

Framework Schedule 6 (Order Form Template and Call-Off Schedules)  
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## RM6187 Framework Schedule 6 (Order Form and Call-Off Schedules)

### Order Form

CALL-OFF REFERENCE: NHP - CF - 041

THE BUYER: **New Hospital Programme –Department of Health and Social Care (“DHSC”)**  
**Contracting Authority: Secretary of State for Health & Social Care acting as part of the Crown**

BUYER ADDRESS Wellington House, 133-155 Waterloo Road,  
London SE1 8UG

THE SUPPLIER: KPMG LLP

SUPPLIER ADDRESS: 15 Canada Square, London E14 5GL

REGISTRATION NUMBER: OC301540

DUNS NUMBER: 42-391-6167

SID4GOV ID:

#### **Applicable framework contract**

This Order Form is for the provision of the Call-Off Deliverables and dated 22 May 2023.

It's issued under the Framework Contract with the reference number RM6187 for the provision of an interim commercial partner.

#### **CALL-OFF LOT(S):**

Not applicable

#### **Call-off incorporated terms**

The following documents are incorporated into this Call-Off Contract.

Where schedules are missing, those schedules are not part of the agreement and cannot be used. If the documents conflict, the following order of precedence applies:

1. This Order Form includes the Call-Off Special Terms and Call-Off Special Schedules.
2. Joint Schedule 1 (Definitions and Interpretation) RM6187

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3. The following Schedules in equal order of precedence:

### **Joint Schedules for RM6187 Management Consultancy Framework Three**

- Joint Schedule 1 (Definitions)
- Joint Schedule 2 (Variation Form)
- Joint Schedule 3 (Insurance Requirements)
- Joint Schedule 4 (Commercially Sensitive Information)
- Joint Schedule 6 (Key Subcontractors)
- Joint Schedule 7 (Financial Difficulties)
- Joint Schedule 9 (Minimum Standards of Reliability)
- Joint Schedule 10 (Rectification Plan)

### **Call-Off Schedules**

- Call-Off Schedule 1 (Transparency Reports)
- Call-Off Schedule 3 (Continuous Improvement)
- Call-Off Schedule 5 (Pricing Details)
- Call-Off Schedule 7 (Key Supplier Staff)
- Call-Off Schedule 9 (Security)
- Call-Off Schedule 10 (Exit Management)
- Call-Off Schedule 15 (Call-Off Contract Management)
- Call-Off Schedule 16 (Benchmarking)
- Call-Off Schedule 18 (Background Checks)
- Call-Off Schedule 20 (Call-Off Specification)

4. CCS Core Terms
5. Joint Schedule 5 (Corporate Social Responsibility)
6. Call-Off Schedule 4 (Call-Off Tender) as long as any parts of the Call-Off Tender that offer a better commercial position for the Buyer (as decided by the Buyer) take precedence over the documents above.

Supplier terms are not part of the Call-Off Contract. That includes any terms written on the back of, added to this Order Form, or presented at the time of delivery.

### **Call-off special terms**

#### **Task Orders**

This Call-Off Contract supports a major Programme which, by its nature, is from time to time subject to Government spending control or revised policy. Subject to satisfactory completion of the Supplier's conflict of interest and independence checks, the Supplier shall review and consider appropriate safeguards before accepting a Task Order. The following provisions apply to each Task Order:

- (a) Each Task Order will set out either a fixed price or rates up to a cost cap. No payment will be made in excess of this sum.
- (b) Further any Task Order is terminable in whole or in part by the Buyer acting reasonably in consultation with the Supplier (provided that the remaining non-terminated elements of the Task Order are practically and commercially viable for the Supplier to deliver) on two weeks' notice in writing from the Buyer and (other than sums in respect of Services already delivered) no further part of the

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price and nor further costs whatsoever shall be incurred by the Supplier or payable by the Buyer in respect of that Task Order or terminated part after the end of that one week period.

- (c) No costs or reimbursable sums will be payable for duplication of work or handover between staff members where one staff member leaves or is removed from the Services and replaced by another except in exceptional circumstances agreed by the Buyer (such as illness or where a staff member is recommissioned to another task at the Buyer's request).

**Call-off start date:** 22 May 2023

**Call-off expiry date:** 21 May 2024

**Call-off initial period:** 12 months. This Call-Off Contract can be extended for a period of up to 6 months from the Call-off expiry date at the sole discretion of the Buyer upon one month's written notice to the Supplier. No guarantee or warranty is given as to the number or value of Task Orders which may be issued pursuant to this Call-Off. The Buyer reserves the right not to issue any Task Orders

**Call-off deliverables:** See details in Call-Off Schedule 20 (Call-Off Specification).

### **Security**

Short form security requirements apply.

The Buyer's Security Policy as set out in the Specification.

### **Maximum liability**

The limitation of liability for this Call-Off Contract is stated in Clause 11.2 of the Core Terms.

The Estimated Year 1 Charges used to calculate aggregate liability across the entire Call Off Contract are:

£22.75 million (ex VAT).

The Supplier's liability under each Task Order is limited in accordance with clause 11.2 of the Core Terms to a sum equal to 125% of the Charges paid under that Task Order.

### **Call-off charges**

Costs, expenses and payments (whether cost reimbursable or lump sums) will only be due and payable by the Supplier to the extent that the sum is within an agreed quote or cap in a relevant Task Order signed by a Supplier authorised person.

See further details in Call-Off Schedule 5 (Pricing Details).

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All changes to the Charges must use procedures that are equivalent to those in Paragraphs 4, 5 and 6 (if used) in Framework Schedule 3 (Framework Prices).

The Charges will not be impacted by any change to the Framework Prices. The Charges can only be changed by agreement in writing between the Buyer and the Supplier because of:

- Specific Change in Law
- Benchmarking using Call-Off Schedule 16 (Benchmarking).

**Reimbursable expenses**

Recoverable as stated in Framework Schedule 3 (Framework Prices) paragraph 4.

**Payment method**

BACS.

**Buyer's invoice address**

Formal invoices following draft NHP approval should be addressed to:

Redacted in line with FOIA Sec 41

Redacted in line with FOIA Sec 41

Invoices should be submitted to:

Redacted in line with FOIA Sec 41

**FINANCIAL TRANSPARENCY OBJECTIVES**

The Financial Transparency Objectives apply to this Call-Off Contract.

**Buyer's authorised representative**

Redacted in line with FOIA Sec 41

Redacted in line with FOIA Sec 41

**Buyer's security policy**

As advised to the Supplier from time to time.

**Supplier's authorised representative**

Redacted in line with FOIA Sec 41

Redacted in line with FOIA Sec 41

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Redacted in line with FOIA Sec 41

### Supplier's contract manager

Redacted in line with FOIA Sec 41

### Progress report frequency

First working day of each month

### Progress meeting frequency

Monthly

### Key staff

- Procurement lead: Redacted in line with FOIA Sec 41
- Post contract commercial lead: Redacted in line with FOIA Sec 41
- Commercial strategy lead: Redacted in line with FOIA Sec 41
- Market lead – Commercial & Strategic: Redacted in line with FOIA Sec 41
- Market lead – H2.0: Redacted in line with FOIA Sec 41
- Cost management lead: Redacted in line with FOIA Sec 41
- Commercial assurance lead: Redacted in line with FOIA Sec 41
- Strategy, appraisal & technical writing lead: Redacted in line with FOIA Sec 41
- Collaboration lead: Redacted in line with FOIA Sec 41
- Data and reporting lead: Redacted in line with FOIA Sec 41
- Social value lead: Redacted in line with FOIA Sec 41
- Strategic plan, reporting, business cases and PAO lead: Redacted in line with FOIA Sec 41
- Transformation support lead: Redacted in line with FOIA Sec 41
- Modern methods of construction and DFMA strategy lead: Redacted in line with FOIA Sec 41
- Commercial design challenge lead: Redacted in line with FOIA Sec 41

Buyer acknowledges that the Supplier may replace any Key Staff provided by Redacted in line with FOIA Sec 41

### Key subcontractor(s)

KPMG Global Services (Private) Limited  
Arcadis LLP  
Gardiner & Theobald LLP  
Resolex (Holdings) Limited  
Martin James Medical Limited

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Ove Arup & Partners Limited  
Baunton Consulting Ltd

The Buyer acknowledges that the Supplier may terminate the appointment of [REDACTED] [REDACTED] the Supplier will give 4 weeks' notice to the Buyer prior to this termination. If this scenario should arise, the Supplier will evaluate whether it needs to procure another subcontractor with similar capability, in which case it will have the right to do so.

### **Commercially sensitive information**

- Pricing schedules, schedules of rates, hourly / daily rates and breakdown of fees, whether included in the Supplier's response to the Buyer's Request for Response or subsequent Task Orders.
- Client references / work done for other clients included in the Supplier's response to the Buyer's Request for Response.
- Names of, and CVs of, the Supplier's staff.
- Anything highlighted in the Supplier's deliverables as commercially sensitive, such as information received under confidential release terms or detailed worksheet outputs containing the Supplier's proprietary analysis methodology.

### **Additional insurances**

N/A

### **Guarantee**

Not applicable.

### **Buyer's environmental and social value policy**

Appended to the Call-Off Specification at Call-Off Schedule 20.

### **Social value commitment**

The Supplier agrees, in providing the Deliverables and performing its obligations under the Call-Off Contract, that it will comply with the social value commitments in Call-Off Schedule 4 (Call-Off Tender).

### **Processing Data**

The Buyer shall not transfer any personal data to the Supplier or instruct the Supplier to process any personal data in connection with the Services (except for minimal business card data of key stakeholders processed in the usual course of business). The Parties acknowledge they will each be an independent Controller with respect to any residual business card Personal Data processed in connection with this Contract.

### **Formation of call off contract**

By signing and returning this Call-Off Order Form the Supplier agrees to enter a Call-Off Contract with the Buyer to provide the Services in accordance with the Call-Off Order Form and the Call-Off Terms.

The Parties hereby acknowledge and agree that they have read the Call-Off Order

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Form and the Call-Off Terms and by signing below agree to be bound by this Call-Off Contract.

**For and on behalf of the Supplier:**

Signature:

Redacted in line with FOIA Sec 41

Name:

Redacted in line with FOIA Sec 41

Role:

Redacted in line with FOIA Sec 41

Date:

25/05/2023

**For and on behalf of the Buyer:**

Signature:

Redacted in line with FOIA Sec 41

Name:

Redacted in line with FOIA Sec 41

Role:

Redacted in line with FOIA Sec 41

Date:

30 May 2023

## Joint Schedule 1 (Definitions)

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# Joint Schedule 1 (Definitions)

- 1.1 In each Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in this Joint Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears.
- 1.2 If a capitalised expression does not have an interpretation in this Schedule or any other Schedule, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
- 1.3 In each Contract, unless the context otherwise requires:
  - 1.3.1 the singular includes the plural and vice versa;
  - 1.3.2 reference to a gender includes the other gender and the neuter;
  - 1.3.3 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Central Government Body;
  - 1.3.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
  - 1.3.5 the words **"including"**, **"other"**, **"in particular"**, **"for example"** and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words **"without limitation"**;
  - 1.3.6 references to **"writing"** include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
  - 1.3.7 references to **"representations"** shall be construed as references to present facts, to **"warranties"** as references to present and future facts and to **"undertakings"** as references to obligations under the Contract;
  - 1.3.8 references to **"Clauses"** and **"Schedules"** are, unless otherwise provided, references to the clauses and schedules of the Core Terms and references in any Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Schedule in which these references appear;
  - 1.3.9 references to **"Paragraphs"** are, unless otherwise provided, references to the paragraph of the appropriate Schedules unless otherwise provided;
  - 1.3.10 references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified;
  - 1.3.11 the headings in each Contract are for ease of reference only and shall not affect the interpretation or construction of a Contract;
  - 1.3.12 where the Buyer is a Central Government Body it shall be treated as contracting with the Crown as a whole;
  - 1.3.13 any reference in a Contract which immediately before Exit Day is a reference



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to (as it has effect from time to time):

- (a) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement ("**EU References**") which is to form part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 shall be read on and after Exit Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
- (b) any EU institution or EU authority or other such EU body shall be read on and after Exit Day as a reference to the UK institution, authority or body to which its functions were transferred; and

1.3.14 unless otherwise provided, references to "**Buyer**" shall be construed as including Exempt Buyers; and

1.3.15 unless otherwise provided, references to "**Call-Off Contract**" and "**Contract**" shall be construed as including Exempt Call-off Contracts.

1.4 In each Contract, unless the context otherwise requires, the following words shall have the following meanings:

<b>"Achieve"</b>	in respect of a Test, to successfully pass such Test without any Test Issues and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and " <b>Achieved</b> ", " <b>Achieving</b> " and " <b>Achievement</b> " shall be construed accordingly;
<b>"Additional Insurances"</b>	insurance requirements relating to a Call-Off Contract specified in the Order Form additional to those outlined in Joint Schedule 3 (Insurance Requirements);
<b>"Admin Fee"</b>	means the costs incurred by CCS in dealing with MI Failures calculated in accordance with the tariff of administration charges published by the CCS on: <a href="http://CCS.cabinetoffice.gov.uk/i-am-supplier/management-information/admin-fees">http://CCS.cabinetoffice.gov.uk/i-am-supplier/management-information/admin-fees</a> ;
<b>"Affected Party"</b>	the Party seeking to claim relief in respect of a Force Majeure Event;
<b>"Affiliates"</b>	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;
<b>"Annex"</b>	extra information which supports a Schedule;
<b>"Approval"</b>	the prior written consent of the Buyer and " <b>Approve</b> " and " <b>Approved</b> " shall be construed accordingly;
<b>"Audit"</b>	the Relevant Authority's right to: <ul style="list-style-type: none"> <li>a) verify the accuracy of the Charges and any other amounts payable by a Buyer under a Call-Off Contract (including</li> </ul>

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	<p>proposed or actual variations to them in accordance with the Contract);</p> <p>b) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Deliverables;</p> <p>c) verify the Open Book Data;</p> <p>d) verify the Supplier's and each Subcontractor's compliance with the applicable Law;</p> <p>e) identify or investigate actual or suspected breach of Clauses 27 to 33 and/or Joint Schedule 5 (Corporate Social Responsibility), impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Relevant Authority shall have no obligation to inform the Supplier of the purpose or objective of its investigations;</p> <p>f) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables;</p> <p>g) obtain such information as is necessary to fulfil the Relevant Authority's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;</p> <p>h) review any books of account and the internal contract management accounts kept by the Supplier in connection with each Contract;</p> <p>i) carry out the Relevant Authority's internal and statutory audits and to prepare, examine and/or certify the Relevant Authority's annual and interim reports and accounts;</p> <p>j) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Relevant Authority has used its resources;</p> <p>k) verify the accuracy and completeness of any:</p> <p>(i) Management Information delivered or required by the Framework Contract; or</p> <p>(ii) Financial Report and compliance with Financial Transparency Objectives as specified by the Buyer in the Order Form;</p>
<b>"Auditor"</b>	<p>a) the Buyer's internal and external auditors;</p> <p>b) the Buyer's statutory or regulatory auditors;</p> <p>c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;</p>

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	<p>d) HM Treasury or the Cabinet Office;</p> <p>e) any party formally appointed by the Buyer to carry out audit or similar review functions; and</p> <p>f) successors or assigns of any of the above;</p>
<b>"Authority"</b>	CCS and each Buyer;
<b>"Authority Cause"</b>	any breach of the obligations of the Relevant Authority or any other default, act, omission, negligence or statement of the Relevant Authority, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Relevant Authority is liable to the Supplier;
<b>"BACS"</b>	the Bankers' Automated Clearing Services, which is a scheme for the electronic processing of financial transactions within the United Kingdom;
<b>"Beneficiary"</b>	a Party having (or claiming to have) the benefit of an indemnity under this Contract;
<b>"Buyer"</b>	the relevant public sector purchaser identified as such in the Order Form;
<b>"Buyer Assets"</b>	the Buyer's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Buyer and which is or may be used in connection with the provision of the Deliverables which remain the property of the Buyer throughout the term of the Contract;
<b>"Buyer Authorised Representative"</b>	the representative appointed by the Buyer from time to time in relation to the Call-Off Contract initially identified in the Order Form;
<b>"Buyer Premises"</b>	premises owned, controlled or occupied by the Buyer which are made available for use by the Supplier or its Subcontractors for the provision of the Deliverables (or any of them);
<b>"Call-Off Contract"</b>	the contract between the Buyer and the Supplier (entered into pursuant to the provisions of the Framework Contract), which consists of the terms set out and referred to in the Order Form;
<b>"Call-Off Contract Period"</b>	the Contract Period in respect of the Call-Off Contract;
<b>"Call-Off Expiry Date"</b>	the scheduled date of the end of a Call-Off Contract as stated in the Order Form;
<b>"Call-Off Incorporated Terms"</b>	the contractual terms applicable to the Call-Off Contract specified under the relevant heading in the Order Form;
<b>"Call-Off Initial Period"</b>	the Initial Period of a Call-Off Contract specified in the Order Form;
<b>"Call-Off Optional Extension"</b>	such period or periods beyond which the Call-Off Initial Period may

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<b>"Period"</b>	be extended as specified in the Order Form;
<b>"Call-Off Procedure"</b>	the process for awarding a Call-Off Contract pursuant to Clause 2 (How the contract works) and Framework Schedule 7 (Call-Off Award Procedure);
<b>"Call-Off Special Terms"</b>	any additional terms and conditions specified in the Order Form incorporated into the applicable Call-Off Contract;
<b>"Call-Off Start Date"</b>	the date of start of a Call-Off Contract as stated in the Order Form;
<b>"Call-Off Tender"</b>	the tender submitted by the Supplier in response to the Buyer's Statement of Requirements following a Further Competition Procedure and set out at Call-Off Schedule 4 (Call-Off Tender);
<b>"CCS"</b>	the Minister for the Cabinet Office as represented by Crown Commercial Service, which is an executive agency and operates as a trading fund of the Cabinet Office, whose offices are located at 9th Floor, The Capital, Old Hall Street, Liverpool L3 9PP;
<b>"CCS Authorised Representative"</b>	the representative appointed by CCS from time to time in relation to the Framework Contract initially identified in the Framework Award Form;
<b>"Central Government Body"</b>	<p>a body listed in one of the following subcategories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:</p> <ul style="list-style-type: none"> <li>a) Government Department;</li> <li>b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);</li> <li>c) Non-Ministerial Department; or</li> <li>d) Executive Agency;</li> </ul>
<b>"Change in Law"</b>	any change in Law which impacts on the supply of the Deliverables and performance of the Contract which comes into force after the Start Date;
<b>"Change of Control"</b>	a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;
<b>"Charges"</b>	the prices (exclusive of any applicable VAT), payable to the Supplier by the Buyer under the Call-Off Contract, as set out in the Order Form, for the full and proper performance by the Supplier of its obligations under the Call-Off Contract less any Deductions;
<b>"Claim"</b>	any claim which it appears that a Beneficiary is, or may become, entitled to indemnification under this Contract;
<b>"Commercially Sensitive Information"</b>	the Confidential Information listed in the Framework Award Form or Order Form (if any) comprising of commercially sensitive information relating to the Supplier, its IPR or its business or which the Supplier has indicated to the Authority that, if disclosed by the Authority, would cause the Supplier significant commercial

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	disadvantage or material financial loss;
<b>"Comparable Supply"</b>	the supply of Deliverables to another Buyer of the Supplier that are the same or similar to the Deliverables;
<b>"Compliance Officer"</b>	the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations;
<b>"Confidential Information"</b>	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of CCS, the Buyer or the Supplier, including IPRs, together with information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as <b>"confidential"</b> ) or which ought reasonably to be considered to be confidential;
<b>"Conflict of Interest"</b>	a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to CCS or any Buyer under a Contract, in the reasonable opinion of the Buyer or CCS;
<b>"Contract"</b>	either the Framework Contract or the Call-Off Contract, as the context requires;
<b>"Contract Period"</b>	the term of either a Framework Contract or Call-Off Contract on and from the earlier of the: a) applicable Start Date; or b) the Effective Date up to and including the applicable End Date;
<b>"Contract Value"</b>	the higher of the actual or expected total Charges paid or payable under a Contract where all obligations are met by the Supplier;
<b>"Contract Year"</b>	a consecutive period of twelve (12) Months commencing on the Start Date or each anniversary thereof;
<b>"Control"</b>	control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and <b>"Controlled"</b> shall be construed accordingly;
<b>"Controller"</b>	has the meaning given to it in the GDPR;
<b>"Core Terms"</b>	CCS' standard terms and conditions for common goods and services which govern how Supplier must interact with CCS and Buyers under Framework Contracts and Call-Off Contracts;
<b>"Costs"</b>	the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Deliverables: e) the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Supplier Staff, including: i) base salary paid to the Supplier Staff; ii) employer's National Insurance contributions;

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	<ul style="list-style-type: none"> <li>iii) pension contributions;</li> <li>iv) car allowances;</li> <li>v) any other contractual employment benefits;</li> <li>vi) staff training;</li> <li>vii) workplace accommodation;</li> <li>viii) workplace IT equipment and tools reasonably necessary to provide the Deliverables (but not including items included within limb (b) below); and</li> <li>ix) reasonable recruitment costs, as agreed with the Buyer;</li> </ul> <p>f) costs incurred in respect of Supplier Assets which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Buyer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets;</p> <p>g) operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the provision of the Deliverables; and</p> <p>h) Reimbursable Expenses to the extent these have been specified as allowable in the Order Form and are incurred in delivering any Deliverables;</p> <p>but excluding:</p> <ul style="list-style-type: none"> <li>i) Overhead;</li> <li>j) financing or similar costs;</li> <li>k) maintenance and support costs to the extent that these relate to maintenance and/or support Deliverables provided beyond the Call-Off Contract Period whether in relation to Supplier Assets or otherwise;</li> <li>l) taxation;</li> <li>m) fines and penalties;</li> <li>n) amounts payable under Call-Off Schedule 16 (Benchmarking) where such Schedule is used; and</li> <li>o) non-cash items (including depreciation, amortisation, impairments and movements in provisions);</li> </ul>
<b>"CRTPA"</b>	the Contract Rights of Third Parties Act 1999;
<b>"Data Protection Impact Assessment"</b>	an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;
<b>"Data Protection"</b>	the GDPR, the LED and any applicable national implementing



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<b>"Legislation"</b>	Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to Processing of personal data and privacy; (iii) all applicable Law about the Processing of personal data and privacy;
<b>"Data Protection Liability Cap"</b>	the amount specified in the Framework Award Form;
<b>"Data Protection Officer"</b>	has the meaning given to it in the GDPR;
<b>"Data Subject"</b>	has the meaning given to it in the GDPR;
<b>"Data Subject Access Request"</b>	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
<b>"Deductions"</b>	all Service Credits, Delay Payments (if applicable), or any other deduction which the Buyer is paid or is payable to the Buyer under a Call-Off Contract;
<b>"Default"</b>	any breach of the obligations of the Supplier (including abandonment of a Contract in breach of its terms) or any other default (including material default), act, omission, negligence or statement of the Supplier, of its Subcontractors or any Supplier Staff howsoever arising in connection with or in relation to the subject-matter of a Contract and in respect of which the Supplier is liable to the Relevant Authority;
<b>"Default Management Charge"</b>	has the meaning given to it in Paragraph 8.1.1 of Framework Schedule 5 (Management Charges and Information);
<b>"Delay Payments"</b>	the amounts (if any) payable by the Supplier to the Buyer in respect of a delay in respect of a Milestone as specified in the Implementation Plan;
<b>"Deliverables"</b>	Goods and/or Services that may be ordered under the Contract including the Documentation;
<b>"Delivery"</b>	delivery of the relevant Deliverable or Milestone in accordance with the terms of a Call-Off Contract as confirmed and accepted by the Buyer by the either (a) confirmation in writing to the Supplier; or (b) where Call-Off Schedule 13 (Implementation Plan and Testing) is used issue by the Buyer of a Satisfaction Certificate. <b>"Deliver"</b> and <b>"Delivered"</b> shall be construed accordingly;
<b>"Disclosing Party"</b>	the Party directly or indirectly providing Confidential Information to the other Party in accordance with Clause 15 (What you must keep confidential);

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<b>"Dispute"</b>	any claim, dispute or difference (whether contractual or non-contractual) arising out of or in connection with the Contract or in connection with the negotiation, existence, legal validity, enforceability or termination of the Contract, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts;
<b>"Dispute Resolution Procedure"</b>	the dispute resolution procedure set out in Clause 34 (Resolving disputes);
<b>"Documentation"</b>	<p>descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) is required to be supplied by the Supplier to the Buyer under a Contract as:</p> <ul style="list-style-type: none"> <li>a) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Buyer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Deliverables</li> <li>b) is required by the Supplier in order to provide the Deliverables; and/or</li> <li>c) has been or shall be generated for the purpose of providing the Deliverables;</li> </ul>
<b>"DOTAS"</b>	the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions;
<b>"DPA 2018"</b>	the Data Protection Act 2018;
<b>"Due Diligence Information"</b>	any information supplied to the Supplier by or on behalf of the Authority prior to the Start Date;
<b>"Effective Date"</b>	the date on which the final Party has signed the Contract;
<b>"EIR"</b>	the Environmental Information Regulations 2004;
<b>"Electronic Invoice"</b>	an invoice which has been issued, transmitted and received in a structured electronic format which allows for its automatic and electronic processing and which complies with (a) the European standard and (b) any of the syntaxes published in Commission Implementing Decision (EU) 2017/1870;
<b>"Employment Regulations"</b>	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any



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	other Regulations implementing the European Council Directive 77/187/EEC;
<b>"End Date"</b>	the earlier of: <ul style="list-style-type: none"> <li>a) the Expiry Date (as extended by any Extension Period exercised by the Relevant Authority under Clause 10.1.2); or</li> <li>b) if a Contract is terminated before the date specified in (a) above, the date of termination of the Contract;</li> </ul>
<b>"Environmental Policy"</b>	to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Buyer;
<b>"Equality and Human Rights Commission"</b>	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
<b>"Estimated Year 1 Charges"</b>	the anticipated total Charges payable by the Buyer in the first Contract Year specified in the Order Form;
<b>"Estimated Yearly Charges"</b>	means for the purposes of calculating each Party's annual liability under clause 11.2: <ul style="list-style-type: none"> <li>i) in the first Contract Year, the Estimated Year 1 Charges; or</li> <li>ii) in any subsequent Contract Years, the Charges paid or payable in the previous Call-off Contract Year; or</li> <li>iii) after the end of the Call-off Contract, the Charges paid or payable in the last Contract Year during the Call-off Contract Period;</li> </ul>
<b>"Exempt Buyer"</b>	a public sector purchaser that is: <ul style="list-style-type: none"> <li>a) eligible to use the Framework Contract; and</li> <li>b) is entering into an Exempt Call-off Contract that is not subject to (as applicable) any of: <ul style="list-style-type: none"> <li>i) the Regulations;</li> <li>ii) the Concession Contracts Regulations 2016 (SI 2016/273);</li> <li>iii) the Utilities Contracts Regulations 2016 (SI 2016/274);</li> <li>iv) the Defence and Security Public Contracts Regulations 2011 (SI 2011/1848);</li> </ul> </li> </ul>

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	<p>v) the Remedies Directive (2007/66/EC);</p> <p>vi) Directive 2014/23/EU of the European Parliament and Council;</p> <p>vii) Directive 2014/24/EU of the European Parliament and Council;</p> <p>viii) Directive 2014/25/EU of the European Parliament and Council; or</p> <p>ix) Directive 2009/81/EC of the European Parliament and Council;</p>
<b>"Exempt Call-off Contract"</b>	the contract between the Exempt Buyer and the Supplier for Deliverables which consists of the terms set out and referred to in the Order Form incorporating and, where necessary, amending, refining or adding to the terms of the Framework Contract;
<b>"Exempt Procurement Amendments"</b>	any amendments, refinements or additions to any of the terms of the Framework Contract made through the Exempt Call-off Contract to reflect the specific needs of an Exempt Buyer to the extent permitted by and in accordance with any legal requirements applicable to that Exempt Buyer;

<b>"Existing IPR"</b>	any and all IPR that are owned by or licensed to either Party and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise);
<b>"Exit Day"</b>	shall have the meaning in the European Union (Withdrawal) Act 2018;
<b>"Expiry Date"</b>	the Framework Expiry Date or the Call-Off Expiry Date (as the context dictates);
<b>"Extension Period"</b>	the Framework Optional Extension Period or the Call-Off Optional Extension Period as the context dictates;
<b>"Financial Reports"</b>	<p>a report by the Supplier to the Buyer that:</p> <p>(a) provides a true and fair reflection of the Costs and Supplier Profit Margin forecast by the Supplier;</p> <p>(b) provides detail a true and fair reflection of the costs and expenses to be incurred by Key Subcontractors (as requested by the Buyer);</p> <p>(c) is in the same software package (Microsoft Excel or Microsoft Word), layout and format as the blank templates which have been issued by the Buyer to the Supplier on or before the Start</p>

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	<p>Date for the purposes of the Contract; and</p> <p>(d) is certified by the Supplier's Chief Financial Officer or Director of Finance;</p>
<b>"Financial Representative"</b>	a reasonably skilled and experienced member of the Supplier Staff who has specific responsibility for preparing, maintaining, facilitating access to, discussing and explaining the records and accounts of everything to do with the Contract (as referred to in Clause 6), Financial Reports and Open Book Data;
<b>"Financial Transparency Objectives"</b>	<p>(a) the Buyer having a clear analysis of the Costs, Overhead recoveries (where relevant), time spent by Supplier Staff in providing the Services and Supplier Profit Margin so that it can understand any payment sought by the Supplier;</p> <p>(b) the Parties being able to understand Costs forecasts and to have confidence that these are based on justifiable numbers and appropriate forecasting techniques;</p> <p>(c) the Parties being able to understand the quantitative impact of any Variations that affect ongoing Costs and identifying how these could be mitigated and/or reflected in the Charges;</p> <p>(d) the Parties being able to review, address issues with and re-forecast progress in relation to the provision of the Services;</p> <p>(e) the Parties challenging each other with ideas for efficiency and improvements; and</p> <p>(f) enabling the Buyer to demonstrate that it is achieving value for money for the taxpayer relative to current market prices;</p>
<b>"FOIA"</b>	the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
<b>"Force Majeure Event"</b>	any event, occurrence, circumstance, matter or cause affecting the performance by either the Relevant Authority or the Supplier of its obligations arising from acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party and that an experienced consultant would not reasonably

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	<p>have allowed for which prevent or materially delay the Affected Party from performing its obligations under a Contract and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by the Affected Party, including:</p> <ul style="list-style-type: none"> <li>a) rebellion, revolution, insurrection, military or usurped power, riots, civil commotion, war or armed conflict;</li> <li>b) use or threat of terrorism or the activities of the relevant authorities in dealing with the use or threat of terrorism;</li> <li>c) loss or damage to the site, plant or materials caused by fire, lightning or explosion;</li> </ul> <p>epidemic, pandemic or plague as classified or advised by HM's Government (excepting Covid-19); but excluding any industrial dispute relating to the Supplier, the Supplier Staff or any other failure in the Supplier or the Subcontractor's supply chain;</p>
<b>"Force Majeure Notice"</b>	a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;
<b>"Framework Award Form"</b>	the document outlining the Framework Incorporated Terms and crucial information required for the Framework Contract, to be executed by the Supplier and CCS;
<b>"Framework Contract"</b>	the framework agreement established between CCS and the Supplier in accordance with Regulation 33 by the Framework Award Form for the provision of the Deliverables to Buyers by the Supplier pursuant to the OJEU Notice;
<b>"Framework Contract Period"</b>	the period from the Framework Start Date until the End Date of the Framework Contract;
<b>"Framework Expiry Date"</b>	the scheduled date of the end of the Framework Contract as stated in the Framework Award Form;
<b>"Framework Incorporated Terms"</b>	the contractual terms applicable to the Framework Contract specified in the Framework Award Form;
<b>"Framework Optional Extension Period"</b>	such period or periods beyond which the Framework Contract Period may be extended as specified in the Framework Award Form;
<b>"Framework Price(s)"</b>	the price(s) applicable to the provision of the Deliverables set out in Framework Schedule 3 (Framework Prices);
<b>"Framework Special Terms"</b>	any additional terms and conditions specified in the Framework Award Form incorporated into the Framework Contract;
<b>"Framework Start Date"</b>	the date of start of the Framework Contract as stated in the Framework Award Form;
<b>"Framework Tender"</b>	the tender submitted by the Supplier to CCS and annexed to or referred to in Framework Schedule 2 (Framework Tender);

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<b>"Response"</b>	
<b>"Further Competition Procedure"</b>	the further competition procedure described in Framework Schedule 7 (Call-Off Award Procedure);
<b>"GDPR"</b>	the General Data Protection Regulation (Regulation (EU) 2016/679);
<b>"General Anti-Abuse Rule"</b>	d) the legislation in Part 5 of the Finance Act 2013 and; and e) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid National Insurance contributions;
<b>"General Change in Law"</b>	a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
<b>"Goods"</b>	goods made available by the Supplier as specified in Framework Schedule 1 (Specification) and in relation to a Call-Off Contract as specified in the Order Form ;
<b>"Good Industry Practice"</b>	standards, practises, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;
<b>"Government"</b>	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
<b>"Government Data"</b>	the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Authority's Confidential Information, and which: <ul style="list-style-type: none"> <li>i) are supplied to the Supplier by or on behalf of the Authority; or</li> <li>ii) the Supplier is required to generate, process, store or transmit pursuant to a Contract;</li> </ul>
<b>"Guarantor"</b>	the person (if any) who has entered into a guarantee in the form set out in Joint Schedule 8 (Guarantee) in relation to this Contract;
<b>"Halifax Abuse Principle"</b>	the principle explained in the CJEU Case C-255/02 Halifax and others;
<b>"HMRC"</b>	Her Majesty's Revenue and Customs;
<b>"ICT Policy"</b>	the Buyer's policy in respect of information and communications technology, referred to in the Order Form, which is in force as at the Call-Off Start Date (a copy of which has been supplied to the

