [ ]  Provider: [ ] Address: [ ] Email: [ ]
Commissioner Representative(s)	[ ] Address: [ ] Email: [ ] Tel: [ ]

<b>Provider Representative</b>	[            ] <b>Address:</b> [            ] <b>Email:</b> [            ] <b>Tel:</b> [            ]
--------------------------------	--

## **SCHEDULE 1 – SERVICE COMMENCEMENT AND CONTRACT TERM**

### **A. Conditions Precedent**

The Provider must provide the Co-ordinating Commissioner with the following documents and complete the following actions:

- |   |
|---|
| <ol style="list-style-type: none"><li>1. Evidence of appropriate Indemnity Arrangements</li><li>2. [Evidence of CQC registration (where required)]</li><li>3. [Evidence of Monitor's Licence (where required)]</li><li>4. [Insert text locally as required]</li></ol> |
|---|

### **C. Extension of Contract Term**

*To be included only in accordance with NHS Standard Contract Technical Guidance.*

1. [As advertised to all prospective providers during the competitive tendering exercise leading to the award of this Contract], the Commissioners may opt to extend the Contract Term by [ ] months/year(s).
2. If the Commissioners wish to exercise the option to extend the Contract Term, the Co-ordinating Commissioner must give written notice to that effect to the Provider no later than [ ] months before the original Expiry Date.
3. The option to extend the Contract Term may be exercised:
  - 3.1 only once, and only on or before the date referred to in paragraph 2 above;
  - 3.2 only by all Commissioners; and
  - 3.3 only in respect of all Services
4. If the Co-ordinating Commissioner gives notice to extend the Contract Term in accordance with paragraph 2 above, the Contract Term will be extended by the period specified in that notice and the Expiry Date will be deemed to be the date of expiry of that period.

**Or**

**NOT USED**

## **SCHEDULE 2 – THE SERVICES**

### **A. Service Specifications**

[Insert text locally as required]

### **B. Indicative Activity Plan**

Insert text locally in respect of one or more Contract Years, or state Not Applicable

### **D. Essential Services (NHS Trusts only)**

Insert text locally or state Not Applicable

### **G. Other Local Agreements, Policies and Procedures**

Insert details / web links as required or state Not Applicable

### **J. Transfer of and Discharge from Care Policies**

[Insert text locally as required or state Not applicable]

### **K. Safeguarding Policies and Mental Capacity Act Policies**

[Insert text locally as required]

## SCHEDULE 3 – PAYMENT

### A. Local Prices

**Insert template in respect of any departure from an applicable national currency; insert text and/or attach spreadsheets or documents locally**

### B. Local Variations

*For each Local Variation which has been agreed for this Contract, copy or attach the completed publication template required by NHS Improvement (available at: <https://www.gov.uk/guidance/nhs-providers-and-commissioners-submit-locally-determined-prices-to-monitor>) – or state Not Applicable. Additional locally-agreed detail may be included as necessary by attaching further documents or spreadsheets.*

**Insert template; insert any additional text and/or attach spreadsheets or documents locally – or state Not Applicable**

### C. Local Modifications

*For each Local Modification Agreement (as defined in the National Tariff) which applies to this Contract, copy or attach the completed submission template required by NHS Improvement (available at: <https://www.gov.uk/guidance/nhs-providers-and-commissioners-submit-locally-determined-prices-to-monitor>). For each Local Modification application granted by NHS Improvement, copy or attach the decision notice published by NHS Improvement. Additional locally-agreed detail may be included as necessary by attaching further documents or spreadsheets.*

**Insert template; insert any additional text and/or attach spreadsheets or documents locally – or state Not Applicable**