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	Supplier), as updated from time to time in accordance with the Variation Procedure;
<b>"Impact Assessment"</b>	<p>an assessment of the impact of a Variation request by the Relevant Authority completed in good faith, including:</p> <ul style="list-style-type: none"> <li>a) details of the impact of the proposed Variation on the Deliverables and the Supplier's ability to meet its other obligations under the Contract;</li> <li>b) details of the cost of implementing the proposed Variation;</li> <li>c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Framework Prices/Charges (as applicable), any alteration in the resources and/or expenditure required by either Party and any alteration to the working practises of either Party;</li> <li>d) a timetable for the implementation, together with any proposals for the testing of the Variation; and</li> <li>e) such other information as the Relevant Authority may reasonably request in (or in response to) the Variation request;</li> </ul>
<b>"Implementation Plan"</b>	the plan for provision of the Deliverables set out in Call-Off Schedule 13 (Implementation Plan and Testing) where that Schedule is used or otherwise as agreed between the Supplier and the Buyer;
<b>"Indemnifier"</b>	a Party from whom an indemnity is sought under this Contract;
<b>"Independent Control"</b>	where a Controller has provided Personal Data to another Party which is not a Processor or a Joint Controller because the recipient itself determines the purposes and means of Processing but does so separately from the Controller providing it with Personal Data and <b>"Independent Controller"</b> shall be construed accordingly;
<b>"Indexation"</b>	the adjustment of an amount or sum in accordance with Framework Schedule 3 (Framework Prices) and the relevant Order Form;
<b>"Information"</b>	has the meaning given under section 84 of the Freedom of Information Act 2000;
<b>"Information Commissioner"</b>	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
<b>"Initial Period"</b>	the initial term of a Contract specified in the Framework Award Form or the Order Form, as the context requires;
<b>"Insolvency"</b>	with respect to any person, means:

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<b>Event"</b>	<p>(a) that person suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or:</p> <p>(i) (being a company or a LLP) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or</p> <p>(ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986;</p> <p>(b) that person commences negotiations with one or more of its creditors (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with one or more of its creditors or takes any step to obtain a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, a LLP or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;</p> <p>(c) another person becomes entitled to appoint a receiver over the assets of that person or a receiver is appointed over the assets of that person;</p> <p>(d) a creditor or encumbrancer of that person attaches or takes possession of, or a distress, execution or other such process is levied or enforced on or sued against, the whole or any part of that person's assets and such attachment or process is not discharged within 14 days;</p> <p>(e) that person suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;</p> <p>(f) where that person is a company, a LLP or a partnership:</p> <p>(i) a petition is presented (which is not dismissed within 14 days of its service), a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that person other than for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;</p> <p>(ii) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is filed at Court or given or if an administrator is appointed, over that person;</p> <p>(iii) (being a company or a LLP) the holder of a qualifying floating charge over the assets of that person has become entitled to appoint or has appointed an administrative receiver; or</p> <p>(iv) (being a partnership) the holder of an agricultural floating charge over the assets of that person has become entitled to appoint or has appointed an agricultural receiver; or</p> <p>(g) any event occurs, or proceeding is taken, with respect to that</p>
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	person in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above;
<b>"Installation Works"</b>	all works which the Supplier is to carry out at the beginning of the Call-Off Contract Period to install the Goods in accordance with the Call-Off Contract;
<b>"Intellectual Property Rights" or "IPR"</b>	<ul style="list-style-type: none"> <li>a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information;</li> <li>b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</li> <li>c) all other rights having equivalent or similar effect in any country or jurisdiction;</li> </ul>
<b>"Invoicing Address"</b>	the address to which the Supplier shall invoice the Buyer as specified in the Order Form;
<b>"IPR Claim"</b>	any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Deliverables or otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Relevant Authority in the fulfilment of its obligations under a Contract;
<b>"IR35"</b>	the off-payroll rules requiring individuals who work through their company pay the same tax and National Insurance contributions as an employee which can be found online at: <a href="https://www.gov.uk/guidance/ir35-find-out-if-it-applies">https://www.gov.uk/guidance/ir35-find-out-if-it-applies</a> ;
<b>"Joint Controller Agreement"</b>	the agreement (if any) entered into between the Relevant Authority and the Supplier substantially in the form set out in Annex 2 of Joint Schedule 11 ( <i>Processing Data</i> );
<b>"Joint Controllers"</b>	where two or more Controllers jointly determine the purposes and means of Processing;
<b>"Key Staff"</b>	the individuals (if any) identified as such in the Order Form;
<b>"Key Sub-Contract"</b>	each Sub-Contract with a Key Subcontractor;
<b>"Key Subcontractor"</b>	<p>any Subcontractor:</p> <ul style="list-style-type: none"> <li>a) which is relied upon to deliver any work package within the Deliverables in their entirety; and/or</li> </ul>



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	<p>b) which, in the opinion of CCS or the Buyer performs (or would perform if appointed) a critical role in the provision of all or any part of the Deliverables; and/or</p> <p>c) with a Sub-Contract with a contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under the Call-Off Contract,</p> <p>and the Supplier shall list all such Key Subcontractors in section 19 of the Framework Award Form and in the Key Subcontractor Section in Order Form;</p>
<b>"Know-How"</b>	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Deliverables but excluding know-how already in the other Party's possession before the applicable Start Date;
<b>"Law"</b>	any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgement of a relevant court of law, or directives or requirements with which the relevant Party is bound to comply;
<b>"LED"</b>	Law Enforcement Directive (Directive (EU) 2016/680);
<b>"Losses"</b>	all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgement, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and <b>"Loss"</b> shall be interpreted accordingly;
<b>"Lots"</b>	the number of lots specified in Framework Schedule 1 (Specification), if applicable;
<b>"Management Charge"</b>	the sum specified in the Framework Award Form payable by the Supplier to CCS in accordance with Framework Schedule 5 (Management Charges and Information);
<b>"Management Information" or "MI"</b>	the management information specified in Framework Schedule 5 (Management Charges and Information);
<b>"MI Default"</b>	means when two (2) MI Reports are not provided in any rolling six (6) month period
<b>"MI Failure"</b>	<p>means when an MI report:</p> <p>a) contains any material errors or material omissions or a missing mandatory field; or</p> <p>b) is submitted using an incorrect MI reporting Template; or</p> <p>c) is not submitted by the reporting date (including where a</p>

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	declaration of no business should have been filed);
<b>"MI Report"</b>	means a report containing Management Information submitted to the Authority in accordance with Framework Schedule 5 (Management Charges and Information);
<b>"MI Reporting Template"</b>	means the form of report set out in the Annex to Framework Schedule 5 (Management Charges and Information) setting out the information the Supplier is required to supply to the Authority;
<b>"Milestone"</b>	an event or task described in the Implementation Plan;
<b>"Milestone Date"</b>	the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
<b>"Month"</b>	a calendar month and <b>"Monthly"</b> shall be interpreted accordingly;
<b>"National Insurance"</b>	contributions required by the Social Security Contributions and Benefits Act 1992 and made in accordance with the Social Security (Contributions) Regulations 2001 (SI 2001/1004);
<b>"New IPR"</b>	<p>IPR in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of a Contract and updates and amendments of these items including (but not limited to) database schema; and/or</p> <p>IPR in or arising as a result of the performance of the Supplier's obligations under a Contract and all updates and amendments to the same;</p> <p>but shall not include the Supplier's Existing IPR;</p>
<b>"Occasion of Tax Non-Compliance"</b>	<p>where:</p> <ul style="list-style-type: none"> <li>a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of: <ul style="list-style-type: none"> <li>i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;</li> <li>ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or</li> </ul> </li> <li>b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Start Date or to a civil penalty for fraud or evasion;</li> </ul>

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<b>"Open Book Data"</b>	<p>complete and accurate financial and non-financial information which is sufficient to enable the Buyer to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of the Call-Off Contract, including details and all assumptions relating to:</p> <ul style="list-style-type: none"> <li>a) the Supplier's Costs broken down against each Good and/or Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all Deliverables;</li> <li>b) operating expenditure relating to the provision of the Deliverables including an analysis showing: <ul style="list-style-type: none"> <li>iii) the unit costs and quantity of Goods and any other consumables and bought-in Deliverables;</li> <li>iv) staff costs broken down into the number and grade/role of all Supplier Staff (free of any contingency) together with a list of agreed rates against each grade;</li> <li>v) a list of Costs underpinning those rates for each grade, being the agreed rate less the Supplier Profit Margin; and</li> <li>vi) Reimbursable Expenses, if allowed under the Order Form;</li> </ul> </li> <li>c) Overheads;</li> <li>d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Deliverables;</li> <li>e) the Supplier Profit achieved over the Framework Contract Period and on an annual basis;</li> <li>f) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier;</li> <li>g) an explanation of the type and value of risk and contingencies associated with the provision of the Deliverables, including the amount of money attributed to each risk and/or contingency; and</li> <li>h) the actual Costs profile for each Service Period;</li> </ul>
<b>"Order"</b>	means an order for the provision of the Deliverables placed by a Buyer with the Supplier under a Contract;
<b>"Order Form"</b>	a completed Order Form Template (or equivalent information issued by the Buyer) used to create a Call-Off Contract;

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<b>"Order Form Template"</b>	the template in Framework Schedule 6 (Order Form Template and Call-Off Schedules);
<b>"Other Contracting Authority"</b>	any actual or potential Buyer under the Framework Contract;
<b>"Overhead"</b>	those amounts which are intended to recover a proportion of the Supplier's or the Key Subcontractor's (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Staff and accordingly included within limb (a) of the definition of "Costs";
<b>"Parliament"</b>	takes its natural meaning as interpreted by Law;
<b>"Party"</b>	in the context of the Framework Contract, CCS or the Supplier, and in the context of a Call-Off Contract the Buyer or the Supplier. <b>"Parties"</b> shall mean both of them where the context permits;
<b>"Performance Indicators" or "PIs"</b>	the performance measurements and targets in respect of the Supplier's performance of the Framework Contract set out in Framework Schedule 4 (Framework Management);
<b>"Personal Data"</b>	has the meaning given to it in the GDPR;
<b>"Personal Data Breach"</b>	has the meaning given to it in the GDPR;
<b>"Personnel"</b>	all directors, officers, employees, agents, consultants and suppliers of a Party and/or of any Subcontractor and/or Subprocessor engaged in the performance of its obligations under a Contract;
<b>"Prescribed Person"</b>	a legal adviser, an MP or an appropriate body which a whistle-blower may make a disclosure to as detailed in 'Whistleblowing: list of prescribed people and bodies', 24 November 2016, available online at: <a href="https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies">https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies</a> ;
<b>"Processing"</b>	has the meaning given to it in the GDPR;
<b>"Processor"</b>	has the meaning given to it in the GDPR;
<b>"Processor Personnel"</b>	all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under a Contract;
<b>"Progress Meeting"</b>	a meeting between the Buyer Authorised Representative and the Supplier Authorised Representative;
<b>"Progress Meeting Frequency"</b>	the frequency at which the Supplier shall conduct a Progress Meeting in accordance with Clause 6.1 as specified in the Order Form;

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<b>“Progress Report”</b>	a report provided by the Supplier indicating the steps taken to achieve Milestones or delivery dates;
<b>“Progress Report Frequency”</b>	the frequency at which the Supplier shall deliver Progress Reports in accordance with Clause 6.1 as specified in the Order Form;
<b>“Prohibited Acts”</b>	<p>a) to directly or indirectly offer, promise or give any person working for or engaged by a Buyer or any other public body a financial or other advantage to:</p> <p>vii) induce that person to perform improperly a relevant function or activity; or</p> <p>viii) reward that person for improper performance of a relevant function or activity;</p> <p>b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with each Contract; or</p> <p>c) committing any offence:</p> <p>ix) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or</p> <p>x) under legislation or common law concerning fraudulent acts; or</p> <p>xi) defrauding, attempting to defraud or conspiring to defraud a Buyer or other public body; or</p> <p>d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;</p>
<b>“Protective Measures”</b>	appropriate technical and organisational measures which may include: pseudonymisation and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in Framework Schedule 9 (Cyber Essentials Scheme), if applicable, in the case of the Framework Contract or Call-Off Schedule 9 (Security), if applicable, in the case of a Call-Off Contract.
<b>“Recall”</b>	a request by the Supplier to return Goods to the Supplier or the manufacturer after the discovery of safety issues or defects (including defects in the right IPR rights) that might endanger health or hinder performance;
<b>“Recipient Party”</b>	the Party which receives or obtains directly or indirectly Confidential Information;
<b>“Rectification”</b>	a) the Supplier’s plan (or revised plan) to rectify it’s breach using the template in Joint Schedule 10 (Rectification Plan)

**Joint Schedule 1 (Definitions)**

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<b>Plan"</b>	<p>which shall include:</p> <ul style="list-style-type: none"> <li>b) full details of the Default that has occurred, including a root cause analysis;</li> <li>c) the actual or anticipated effect of the Default; and</li> <li>d) the steps which the Supplier proposes to take to rectify the Default (if applicable) and to prevent such Default from recurring, including timescales for such steps and for the rectification of the Default (where applicable);</li> </ul>
<b>"Rectification Plan Process"</b>	the process set out in Clause 10.3.1 to 10.3.4 (Rectification Plan Process);
<b>"Regulations"</b>	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires);
<b>"Reimbursable Expenses"</b>	<p>the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Buyer's expenses policy current from time to time, but not including:</p> <ul style="list-style-type: none"> <li>a) travel expenses incurred as a result of Supplier Staff travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Buyer otherwise agreed in advance in writing; and</li> <li>b) subsistence expenses incurred by Supplier Staff whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;</li> </ul>
<b>"Relevant Authority"</b>	the Authority which is party to the Contract to which a right or obligation is owed, as the context requires;
<b>"Relevant Authority's Confidential Information"</b>	<ul style="list-style-type: none"> <li>a) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Relevant Authority (including all Relevant Authority Existing IPR and New IPR);</li> <li>b) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has come) to the Relevant Authority's attention or into the Relevant Authority's possession in connection with a Contract; and</li> </ul> <p>information derived from any of the above;</p>



**Joint Schedule 1 (Definitions)**

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<b>"Relevant Requirements"</b>	all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State pursuant to section 9 of the Bribery Act 2010;
<b>"Relevant Tax Authority"</b>	HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;
<b>"Reminder Notice"</b>	a notice sent in accordance with Clause 10.5 given by the Supplier to the Buyer providing notification that payment has not been received on time;
<b>"Replacement Deliverables"</b>	any deliverables which are substantially similar to any of the Deliverables and which the Buyer receives in substitution for any of the Deliverables following the Call-Off Expiry Date, whether those goods are provided by the Buyer internally and/or by any third party;
<b>"Replacement Subcontractor"</b>	a Subcontractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any Subcontractor of any such Subcontractor);
<b>"Replacement Supplier"</b>	any third party provider of Replacement Deliverables appointed by or at the direction of the Buyer from time to time or where the Buyer is providing Replacement Deliverables for its own account, shall also include the Buyer;
<b>"Request For Information"</b>	a request for information or an apparent request relating to a Contract for the provision of the Deliverables or an apparent request for such information under the FOIA or the EIRs;
<b>"Required Insurances"</b>	the insurances required by Joint Schedule 3 (Insurance Requirements) or any additional insurances specified in the Order Form;
<b>"Satisfaction Certificate"</b>	the certificate (materially in the form of the document contained in of Part B of Call-Off Schedule 13 (Implementation Plan and Testing) or as agreed by the Parties where Call-Off Schedule 13 is not used in this Contract) granted by the Buyer when the Supplier has met all of the requirements of an Order, Achieved a Milestone or a Test;
<b>"Security Management Plan"</b>	the Supplier's security management plan prepared pursuant to Call-Off Schedule 9 (Security) (if applicable);
<b>"Security Policy"</b>	the Buyer's security policy, referred to in the Order Form, in force as at the Call-Off Start Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;
<b>"Self Audit Certificate"</b>	means the certificate in the form as set out in Framework Schedule 8 (Self Audit Certificate);
<b>"Serious Fraud Office"</b>	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;

**Joint Schedule 1 (Definitions)**

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<b>"Service Levels"</b>	any service levels applicable to the provision of the Deliverables under the Call Off Contract (which, where Call Off Schedule 14 (Service Levels) is used in this Contract, are specified in the Annex to Part A of such Schedule);
<b>"Service Period"</b>	has the meaning given to it in the Order Form;
<b>"Services"</b>	services made available by the Supplier as specified in Framework Schedule 1 (Specification) and in relation to a Call-Off Contract as specified in the Order Form;
<b>"Service Transfer"</b>	any transfer of the Deliverables (or any part of the Deliverables), for whatever reason, from the Supplier or any Subcontractor to a Replacement Supplier or a Replacement Subcontractor;
<b>"Service Transfer Date"</b>	the date of a Service Transfer;
<b>"Sites"</b>	any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which: <ul style="list-style-type: none"> <li>a) the Deliverables are (or are to be) provided; or</li> <li>b) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables;</li> <li>c) those premises at which any Supplier Equipment or any part of the Supplier System is located (where any part of the Deliverables provided falls within Call-Off Schedule 6 (ICT Services));</li> </ul>
<b>"SME"</b>	an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium enterprises;
<b>"Specialist Services"</b>	the provision of strategic, transformation, clinical or project controls advice and inputs, together with the provision of assurance and any other skills which do not fall under the definition of Technical Services;
<b>"Special Terms"</b>	any additional Clauses set out in the Framework Award Form or Order Form which shall form part of the respective Contract;
<b>"Specific Change in Law"</b>	a Change in Law that relates specifically to the business of the Buyer and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Deliverables is not reasonably foreseeable at the Start Date;
<b>"Specification"</b>	the specification set out in Framework Schedule 1 (Specification), as may, in relation to a Call-Off Contract, be supplemented by the Order Form;
<b>"Standards"</b>	any: <ul style="list-style-type: none"> <li>a) standards published by BSI British Standards, the National</li> </ul>



**Joint Schedule 1 (Definitions)**

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	<p>Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with;</p> <p>b) standards detailed in the specification in Schedule 1 (Specification);</p> <p>c) standards detailed by the Buyer in the Order Form or agreed between the Parties from time to time;</p> <p>d) relevant Government codes of practice and guidance applicable from time to time;</p>
<b>"Start Date"</b>	in the case of the Framework Contract, the date specified on the Framework Award Form, and in the case of a Call-Off Contract, the date specified in the Order Form;
<b>"Statement of Requirements"</b>	a statement issued by the Buyer detailing its requirements in respect of Deliverables issued in accordance with the Call-Off Procedure;
<b>"Storage Media"</b>	the part of any device that is capable of storing and retrieving data;
<b>"Sub-Contract"</b>	<p>any contract or agreement (or proposed contract or agreement), other than a Call-Off Contract or the Framework Contract, pursuant to which a third party:</p> <p>a) provides the Deliverables (or any part of them);</p> <p>b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or</p> <p>c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);</p>
<b>"Subcontractor"</b>	any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
<b>"Subprocessor"</b>	any third Party appointed to process Personal Data on behalf of that Processor related to a Contract;
<b>"Supplier"</b>	the person, firm or company identified in the Framework Award Form;
<b>"Supplier Assets"</b>	all assets and rights used by the Supplier to provide the Deliverables in accordance with the Call-Off Contract but excluding the Buyer Assets;
<b>"Supplier Authorised Representative"</b>	the representative appointed by the Supplier named in the Framework Award Form, or later defined in a Call-Off Contract;

**Joint Schedule 1 (Definitions)**

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<b>"Supplier's Confidential Information"</b>	<p>a) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Existing IPR) trade secrets, Know-How, and/or personnel of the Supplier;</p> <p>b) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with a Contract;</p> <p>c) Information derived from any of (a) and (b) above;</p>
<b>"Supplier's Contract Manager"</b>	the person identified in the Order Form appointed by the Supplier to oversee the operation of the Call-Off Contract and any alternative person whom the Supplier intends to appoint to the role, provided that the Supplier informs the Buyer prior to the appointment;
<b>"Supplier Equipment"</b>	the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Buyer) in the performance of its obligations under this Call-Off Contract;
<b>"Supplier Marketing Contact"</b>	shall be the person identified in the Framework Award Form;
<b>"Supplier Non-Performance"</b>	<p>where the Supplier has failed to:</p> <p>a) Achieve a Milestone by its Milestone Date;</p> <p>b) provide the Goods and/or Services in accordance with the Service Levels ; and/or</p> <p>c) comply with an obligation under a Contract;</p>
<b>"Supplier Profit"</b>	in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any Deductions and total Costs (in nominal cash flow terms) in respect of a Call-Off Contract for the relevant period;
<b>"Supplier Profit Margin"</b>	in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by the total Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;
<b>"Supplier Staff"</b>	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under a Contract;

**Joint Schedule 1 (Definitions)**

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<b>"Supporting Documentation"</b>	sufficient information in writing to enable the Buyer to reasonably assess whether the Charges, Reimbursable Expenses and other sums due from the Buyer under the Call-Off Contract detailed in the information are properly payable;
<b>"Technical Services"</b>	the provision of procurement support, supply markets management, estimating, cost management and any other services traditionally delivered on a high volume basis by an engineering consultancy;
<b>"Termination Notice"</b>	a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate a Contract on a specified date and setting out the grounds for termination;
<b>"Test Issue"</b>	any variance or non-conformity of the Deliverables from their requirements as set out in a Call-Off Contract;
<b>"Test Plan"</b>	a plan: <ul style="list-style-type: none"> <li>a) for the Testing of the Deliverables; and</li> <li>b) setting out other agreed criteria related to the achievement of Milestones;</li> </ul>
<b>"Tests "</b>	any tests required to be carried out pursuant to a Call-Off Contract as set out in the Test Plan or elsewhere in a Call-Off Contract and <b>"Tested"</b> and <b>"Testing"</b> shall be construed accordingly;
<b>"Third Party IPR"</b>	Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;
<b>"Transferring Supplier Employees"</b>	those employees of the Supplier and/or the Supplier's Subcontractors to whom the Employment Regulations will apply on the Service Transfer Date;
<b>"Transparency Information"</b>	the Transparency Reports and the content of a Contract, including any changes to this Contract agreed from time to time, except for – <ul style="list-style-type: none"> <li>(i) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Relevant Authority; and</li> <li>(ii) Commercially Sensitive Information;</li> </ul>
<b>"Transparency Reports"</b>	the information relating to the Deliverables and performance of the Contracts which the Supplier is required to provide to the Buyer in accordance with the reporting requirements in Call-Off Schedule 1 (Transparency Reports);
<b>"Variation"</b>	any change to a Contract;
<b>"Variation Form"</b>	the form set out in Joint Schedule 2 (Variation Form);
<b>"Variation Procedure"</b>	the procedure set out in Clause 24 (Changing the contract);

**Joint Schedule 1 (Definitions)**

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<b>"VAT"</b>	value added tax in accordance with the provisions of the Value Added Tax Act 1994;
<b>"VCSE"</b>	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;
<b>"Worker"</b>	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) ( <a href="https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees">https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees</a> ) applies in respect of the Deliverables;
<b>"Working Day"</b>	any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by the Parties in the Order Form;
<b>"Work Day"</b>	8.0 Work Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day; and
<b>"Work Hours"</b>	the hours spent by the Supplier Staff properly working on the provision of the Deliverables including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks.

**Joint Schedule 2 (Variation Form)**

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**Joint Schedule 2 (Variation Form)**

This form is to be used in order to change a contract in accordance with Clause 24 (Changing the Contract)

Contract Details		
This variation is between:	<b>[delete]</b> as applicable: CCS / Buyer] (" <b>CCS</b> " " <b>the Buyer</b> ") And <b>[insert]</b> name of Supplier] (" <b>the Supplier</b> ")	
Contract name:	<b>[insert]</b> name of contract to be changed] (" <b>the Contract</b> ")	
Contract reference number:	<b>[insert]</b> contract reference number]	
Details of Proposed Variation		
Variation initiated by:	<b>[delete]</b> as applicable: CCS/Buyer/Supplier]	
Variation number:	<b>[insert]</b> variation number]	
Date variation is raised:	<b>[insert]</b> date]	
Proposed variation		
Reason for the variation:	<b>[insert]</b> reason]	
An Impact Assessment shall be provided within:	<b>[insert]</b> number] days	
Impact of Variation		
Likely impact of the proposed variation:	<b>[Supplier to insert]</b> assessment of impact]	
Outcome of Variation		
Contract variation:	This Contract detailed above is varied as follows: <ul style="list-style-type: none"> <li><b>[CCS/Buyer to insert]</b> original Clauses or Paragraphs to be varied and the changed clause]</li> </ul>	
Financial variation:	Original Contract Value:	£ <b>[insert]</b> amount]
	Additional cost due to variation:	£ <b>[insert]</b> amount]
	New Contract value:	£ <b>[insert]</b> amount]

**Joint Schedule 2 (Variation Form)**

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1. This Variation must be agreed and signed by both Parties to the Contract and shall only be effective from the date it is signed by **[delete]** as applicable: CCS / Buyer]
2. Words and expressions in this Variation shall have the meanings given to them in the Contract.
3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Signed by an authorised signatory for and on behalf of the **[delete]** as applicable:  
CCS / Buyer]

Signature	
Date	
Name (in Capitals)	
Address	

Signed by an authorised signatory to sign for and on behalf of the Supplier

Signature	
Date	
Name (in Capitals)	
Address	

**Joint Schedule 3 (Insurance Requirements)**  
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## **Joint Schedule 3 (Insurance Requirements)**

### **1. The insurance you need to have**

- 1.1 The Supplier shall take out and maintain, or procure the taking out and maintenance of the insurances as set out in the Annex to this Schedule, any additional insurances required under a Call-Off Contract (specified in the applicable Order Form) ("**Additional Insurances**") and any other insurances as may be required by applicable Law (together the "**Insurances**"). The Supplier shall ensure that each of the Insurances is effective no later than:
- 1.1.1 the Framework Start Date in respect of those Insurances set out in the Annex to this Schedule and those required by applicable Law; and
  - 1.1.2 the Call-Off Contract Effective Date in respect of the Additional Insurances.
- 1.2 The Insurances shall be:
- 1.2.1 maintained in accordance with Good Industry Practice;
  - 1.2.2 (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time;
  - 1.2.3 taken out and maintained with insurers of good financial standing and good repute in the international insurance market; and
  - 1.2.4 maintained for at least six (6) years after the End Date.
- 1.3 The Supplier shall ensure that the public and products liability policy contain an indemnity to principals clause under which the Relevant Authority shall be indemnified in respect of claims made against the Relevant Authority in respect of death or bodily injury or third party property damage arising out of or in connection with the Deliverables and for which the Supplier is legally liable.

### **2. How to manage the insurance**

- 2.1 Without limiting the other provisions of this Contract, the Supplier shall:
- 2.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to Deliverables as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
  - 2.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and
  - 2.1.3 Hold all policies in respect of the Insurances and cause any insurance broker affecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

**Joint Schedule 3 (Insurance Requirements)**

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**3. What happens if you aren't insured**

- 3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.
- 3.2 Where the Supplier has failed to purchase or maintain any of the Insurances in full force and effect, the Relevant Authority may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances and recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

**4. Evidence of insurance you must provide**

- 4.1 The Supplier shall upon the Start Date and within 15 Working Days after the renewal of each of the Insurances, provide evidence, in a form satisfactory to the Relevant Authority, that the Insurances are in force and effect and meet in full the requirements of this Schedule.

**5. Making sure you are insured to the required amount**

- 5.1 The Supplier shall ensure that any Insurances which are stated to have a minimum limit "in the aggregate" are maintained at all times for the minimum limit of indemnity specified in this Contract and if any claims are made which do not relate to this Contract then the Supplier shall notify the Relevant Authority and provide details of its proposed solution for maintaining the minimum limit of indemnity.

**6. Cancelled Insurance**

- 6.1 The Supplier shall notify the Relevant Authority in writing at least five (5) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.
- 6.2 The Supplier shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Supplier shall use all reasonable endeavours to notify the Relevant Authority (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

**7. Insurance claims**

- 7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Deliverables, or each Contract for which it may be entitled to claim under any of the Insurances. In the event that the Relevant Authority receives a claim relating to or arising out of a Contract or the Deliverables, the Supplier shall cooperate with the Relevant Authority and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.



### **Joint Schedule 3 (Insurance Requirements)**

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- 7.2 Except where the Relevant Authority is the claimant party, the Supplier shall give the Relevant Authority notice within twenty (20) Working Days after any insurance claim in excess of 10% of the sum required to be insured pursuant to Paragraph 5.1 relating to or arising out of the provision of the Deliverables or this Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Relevant Authority) full details of the incident giving rise to the claim.
- 7.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.
- 7.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from the Relevant Authority any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.

**Joint Schedule 3 (Insurance Requirements)**  
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## **ANNEX: REQUIRED INSURANCES**

1. The Supplier shall hold the following standard insurance cover from the Framework Start Date in accordance with this Schedule:
  - 1.1 professional indemnity insurance with cover (for a single event or a series of related events and in the aggregate) of not less than five million pounds (£5,000,000);
  - 1.2 public liability insurance with cover (for a single event or a series of related events and in the aggregate) of not less than ten million pounds (£10,000,000); and
  - 1.3 employers' liability insurance with cover (for a single event or a series of related events and in the aggregate) of not less than ten million pounds (£10,000,000).

## Joint Schedule 4 (Commercially Sensitive Information)

### 1. What is Commercially Sensitive Information?

- 1.1 In this Schedule the Parties have sought to identify the Supplier's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be the subject of an exemption under the FOIA and the EIRs.
- 1.2 Where possible, the Parties have sought to identify when any relevant Information will cease to fall into the category of Information to which this Schedule applies in the table below and in the Order Form (which shall be deemed incorporated into the table below).
- 1.3 Without prejudice to the Relevant Authority's obligation to disclose Information in accordance with FOIA or Clause 16 (When you can share information), the Relevant Authority will, in its sole discretion, acting reasonably, seek to apply the relevant exemption set out in the FOIA to the following Information:

No.	Date	Item(s)	Duration of Confidentiality
1		Pricing schedules, schedules of rates, hourly / daily rates and breakdown of fees, whether included in the Supplier's response to the Buyer's Request for Response or subsequent Task Orders.	Duration of Call-Off Contract
2		Client references / work done for other clients included in the Supplier's response to the Buyer's Request for Response.	Duration of Call-Off Contract
3		Names of, and CVs of, the Supplier's staff.	Duration of Call-Off Contract
4		Anything highlighted in the Supplier's deliverables as commercially sensitive, such as information received under confidential release terms or detailed worksheet outputs containing the Supplier's proprietary analysis methodology.	Duration of Call-Off Contract

**Joint Schedule 5 (Corporate Social Responsibility)**  
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## **Joint Schedule 5 (Corporate Social Responsibility)**

### **1. What we expect from our Suppliers**

- 1.1 In February 2019, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government  
([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/779660/20190220-Supplier\\_Code\\_of\\_Conduct.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf))
- 1.2 CCS expects its Suppliers and Subcontractors to meet the standards set out in that Code. In addition, CCS expects its Suppliers and Subcontractors to comply with the Standards set out in this Schedule.
- 1.3 The Supplier acknowledges that the Buyer may have additional requirements in relation to corporate social responsibility. The Buyer expects that the Supplier and its Subcontractors will comply with such corporate social responsibility requirements as the Buyer may notify the Supplier from time to time.

### **2. Equality and Accessibility**

- 2.1 In addition to legal obligations, the Supplier shall support CCS and the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under each Contract in a way that seeks to:
  - 2.1.1 eliminate discrimination, harassment or victimisation of any kind; and
  - 2.1.2 advance equality of opportunity and good relations between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

### **3. Modern Slavery, Child Labour and Inhumane Treatment**

**"Modern Slavery Helpline"** means the mechanism for reporting suspicion, seeking help or advice and information on the subject of modern slavery available online at <https://www.modernslaveryhelpline.org/report> or by telephone on 08000 121 700.

- 3.1 The Supplier:
  - 3.1.1 shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;
  - 3.1.2 shall not require any Supplier Staff or Subcontractor Staff to lodge deposits or identify papers with the Employer and shall be free to leave their employer after reasonable notice;
  - 3.1.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world.
  - 3.1.4 warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any

**Joint Schedule 5 (Corporate Social Responsibility)**

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allegation of slavery or human trafficking offenses anywhere around the world.

- 3.1.5 shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking offenses anywhere around the world.
- 3.1.6 shall have and maintain throughout the term of each Contract its own policies and procedures to ensure its compliance with the Modern Slavery Act and include in its contracts with its Subcontractors anti-slavery and human trafficking provisions;
- 3.1.7 shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under a Contract;
- 3.1.8 shall prepare and deliver to CCS, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with Paragraph 3;
- 3.1.9 shall not use, nor allow its employees or Subcontractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors;
- 3.1.10 shall not use or allow child or slave labour to be used by its Subcontractors;
- 3.1.11 shall report the discovery or suspicion of any slavery or trafficking by it or its Subcontractors to CCS, the Buyer and Modern Slavery Helpline.

**4. Income Security****4.1 The Supplier shall:**

- 4.1.1 ensure that that all wages and benefits paid for a standard working week meet, at a minimum, national legal standards in the country of employment;
- 4.1.2 ensure that all Supplier Staff are provided with written and understandable Information about their employment conditions in respect of wages before they enter employment and about the particulars of their wages for the pay period concerned each time that they are paid;
- 4.1.3 not make deductions from wages:
  - (a) as a disciplinary measure
  - (b) except where permitted by law; or
  - (c) without expressed permission of the worker concerned;
- 4.1.4 record all disciplinary measures taken against Supplier Staff; and

## **Joint Schedule 5 (Corporate Social Responsibility)**

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- 4.1.5 ensure that Supplier Staff are engaged under a recognised employment relationship established through national law and practice.

### **5. Working Hours**

5.1 The Supplier shall:

- 5.1.1 ensure that the working hours of Supplier Staff comply with national laws, and any collective agreements;
- 5.1.2 that the working hours of Supplier Staff, excluding overtime, shall be defined by contract, and shall not exceed 48 hours per week unless the individual has agreed in writing;
- 5.1.3 ensure that use of overtime used responsibly, taking into account:
  - (a) the extent;
  - (b) frequency; and
  - (c) hours worked;

by individuals and by the Supplier Staff as a whole;

5.2 The total hours worked in any seven day period shall not exceed 60 hours, except where covered by Paragraph 5.3 below.

5.3 Working hours may exceed 60 hours in any seven day period only in exceptional circumstances where all of the following are met:

- 5.3.1 this is allowed by national law;
- 5.3.2 this is allowed by a collective agreement freely negotiated with a workers' organisation representing a significant portion of the workforce;
- 5.3.3 appropriate safeguards are taken to protect the workers' health and safety; and
- 5.3.4 the employer can demonstrate that exceptional circumstances apply such as unexpected production peaks, accidents or emergencies.

5.4 All Supplier Staff shall be provided with at least one (1) day off in every seven (7) day period or, where allowed by national law, two (2) days off in every fourteen (14) day period.

### **6. Sustainability**

6.1 The supplier shall meet the applicable Government Buying Standards applicable to Deliverables which can be found online at:

<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>

**Joint Schedule 6 (Key Subcontractors)**  
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## **Joint Schedule 6 (Key Subcontractors)**

### **1. Restrictions on certain subcontractors**

- 1.1** The Supplier is entitled to sub-contract its obligations under the Framework Contract to the Key Subcontractors set out in the Framework Award Form.
- 1.2** The Supplier is entitled to sub-contract its obligations under a Call-Off Contract to Key Subcontractors listed in the Framework Award Form who are specifically nominated in the Order Form.
- 1.3** Where during the Contract Period the Supplier wishes to enter into a new Key Sub-contract or replace a Key Subcontractor, it must obtain the prior written consent of CCS and the Buyer and the Supplier shall, at the time of requesting such consent, provide CCS and the Buyer with the information detailed in Paragraph 1.4. The decision of CCS and the Buyer to consent or not will not be unreasonably withheld or delayed. Where CCS consents to the appointment of a new Key Subcontractor then they will be added to section 18 of the Framework Award Form. Where the Buyer consents to the appointment of a new Key Subcontractor then they will be added to the Key Subcontractor section of the Order Form. CCS and the Buyer may reasonably withhold their consent to the appointment of a Key Subcontractor if it considers that:
  - 1.3.1** the appointment of a proposed Key Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
  - 1.3.2** the proposed Key Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
  - 1.3.3** the proposed Key Subcontractor employs unfit persons.
- 1.4** The Supplier shall provide CCS and the Buyer with the following information in respect of the proposed Key Subcontractor:
  - 1.4.1** the proposed Key Subcontractor's name, registered office and company registration number;
  - 1.4.2** the scope/description of any Deliverables to be provided by the proposed Key Subcontractor;
  - 1.4.3** where the proposed Key Subcontractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the CCS and the Buyer that the proposed Key Sub-Contract has been agreed on "arm's-length" terms;
  - 1.4.4** for CCS, the Key Sub-Contract price expressed as a percentage of the total projected Framework Price over the Framework Contract Period;
  - 1.4.5** for the Buyer, the Key Sub-Contract price expressed as a percentage of the total projected Charges over the Call Off Contract Period; and
  - 1.4.6** (where applicable) Credit Rating Threshold (as defined in Joint Schedule 7 (Financial Distress)) of the Key Subcontractor.



## **Joint Schedule 6 (Key Subcontractors)**

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- 1.5** If requested by CCS and/or the Buyer, within ten (10) Working Days of receipt of the information provided by the Supplier pursuant to Paragraph 1.4, the Supplier shall also provide:
  - 1.5.1 a copy of the proposed Key Sub-Contract; and
  - 1.5.2 any further information reasonably requested by CCS and/or the Buyer.
- 1.6** The Supplier shall ensure that each new or replacement Key Sub-Contract shall include:
  - 1.6.1 provisions which will enable the Supplier to discharge its obligations under the Contracts;
  - 1.6.2 a right under CRTPA for CCS and the Buyer to enforce any provisions under the Key Sub-Contract which confer a benefit upon CCS and the Buyer respectively;
  - 1.6.3 a provision enabling CCS and the Buyer to enforce the Key Sub-Contract as if it were the Supplier;
  - 1.6.4 a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to CCS and/or the Buyer;
  - 1.6.5 obligations no less onerous on the Key Subcontractor than those imposed on the Supplier under the Framework Contract in respect of:
    - (a) the data protection requirements set out in Clause 14 (Data protection);
    - (b) the FOIA and other access request requirements set out in Clause 16 (When you can share information);
    - (c) the obligation not to embarrass CCS or the Buyer or otherwise bring CCS or the Buyer into disrepute;
    - (d) the keeping of records in respect of the goods and/or services being provided under the Key Sub-Contract, including the maintenance of Open Book Data; and
    - (e) the conduct of audits set out in Clause 6 (Record keeping and reporting);
  - 1.6.6 provisions enabling the Supplier to terminate the Key Sub-Contract on notice on terms no more onerous on the Supplier than those imposed on CCS and the Buyer under Clauses 10.4 (When CCS or the Buyer can end this contract) and 10.5 (What happens if the contract ends) of this Contract; and
  - 1.6.7 a provision restricting the ability of the Key Subcontractor to subcontract all or any part of the provision of the Deliverables provided to the Supplier under the Key Sub-Contract without first seeking the written consent of CCS and the Buyer.

**Joint Schedule 7 (Financial Difficulties)**  
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## Joint Schedule 7 (Financial Difficulties)

### 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Credit Rating Threshold"</b>	the minimum credit rating level for the Monitored Company as set out in Annex 2
<b>"Financial Distress Event"</b>	<p>the occurrence or one or more of the following events:</p> <ul style="list-style-type: none"> <li>a) the credit rating of the Monitored Company dropping below the applicable Credit Rating Threshold;</li> <li>b) the Monitored Company issuing a profits warning to a stock exchange or making any other public announcement about a material deterioration in its financial position or prospects;</li> <li>c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of the Monitored Company;</li> <li>d) Monitored Company committing a material breach of covenant to its lenders;</li> <li>e) a Key Subcontractor (where applicable) notifying CCS that the Supplier has not satisfied any sums properly due under a specified invoice and not subject to a genuine dispute; or</li> <li>f) any of the following: <ul style="list-style-type: none"> <li>i) commencement of any litigation against the Monitored Company with respect to financial indebtedness or obligations under a contract;</li> <li>ii) non-payment by the Monitored Company of any financial indebtedness;</li> <li>iii) any financial indebtedness of the Monitored Company becoming due as a result of an event of default; or</li> </ul> </li> </ul>

**Joint Schedule 7 (Financial Difficulties)**

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	iv) the cancellation or suspension of any financial indebtedness in respect of the Monitored Company  in each case which CCS reasonably believes (or would be likely reasonably to believe) could directly impact on the continued performance of any Contract and delivery of the Deliverables in accordance with any Call-Off Contract;
<b>"Financial Distress Service Continuity Plan"</b>	a plan setting out how the Supplier will ensure the continued performance and delivery of the Deliverables in accordance with each Call-Off Contract in the event that a Financial Distress Event occurs;
<b>"Monitored Company"</b>	Supplier and any Key Subcontractor;
<b>"Rating Agencies"</b>	the rating agencies listed in Annex 1.

**2. When this Schedule applies**

2.1 The Parties shall comply with the provisions of this Schedule in relation to the assessment of the financial standing of the Monitored Companies and the consequences of a change to that financial standing.

2.2 The terms of this Schedule shall survive:

2.2.1 under the Framework Contract until the later of (a) the termination or expiry of the Framework Contract or (b) the latest date of termination or expiry of any Call-Off Contract entered into under the Framework Contract (which might be after the date of termination or expiry of the Framework Contract); and

2.2.2 under the Call-Off Contract until the termination or expiry of the Call-Off-Contract.

**3. What happens when your credit rating changes**

3.1 The Supplier warrants and represents to CCS that as at the Start Date the long term credit ratings issued for the Monitored Companies by each of the Rating Agencies are as set out in Annex 2.

3.2 The Supplier shall promptly (and in any event within five (5) Working Days) notify CCS in writing if there is any downgrade in the credit rating issued by any Rating Agency for a Monitored Company.

3.3 If there is any downgrade credit rating issued by any Rating Agency for the Monitored Company the Supplier shall ensure that the Monitored Company's auditors thereafter provide CCS within 10 Working Days of the end of each Contract Year and within 10 Working Days of written request by CCS (such requests not to exceed 4 in any Contract Year) with written calculations of the quick ratio for the Monitored Company as at the end of each Contract Year or

**Joint Schedule 7 (Financial Difficulties)**

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such other date as may be requested by CCS. For these purposes the "quick ratio" on any date means:

$$\frac{A + B + C}{D}$$

where:

A	is the value at the relevant date of all cash in hand and at the bank of the Monitored Company;
B	is the value of all marketable securities held by the Supplier the Monitored Company determined using closing prices on the Working Day preceding the relevant date;
C	is the value at the relevant date of all account receivables of the Monitored; and
D	is the value at the relevant date of the current liabilities of the Monitored Company.

#### 3.4 The Supplier shall:

- 3.4.1 regularly monitor the credit ratings of each Monitored Company with the Rating Agencies; and
- 3.4.2 promptly notify (or shall procure that its auditors promptly notify) CCS in writing following the occurrence of a Financial Distress Event or any fact, circumstance or matter which could cause a Financial Distress Event and in any event, ensure that such notification is made within 10 Working Days of the date on which the Supplier first becomes aware of the Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event.

3.5 For the purposes of determining whether a Financial Distress Event has occurred the credit rating of the Monitored Company shall be deemed to have dropped below the applicable Credit Rating Threshold if any of the Rating Agencies have rated the Monitored Company at or below the applicable Credit Rating Threshold.

#### 4. What happens if there is a financial distress event

- 4.1 In the event of a Financial Distress Event then, immediately upon notification of the Financial Distress Event (or if CCS becomes aware of the Financial Distress Event without notification and brings the event to the attention of the Supplier), the Supplier shall have the obligations and CCS shall have the rights and remedies as set out in Paragraphs 4.3 to 4.6.
- 4.2 In the event that a Financial Distress Event arises due to a Key Subcontractor notifying CCS that the Supplier has not satisfied any sums properly due under a specified invoice and not subject to a genuine dispute then, CCS shall not

**Joint Schedule 7 (Financial Difficulties)**

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exercise any of its rights or remedies under Paragraph 4.3 without first giving the Supplier ten (10) Working Days to:

- 4.2.1 rectify such late or non-payment; or
- 4.2.2 demonstrate to CCS's reasonable satisfaction that there is a valid reason for late or non-payment.

4.3 The Supplier shall and shall procure that the other Monitored Companies shall:

- 4.3.1 at the request of CCS meet CCS as soon as reasonably practicable (and in any event within three (3) Working Days of the initial notification (or awareness) of the Financial Distress Event) to review the effect of the Financial Distress Event on the continued performance of each Contract and delivery of the Deliverables in accordance each Call-Off Contract; and
- 4.3.2 where CCS reasonably believes (taking into account the discussions and any representations made under Paragraph 4.3.1) that the Financial Distress Event could impact on the continued performance of each Contract and delivery of the Deliverables in accordance with each Call-Off Contract:
  - (a) submit to CCS for its Approval, a draft Financial Distress Service Continuity Plan as soon as reasonably practicable (and in any event, within ten (10) Working Days of the initial notification (or awareness) of the Financial Distress Event); and
  - (b) provide such financial information relating to the Monitored Company as CCS may reasonably require.

4.4 If CCS does not (acting reasonably) approve the draft Financial Distress Service Continuity Plan, it shall inform the Supplier of its reasons and the Supplier shall take those reasons into account in the preparation of a further draft Financial Distress Service Continuity Plan, which shall be resubmitted to CCS within five (5) Working Days of the rejection of the first or subsequent (as the case may be) drafts. This process shall be repeated until the Financial Distress Service Continuity Plan is Approved by CCS or referred to the Dispute Resolution Procedure.

4.5 If CCS considers that the draft Financial Distress Service Continuity Plan is insufficiently detailed to be properly evaluated, will take too long to complete or will not remedy the relevant Financial Distress Event, then it may either agree a further time period for the development and agreement of the Financial Distress Service Continuity Plan or escalate any issues with the draft Financial Distress Service Continuity Plan using the Dispute Resolution Procedure.

4.6 Following Approval of the Financial Distress Service Continuity Plan by CCS, the Supplier shall:

- 4.6.1 on a regular basis (which shall not be less than Monthly), review the Financial Distress Service Continuity Plan and assess whether it remains adequate and up to date to ensure

**Joint Schedule 7 (Financial Difficulties)**

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the continued performance of each Contract and delivery of the Deliverables in accordance with each Call-Off Contract;

4.6.2 where the Financial Distress Service Continuity Plan is not adequate or up to date in accordance with Paragraph 4.6.1, submit an updated Financial Distress Service Continuity Plan to CCS for its Approval, and the provisions of Paragraphs 4.5 and 4.6 shall apply to the review and Approval process for the updated Financial Distress Service Continuity Plan; and

4.6.3 comply with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).

4.7 Where the Supplier reasonably believes that the relevant Financial Distress Event (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify CCS and subject to the agreement of the Parties, the Supplier may be relieved of its obligations under Paragraph 4.7.

4.8 CCS shall be able to share any information it receives from the Buyer in accordance with this Paragraph with any Buyer who has entered into a Call-Off Contract with the Supplier.

**5. When CCS or the Buyer can terminate for financial distress**

5.1 CCS shall be entitled to terminate this Contract and Buyers shall be entitled to terminate their Call-Off Contracts for material Default if:

5.1.1 the Supplier fails to notify CCS of a Financial Distress Event in accordance with Paragraph 3.4;

5.1.2 CCS and the Supplier fail to agree a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraphs 4.3 to 4.5; and/or

5.1.3 the Supplier fails to comply with the terms of the Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraph 4.6.3.

**6. What happens If your credit rating is still good**

6.1 Without prejudice to the Supplier's obligations and CCS' and the Buyer's rights and remedies under Paragraph 5, if, following the occurrence of a Financial Distress Event, the Rating Agencies review and report subsequently that the credit ratings do not drop below the relevant Credit Rating Threshold, then:

6.1.1 the Supplier shall be relieved automatically of its obligations under Paragraphs 4.3 to 4.6; and

6.1.2 CCS shall not be entitled to require the Supplier to provide financial information in accordance with Paragraph 4.3.2(b).

**Joint Schedule 7 (Financial Difficulties)**

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# **ANNEX 1: RATING AGENCIES**

Dun & Bradstreet



ANNEX 2: CREDIT RATINGS & CREDIT RATING THRESHOLDS

Part 1: Current Rating

Entity	Credit rating (long term)
Supplier	<div><div></div><div>Redacted</div></div>
Key Subcontractor	

Joint Schedule (Minimum Standards of Reliability)  
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## Joint Schedule 9 (Minimum Standards of Reliability)

### 1. Standards

**1.1** No Call-Off Contract with an anticipated contract value in excess of £20 million (excluding VAT) shall be awarded to the Supplier if it does not show that it meets the minimum standards of reliability as set out in the OJEU Notice (**“Minimum Standards of Reliability”**) at the time of the proposed award of that Call-Off Contract.

**1.2** CCS shall assess the Supplier’s compliance with the Minimum Standards of Reliability:

**1.2.1** upon the request of any Buyer; or

**1.2.2** whenever it considers (in its absolute discretion) that it is appropriate to do so.

**1.3** In the event that the Supplier does not demonstrate that it meets the Minimum Standards of Reliability in an assessment carried out pursuant to Paragraph 1.2, CCS shall so notify the Supplier (and any Buyer in writing) and the CCS reserves the right to terminate its Framework Contract for material Default under Clause 10.4 (When CCS or the Buyer can end this contract).

**Joint Schedule 10 (Rectification Plan)**

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**Joint Schedule 10 (Rectification Plan)**

Request for <b>[Revised]</b> Rectification Plan			
Details of the Default:	<b>[Guidance:</b> Explain the Default, with clear schedule and clause references as appropriate]		
Deadline for receiving the <b>[Revised]</b> Rectification Plan:	<b>[add]</b> date (minimum 10 days from request)]		
Signed by <b>[CCS/Buyer]</b> :		Date:	
Supplier <b>[Revised]</b> Rectification Plan			
Cause of the Default	<b>[add]</b> cause]		
Anticipated impact assessment:	<b>[add]</b> impact]		
Actual effect of Default:	<b>[add]</b> effect]		
Steps to be taken to rectification:	<b>Steps</b>	<b>Timescale</b>	
	1.	<b>[date]</b>	
	2.	<b>[date]</b>	
	3.	<b>[date]</b>	
	4.	<b>[date]</b>	
	<b>[...]</b>	<b>[date]</b>	
Timescale for complete Rectification of Default	<b>[X]</b> Working Days		
Steps taken to prevent recurrence of Default	<b>Steps</b>	<b>Timescale</b>	
	1.	<b>[date]</b>	
	2.	<b>[date]</b>	
	3.	<b>[date]</b>	
	4.	<b>[date]</b>	
	<b>[...]</b>	<b>[date]</b>	
Signed by the Supplier:		Date:	

**Joint Schedule 10 (Rectification Plan)**

Crown Copyright 2018

Review of Rectification Plan [CCS/Buyer]			
Outcome of review	[Plan Accepted] [Plan Rejected] [Revised Plan Requested]		
Reasons for Rejection (if applicable)	[add reasons]		
Signed by [CCS/Buyer]		Date:	

## **Call-Off Schedule 1 (Transparency Reports)**

Call-Off Ref:

Crown Copyright 2018

# **Call-Off Schedule 1 (Transparency Reports)**

- 1.1 The Supplier recognises that the Buyer is subject to PPN 01/17 (Updates to transparency principles v1.1 (<https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles>)). The Supplier shall comply with the provisions of this Schedule in order to assist the Buyer with its compliance with its obligations under that PPN.
- 1.2 Without prejudice to the Supplier's reporting requirements set out in the Framework Contract, within three (3) Months of the Start Date the Supplier shall submit to the Buyer for Approval (such Approval not to be unreasonably withheld or delayed) draft Transparency Reports consistent with the content requirements and format set out in the Annex of this Schedule.
- 1.3 If the Buyer rejects any proposed Transparency Report submitted by the Supplier, the Supplier shall submit a revised version of the relevant report for further Approval within five (5) Working Days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Buyer. If the Parties fail to agree on a draft Transparency Report the Buyer shall determine what should be included. Any other disagreement in connection with Transparency Reports shall be treated as a Dispute.
- 1.4 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Buyer at the frequency referred to in the Annex of this Schedule.

**Call-Off Schedule 1 (Transparency Reports)**

Call-Off Ref:

Crown Copyright 2018

## **Annex A: List of Transparency Reports**

N/A

**Call-Off Schedule 3 (Continuous Improvement)**

Call-Off Ref:

Crown Copyright 2018

**Call-Off Schedule 3 (Continuous Improvement)****1. Buyer's Rights**

- 1.1 The Buyer and the Supplier recognise that, where specified in Framework Schedule 4 (Framework Management), the Buyer may give CCS the right to enforce the Buyer's rights under this Schedule.

**2. Supplier's Obligations**

- 2.1 The Supplier must, throughout the Contract Period, identify new or potential improvements to the provision of the Deliverables with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables and their supply to the Buyer.
- 2.2 The Supplier must adopt a policy of continuous improvement in relation to the Deliverables, which must include regular reviews with the Buyer of the Deliverables and the way it provides them, with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables. The Supplier and the Buyer must provide each other with any information relevant to meeting this objective.
- 2.3 In addition to Paragraph 2.1, the Supplier shall produce at the start of each Contract Year a plan for improving the provision of Deliverables and/or reducing the Charges (without adversely affecting the performance of this Contract) during that Contract Year ("**Continuous Improvement Plan**") for the Buyer's Approval. The Continuous Improvement Plan must include, as a minimum, proposals:
- 2.3.1 identifying the emergence of relevant new and evolving technologies;
  - 2.3.2 changes in business processes of the Supplier or the Buyer and ways of working that would provide cost savings and/or enhanced benefits to the Buyer (such as methods of interaction, supply chain efficiencies, reduction in energy consumption and methods of sale);
  - 2.3.3 new or potential improvements to the provision of the Deliverables including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Deliverables; and
  - 2.3.4 measuring and reducing the sustainability impacts of the Supplier's operations and supply-chains relating to the Deliverables, and identifying opportunities to assist the Buyer in meeting their sustainability objectives.
- 2.4 The initial Continuous Improvement Plan for the first (1<sup>st</sup>) Contract Year shall be submitted by the Supplier to the Buyer for Approval within one hundred (100) Working Days of the first Order or six (6) Months following the Start Date, whichever is earlier.



**Call-Off Schedule 3 (Continuous Improvement)**

Call-Off Ref:

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- 2.5 The Buyer shall notify the Supplier of its Approval or rejection of the proposed Continuous Improvement Plan or any updates to it within twenty (20) Working Days of receipt. If it is rejected then the Supplier shall, within ten (10) Working Days of receipt of notice of rejection, submit a revised Continuous Improvement Plan reflecting the changes required. Once Approved, it becomes the Continuous Improvement Plan for the purposes of this Contract.
- 2.6 The Supplier must provide sufficient information with each suggested improvement to enable a decision on whether to implement it. The Supplier shall provide any further information as requested.
- 2.7 If the Buyer wishes to incorporate any improvement into this Contract, it must request a Variation in accordance with the Variation Procedure and the Supplier must implement such Variation at no additional cost to the Buyer or CCS.
- 2.8 Once the first Continuous Improvement Plan has been Approved in accordance with Paragraph 2.5:
- 2.8.1 the Supplier shall use all reasonable endeavours to implement any agreed deliverables in accordance with the Continuous Improvement Plan; and
  - 2.8.2 the Parties agree to meet as soon as reasonably possible following the start of each quarter (or as otherwise agreed between the Parties) to review the Supplier's progress against the Continuous Improvement Plan.
- 2.9 The Supplier shall update the Continuous Improvement Plan as and when required but at least once every Contract Year (after the first (1<sup>st</sup>) Contract Year) in accordance with the procedure and timescales set out in Paragraph 2.3.
- 2.10 All costs relating to the compilation or updating of the Continuous Improvement Plan and the costs arising from any improvement made pursuant to it and the costs of implementing any improvement, shall have no effect on and are included in the Charges.
- 2.11 Should the Supplier's costs in providing the Deliverables to the Buyer be reduced as a result of any changes implemented, all of the cost savings shall be passed on to the Buyer by way of a consequential and immediate reduction in the Charges for the Deliverables.
- 2.12 At any time during the Contract Period of the Call-Off Contract, the Supplier may make a proposal for gainshare. If the Buyer deems gainshare to be applicable then the Supplier shall update the Continuous Improvement Plan so as to include details of the way in which the proposal shall be implemented in accordance with an agreed gainshare ratio.

**Call-Off Schedule 4 (Call-Off Tender)**

Call-Off Ref:

Crown Copyright 2018

**Call-Off Schedule 4 (Call Off Tender)**



# ICP2 Response

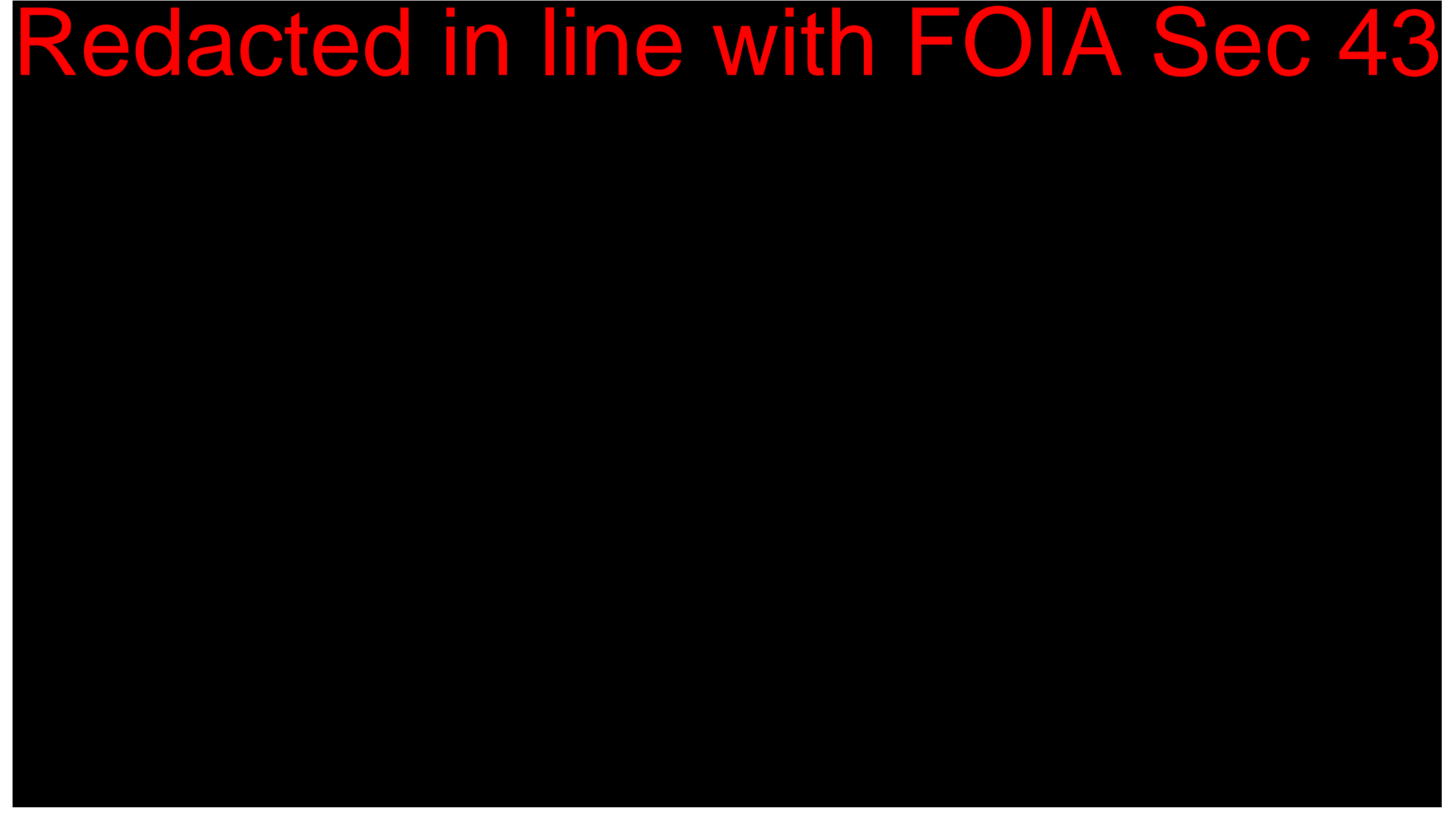
Interim Commercial Partner #2 – NHP-CF-041

KPMG Response

April 2023



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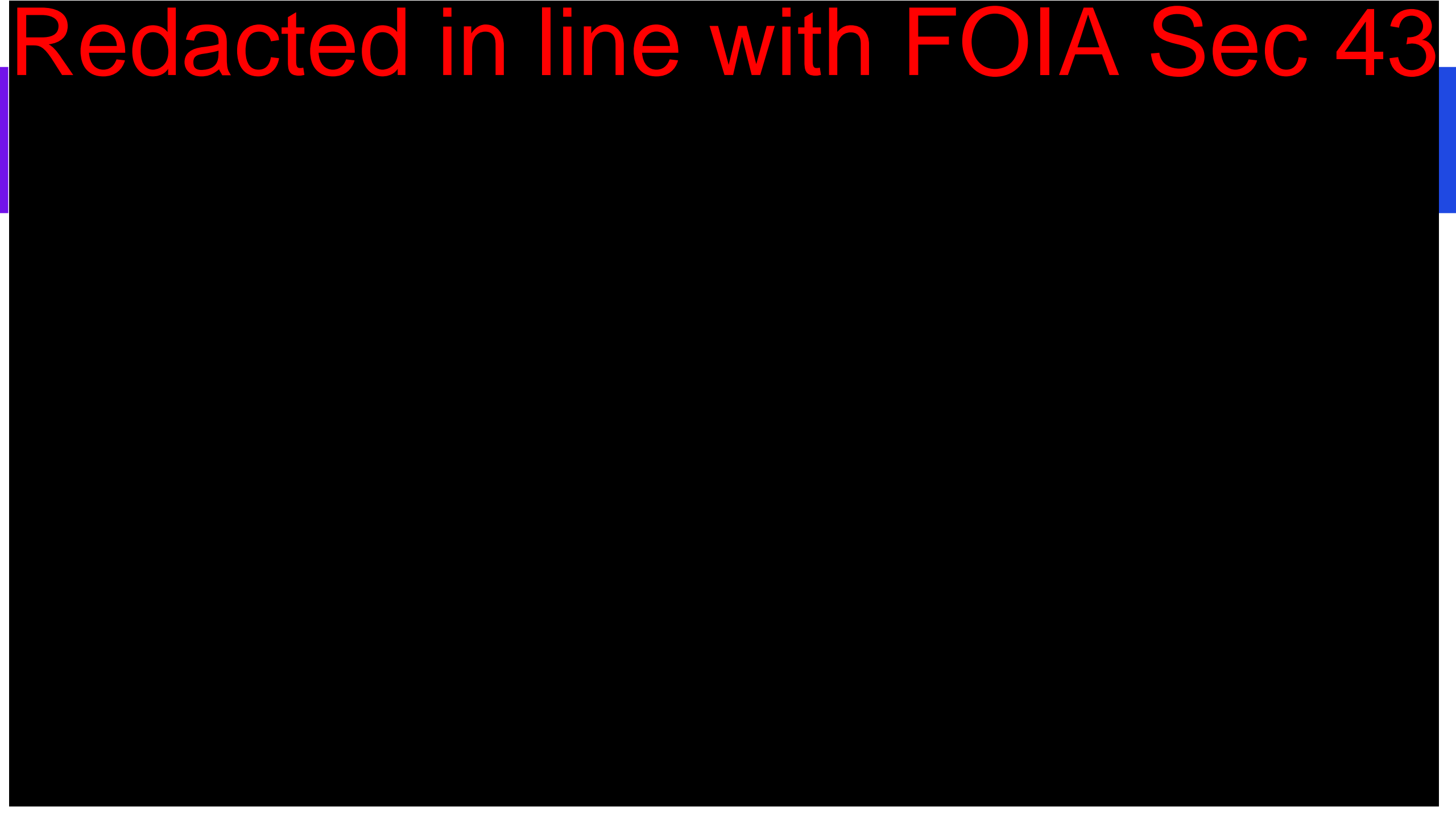
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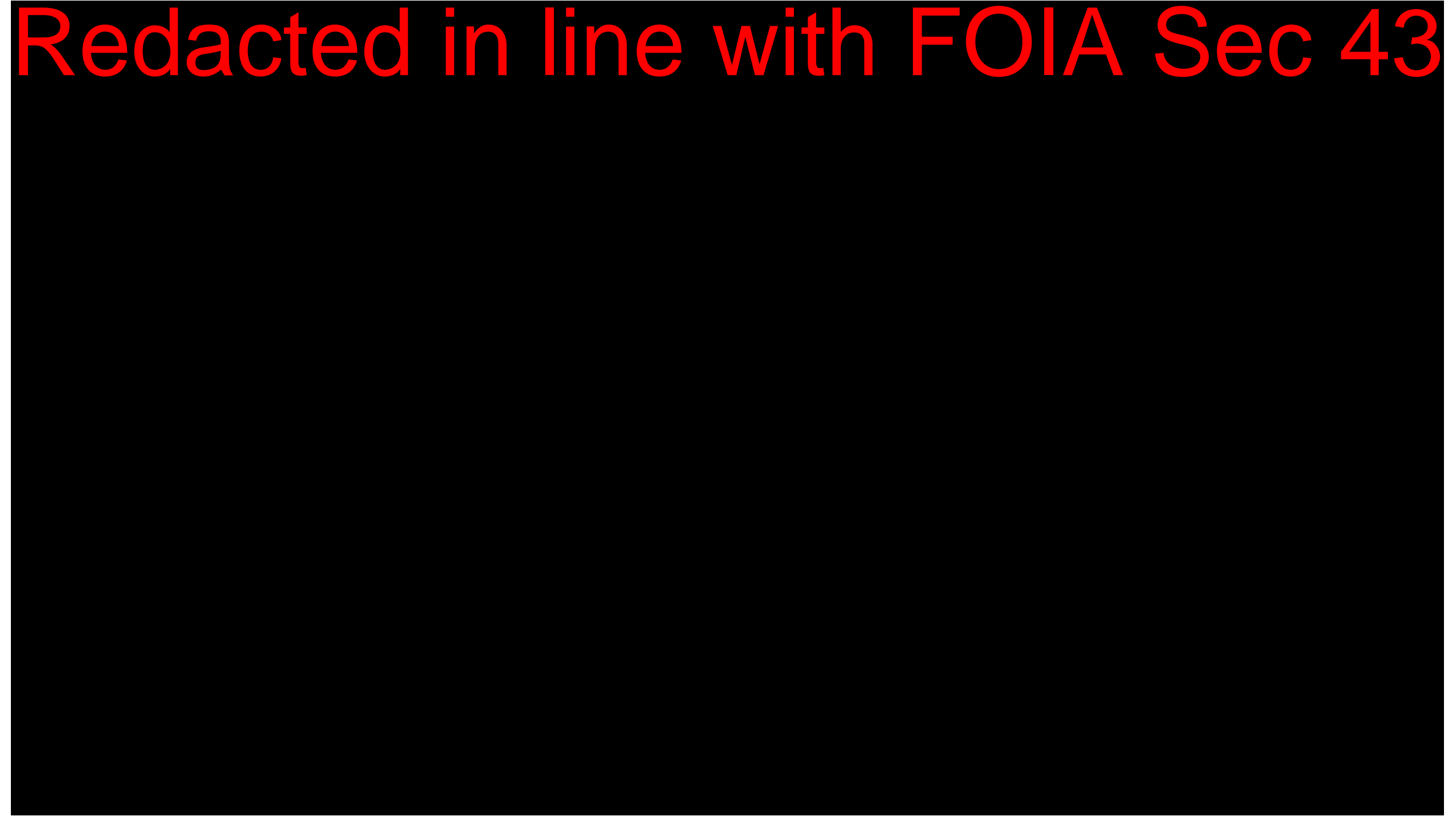
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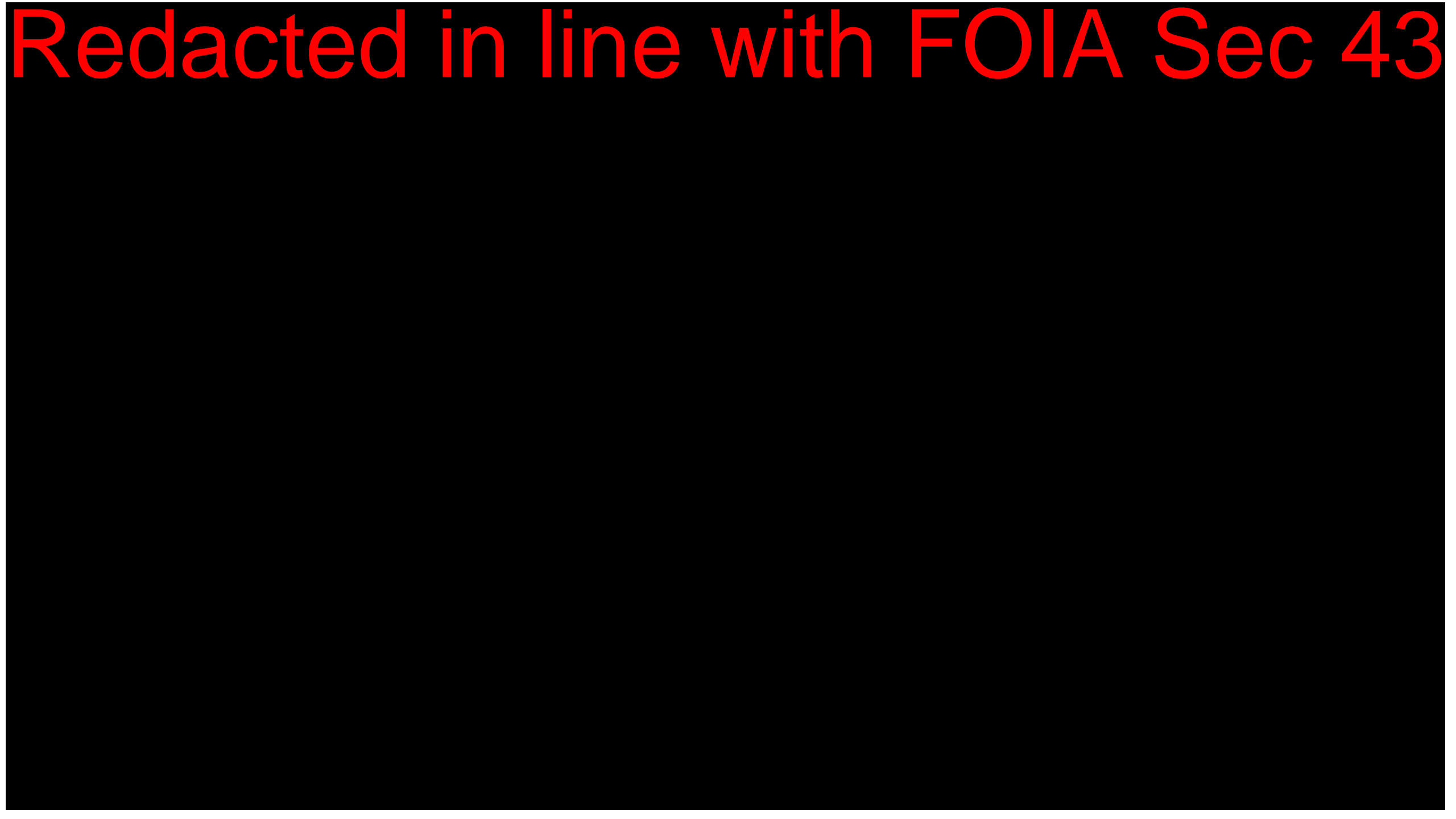