### F. Expected Annual Contract Values

**Insert text locally (for one or more Contract Years) or state Not Applicable**

## SCHEDULE 4 – QUALITY REQUIREMENTS

### A. Operational Standards and National Quality Requirements

Ref	Operational Standards/National Quality Requirements	Threshold	Method of Measurement	Consequence of breach	Timing of application of consequence	Applicable Service Category
<i>E.B.4</i>	<i>Percentage of Service Users waiting 6 weeks or more from Referral for a diagnostic test*</i>	<i>Operating standard of no more than 1%</i>	<i>Review of Service Quality Performance Reports</i>	<i>Where the number of Service Users waiting for 6 weeks or more at the end of the month exceeds the tolerance permitted by the threshold, £200 in respect of each such Service User above that threshold</i>	<i>Monthly</i>	<i>CS D</i>
<i>E.B.S.3</i>	<i>Care Programme Approach (CPA): The percentage of Service Users under adult mental illness specialties on CPA who were followed up within 7 days of discharge from psychiatric in-patient care*</i>	<i>Operating standard of 95%</i>	<i>Review of Service Quality Performance Reports</i>	<i>Where the number of Service Users in the Quarter not followed up within 7 days exceeds the tolerance permitted by the threshold, £200 in respect of each such Service User above that threshold</i>	<i>Quarterly</i>	<i>MH</i>
	Duty of candour	Each failure to notify the Relevant Person of a suspected or actual Notifiable Safety Incident in accordance with	Review of Service Quality Performance Reports	Recovery of the cost of the episode of care, or £10,000 if the cost of the episode of care is unknown or indeterminate	Monthly	All



Ref	Operational Standards/National Quality Requirements	Threshold	Method of Measurement	Consequence of breach	Timing of application of consequence	Applicable Service Category
		Regulation 20 of the 2014 Regulations				
	<b>Completion of a valid NHS Number field in mental health commissioning data sets submitted via SUS, as defined in Contract Technical Guidance</b>	<b>99%</b>	<b>Review of Service Quality Performance Reports</b>	<b>Where the number of breaches in the month exceeds the tolerance permitted by the threshold, £10 in respect of each excess breach above that threshold</b>	<b>Monthly</b>	<b>MH</b>
	<b>Completion of Mental Health Services Data Set ethnicity coding for all detained and informal Service Users, as defined in Contract Technical Guidance</b>	<b>Operating standard of 90%</b>	<b>Review of Service Quality Performance Reports</b>	<b>Where the number of breaches in the month exceeds the tolerance permitted by the threshold, £10 in respect of each excess breach above that threshold</b>	<b>Monthly</b>	<b>MH</b>
	<b>Completion of IAPT Minimum Data Set outcome data for all appropriate Service Users, as defined in Contract Technical Guidance</b>	<b>Operating standard of 90%</b>	<b>Review of Service Quality Performance Reports</b>	<b>Where the number of breaches in the month exceeds the tolerance permitted by the threshold, £10 in respect of each excess breach above that threshold</b>	<b>Monthly</b>	<b>MH</b>
<b>E.H.4</b>	<b>Early Intervention in Psychosis programmes: the percentage of Service Users experiencing a first episode of psychosis or ARMS (at risk mental state) who wait less than two weeks to start a</b>	<b>For the period 1 April 2017 to 31 March 2018, operating standard of 50%. From 1 April 2018, operating standard of 53%</b>	<b>Review of Service Quality Performance Reports</b>	<b>Issue of Contract Performance Notice and subsequent process in accordance with GC9</b>	<b>Quarterly</b>	<b>MH</b>

Ref	Operational Standards/National Quality Requirements	Threshold	Method of Measurement	Consequence of breach	Timing of application of consequence	Applicable Service Category
	<i>NICE-recommended package of care*</i>					
<b>E.H.1</b>	<b><i>Improving Access to Psychological Therapies (IAPT) programmes: the percentage of Service Users referred to an IAPT programme who wait six weeks or less from referral to entering a course of IAPT treatment*</i></b>	<b><i>Operating standard of 75%</i></b>	<b><i>Review of Service Quality Performance Reports</i></b>	<b><i>Issue of Contract Performance Notice and subsequent process in accordance with GC9</i></b>	<b><i>Quarterly</i></b>	<b><i>MH</i></b>
<b>E.H.2</b>	<b><i>Improving Access to Psychological Therapies (IAPT) programmes: the percentage of Service Users referred to an IAPT programme who wait 18 weeks or less from referral to entering a course of IAPT treatment*</i></b>	<b><i>Operating standard of 95%</i></b>	<b><i>Review of Service Quality Performance Reports</i></b>	<b><i>Issue of Contract Performance Notice and subsequent process in accordance with GC9</i></b>	<b><i>Quarterly</i></b>	<b><i>MH</i></b>

In respect of the Operational ~~Standard~~Standards and National Quality Requirements shown in ***bold italics*** the provisions of SC36.27A apply.