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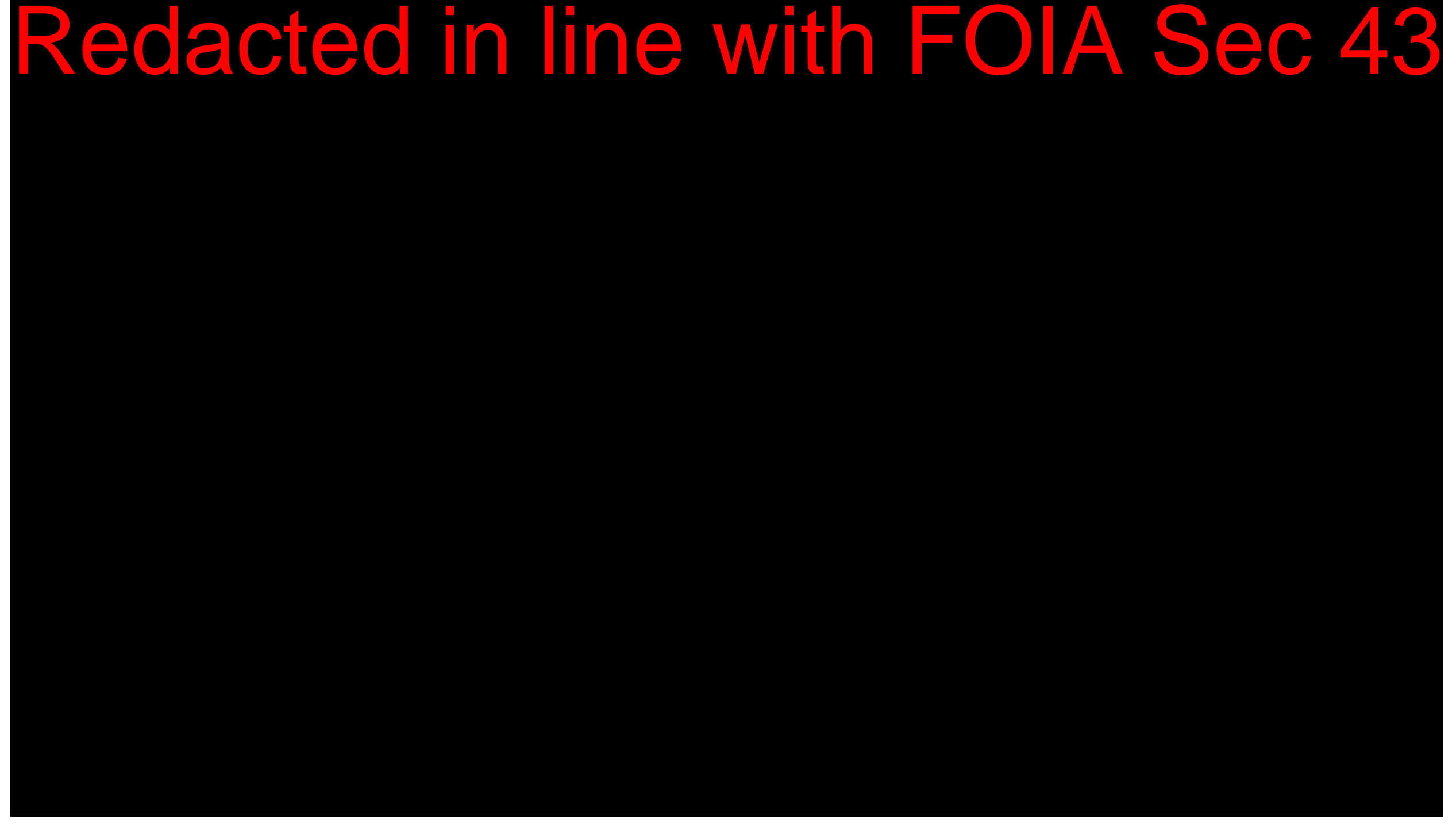
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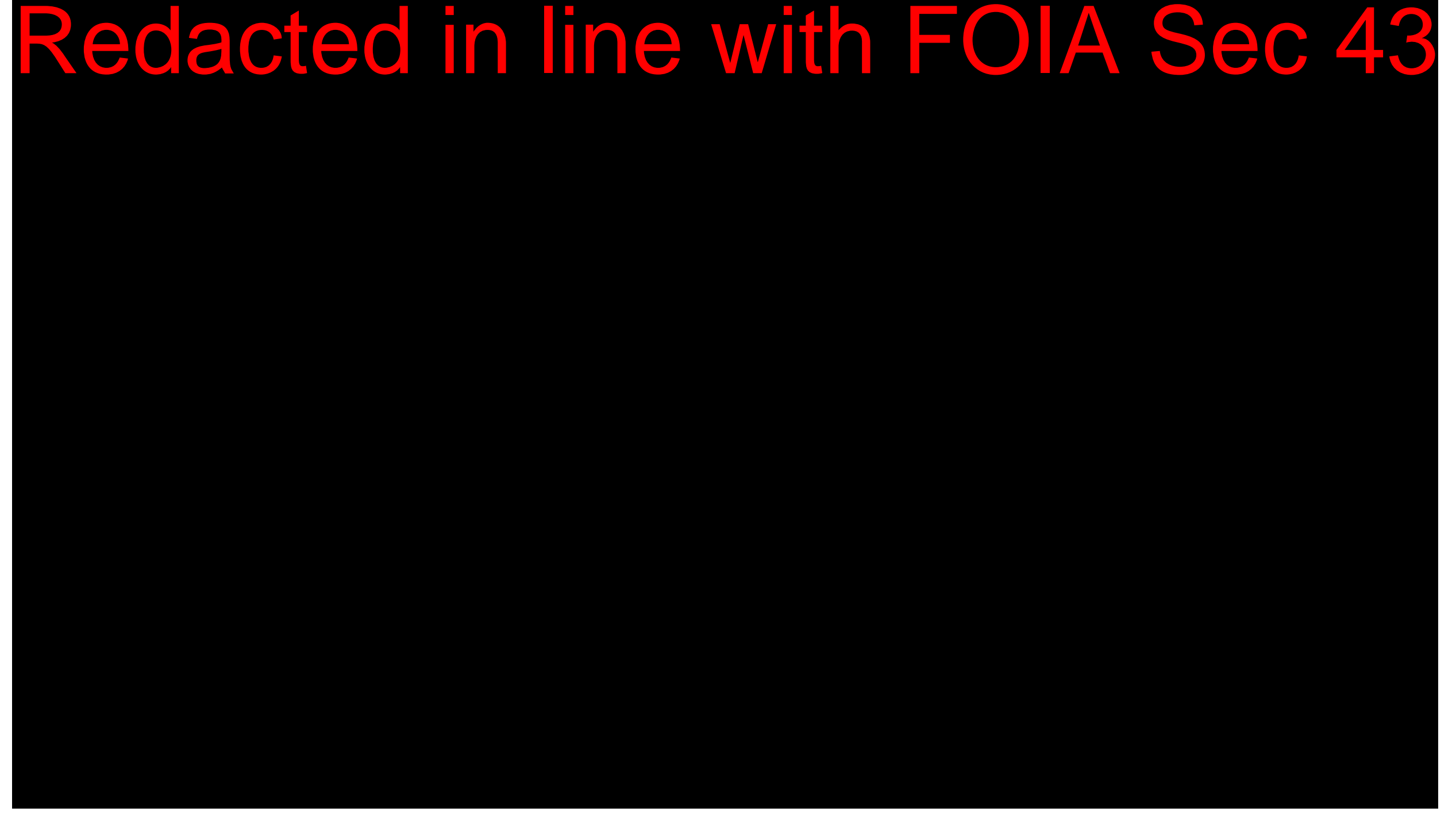
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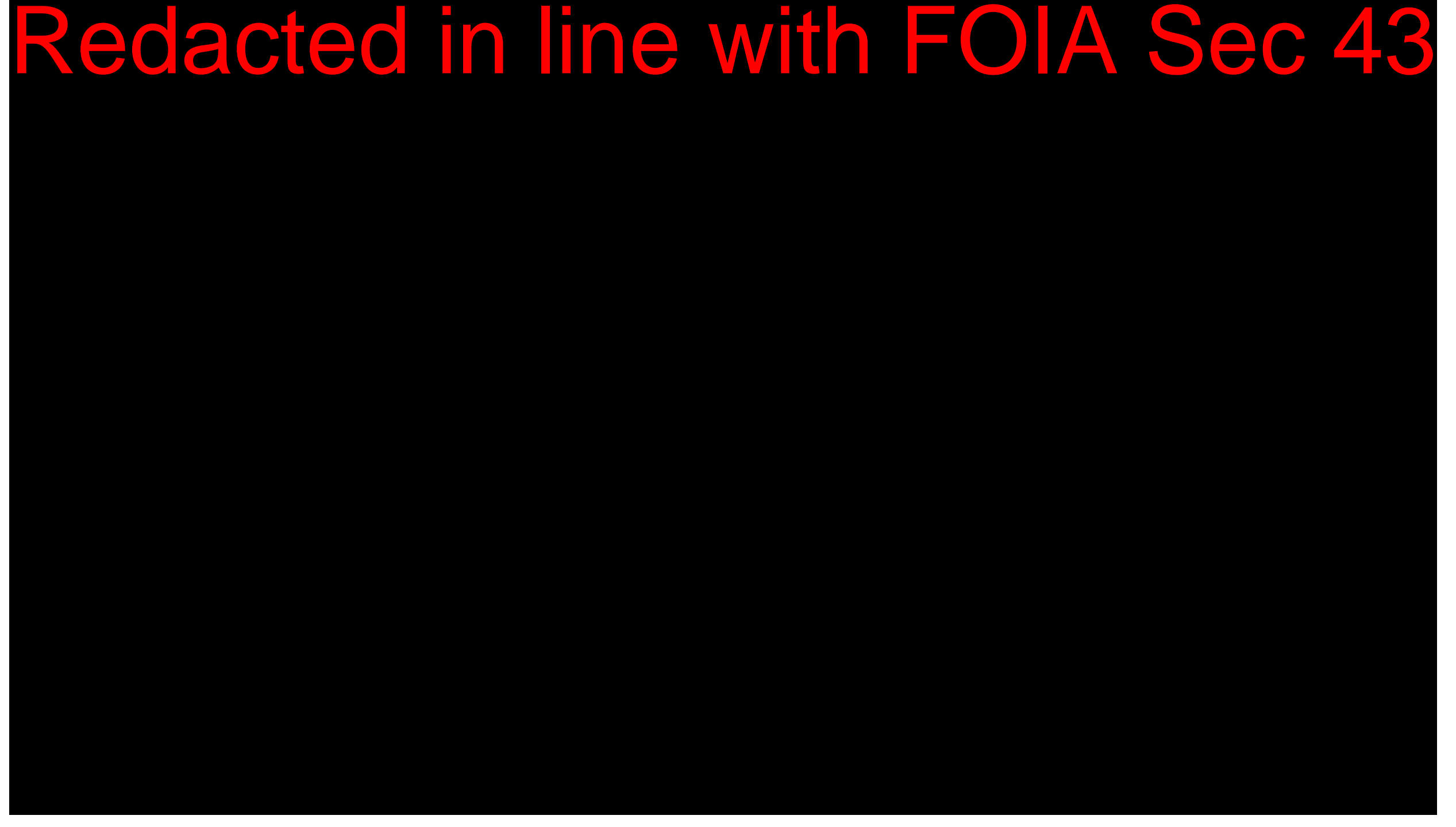
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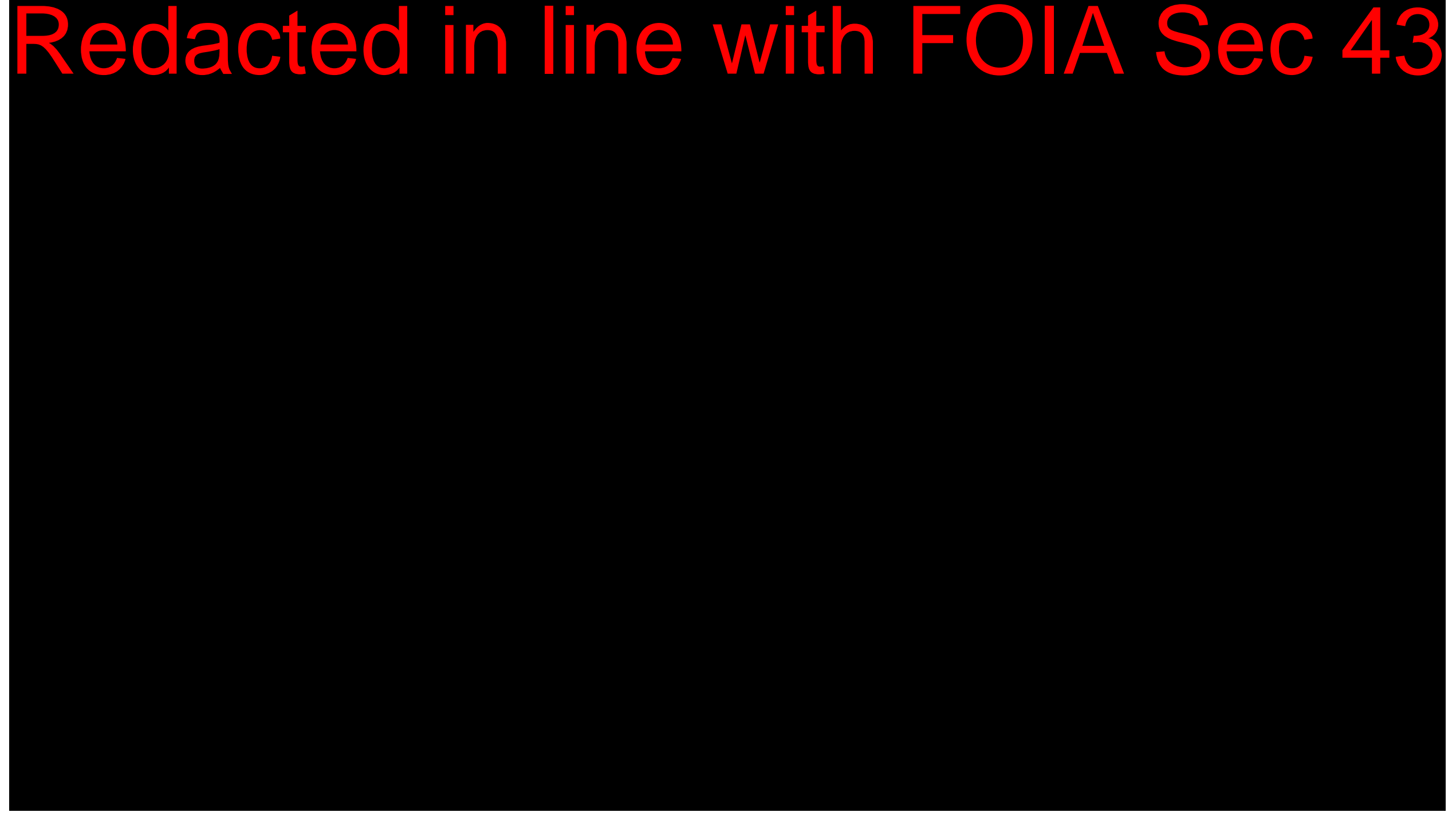
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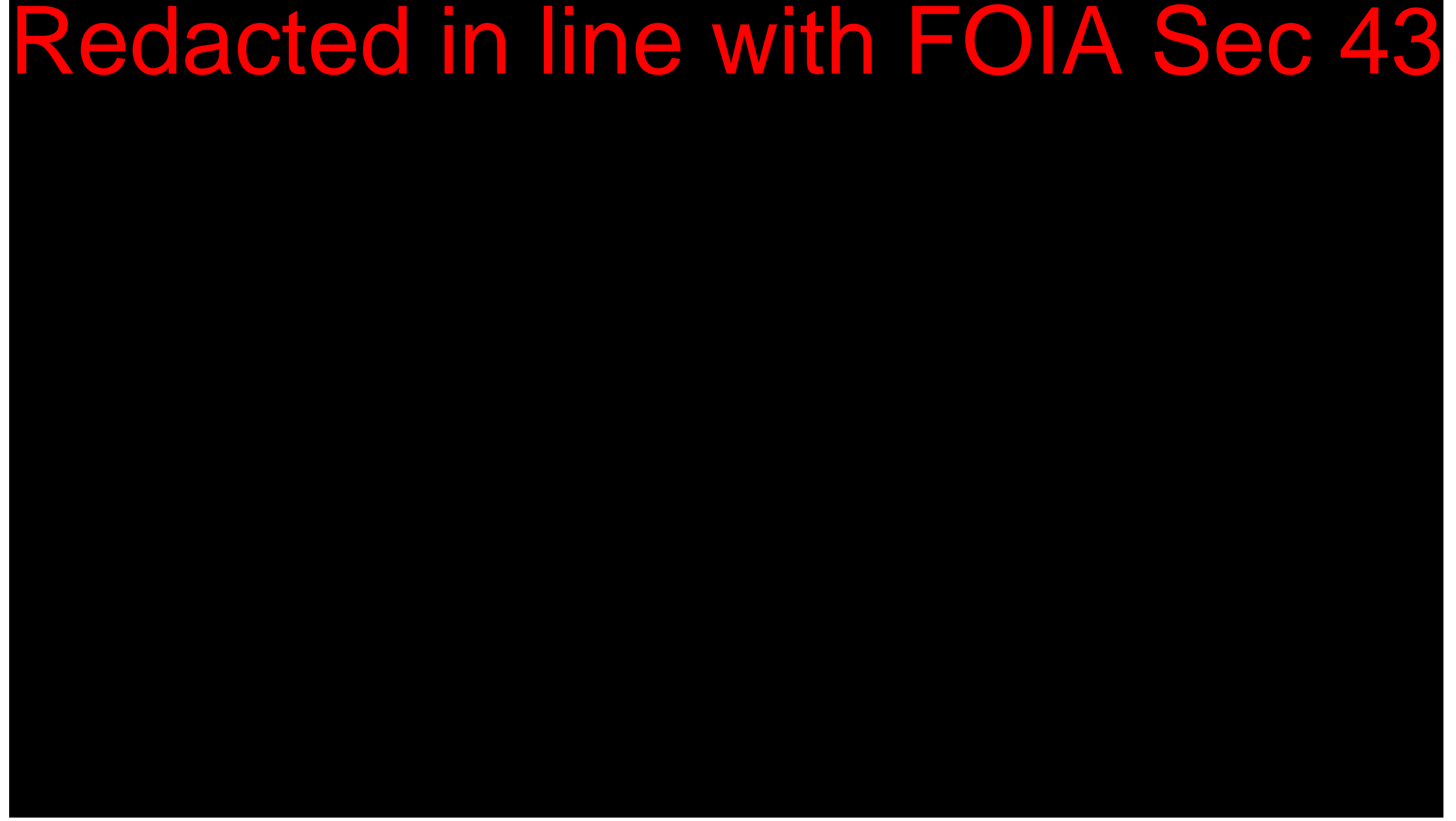


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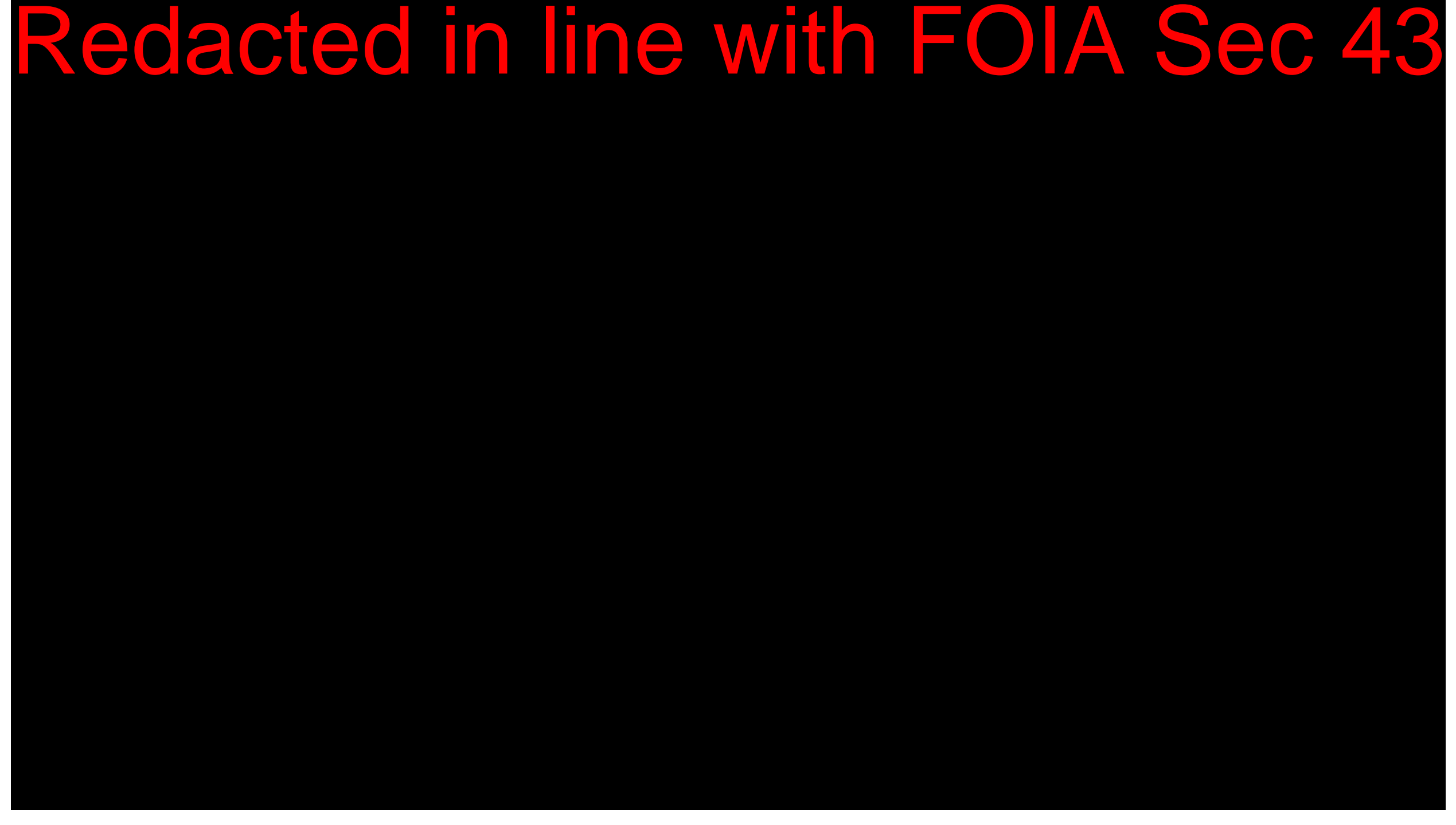


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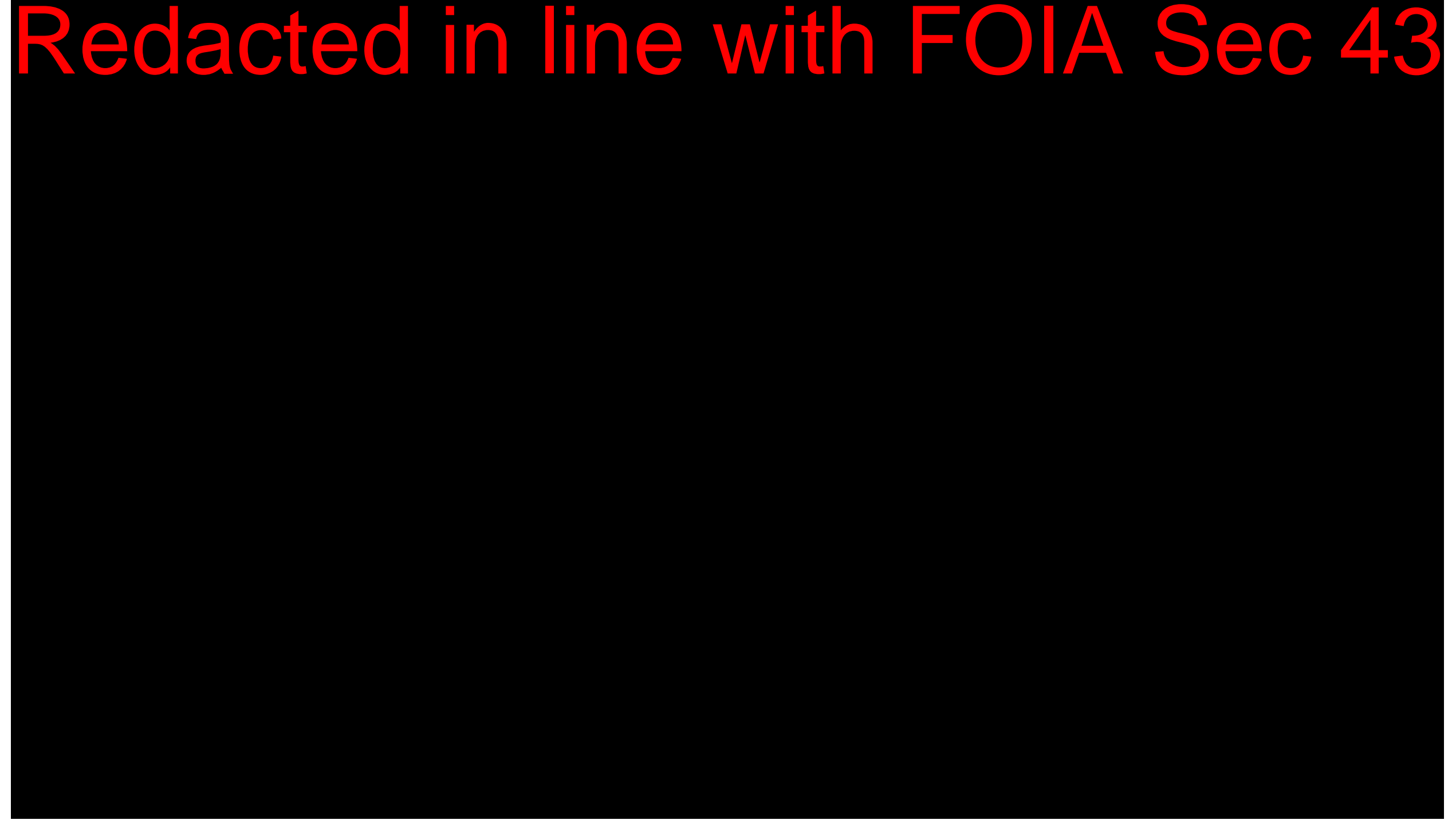
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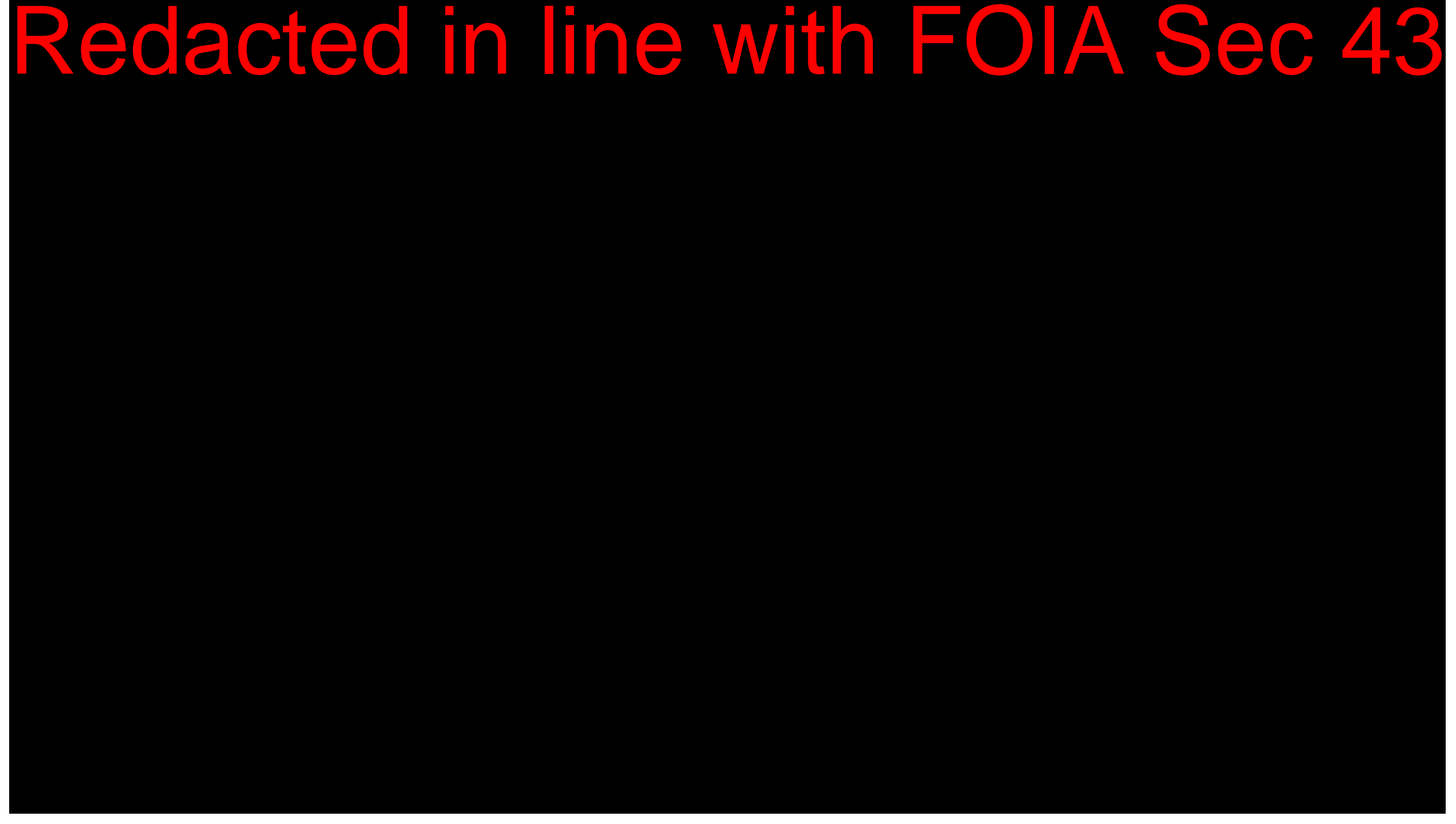


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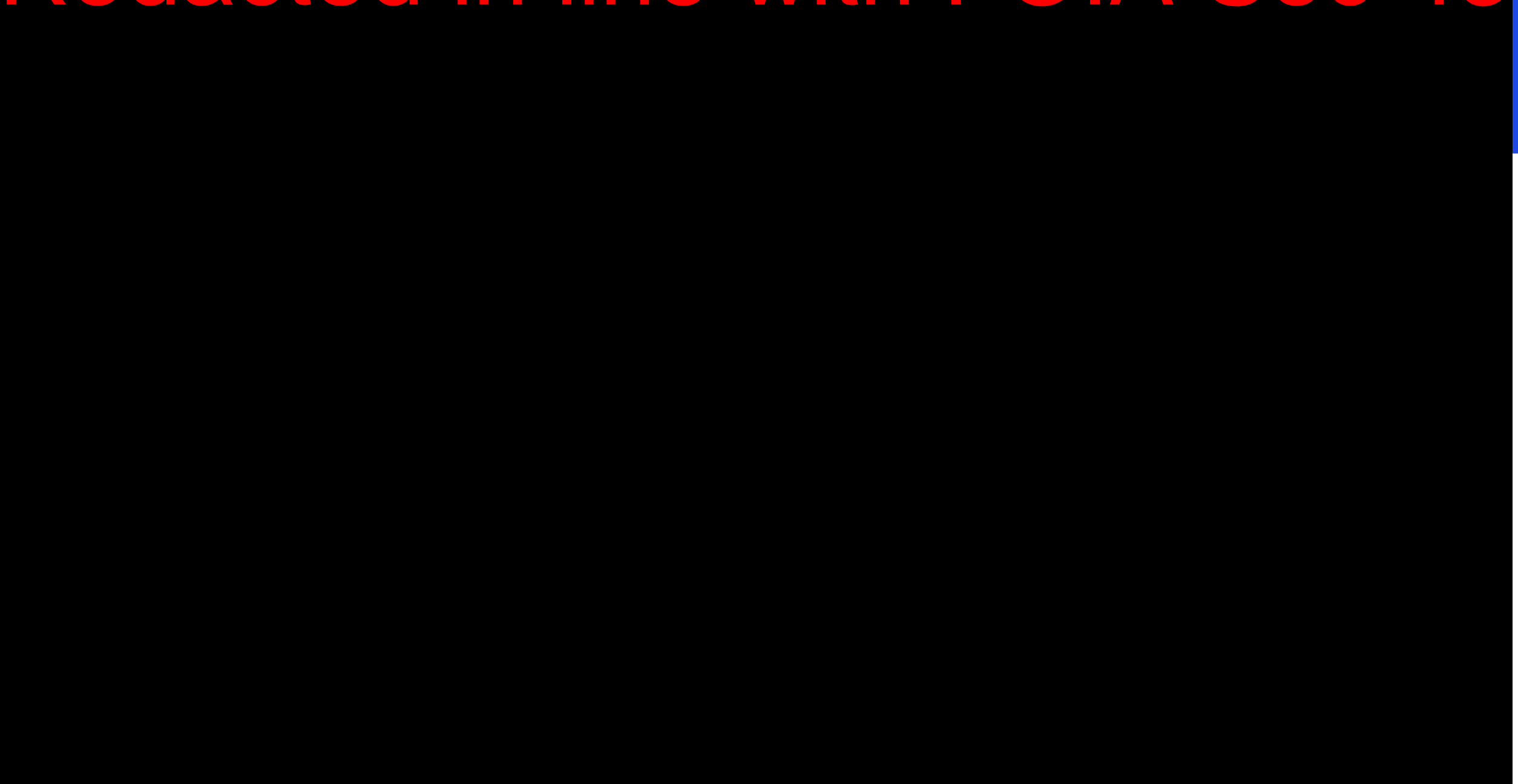




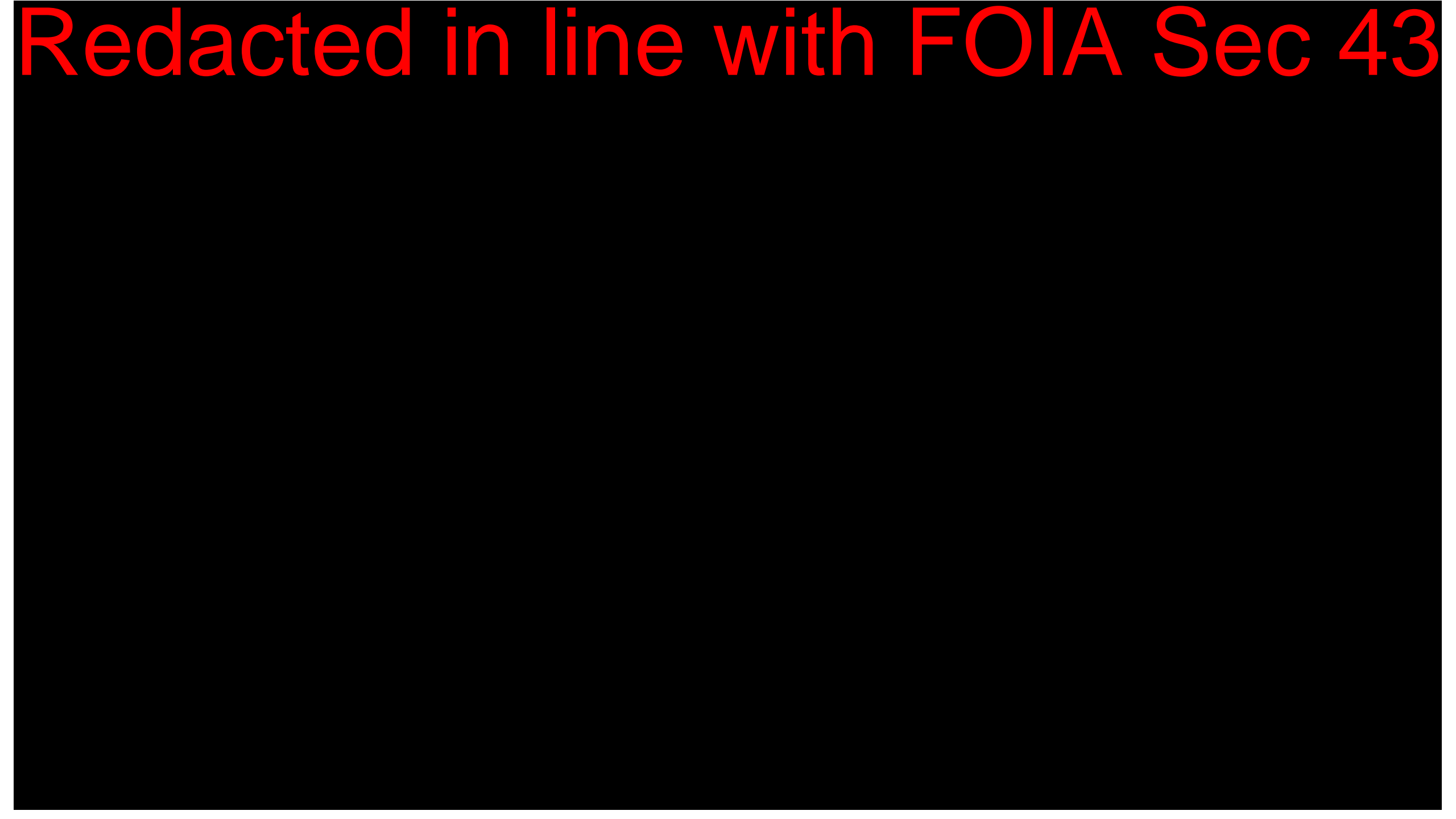
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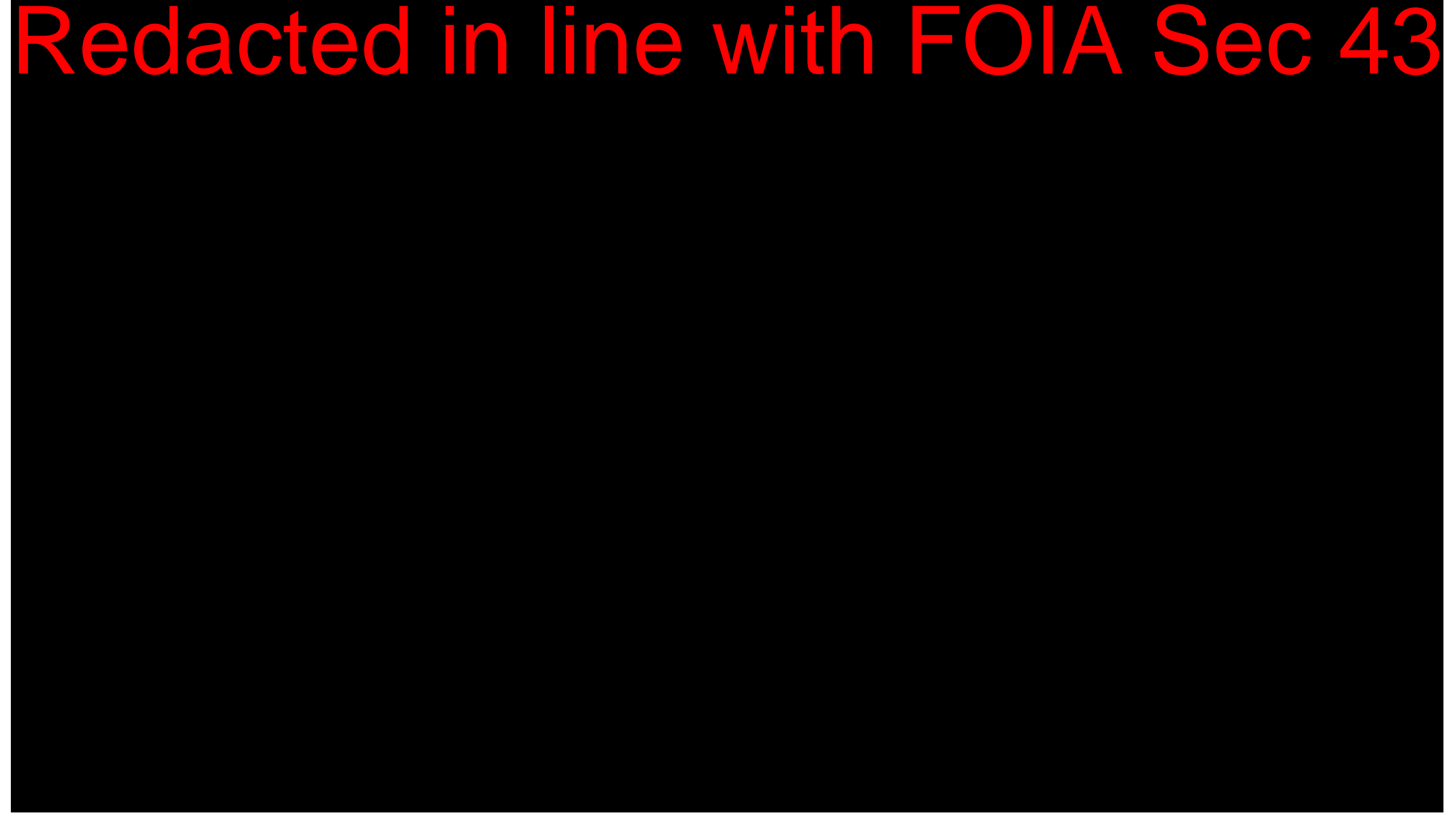


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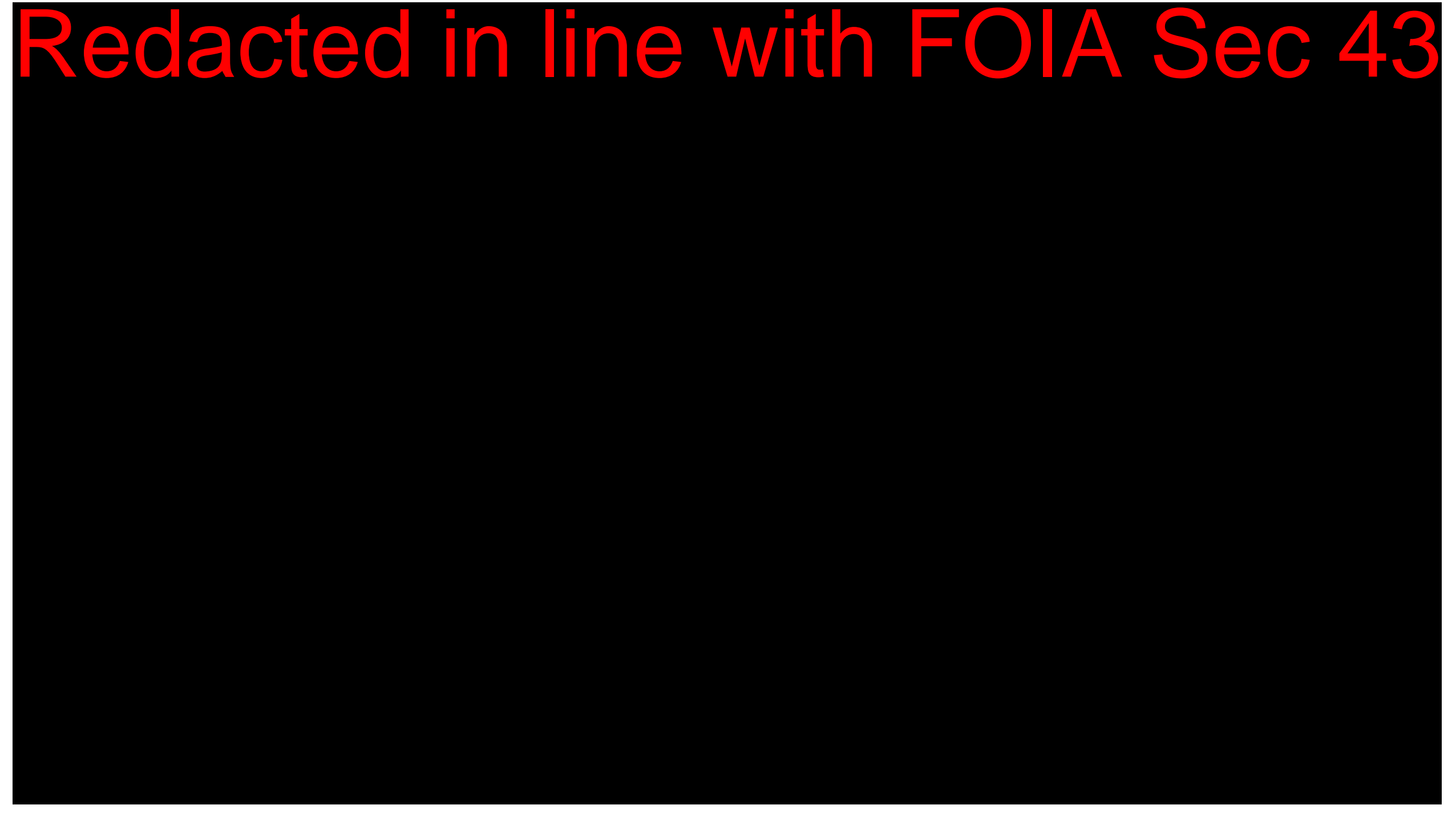


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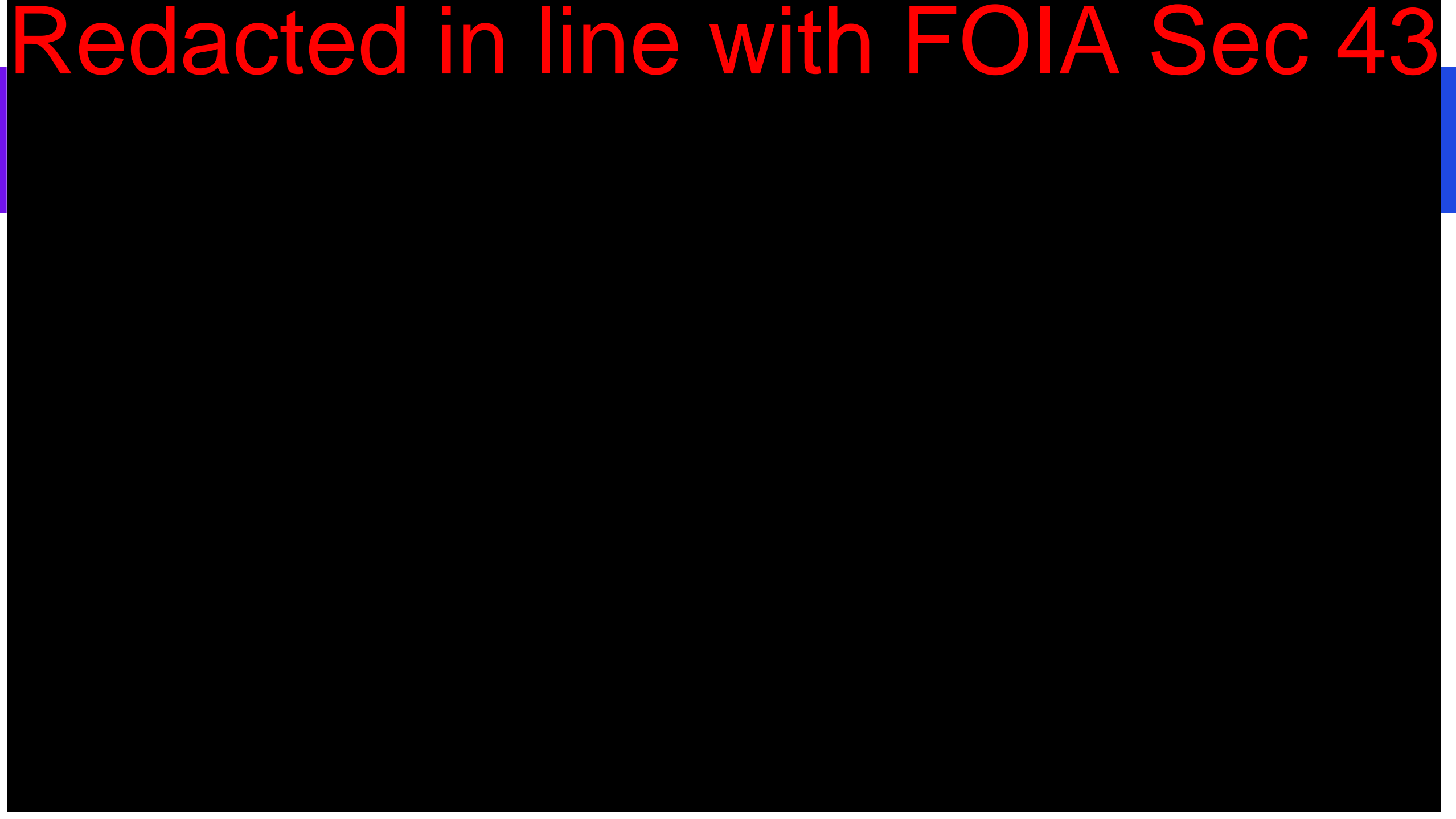


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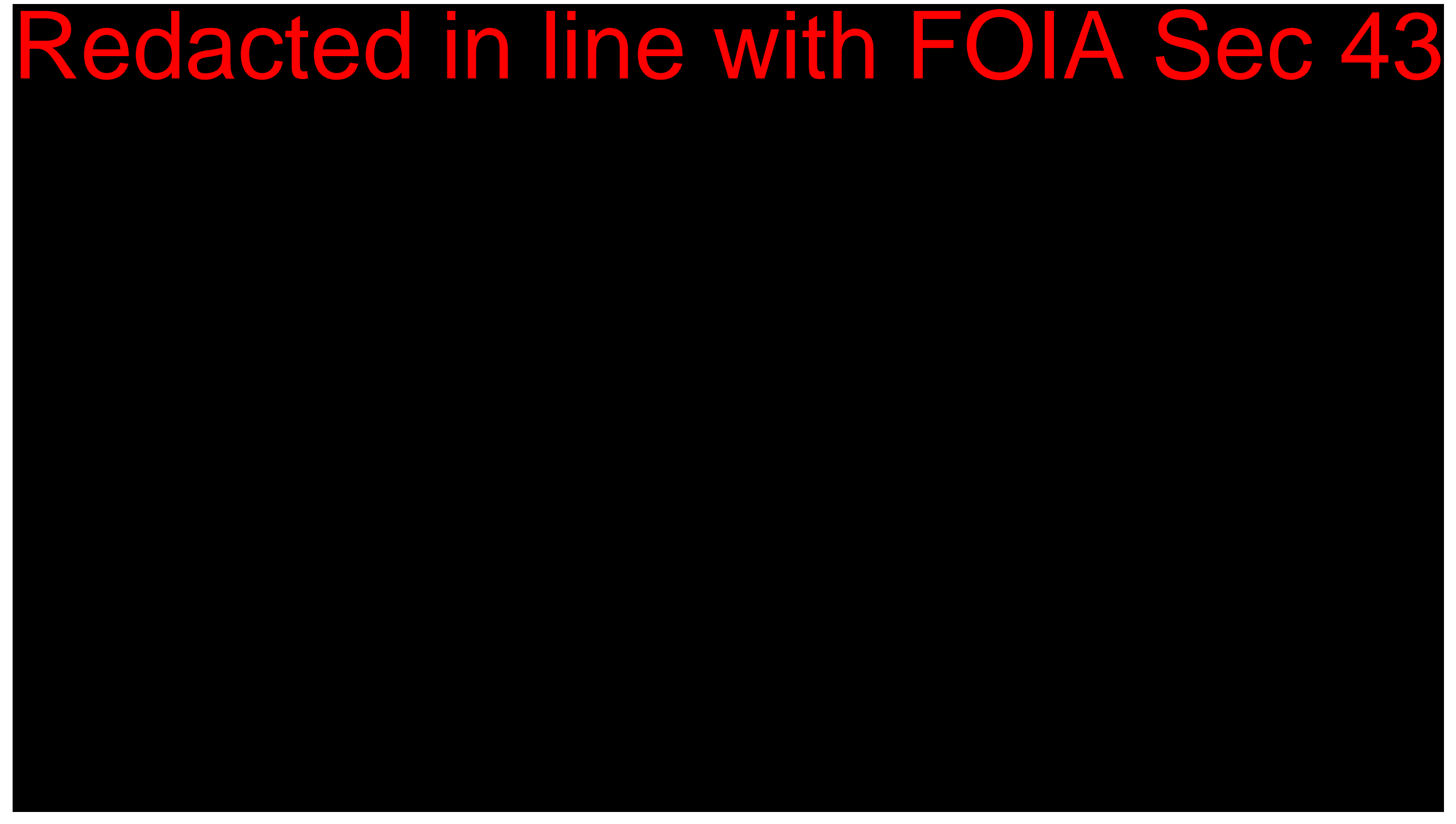
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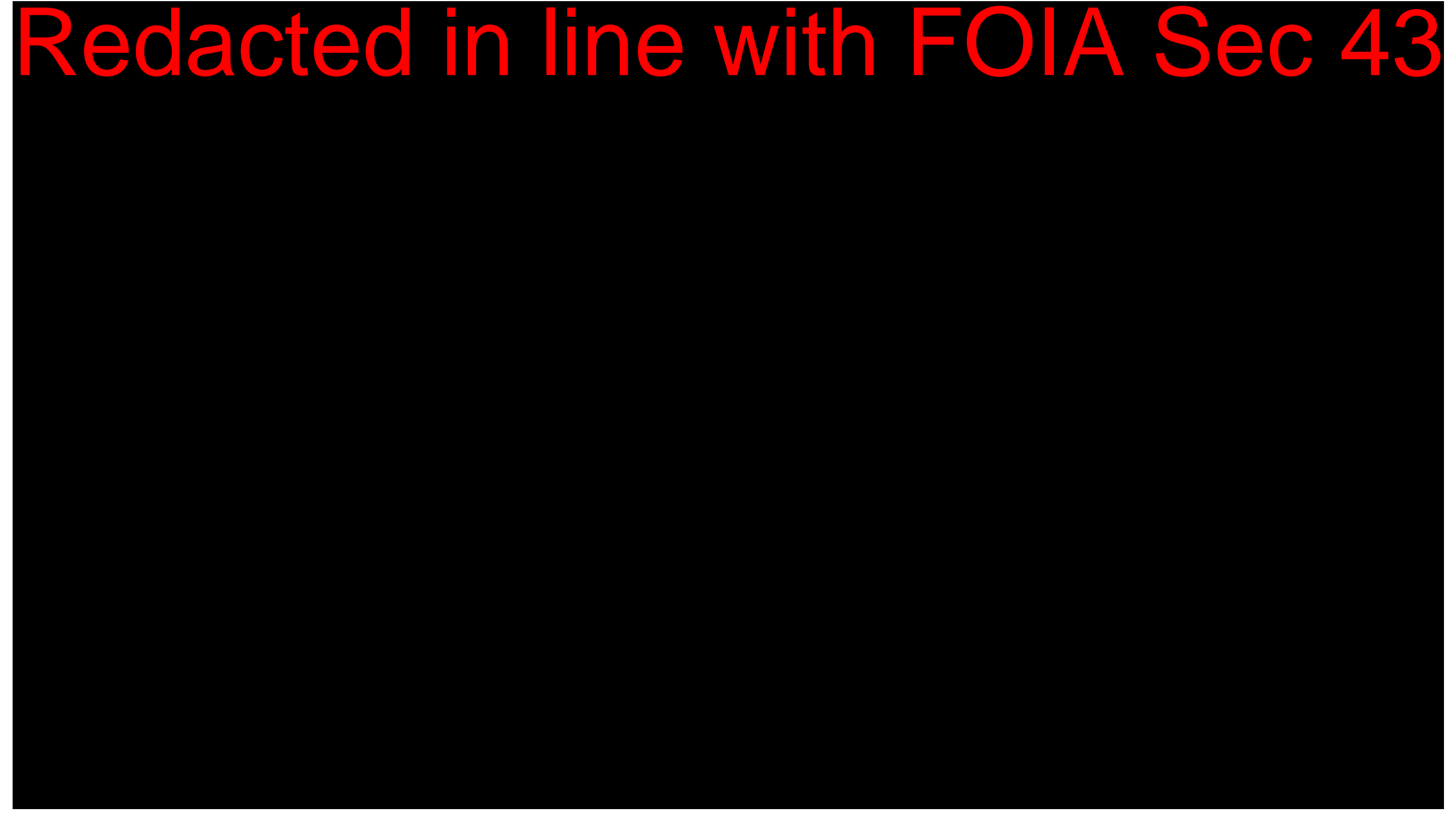
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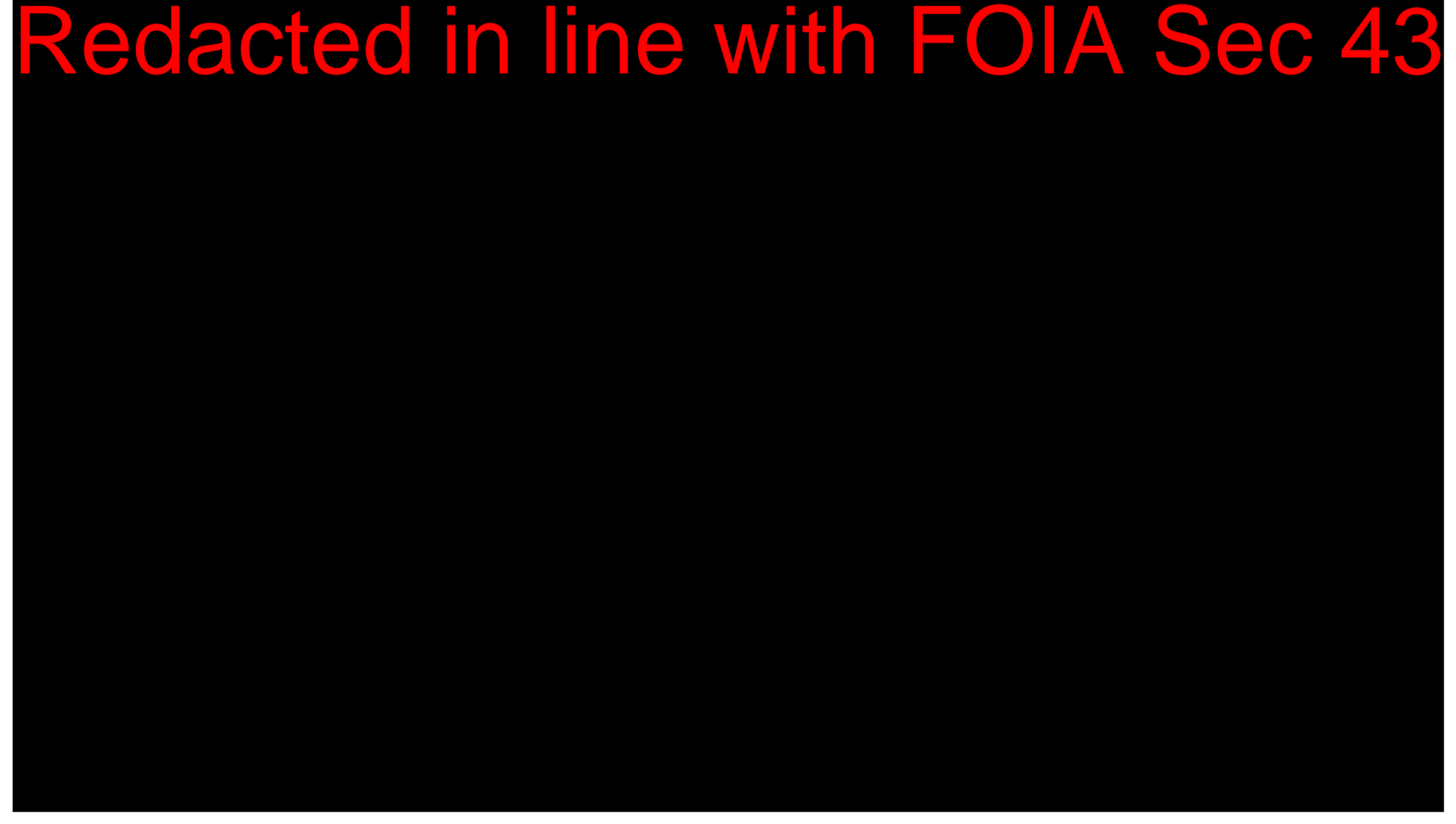


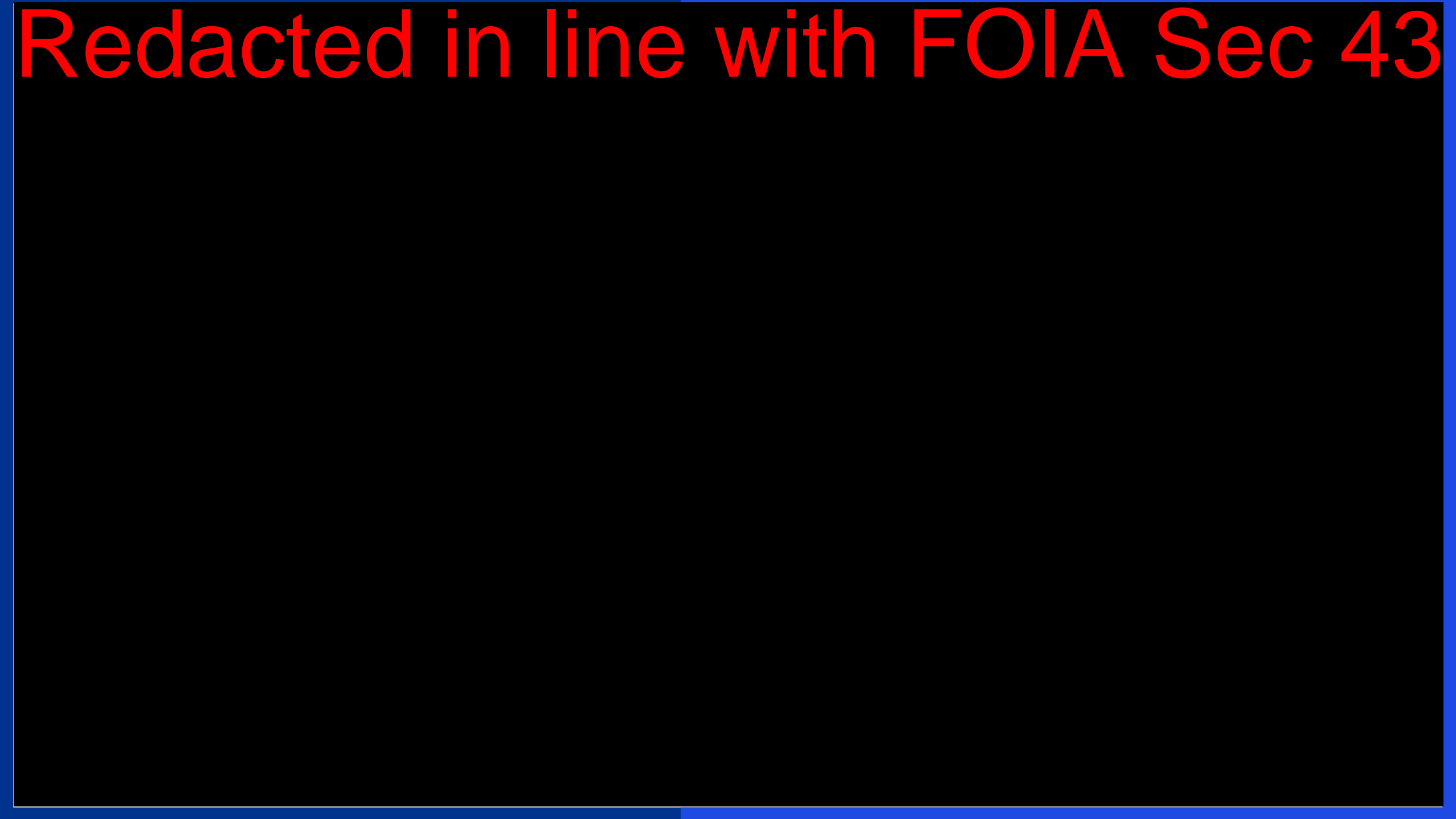


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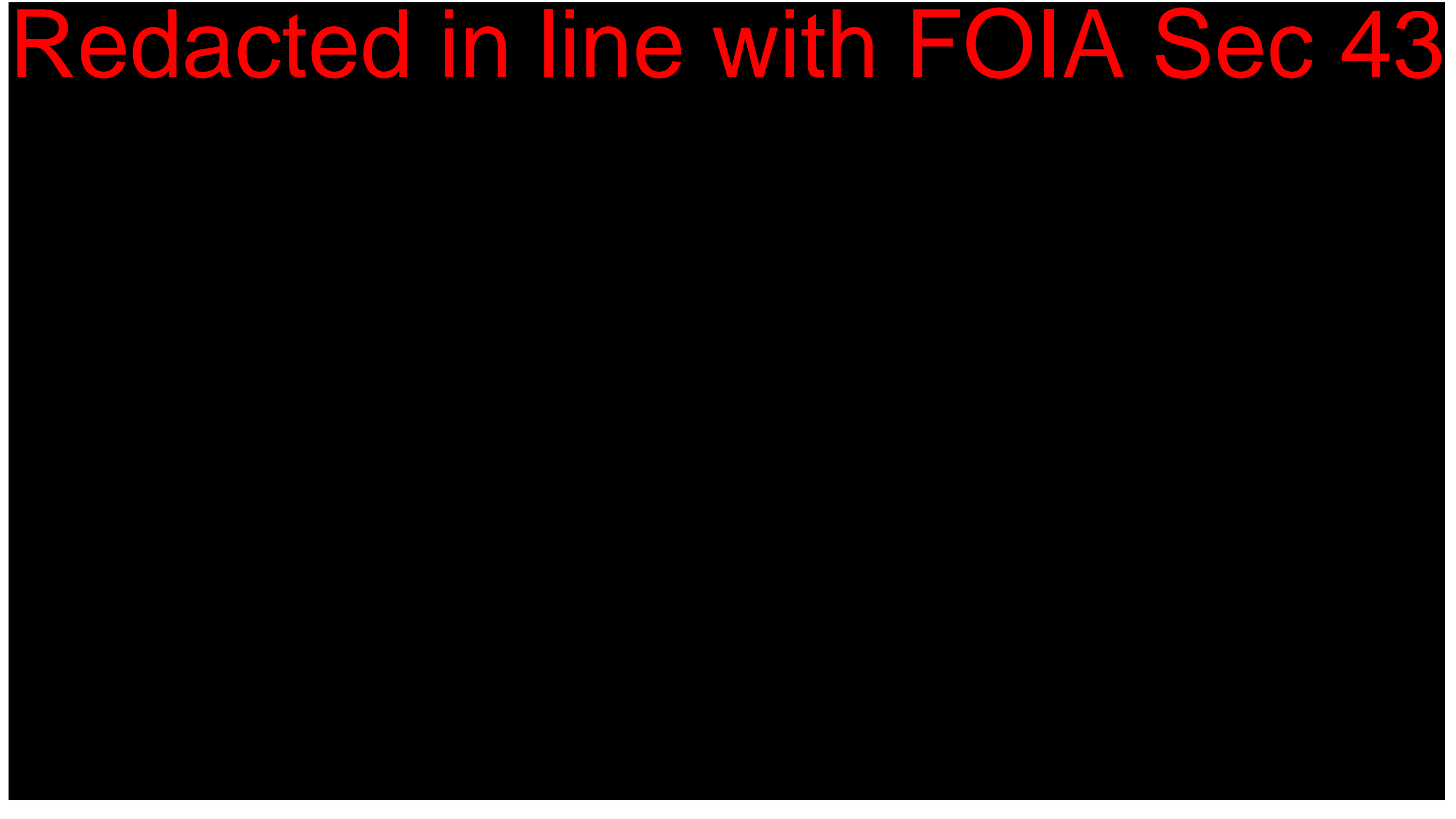