\* as further described in *Joint Technical Definitions for Performance and Activity 2017/18-2018/19*, available at: <https://www.england.nhs.uk/wp-content/uploads/2015/12/joint-technical-definitions-performance-activity.pdf>

## SCHEDULE 4 – QUALITY REQUIREMENTS

### C. Local Quality Requirements

Quality Requirement	Threshold	Method of Measurement	Consequence of breach	Timing of application of consequence	Applicable Service Specification
Insert text and/or attach spreadsheet or documents locally					

## **SCHEDULE 4 – QUALITY REQUIREMENTS**

### **D. Commissioning for Quality and Innovation (CQUIN)**

#### **CQUIN Table 1: CQUIN Indicators**

<p><b>Insert completed CQUIN template spreadsheet(s) in respect of one or more Contract Years or state Not Applicable</b></p>
---

## SCHEDULE 6 – CONTRACT MANAGEMENT, REPORTING AND INFORMATION REQUIREMENTS

### A. Reporting Requirements

	Reporting Period	Format of Report	Timing and Method for delivery of Report
<b>National Requirements Reported Centrally</b>			
1. As specified in the list of omnibus, secure electronic file transfer data collections and BAAS schedule of approved collections published on the NHS Digital website to be found at <a href="http://content.digital.nhs.uk/article/5073/Central-Register-of-Collections">http://content.digital.nhs.uk/article/5073/Central-Register-of-Collections</a> <a href="https://digital.nhs.uk/services/the-challenging-burden-service/central-register-of-collections">https://digital.nhs.uk/services/the-challenging-burden-service/central-register-of-collections</a> where mandated for and as applicable to the Provider and the Services	As set out in relevant Guidance	As set out in relevant Guidance	As set out in relevant Guidance
<b>National Requirements Reported Locally</b>			
1. Activity and Finance Report ( <i>note that, if appropriately designed, this report may also serve as the reconciliation account to be sent by the Provider under SC36.22</i> )	[For local agreement, not less than quarterly]	[For local agreement]	[For local agreement]
2. Service Quality Performance Report, detailing performance against Operational Standards, National Quality Requirements, Local Quality Requirements, Never Events and the duty of candour	[For local agreement, not less than quarterly]	[For local agreement]	[For local agreement]
3. CQUIN Performance Report and details of progress towards satisfying any Quality Incentive Scheme Indicators, including details of all Quality Incentive Scheme Indicators satisfied or not satisfied	[For local agreement]	[For local agreement]	[For local agreement]
4. Complaints monitoring report, setting out numbers of complaints received and including analysis of key themes in content of complaints	[For local agreement, not less than annually]	[For local agreement]	[For local agreement]
5. Summary report of all incidents requiring reporting	[For local agreement, not less than annually]	[For local agreement]	[For local agreement]
<b>Local Requirements Reported Locally</b>			
<b>Insert as agreed locally*</b>			

\* In completing this section, the Parties should, where applicable, consider the change requirements for local commissioning patient-level data flows which will need to be implemented when the new national Data Services for Commissioners technical solution becomes operational. These change requirements will be published within the *Data Services for Commissioners Resources* webpage: <https://www.england.nhs.uk/ourwork/tsd/data-services/>

## **SCHEDULE 6 – CONTRACT MANAGEMENT, REPORTING AND INFORMATION REQUIREMENTS**

### **C. Incidents Requiring Reporting Procedure**

<b>Procedure(s) for reporting, investigating, and implementing and sharing Lessons Learned from: (1) Serious Incidents (2) Notifiable Safety Incidents (3) Other Patient Safety Incidents</b>
<b>Insert text locally</b>

## **SCHEDULE 6 – CONTRACT MANAGEMENT, REPORTING AND INFORMATION REQUIREMENTS**

### **F. Provider Data Processing Agreement**

Where the Provider is to act as a Data Processor, insert text locally (**mandatory** template drafting available via <http://www.england.nhs.uk/nhs-standard-contract/>).  
If the Provider is not to act as a Data Processor, state Not Applicable



## SCHEDULE 7 – PENSIONS

Insert text locally (template drafting available via <http://www.england.nhs.uk/nhs-standard-contract/>) or state Not Applicable