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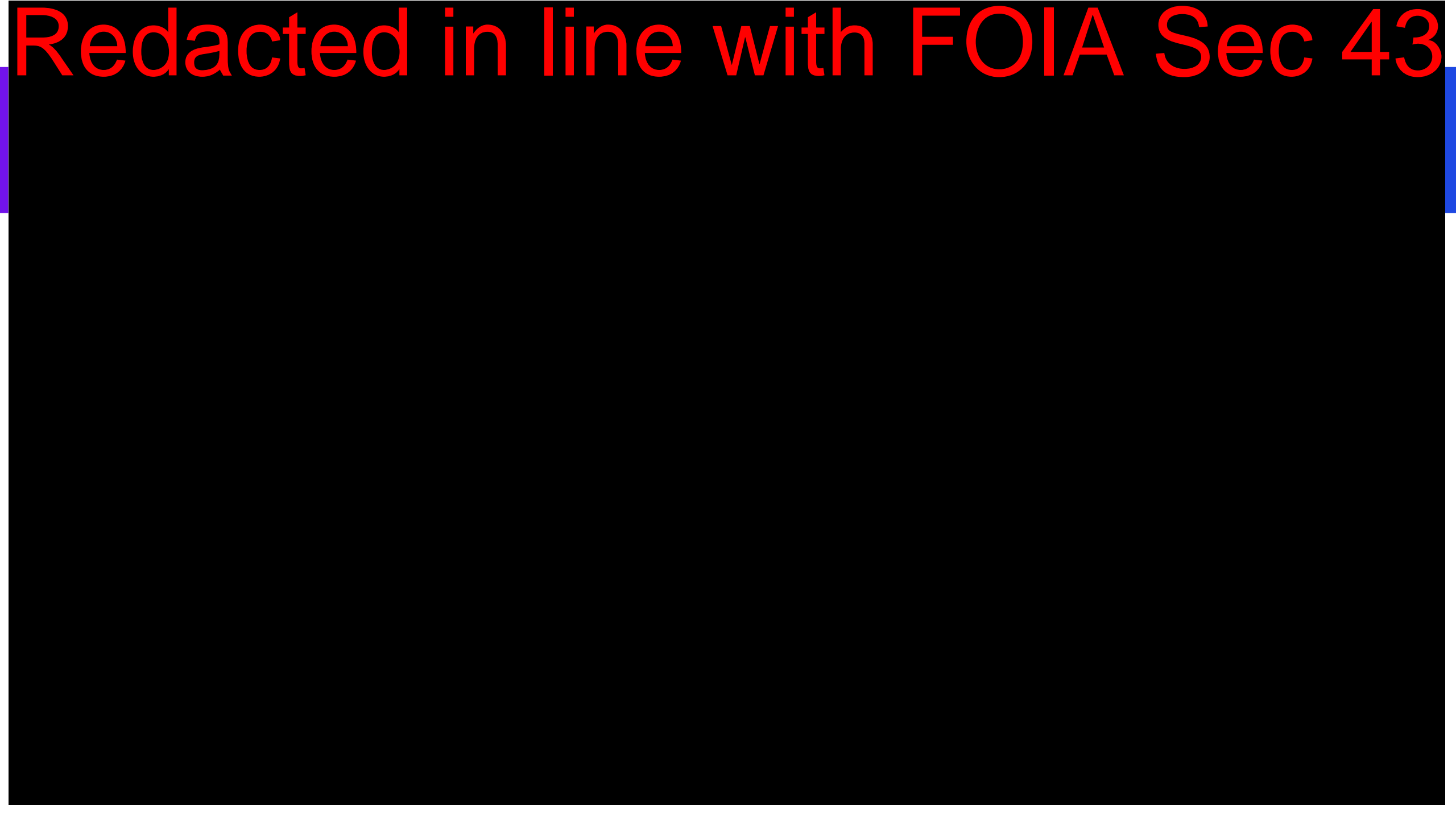
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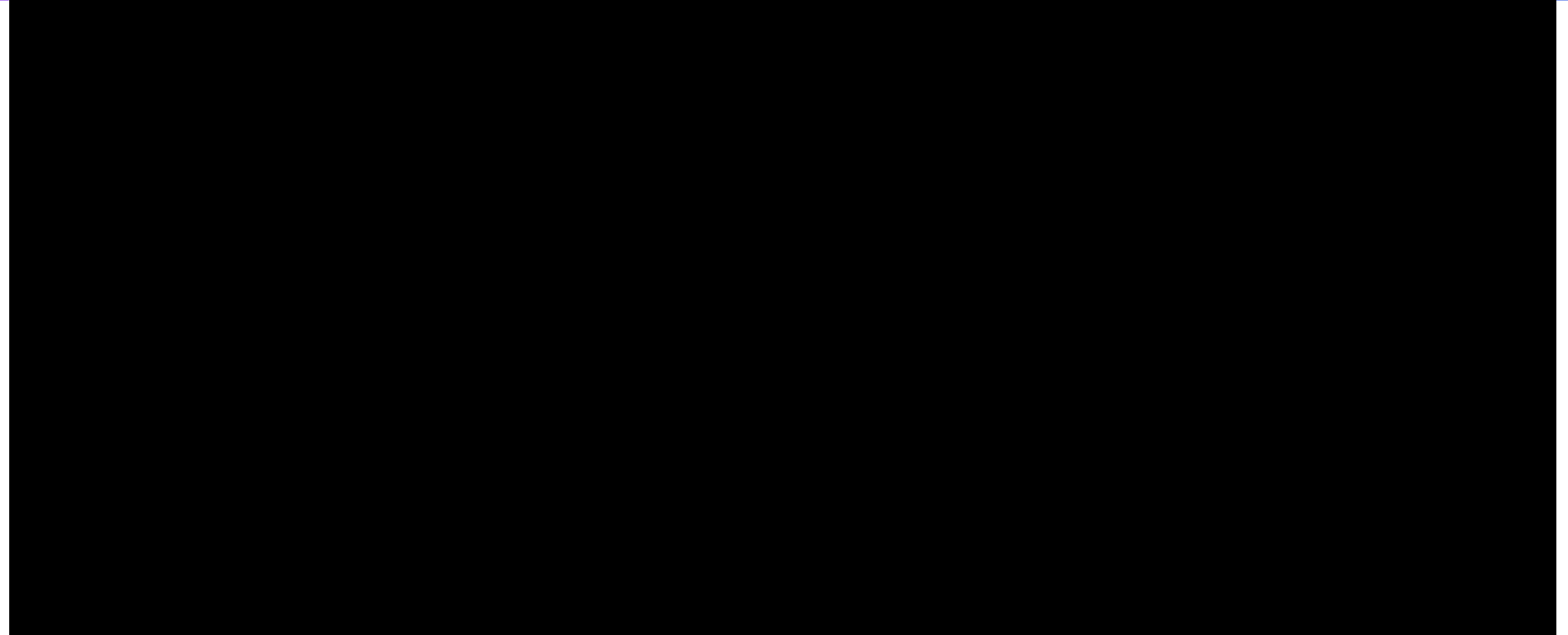
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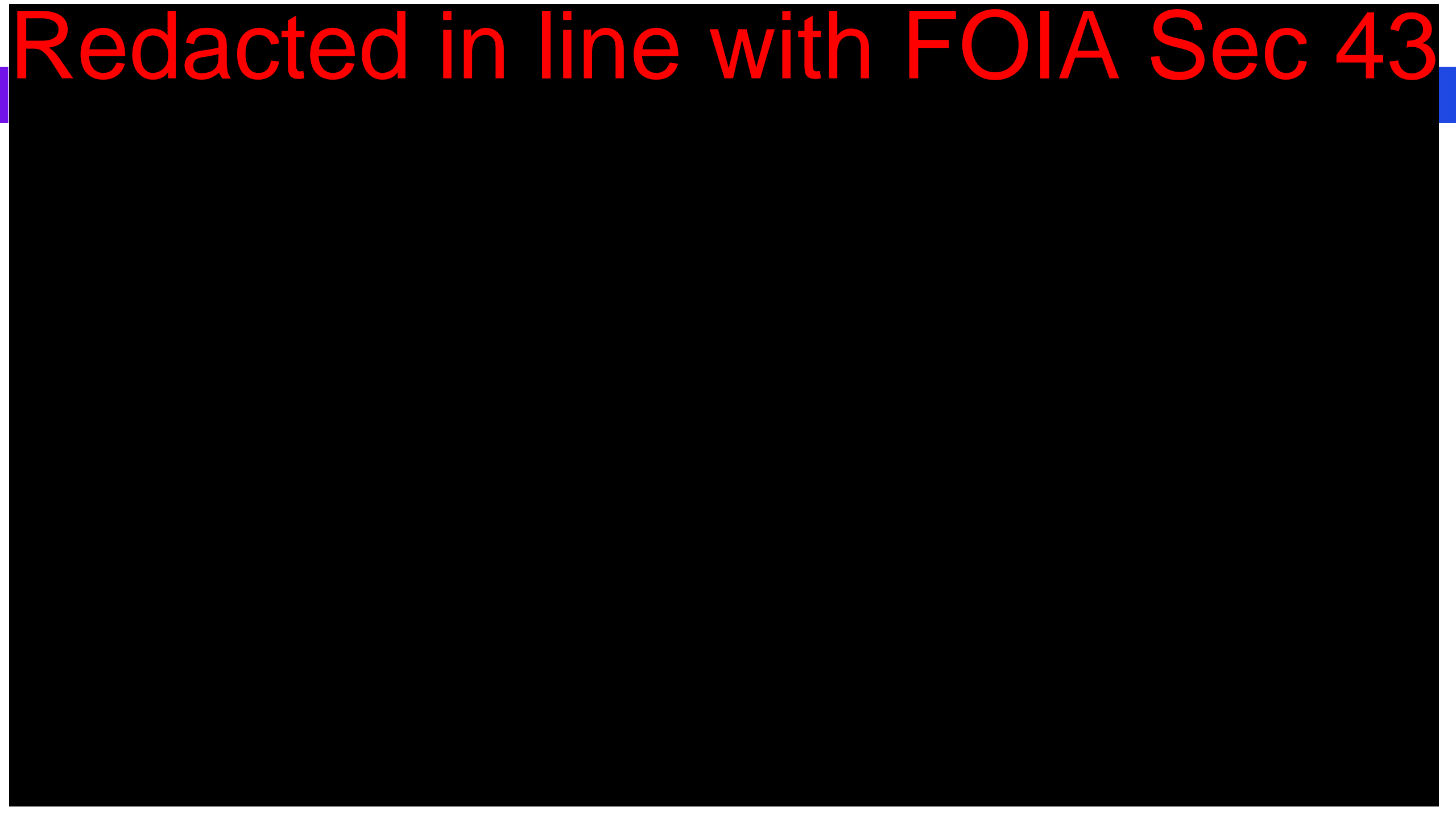
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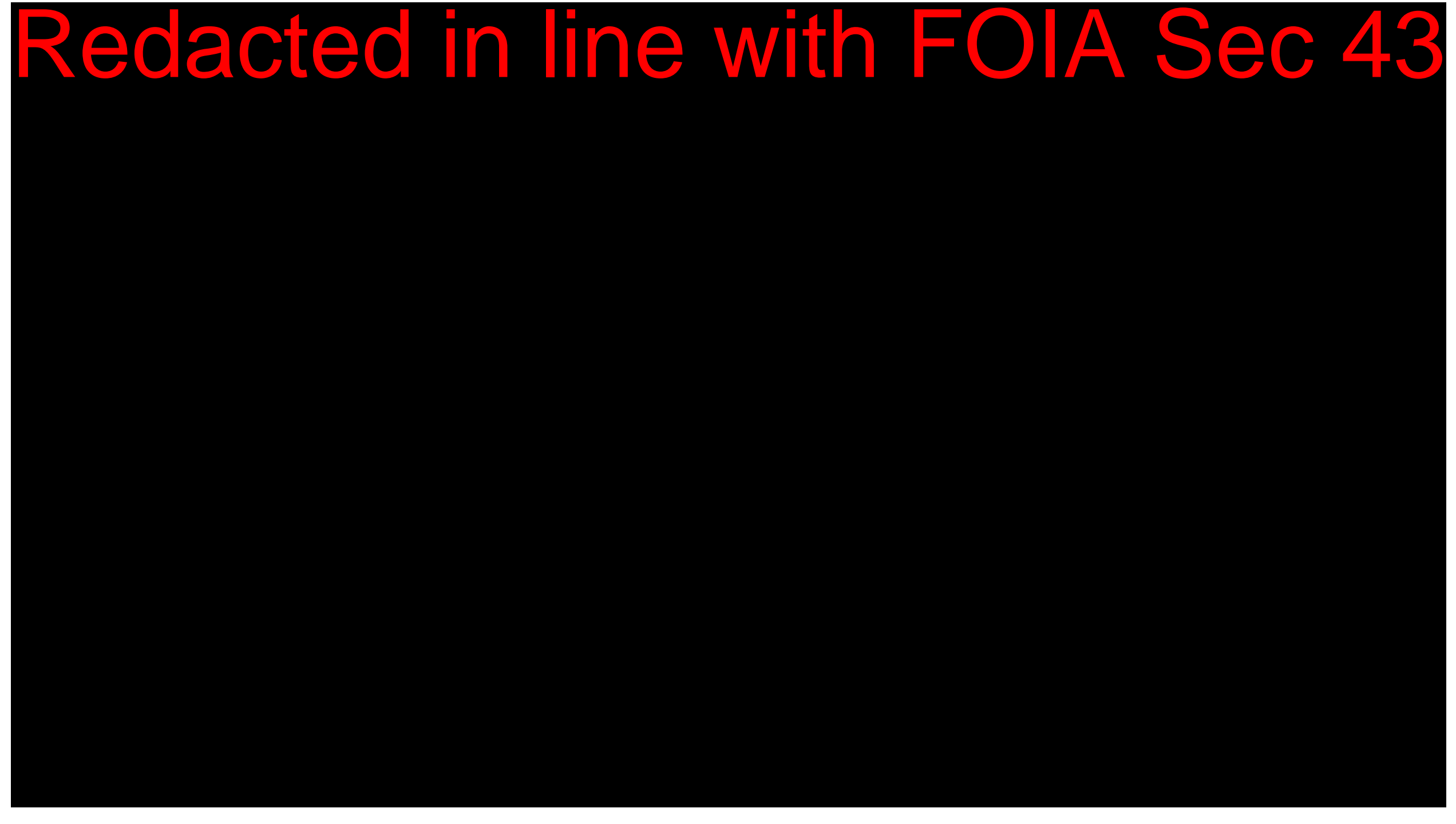
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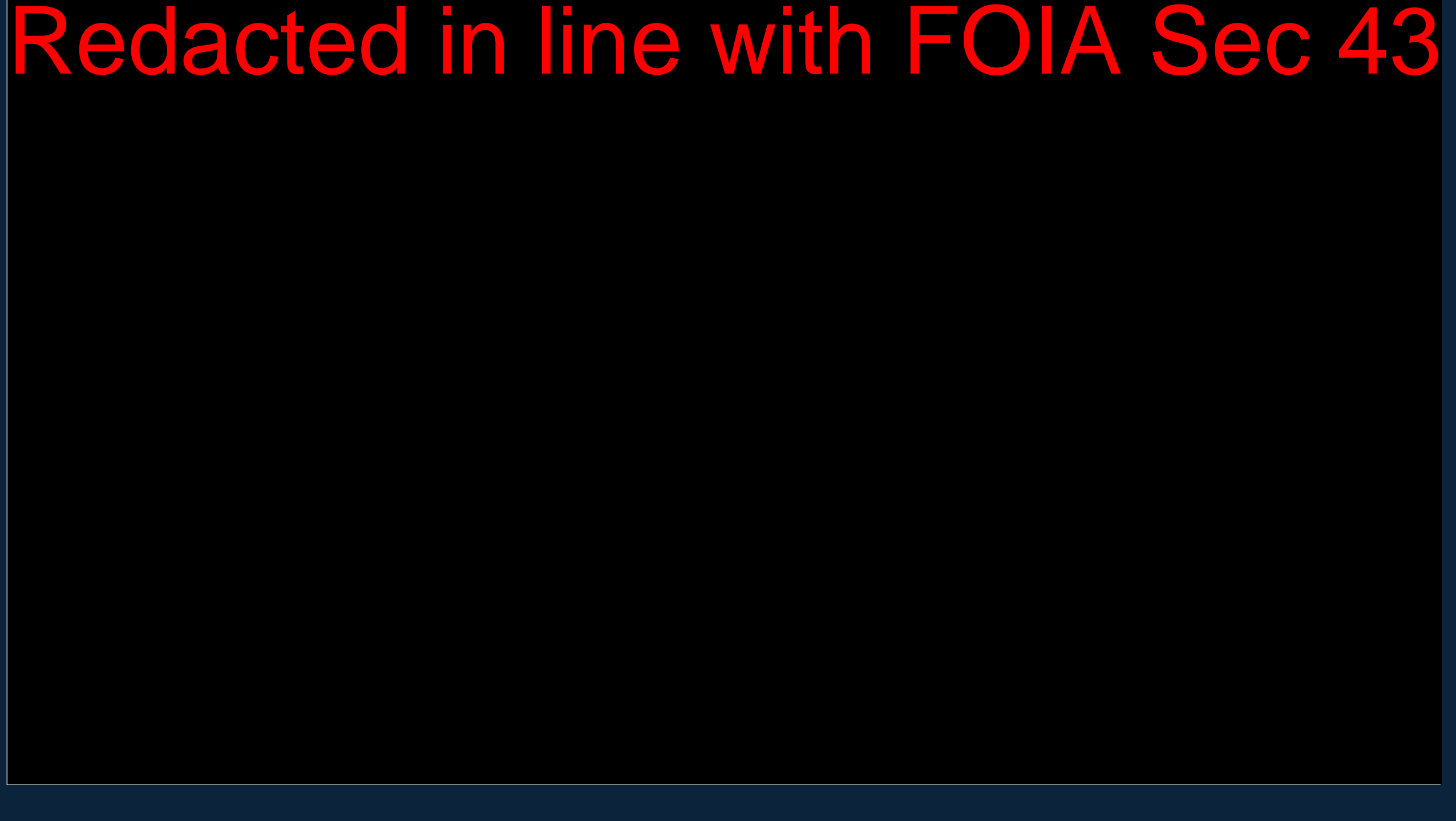


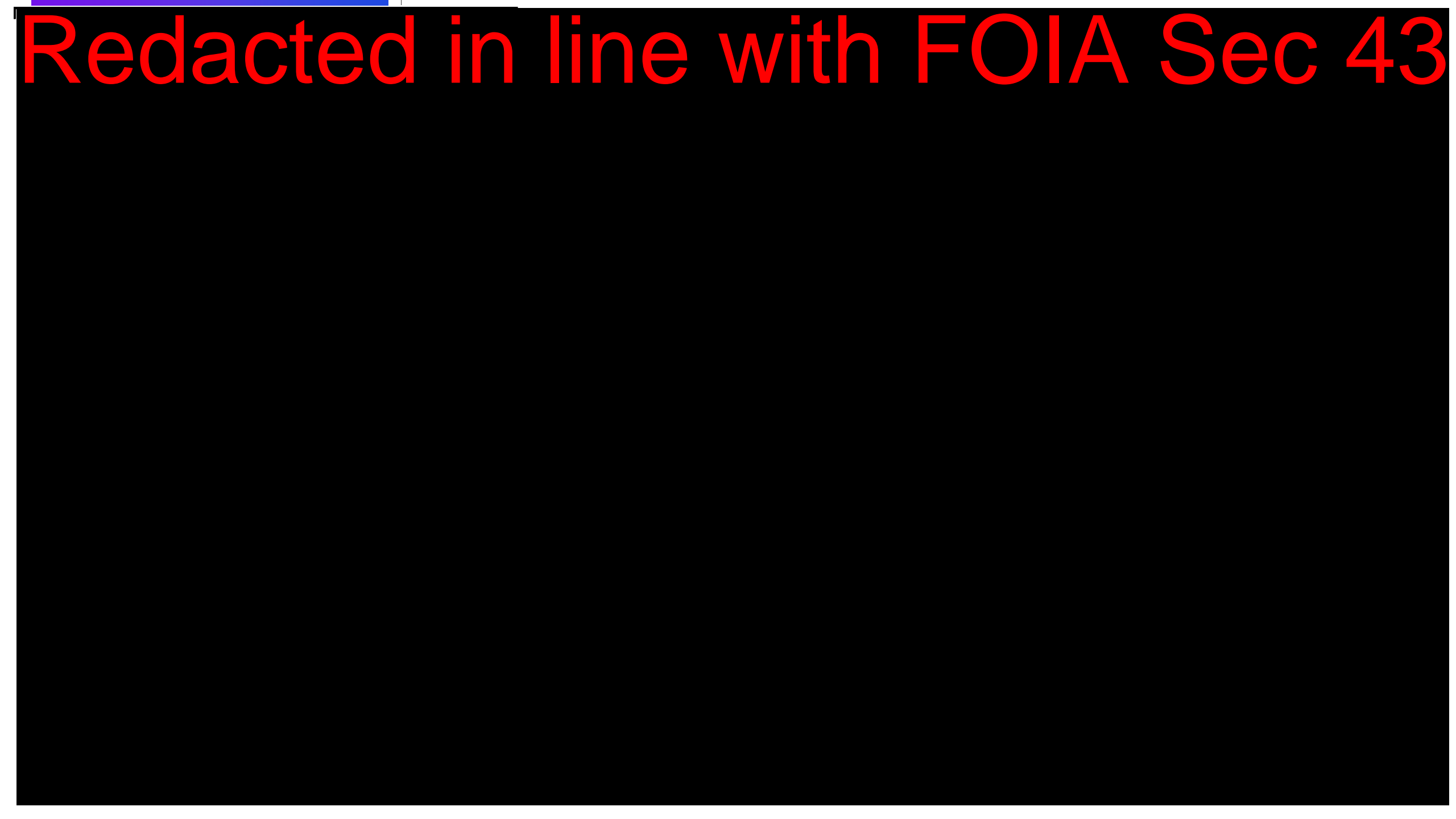
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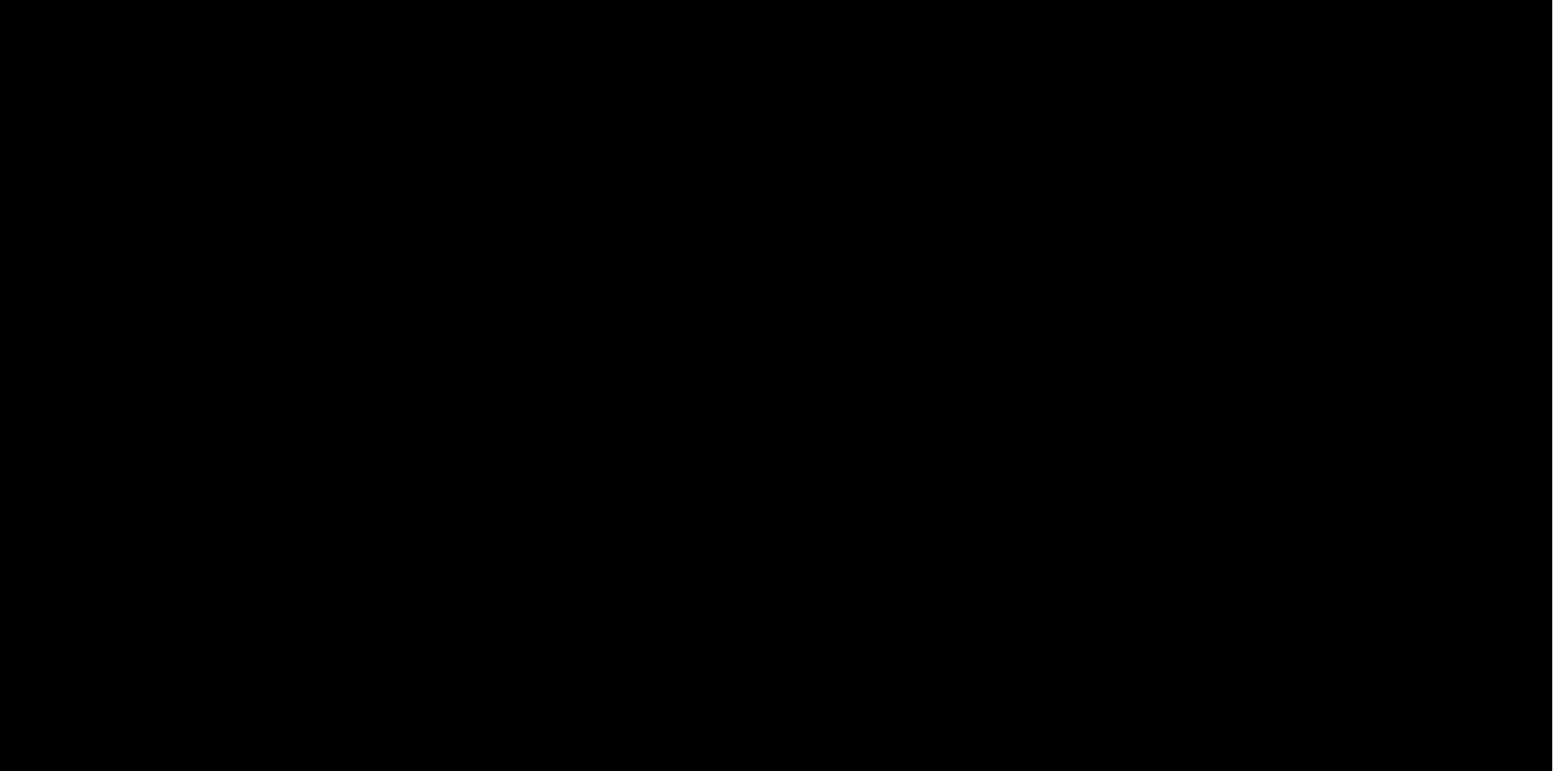