## SCHEDULE 8 – TUPE\*

1. The Provider must comply and must ensure that any Sub-Contractor will comply with their respective obligations under TUPE and COSOP in relation to any persons who transfer to the employment of the Provider or that Sub-Contractor by operation of TUPE and/or COSOP as a result of this Contract or any Sub-Contract, and that the Provider or the relevant Sub-Contractor (as appropriate) will ensure a smooth transfer of those persons to its employment. The Provider must indemnify and keep indemnified the Commissioners and any previous provider of services equivalent to the Services or any of them before the Service Commencement Date against any Losses in respect of:
  - 1.1 any failure by the Provider and/or any Sub-Contractor to comply with its obligations under TUPE and/or COSOP in connection with any relevant transfer under TUPE and/or COSOP;
  - 1.2 any claim by any person that any proposed or actual substantial change by the Provider and/or any Sub-Contractor to that person's working conditions or any proposed measures on the part of the Provider and/or any Sub-Contractor are to that person's detriment, whether that claim arises before or after the date of any relevant transfer under TUPE and/or COSOP to the Provider and/or Sub-Contractor; and/or
  - 1.3 any claim by any person in relation to any breach of contract arising from any proposed measures on the part of the Provider and/or any Sub-Contractor, whether that claim arises before or after the date of any relevant transfer under TUPE and/or COSOP to the Provider and/or Sub-Contractor.
2. If the Co-ordinating Commissioner notifies the Provider that any Commissioner intends to tender or retender any Services, the Provider must within 20 Operational Days following written request (unless otherwise agreed in writing) provide the Co-ordinating Commissioner with anonymised details (as set out in Regulation 11(2) of TUPE) of Staff engaged in the provision of the relevant Services who may be subject to TUPE. The Provider must indemnify and keep indemnified the relevant Commissioner and, at the Co-ordinating Commissioner's request, any new provider who provides any services equivalent to the Services or any of them after expiry or termination of this Contract or termination of a Service, against any Losses in respect any inaccuracy in or omission from the information provided under this Schedule.
3. During the 3 months immediately preceding the expiry of this Contract or at any time following a notice of termination of this Contract or of any Service being given, the Provider must not and must procure that its Sub-Contractors do not, without the prior written consent of the Co-ordinating Commissioner (that consent not to be unreasonably withheld or delayed), in relation to any persons engaged in the provision of the Services or the relevant Service:
  - 3.1 terminate or give notice to terminate the employment of any person engaged in the provision of the Services or the relevant Service (other than for gross misconduct);
  - 3.2 increase or reduce the total number of people employed or engaged in the provision of the Services or the relevant Service by the Provider and any Sub-Contractor by more than 5% (except in the ordinary course of business);
  - 3.3 propose, make or promise to make any material change to the remuneration or other terms and conditions of employment of the individuals engaged in the provision of the Services or the relevant Service;

- 3.4 replace or relocate any persons engaged in the provision of the Services or the relevant Service or reassign any of them to duties unconnected with the Services or the relevant Service; and/or
  - 3.5 assign or redeploy to the Services or the relevant Service any person who was not previously a member of Staff engaged in the provision of the Services or the relevant Service.
4. On termination or expiry of this Contract or of any Service for any reason, the Provider must indemnify and keep indemnified the relevant Commissioners and any new provider who provides any services equivalent to the Services or any of them after that expiry or termination against any Losses in respect of:
- 4.1 the employment or termination of employment of any person employed or engaged in the delivery of the relevant Services by the Provider and/or any Sub-Contractor before the expiry or termination of this Contract or of any Service which arise from the acts or omissions of the Provider and/or any Sub-Contractor;
  - 4.2 claims brought by any other person employed or engaged by the Provider and/or any Sub-Contractor who is found to or is alleged to transfer to any Commissioner or new provider under TUPE and/or COSOP; and/or
  - 4.3 any failure by the Provider and/or any Sub-Contractor to comply with its obligations under TUPE and/or COSOP in connection with any transfer to any Commissioner or new provider.
5. In this Schedule:

**COSOP** means the Cabinet Office Statement of Practice *Staff Transfers in the Public Sector* January 2000

**TUPE** means the Transfer of Undertakings (Protection of Employment) Regulations 2006 and EC Council Directive 77/187

*\*Note: it may in certain circumstances be appropriate to omit the text set out in paragraphs 1-5 above or to amend it to suit the circumstances - in particular, if the prospect of employees transferring either at the outset or on termination/expiry is extremely remote because their work in connection with the subject matter of the Contract will represent only a minor proportion of their workload. However, it is recommended that legal advice is taken before deleting or amending these provisions.*