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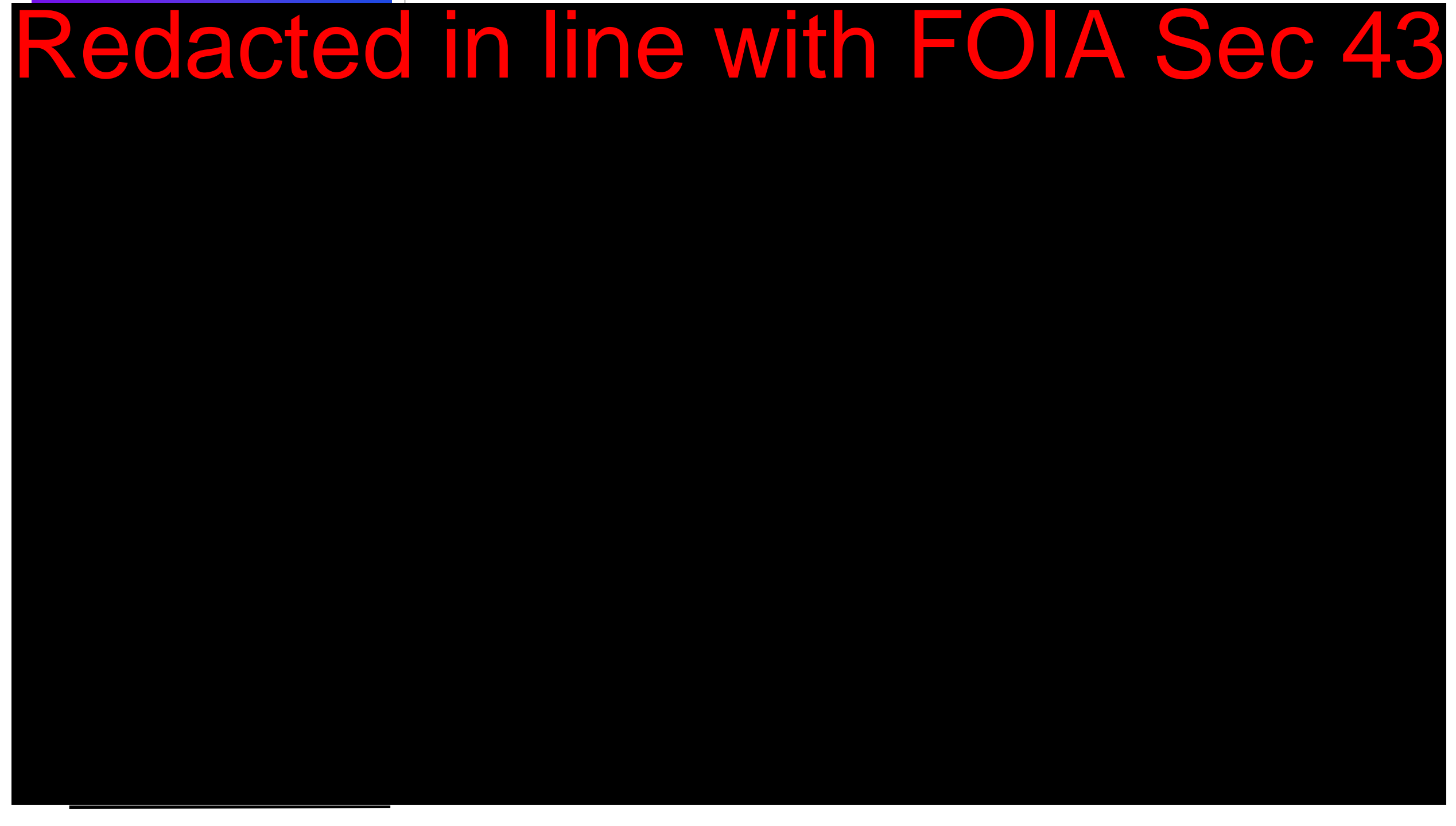
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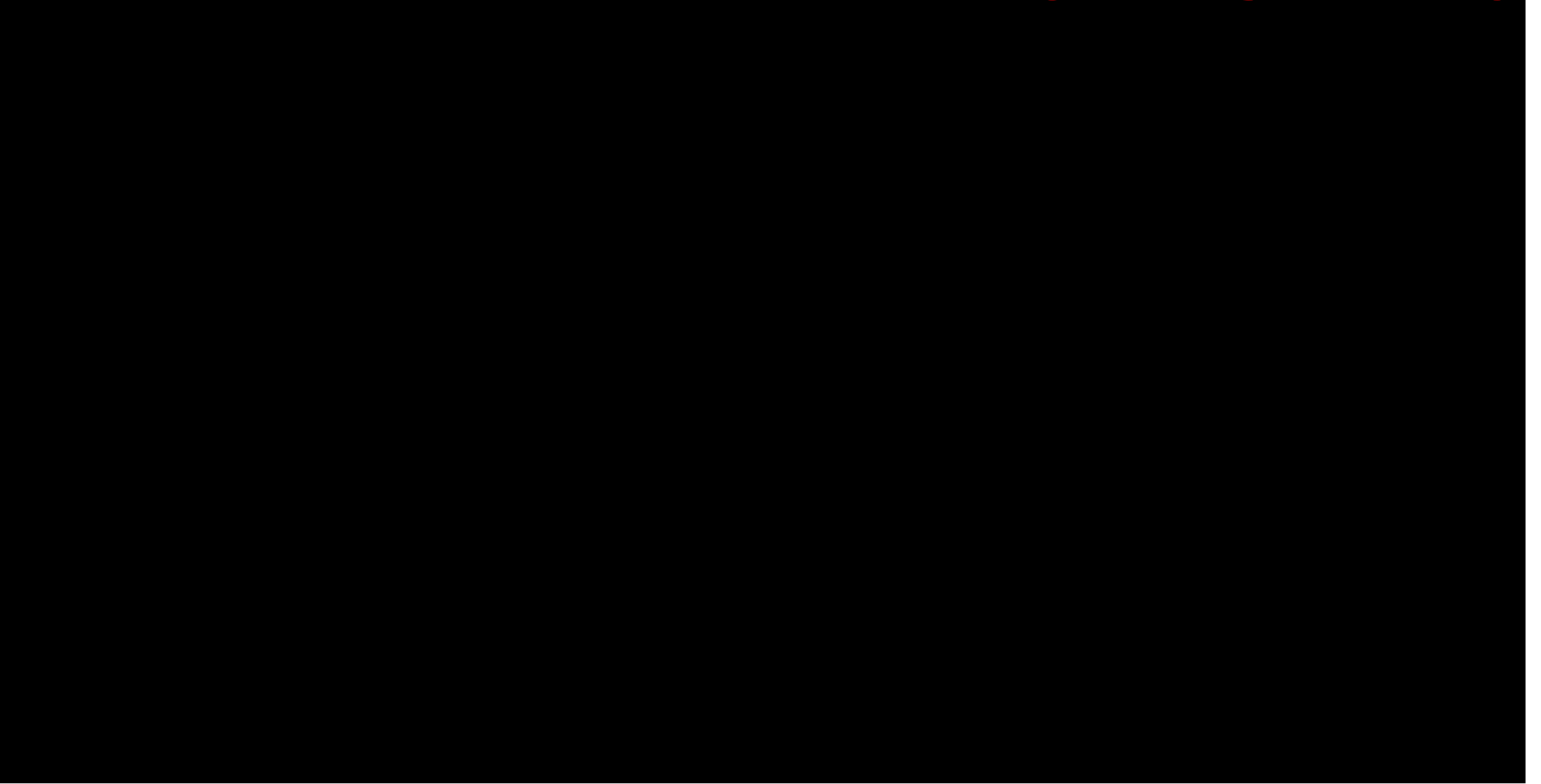
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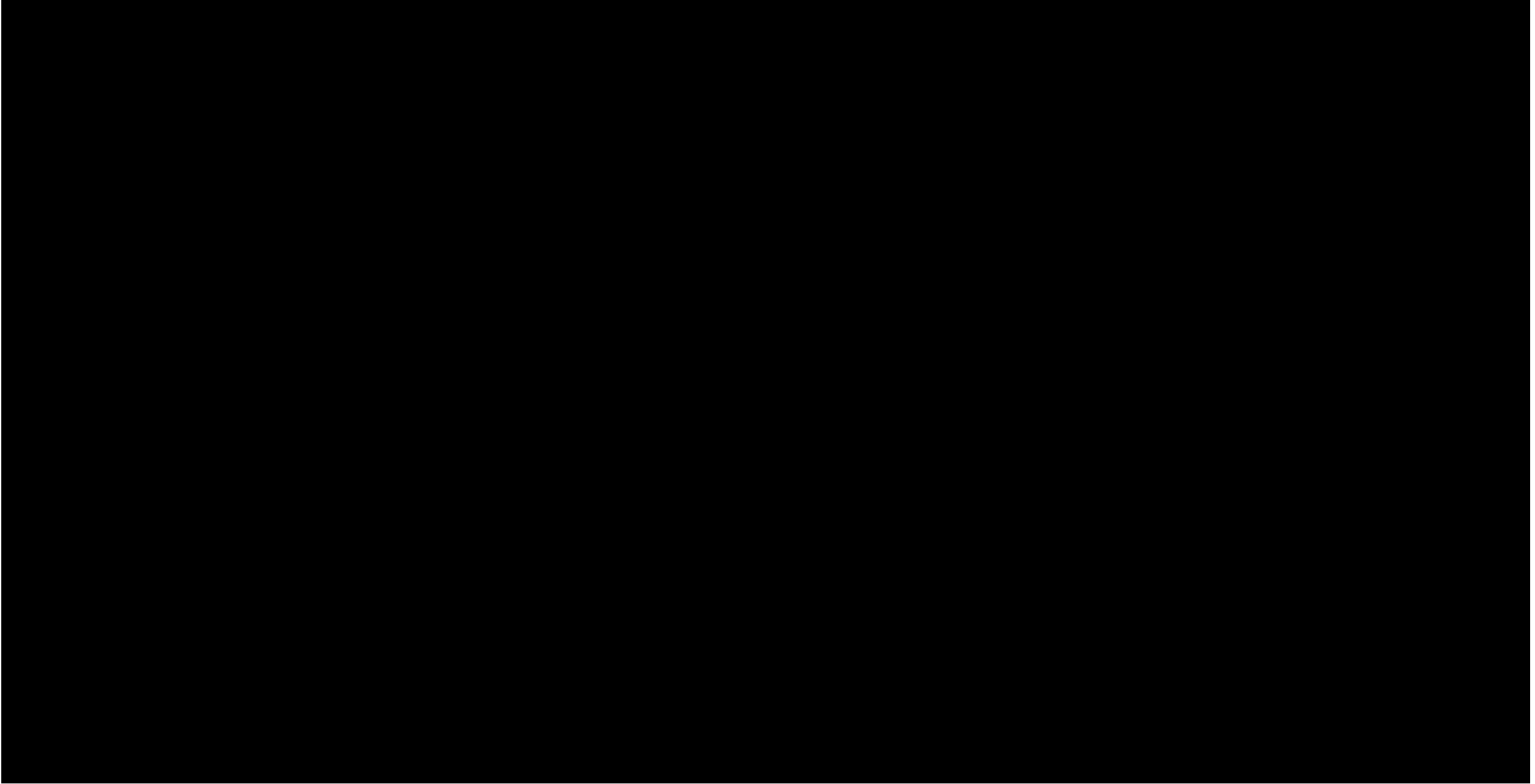
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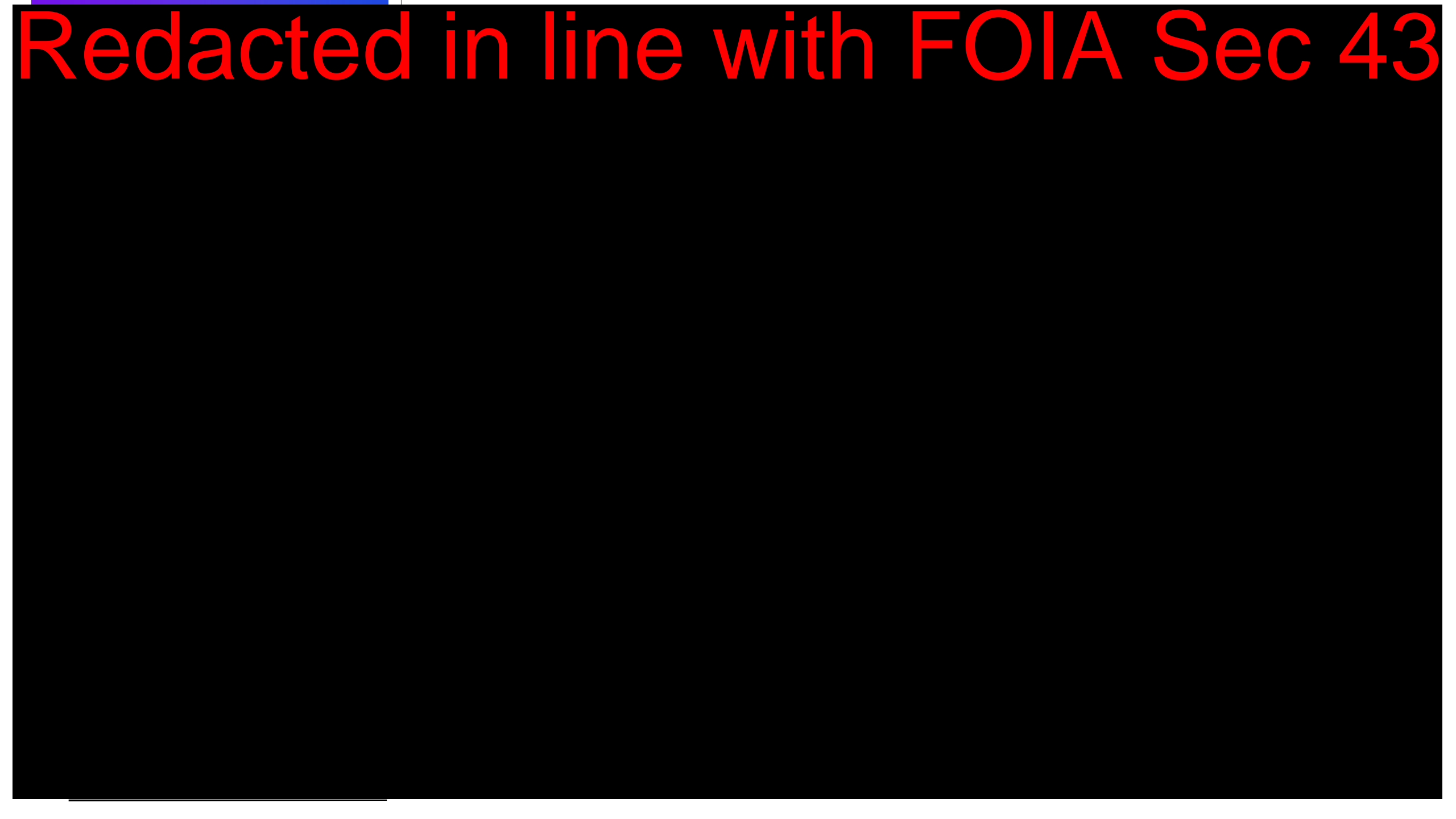
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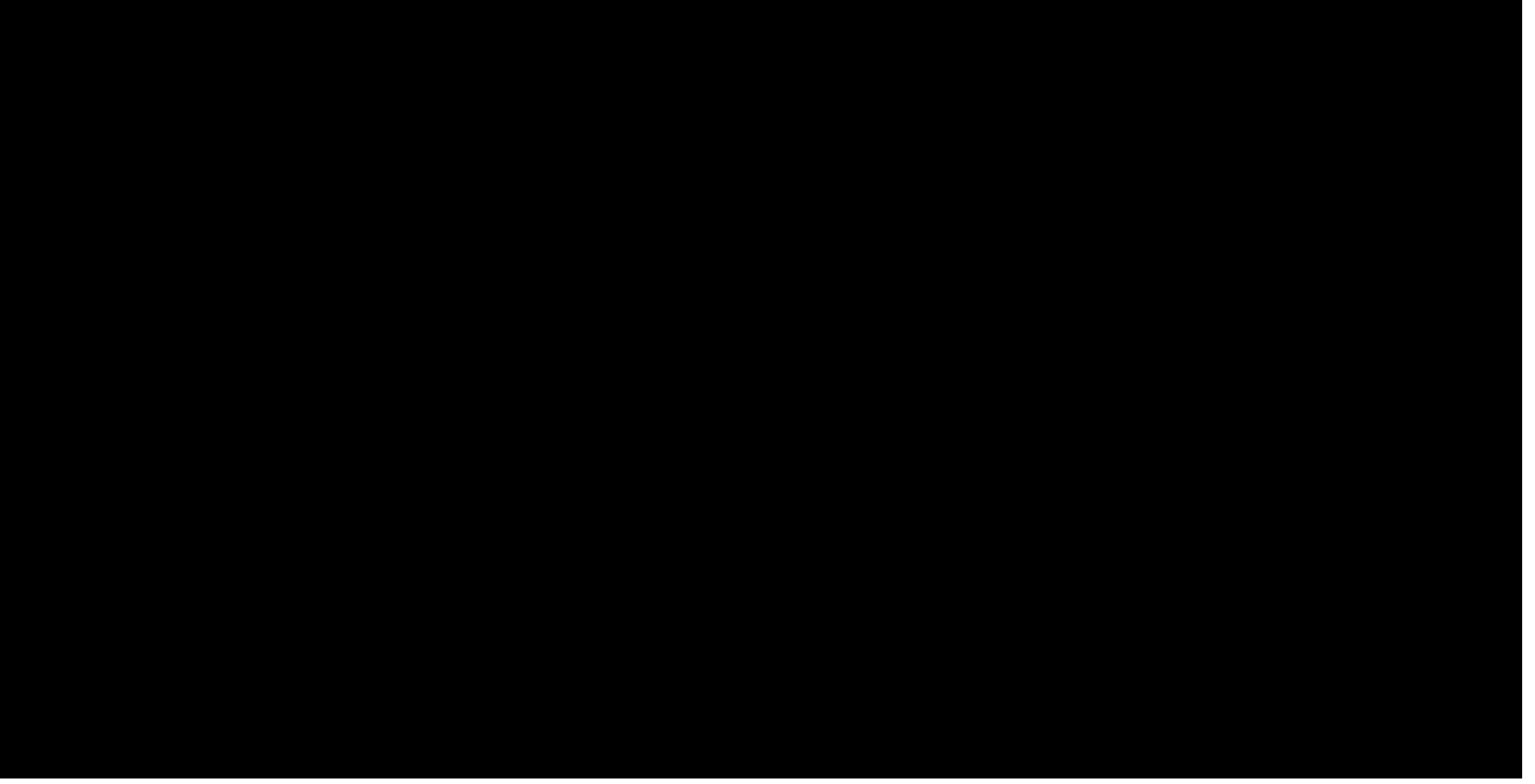
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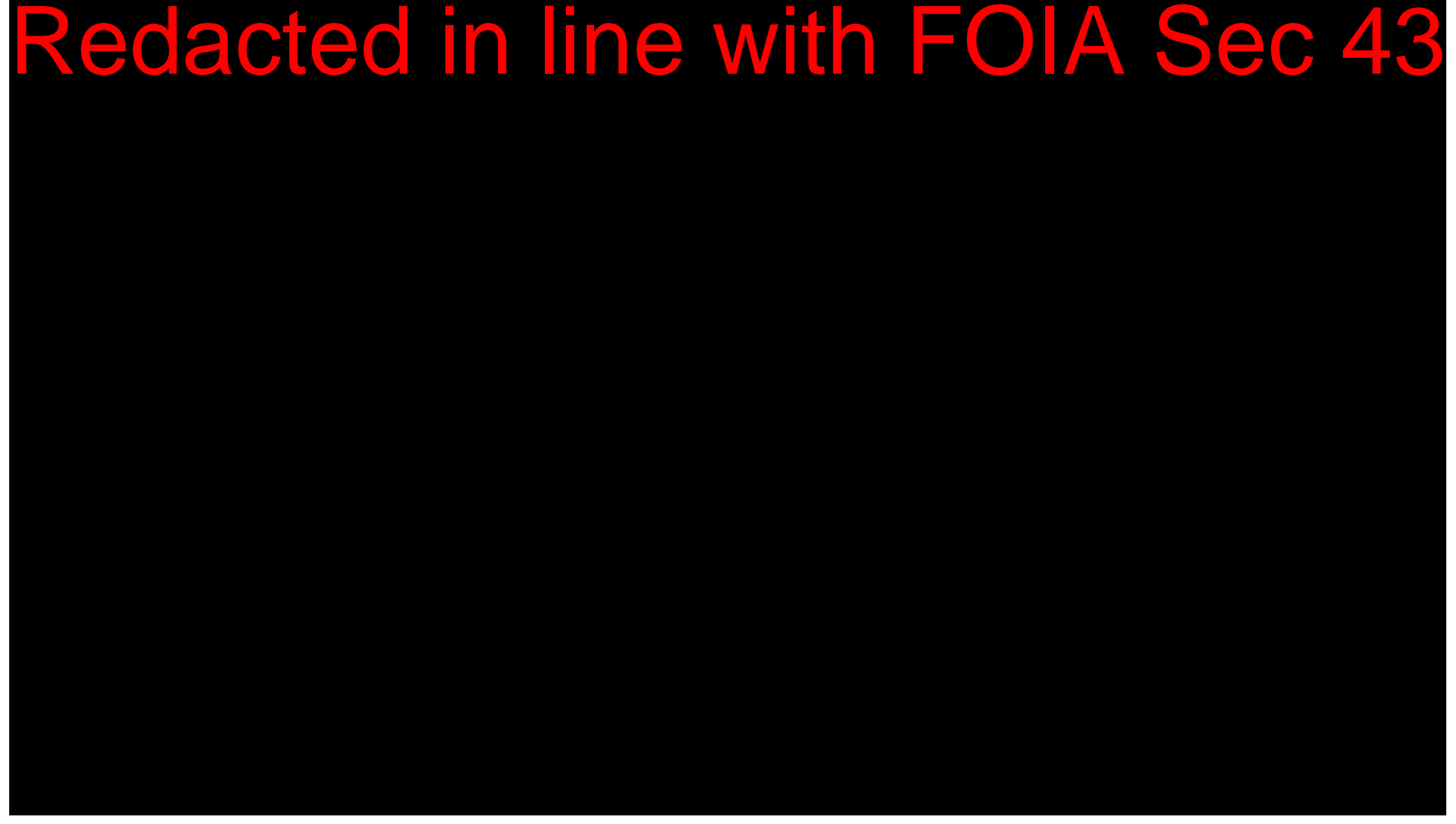
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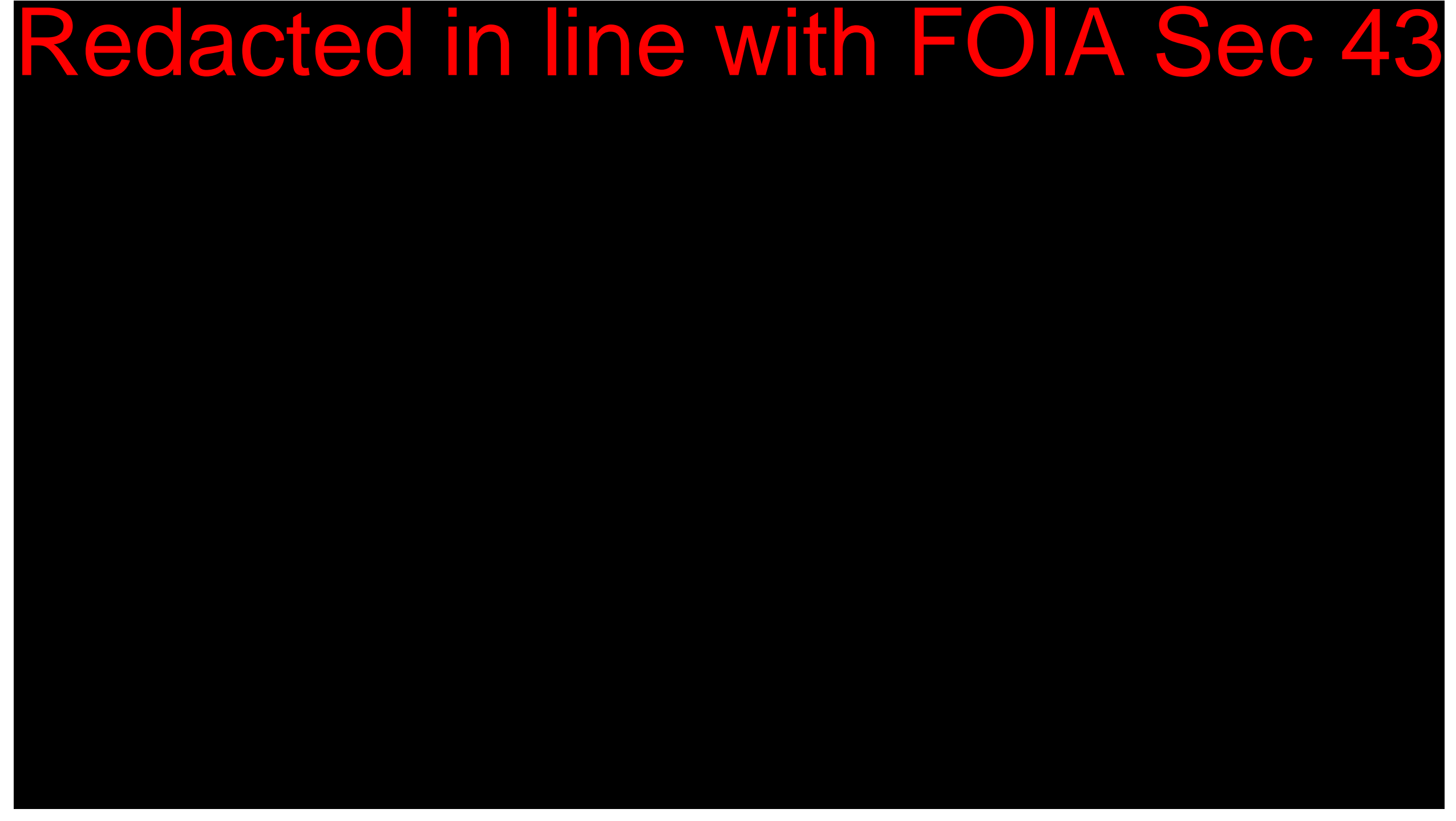




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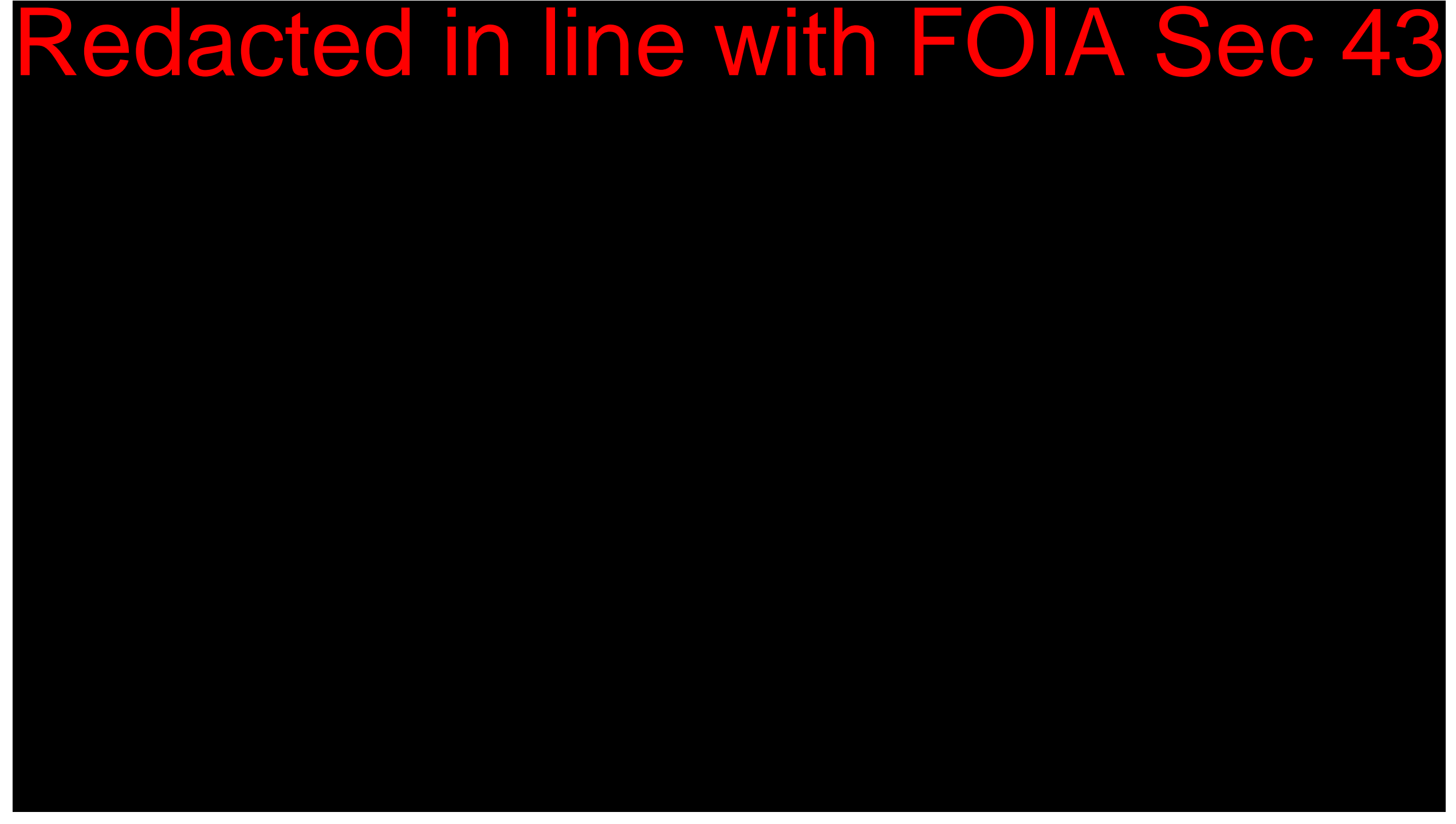
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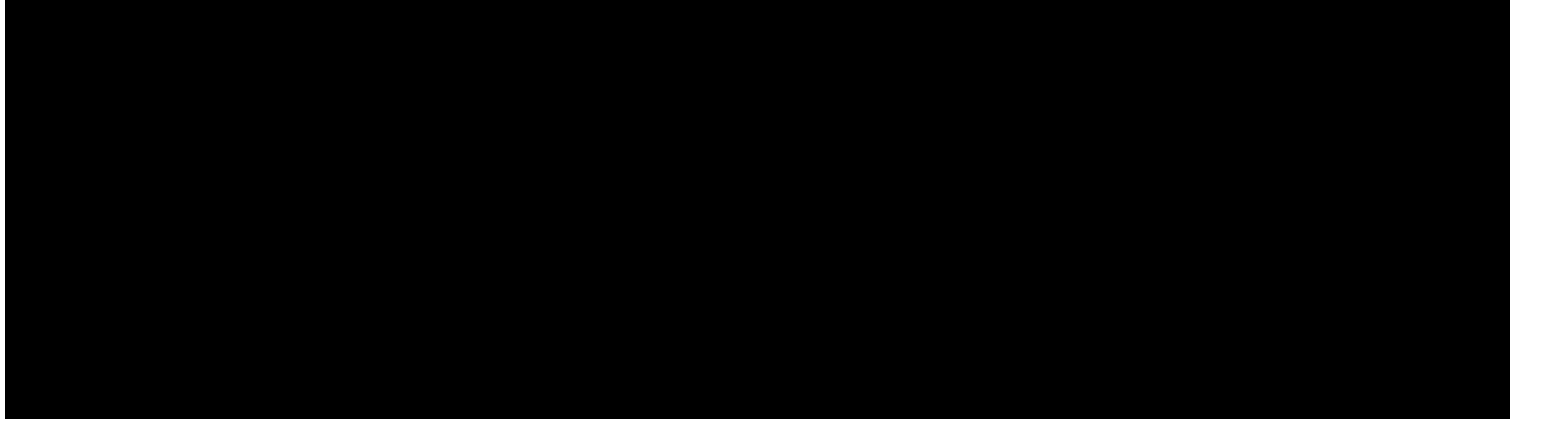




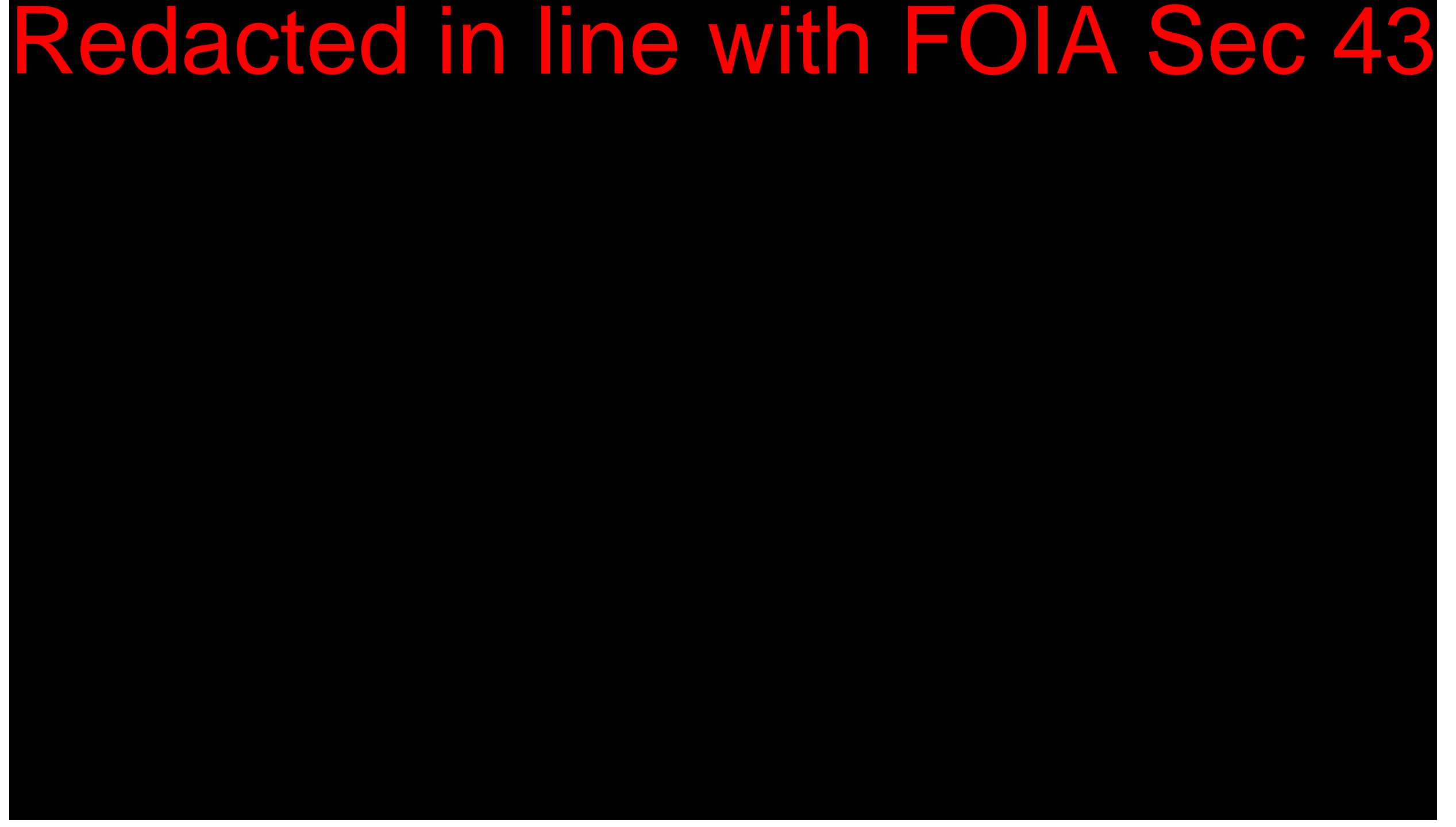


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## **Call-Off Schedule 5 (Pricing Details)**

Call-Off Ref:

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## **Call-Off Schedule 5 (Pricing Details)**

The contract rates are to remain firm for the full duration of the contract inclusive of all expressed extension options and cannot be altered or amended without the consent of both parties to this contract. Notwithstanding the terms of this Call-Off Contract, the Buyer reserves the right to agree to alternate payment options (including lump sum payment) in respect of specific Task Orders.

The daily rates specified in the Pricing Schedule (Annex 1) shall be applicable where 8 or more hours recorded in a calendar day. Where the Supplier is deployed for less than an 8-hour day, an hourly rate will be paid pro rata equating to the daily rate divided by 8. Where more than 8 hours are recorded in a calendar day, the daily rate will nevertheless be applicable. The Supplier shall not charge for any weekend working unless it receives approval in advance from the Buyer's Authorised Representative.

The Overhead Percentage specified in the Pricing Schedule (Annex 1) shall be applied only to subcontractors that:

- have been requested by the Buyer;
- are not the Supplier; and
- are not Key Subcontractors (or any replacement of a Key Subcontractor).

A full breakdown of the rates for this Contract is included at Annex 1 (Pricing Schedule).

**Call-Off Schedule 5 (Call-Off Pricing)**  
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## **ANNEX 1: PRICING SCHEDULE**

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**ICP2**  
**Pricing Schedule Submission**  
**Notes and Guidance**

**Tab 2: Grade Definitions**

- 1 This tab is for information only.
- 2 The MCF2 Grades are included for information only and do not apply to this Contract.

**Tab 3: ICP2 Pricing Schedule - Daily Rates**

- 1 Columns C and D present information from a combination of the existing ICP contract pricing schedule and previous task orders.
- 2 Columns B and E to K will form the 'Pricing Schedule - Daily Rates' that will go into the ICP2 contract.
- 3 Column E gives the MCF3 grades, it is not permitted to introduce any new grades.
- 4 Please enter the ICP2 day rate for each grade in the green cells in Column E.
- 5 Rates should be provided excluding VAT.
- 6 Please note the expenses policy as detailed within the Specification. Rates should be inclusive of all other costs.
- 7 Rates will be applicable for the duration of the contract, with no inflationary uplift/ review.
- 8 MCF2 Rates and current ICP maximum daily rates are included for information only and do not apply to this Contract.
- 9 Please note that Post-Contract Management team will separately facilitate the process for establishing the resourcing for the first ICP2 Task Order.

**Tab 4: ICP2 Pricing Schedule - Overhead %**

- 1 Please provide an overhead % that will be applied to the cost of materials, equipment, systems and other non labour goods and services that have been sourced from other suppliers.
- 2 Please enter a % into cell B8 (shaded green).
- 3 This 'Pricing Schedule - Overhead %' will go into the ICP2 contract.

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**ICP2**  
**Pricing Schedule Submission**  
**MCF3 grade definitions and comparison to MCF2 grades**

MCF2/ ICP	MCF3/ ICP2
<p><b>Partner/ Managing Director</b> Extensive achievement in their specialist field, in which they are nationally or internationally renowned.</p> <p>Extensive experience of leading or directing major, complex and business-critical projects, bringing genuine strategic insight, understanding the range of services to be delivered to the client.</p> <p>In depth knowledge of the public sector and of current policy and political issues affecting it.</p>	<p><b>Partner</b> Partners are expected to be acknowledged experts in at least one function, capability and/or industry and have extensive experience of leading major and/or complex projects.</p> <p>Activities are likely to include but are not limited to:</p> <ul style="list-style-type: none"><li>- being accountable for overall project delivery and overseeing knowledge transfer to customer</li><li>- bringing innovative strategic insight and best practice</li><li>- applying relevant private and public sector knowledge including policy and political issues</li><li>- delivering results that meet or exceed customer expectations</li><li>- developing strong customer relationships with senior stakeholders</li></ul> <p>Someone working at this grade would typically be expected to have over ten years relevant experience</p>
<p><b>Managing Consultant/ Associate Director/ Director</b> Substantial experience in their specialist field and operating multiple major consultancy assignments achieving specific revenue and income objectives to agreed outcomes.</p> <p>Previous experience in recruiting and managing remote teams, project billing, project and risk management on at least five major projects.</p> <p>Advises client Senior Management Teams and Directors in the commercial and public sectors.</p> <p>Use of PRINCE2 or equivalent.</p> <p>In depth knowledge of the public sector, current policy and the political issues affecting it.</p> <p>Typically we would expect a person within this category to have significant, proven, industry recognised experience.</p>	<p><b>Managing Consultant/ Director</b> Managing Consultants/ Directors are expected to have deep expertise in at least one function, capability and/or industry and perform a wide range of leadership responsibilities.</p> <p>Activities are likely to include but are not limited to:</p> <ul style="list-style-type: none"><li>- providing leadership to the project team and the customer</li><li>- reviewing and improving the project team's recommendations</li><li>- providing relevant thought leadership and expertise to the customer</li><li>- forming strong working relationships with customer stakeholders</li></ul> <p>Someone working at this grade would typically have over eight years relevant experience</p>
<p><b>Principal Consultant</b> Recognised expert in their specialist field and in a consultancy/training role. Significant proven relevant experience managing a full portfolio of clients in a variety of complex projects.</p> <p>Sound knowledge of the public sector, current policy and political issues.</p> <p>Assists in fee proposals.</p> <p>Previous experience in project management on at least three major projects, preferably in the public sector and using the PRINCE2 or equivalent method.</p>	<p><b>Principal Consultant/ Associate Director</b> Principal Consultants/ Associate Directors are expected to have specialised knowledge of a function, capability and/or industry and be responsible for providing leadership both internally for the project team and when interfacing with the customer.</p> <p>Activities are likely to include but are not limited to:</p> <ul style="list-style-type: none"><li>- designing the project structure</li><li>- providing leadership and coaching to internal project team members</li><li>- contributing to the development of customer-facing presentations</li><li>- leading on the delivery of presentation of recommendations to customer stakeholders</li></ul> <p>Someone working at this grade would typically have between seven- and eight-years relevant experience</p>
<p><b>Senior Consultant/ Manager</b> Management of engagements and projects adhering to professional standards and strict costs controls.</p> <p>Substantial proven experience in their specialist field and in a consultancy/ training role.</p> <p>Previous experience in the project management in a wide range of high quality and relevant projects.</p> <p>Familiarity of the issues/ problems facing public sector organisations.</p>	<p><b>Senior Consultant/ Engagement Manager/ Project Lead</b> Senior Consultants/ Engagement Manager/ Project Leads are expected to have specialised knowledge of a function, capability and/or industry and be responsible for managing several or all components of a project.</p> <p>Activities are likely to include but are not limited to:</p> <ul style="list-style-type: none"><li>- managing the project across multiple workstreams</li><li>- prioritising the team's workload</li><li>- bringing together the team's inputs into coherent recommendations</li><li>- engaging customer stakeholders including presenting recommendations</li></ul> <p>Someone working at this grade would typically have between five- and six-years relevant experience</p>
<p><b>Consultant</b> Notable subject matter experience, in-depth knowledge and relevant experience of their specialist fields.</p> <p>Evidence of a wide range of consultancy projects and client facing experience.</p> <p>Support work in process and organisational design and leading workshops and events.</p> <p>Actively seeks out work from senior managers.</p>	<p><b>Consultant</b> Consultants are expected to have knowledge of a function, capability and/or industry and be responsible for larger and/or more complex components of a project. They would have strong analytical skills, along with excellent verbal, written and presentation skills.</p> <p>Activities are likely to include but are not limited to:</p> <ul style="list-style-type: none"><li>- analysing and modelling data</li><li>- drawing out high quality insights</li><li>- creating slides to present recommendations</li><li>- meeting with customer stakeholders to understand their issues</li></ul> <p>Someone working at this grade would typically have between two- and four-years relevant experience</p>
<p><b>Junior Consultant</b> Demonstrable experience and relevant exposure in a range of projects in a specialist field.</p> <p>Evidence of client facing experience and relationship management.</p> <p>Support for planning and monitoring budgets and services to wider consultancy projects; and experience of proposal preparation.</p>	<p><b>Analyst/ Junior Consultant</b> Analysts/ Junior Consultants are expected to be responsible for a specific component of a project and have good analytical and communication skills.</p> <p>Activities are likely to include but are not limited to:</p> <ul style="list-style-type: none"><li>- identifying and researching information sources</li><li>- gathering and interpreting data</li><li>- executing qualitative and quantitative analysis</li><li>- interacting with customer stakeholders</li></ul> <p>Someone working at this grade would typically have up to two-years relevant experience</p>

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ICP2

Pricing Schedule - Rates

Workstream Classification

-Specialist Services are the provision of strategic, transformation, clinical or project controls advice and inputs, together with the provision of assurance and in addition any other skills which do not fall under the definition of Technical Services.

-Technical Services are those involving procurement support, supply markets management, estimating, cost management and any other services traditionally delivered on a high volume basis by an engineering consultancy.

WORKSTREAM	MCF2 GRADE	CURRENT ICP MAXIMUM DAILY RATE (£)	MCF3 GRADE	Specialist	Technical
		From ICP MCF2 contract except those marked with an asterisk (from Task Order 5 or 6)			
DIRECTOR	Partner/ Managing Director	Redacted in line with FC		Redacted in line with FC	Redacted in line with FC
PROCUREMENT	Partner/ Managing Director Managing Consultant/ Associate Director/ Director Principal Consultant Senior Consultant/ Manager Consultant Junior Consultant	Redacted in line with FC	Partner Managing Consultant / Director Principal Consultant / Associate Director Senior Consultant / Engagement Manager / Project Lead Consultant Analyst / Junior Consultant	Redacted in line with FOIA Sec 43	Redacted in line with FOIA Sec 43
POST CONTRACT COMMERCIAL	Partner/ Managing Director Managing Consultant/ Associate Director/ Director Principal Consultant Senior Consultant/ Manager Consultant Junior Consultant	Redacted in line with FC	Partner Managing Consultant / Director Principal Consultant / Associate Director Senior Consultant / Engagement Manager / Project Lead Consultant Analyst / Junior Consultant	Redacted in line with FOIA Sec 43	Redacted in line with FOIA Sec 43
COMMERCIAL STRATEGY	Partner/ Managing Director Managing Consultant/ Associate Director/ Director Principal Consultant Senior Consultant/ Manager Consultant Junior Consultant	Redacted in line with FC	Partner Managing Consultant / Director Principal Consultant / Associate Director Senior Consultant / Engagement Manager / Project Lead Consultant Analyst / Junior Consultant	Redacted in line with FOIA Sec 43	Redacted in line with FOIA Sec 43
MARKET MANAGEMENT	<b>Market Shaping</b> Partner/ Managing Director Managing Consultant/ Associate Director/ Director Principal Consultant Senior Consultant/ Manager Consultant Junior Consultant  <b>Supply Market Management</b> Partner/ Managing Director Managing Consultant/ Associate Director/ Director Principal Consultant Senior Consultant/ Manager Consultant Junior Consultant	Redacted in line with FC	Partner Managing Consultant / Director Principal Consultant / Associate Director Senior Consultant / Engagement Manager / Project Lead Consultant Analyst / Junior Consultant	Redacted in line with FOIA Sec 43	Redacted in line with FOIA Sec 43
COST MANAGEMENT	Partner/ Managing Director Managing Consultant/ Associate Director/ Director Principal Consultant Senior Consultant/ Manager Consultant Junior Consultant	Redacted in line with FC	Partner Managing Consultant / Director Principal Consultant / Associate Director Senior Consultant / Engagement Manager / Project Lead Consultant Analyst / Junior Consultant	Redacted in line with FOIA Sec 43	Redacted in line with FOIA Sec 43
COMMERCIAL ASSURANCE	Partner/ Managing Director Managing Consultant/ Associate Director/ Director Principal Consultant Senior Consultant/ Manager Consultant Junior Consultant	Redacted in line with FC	Partner Managing Consultant / Director Principal Consultant / Associate Director Senior Consultant / Engagement Manager / Project Lead Consultant Analyst / Junior Consultant	Redacted in line with FOIA Sec 43	Redacted in line with FOIA Sec 43
STRATEGY, APPRAISAL, TECHNICAL WRITING	Partner/ Managing Director Managing Consultant/ Associate Director/ Director Principal Consultant Senior Consultant/ Manager Consultant Junior Consultant	Redacted in line with FC	Partner Managing Consultant / Director Principal Consultant / Associate Director Senior Consultant / Engagement Manager / Project Lead Consultant Analyst / Junior Consultant	Redacted in line with FOIA Sec 43	Redacted in line with FOIA Sec 43
COLLABORATION	Partner/ Managing Director Managing Consultant/ Associate Director/ Director Principal Consultant Senior Consultant/ Manager Consultant Junior Consultant	Redacted in line with FC	Partner Managing Consultant / Director Principal Consultant / Associate Director Senior Consultant / Engagement Manager / Project Lead Consultant Analyst / Junior Consultant	Redacted in line with FOIA Sec 43	Redacted in line with FOIA Sec 43
DATA, REPORTING, SOCIAL VALUE	Partner/ Managing Director Managing Consultant/ Associate Director/ Director Principal Consultant Senior Consultant/ Manager Consultant Junior Consultant	Redacted in line with FC	Partner Managing Consultant / Director Principal Consultant / Associate Director Senior Consultant / Engagement Manager / Project Lead Consultant Analyst / Junior Consultant	Redacted in line with FOIA Sec 43	Redacted in line with FOIA Sec 43
STRATEGIC PLAN, REPORTING, BUSINESS CASES, PAO	Partner/ Managing Director Managing Consultant/ Associate Director/ Director Principal Consultant Senior Consultant/ Manager Consultant Junior Consultant	Redacted in line with FC	Partner Managing Consultant / Director Principal Consultant / Associate Director Senior Consultant / Engagement Manager / Project Lead Consultant Analyst / Junior Consultant	Redacted in line with FOIA Sec 43	Redacted in line with FOIA Sec 43
TRANSFORMATION SUPPORT	Partner/ Managing Director Managing Consultant/ Associate Director/ Director Principal Consultant Senior Consultant/ Manager Consultant Junior Consultant	Redacted in line with FC	Partner Managing Consultant / Director Principal Consultant / Associate Director Senior Consultant / Engagement Manager / Project Lead Consultant Analyst / Junior Consultant	Redacted in line with FOIA Sec 43	Redacted in line with FOIA Sec 43
MODERN METHODS OF CONSTRUCTION	Partner/ Managing Director Managing Consultant/ Associate Director/ Director Principal Consultant Senior Consultant/ Manager Consultant Junior Consultant	Redacted in line with FC	Partner Managing Consultant / Director Principal Consultant / Associate Director Senior Consultant / Engagement Manager / Project Lead Consultant Analyst / Junior Consultant	Redacted in line with FOIA Sec 43	Redacted in line with FOIA Sec 43
COMMERCIAL DESIGN CHALLENGE	Partner/ Managing Director Managing Consultant/ Associate Director/ Director Principal Consultant Senior Consultant/ Manager Consultant Junior Consultant	Redacted in line with FC	Partner Managing Consultant / Director Principal Consultant / Associate Director Senior Consultant / Engagement Manager / Project Lead Consultant Analyst / Junior Consultant	Redacted in line with FOIA Sec 43	Redacted in line with FOIA Sec 43



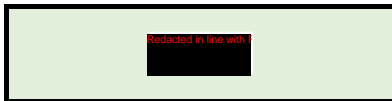
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## ICP2

### Pricing Schedule - Overhead %

The Overhead Percentage specified in the Pricing Schedule shall be applied only to subcontractors that:

- have been requested by the Buyer;
- are not the Supplier; and
- are not Key Subcontractors (or any replacement of a Key Subcontractor).



Call-Off Schedule 7 (Key Supplier Staff)  
Call-Off Ref:  
Crown Copyright 2018

## Call-Off Schedule 7 (Key Supplier Staff)

- 1.1 The Order Form lists the key roles ("**Key Roles**") and names of the persons who the Supplier shall appoint to fill those Key Roles at the Start Date.
- 1.2 The Supplier shall ensure that the Key Staff fulfil the Key Roles at all times during the Contract Period.
- 1.3 The Buyer may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Staff.
- 1.4 The Supplier shall not and shall procure that any Subcontractor shall not remove or replace any Key Staff unless:
  - 1.4.1 requested to do so by the Buyer or the Buyer Approves such removal or replacement (not to be unreasonably withheld or delayed);
  - 1.4.2 the person concerned resigns, retires or dies or is on maternity or long-term sick leave; or
  - 1.4.3 the person's employment or contractual arrangement with the Supplier or Subcontractor is terminated for material breach of contract by the employee.
- 1.5 The Supplier shall:
  - 1.5.1 notify the Buyer promptly of the absence of any Key Staff (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
  - 1.5.2 ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
  - 1.5.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Staff and, except in the cases of death, unexpected ill health or a material breach of the Key Staff's employment contract, this will mean at least three (3) Months' notice;
  - 1.5.4 ensure that all arrangements for planned changes in Key Staff provide adequate periods during which incoming and outgoing staff work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Deliverables; and
  - 1.5.5 ensure that any replacement for a Key Role has a level of qualifications and experience appropriate to the relevant Key Role and is fully competent to carry out the tasks assigned to the Key Staff whom he or she has replaced.

Call-Off Schedule 7 (Key Supplier Staff)

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- 1.6 The Buyer may require the Supplier to remove or procure that any Subcontractor shall remove any Key Staff that the Buyer considers in any respect unsatisfactory. The Buyer shall not be liable for the cost of replacing any Key Staff.

**Call-Off Schedule 9 (Security)**

Call-Off Ref:

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**Call-Off Schedule 9 (Security)****Part A: Short Form Security Requirements****1. Definitions**

- 1.1** In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Breach of Security"</b>	<p>1 the occurrence of:</p> <ul style="list-style-type: none"> <li>a) any unauthorised access to or use of the Deliverables, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Government Data) used by the Buyer and/or the Supplier in connection with this Contract; and/or</li> <li>b) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Government Data), including any copies of such information or data, used by the Buyer and/or the Supplier in connection with this Contract,</li> </ul> <p>2 in either case as more particularly set out in the Security Policy where the Buyer has required compliance therewith in accordance with paragraph 2.2;</p>
<b>"Security Management Plan"</b>	<p>3 the Supplier's security management plan prepared pursuant to this Schedule, a draft of which has been provided by the Supplier to the Buyer and has been updated from time to time.</p>

**2. Complying with security requirements and updates to them**

- 2.1** The Buyer and the Supplier recognise that, where specified in Framework Schedule 4 (Framework Management), CCS shall have the right to enforce the Buyer's rights under this Schedule.
- 2.2** The Supplier shall comply with the requirements in this Schedule in respect of the Security Management Plan. Where specified by a Buyer that has undertaken a Further Competition it shall also comply with the Security Policy and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy.
- 2.3** Where the Security Policy applies the Buyer shall notify the Supplier of any

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changes or proposed changes to the Security Policy.

- 2.4** If the Supplier believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the provision of the Deliverables, it may propose a Variation to the Buyer. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall be subject to the Variation Procedure.
- 2.5** Until and/or unless a change to the Charges is agreed by the Buyer pursuant to the Variation Procedure the Supplier shall continue to provide the Deliverables in accordance with its existing obligations.

**3. Security Standards**

- 3.1** The Supplier acknowledges that the Buyer places great emphasis on the reliability of the performance of the Deliverables, confidentiality, integrity and availability of information and consequently on security.
- 3.2** The Supplier shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security which:
- 3.2.1 is in accordance with the Law and this Contract;
  - 3.2.2 as a minimum demonstrates Good Industry Practice;
  - 3.2.3 meets any specific security threats of immediate relevance to the Deliverables and/or the Government Data; and
  - 3.2.4 where specified by the Buyer in accordance with paragraph 2.2 complies with the Security Policy and the ICT Policy.
- 3.3** The references to standards, guidance and policies contained or set out in Paragraph 3.2 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.
- 3.4** In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Supplier should notify the Buyer's Representative of such inconsistency immediately upon becoming aware of the same, and the Buyer's Representative shall, as soon as practicable, advise the Supplier which provision the Supplier shall be required to comply with.

**4. Security Management Plan****4.1 Introduction**

- 4.1.1 The Supplier shall develop and maintain a Security Management Plan in accordance with this Schedule. The Supplier shall thereafter comply with its obligations set out in the Security Management Plan.

**4.2 Content of the Security Management Plan**

- 4.2.1 The Security Management Plan shall:
- a) comply with the principles of security set out in Paragraph 3 and any other provisions of this Contract relevant to security;

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- b) identify the necessary delegated organisational roles for those responsible for ensuring it is complied with by the Supplier;
- c) detail the process for managing any security risks from Subcontractors and third parties authorised by the Buyer with access to the Deliverables, processes associated with the provision of the Deliverables, the Buyer Premises, the Sites and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) and any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- d) be developed to protect all aspects of the Deliverables and all processes associated with the provision of the Deliverables, including the Buyer Premises, the Sites, and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) to the extent used by the Buyer or the Supplier in connection with this Contract or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- e) set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Deliverables and all processes associated with the provision of the Goods and/or Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Deliverables comply with the provisions of this Contract;
- f) set out the plans for transitioning all security arrangements and responsibilities for the Supplier to meet the full obligations of the security requirements set out in this Contract and, where necessary in accordance with paragraph 2.2 the Security Policy; and
- g) be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Buyer engaged in the provision of the Deliverables and shall only reference documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.

**4.3 Development of the Security Management Plan**

- 4.3.1 Within twenty (20) Working Days after the Start Date and in accordance with Paragraph 4.4, the Supplier shall prepare and deliver to the Buyer for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan.
- 4.3.2 If the Security Management Plan submitted to the Buyer in accordance with Paragraph 4.3.1, or any subsequent revision to it in accordance with Paragraph 4.4, is Approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in

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accordance with this Schedule. If the Security Management Plan is not Approved, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit to the Buyer for Approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of its first submission to the Buyer. If the Buyer does not approve the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure.

- 4.3.3 The Buyer shall not unreasonably withhold or delay its decision to Approve or not the Security Management Plan pursuant to Paragraph 4.3.2. However, a refusal by the Buyer to Approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 4.2 shall be deemed to be reasonable.
- 4.3.4 Approval by the Buyer of the Security Management Plan pursuant to Paragraph 4.3.2 or of any change to the Security Management Plan in accordance with Paragraph 4.4 shall not relieve the Supplier of its obligations under this Schedule.

**4.4 Amendment of the Security Management Plan**

- 4.4.1 The Security Management Plan shall be fully reviewed and updated by the Supplier at least annually to reflect:
  - a) emerging changes in Good Industry Practice;
  - b) any change or proposed change to the Deliverables and/or associated processes;
  - c) where necessary in accordance with paragraph 2.2, any change to the Security Policy;
  - d) any new perceived or changed security threats; and
  - e) any reasonable change in requirements requested by the Buyer.
- 4.4.2 The Supplier shall provide the Buyer with the results of such reviews as soon as reasonably practicable after their completion and amendment of the Security Management Plan at no additional cost to the Buyer. The results of the review shall include, without limitation:
  - a) suggested improvements to the effectiveness of the Security Management Plan;
  - b) updates to the risk assessments; and
  - c) suggested improvements in measuring the effectiveness of controls.
- 4.4.3 Subject to Paragraph 4.4.4, any change or amendment which the Supplier proposes to make to the Security Management Plan (as a result of a review carried out in accordance with Paragraph 4.4.1, a request by the Buyer or otherwise) shall be subject to the Variation

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Procedure.

- 4.4.4 The Buyer may, acting reasonably, Approve and require changes or amendments to the Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment.

**5. Security breach**

- 5.1** Either Party shall notify the other in accordance with the agreed security incident management process (as detailed in the Security Management Plan) upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.

- 5.2** Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 5.1, the Supplier shall:

- 5.2.1 immediately take all reasonable steps (which shall include any action or changes reasonably required by the Buyer) necessary to:

- a) minimise the extent of actual or potential harm caused by any Breach of Security;
- b) remedy such Breach of Security to the extent possible and protect the integrity of the Buyer and the provision of the Goods and/or Services to the extent within its control against any such Breach of Security or attempted Breach of Security;
- c) prevent an equivalent breach in the future exploiting the same cause failure; and
- d) as soon as reasonably practicable provide to the Buyer, where the Buyer so requests, full details (using the reporting mechanism defined by the Security Management Plan) of the Breach of Security or attempted Breach of Security, including a cause analysis where required by the Buyer.

- 5.3** In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security Policy (where relevant in accordance with paragraph 2.2) or the requirements of this Schedule, then any required change to the Security Management Plan shall be at no cost to the Buyer.



**Call-Off Schedule 10 (Exit Management)**

Call-Off Ref:

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**Call-Off Schedule 10 (Exit Management)****1. Definitions**

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Exclusive Assets"</b>	Supplier Assets used exclusively by the Supplier or a Key Subcontractor in the provision of the Deliverables;
<b>"Exit Information"</b>	has the meaning given to it in Paragraph 3.1 of this Schedule;
<b>"Exit Manager"</b>	the person appointed by each Party to manage their respective obligations under this Schedule;
<b>"Exit Plan"</b>	the plan produced and updated by the Supplier during the Initial Period in accordance with Paragraph 4 of this Schedule;
<b>"Net Book Value"</b>	the current net book value of the relevant Supplier Asset(s) calculated in accordance with the Framework Tender or Call-Off Tender (if stated) or (if not stated) the depreciation policy of the Supplier (which the Supplier shall ensure is in accordance with Good Industry Practice);
<b>"Non-Exclusive Assets"</b>	those Supplier Assets used by the Supplier or a Key Subcontractor in connection with the Deliverables but which are also used by the Supplier or Key Subcontractor for other purposes;
<b>"Registers"</b>	the register and configuration database referred to in Paragraph 2.2 of this Schedule;
<b>"Replacement Goods"</b>	any goods which are substantially similar to any of the Goods and which the Buyer receives in substitution for any of the Goods following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;
<b>"Replacement Services"</b>	any services which are substantially similar to any of the Services and which the Buyer receives in substitution for any of the Services following the End Date, whether

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	those goods are provided by the Buyer internally and/or by any third party;
<b>"Termination Assistance"</b>	the activities to be performed by the Supplier pursuant to the Exit Plan, and other assistance required by the Buyer pursuant to the Termination Assistance Notice;
<b>"Termination Assistance Notice"</b>	has the meaning given to it in Paragraph 5.1 of this Schedule;
<b>"Termination Assistance Period"</b>	the period specified in a Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to Paragraph 5.2 of this Schedule;
<b>"Transferable Assets"</b>	Exclusive Assets which are capable of legal transfer to the Buyer;
<b>"Transferable Contracts"</b>	Sub-Contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Buyer or any Replacement Supplier to provide the Deliverables or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation;
<b>"Transferring Assets"</b>	has the meaning given to it in Paragraph 8.2.1 of this Schedule;
<b>"Transferring Contracts"</b>	has the meaning given to it in Paragraph 8.2.3 of this Schedule.

**2. Supplier must always be prepared for contract exit**

2.1 The Supplier shall within 30 days from the Start Date provide to the Buyer a copy of its depreciation policy to be used for the purposes of calculating Net Book Value.

2.2 During the Contract Period, the Supplier shall promptly:

- 2.2.1 create and maintain a detailed register of all Supplier Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Deliverables; and
- 2.2.2 create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Supplier provides the Deliverables

**("Registers").**

**Call-Off Schedule 10 (Exit Management)**

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**2.3 The Supplier shall:**

- 2.3.1 ensure that all Exclusive Assets listed in the Registers are clearly physically identified as such; and
- 2.3.2 procure that all licences for Third Party Software and all Sub-Contracts shall be assignable and/or capable of novation (at no cost or restriction to the Buyer) at the request of the Buyer to the Buyer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Deliverables (or part of them) and if the Supplier is unable to do so then the Supplier shall promptly notify the Buyer and the Buyer may require the Supplier to procure an alternative Subcontractor or provider of Deliverables.
- 2.4 Each Party shall appoint an Exit Manager within three (3) Months of the Start Date. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the expiry or termination of this Contract.

**3. Assisting re-competition for Deliverables**

- 3.1 The Supplier shall, on reasonable notice, provide to the Buyer and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), such information (including any access) as the Buyer shall reasonably require in order to facilitate the preparation by the Buyer of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence (the "**Exit Information**").
- 3.2 The Supplier acknowledges that the Buyer may disclose the Supplier's Confidential Information (excluding the Supplier's or its Subcontractors' prices or costs) to an actual or prospective Replacement Supplier to the extent that such disclosure is necessary in connection with such engagement.
- 3.3 The Supplier shall provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and notify the Buyer within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Deliverables (and shall consult the Buyer in relation to any such changes).
- 3.4 The Exit Information shall be accurate and complete in all material respects and shall be sufficient to enable a third party to prepare an informed offer for those Deliverables; and not be disadvantaged in any procurement process compared to the Supplier.

**4. Exit Plan**

- 4.1 The Supplier shall, within three (3) Months after the Start Date, deliver to the Buyer an Exit Plan which complies with the requirements set out in Paragraph 4.3 of this Schedule and is otherwise reasonably satisfactory to the Buyer.
- 4.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of the latest date for its submission

**Call-Off Schedule 10 (Exit Management)**

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pursuant to Paragraph 4.1, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

4.3 The Exit Plan shall set out, as a minimum:

- 4.3.1 a detailed description of both the transfer and cessation processes, including a timetable;
- 4.3.2 how the Deliverables will transfer to the Replacement Supplier and/or the Buyer;
- 4.3.3 details of any contracts which will be available for transfer to the Buyer and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to effect such transfer;
- 4.3.4 proposals for the training of key members of the Replacement Supplier's staff in connection with the continuation of the provision of the Deliverables following the Expiry Date;
- 4.3.5 proposals for providing the Buyer or a Replacement Supplier copies of all documentation relating to the use and operation of the Deliverables and required for their continued use;
- 4.3.6 proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Deliverables;
- 4.3.7 proposals for the identification and return of all Buyer Property in the possession of and/or control of the Supplier or any third party;
- 4.3.8 proposals for the disposal of any redundant Deliverables and materials;
- 4.3.9 how the Supplier will ensure that there is no disruption to or degradation of the Deliverables during the Termination Assistance Period; and
- 4.3.10 any other information or assistance reasonably required by the Buyer or a Replacement Supplier.

4.4 The Supplier shall:

- 4.4.1 maintain and update the Exit Plan (and risk management plan) no less frequently than:
  - (a) every three (3) months throughout the Contract Period; and
  - (b) no later than ten (10) Working Days after a request from the Buyer for an up-to-date copy of the Exit Plan;
  - (c) as soon as reasonably possible following a Termination Assistance Notice, and in any event no later than ten (10) Working Days after the date of the Termination Assistance Notice;
  - (d) as soon as reasonably possible following, and in any event no later than ten (10) Working Days following, any material change to the Deliverables (including all changes under the Variation Procedure); and

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- 4.4.2 jointly review and verify the Exit Plan if required by the Buyer and promptly correct any identified failures.
- 4.5 Only if (by notification to the Supplier in writing) the Buyer agrees with a draft Exit Plan provided by the Supplier under Paragraph 4.2 or 4.4 (as the context requires), shall that draft become the Exit Plan for this Contract.
- 4.6 A version of an Exit Plan agreed between the parties shall not be superseded by any draft submitted by the Supplier.

**5. Termination Assistance**

- 5.1 The Buyer shall be entitled to require the provision of Termination Assistance at any time during the Contract Period by giving written notice to the Supplier (a **"Termination Assistance Notice"**) at least four (4) Months prior to the Expiry Date or as soon as reasonably practicable (but in any event, not later than one (1) Month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:
  - 5.1.1 the nature of the Termination Assistance required; and
  - 5.1.2 the start date and initial period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) Months after the End Date.
- 5.2 The Buyer shall have an option to extend the Termination Assistance Period beyond the initial period specified in the Termination Assistance Notice in one or more extensions, in each case provided that:
  - 5.2.1 no such extension shall extend the Termination Assistance Period beyond the date twelve (12) Months after the End Date; and
  - 5.2.2 the Buyer shall notify the Supplier of any such extension no later than twenty (20) Working Days prior to the date on which the Termination Assistance Period is otherwise due to expire.
- 5.3 The Buyer shall have the right to terminate its requirement for Termination Assistance by serving not less than twenty (20) Working Days' written notice upon the Supplier.
- 5.4 In the event that Termination Assistance is required by the Buyer but at the relevant time the parties are still agreeing an update to the Exit Plan pursuant to Paragraph 4, the Supplier will provide the Termination Assistance in good faith and in accordance with the principles in this Schedule and the last Buyer approved version of the Exit Plan (insofar as it still applies).

**6. Termination Assistance Period**

- 6.1 Throughout the Termination Assistance Period the Supplier shall:
  - 6.1.1 continue to provide the Deliverables (as applicable) and otherwise perform its obligations under this Contract and, if required by the Buyer, provide the Termination Assistance;

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- 6.1.2 provide to the Buyer and/or its Replacement Supplier any reasonable assistance and/or access requested by the Buyer and/or its Replacement Supplier including assistance and/or access to facilitate the orderly transfer of responsibility for and conduct of the Deliverables to the Buyer and/or its Replacement Supplier;
- 6.1.3 use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Buyer;
- 6.1.4 subject to Paragraph 6.3, provide the Deliverables and the Termination Assistance at no detriment to the Performance Indicators (PI's) or Service Levels, the provision of the Management Information or any other reports nor to any other of the Supplier's obligations under this Contract;
- 6.1.5 at the Buyer's request and on reasonable notice, deliver up-to-date Registers to the Buyer;
- 6.1.6 seek the Buyer's prior written consent to access any Buyer Premises from which the de-installation or removal of Supplier Assets is required.
- 6.2 If it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in Paragraph 6.1.2 without additional costs to the Buyer, any additional costs incurred by the Supplier in providing such reasonable assistance shall be subject to the Variation Procedure.
- 6.3 If the Supplier demonstrates to the Buyer's reasonable satisfaction that the provision of the Termination Assistance will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Service Levels, the Parties shall vary the relevant Service Levels and/or the applicable Service Credits accordingly.

**7. Obligations when the contract is terminated**

- 7.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.
- 7.2 Upon termination or expiry or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Deliverables and the Termination Assistance), the Supplier shall:
  - 7.2.1 vacate any Buyer Premises;
  - 7.2.2 remove the Supplier Equipment together with any other materials used by the Supplier to supply the Deliverables and shall leave the Sites in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier;
  - 7.2.3 provide access during normal working hours to the Buyer and/or the Replacement Supplier for up to twelve (12) Months after expiry or termination to:
    - (a) such information relating to the Deliverables as remains in the possession or control of the Supplier; and

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- (b) such members of the Supplier Staff as have been involved in the design, development and provision of the Deliverables and who are still employed by the Supplier, provided that the Buyer and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to such requests for access.

7.3 Except where this Contract provides otherwise, all licences, leases and authorisations granted by the Buyer to the Supplier in relation to the Deliverables shall be terminated with effect from the end of the Termination Assistance Period.

**8. Assets, Sub-contracts and Software**

8.1 Following notice of termination of this Contract and during the Termination Assistance Period, the Supplier shall not, without the Buyer's prior written consent:

- 8.1.1 terminate, enter into or vary any Subcontract or licence for any software in connection with the Deliverables; or
- 8.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets.

8.2 Within twenty (20) Working Days of receipt of the up-to-date Registers provided by the Supplier, the Buyer shall notify the Supplier setting out:

- 8.2.1 which, if any, of the Transferable Assets the Buyer requires to be transferred to the Buyer and/or the Replacement Supplier ("**Transferring Assets**");
- 8.2.2 which, if any, of:
  - (a) the Exclusive Assets that are not Transferable Assets; and
  - (b) the Non-Exclusive Assets,
 the Buyer and/or the Replacement Supplier requires the continued use of; and

- 8.2.3 which, if any, of Transferable Contracts the Buyer requires to be assigned or novated to the Buyer and/or the Replacement Supplier (the "**Transferring Contracts**"),

in order for the Buyer and/or its Replacement Supplier to provide the Deliverables from the expiry of the Termination Assistance Period. The Supplier shall provide all reasonable assistance required by the Buyer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts are required to provide the Deliverables or the Replacement Goods and/or Replacement Services.

8.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Buyer and/or the



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Replacement Supplier for their Net Book Value less any amount already paid for them through the Charges.

- 8.4 Risk in the Transferring Assets shall pass to the Buyer or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title shall pass on payment for them.
- 8.5 Where the Buyer and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:
- 8.5.1 procure a non-exclusive, perpetual, royalty-free licence for the Buyer and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which
- 8.5.2 procure a suitable alternative to such assets, the Buyer or the Replacement Supplier to bear the reasonable proven costs of procuring the same.
- 8.6 The Supplier shall as soon as reasonably practicable assign or procure the novation of the Transferring Contracts to the Buyer and/or the Replacement Supplier. The Supplier shall execute such documents and provide such other assistance as the Buyer reasonably requires to effect this novation or assignment.
- 8.7 The Buyer shall:
- 8.7.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and
- 8.7.2 once a Transferring Contract is novated or assigned to the Buyer and/or the Replacement Supplier, discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.
- 8.8 The Supplier shall hold any Transferring Contracts on trust for the Buyer until the transfer of the relevant Transferring Contract to the Buyer and/or the Replacement Supplier has taken place.
- 8.9 The Supplier shall indemnify the Buyer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Buyer (and/or Replacement Supplier) pursuant to Paragraph 8.6 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract. Clause 19 (Other people's rights in this contract) shall not apply to this Paragraph 8.9 which is intended to be enforceable by Third Parties Beneficiaries by virtue of the CRTPA.

**9. No charges**

- 9.1 Unless otherwise stated, the Buyer shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with this Schedule.



## **Call-Off Schedule 10 (Exit Management)**

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### **10. Dividing the bills**

10.1 All outgoings, expenses, rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Buyer and/or the Replacement and the Supplier as follows:

10.1.1 the amounts shall be annualised and divided by 365 to reach a daily rate;

10.1.2 the Buyer or Replacement Supplier (as applicable) shall be responsible for or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and

10.1.3 the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.

**Call-Off Schedule 15 (Call-Off Contract Management)**

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# **Call-Off Schedule 15 (Call-Off Contract Management)**

## **1. Definitions**

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Operational Board"</b>	the board established in accordance with paragraph 4.1 of this Schedule;
<b>"Project Manager"</b>	the manager appointed in accordance with paragraph 2.1 of this Schedule;

## **2. Project Management**

- 2.1 The Supplier and the Buyer shall each appoint a Project Manager for the purposes of this Contract through whom the provision of the Services and the Deliverables shall be managed day-to-day.
- 2.2 The Parties shall ensure that appropriate resources are made available on a regular basis such that the aims, objectives and specific provisions of this Contract can be fully realised.
- 2.3 Without prejudice to paragraph 4 below, the Parties agree to operate the boards specified as set out in the Annex to this Schedule.

## **3. Role of the Supplier Contract Manager**

- 3.1 The Supplier's Contract Manager'(s) shall be:
- 3.1.1 the primary point of contact to receive communication from the Buyer and will also be the person primarily responsible for providing information to the Buyer;
  - 3.1.2 able to delegate his position to another person at the Supplier but must inform the Buyer before proceeding with the delegation and it will be delegated person's responsibility to fulfil the Supplier's Contract Manager's responsibilities and obligations;
  - 3.1.3 able to cancel any delegation and recommence the position himself; and
  - 3.1.4 replaced only after the Buyer has received notification of the proposed change.
- 3.2 The Buyer may provide revised instructions to the Supplier's Contract Manager(s) in regards to the Contract and it will be the Supplier's Contract Manager's responsibility to ensure the information is provided to the Supplier and the actions implemented.

## **Call-Off Schedule 15 (Call-Off Contract Management)**

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- 3.3 Receipt of communication from the Supplier's Contract Manager(s) by the Buyer does not absolve the Supplier from its responsibilities, obligations or liabilities under the Contract.

## **4. Role of the Operational Board**

- 4.1 The Operational Board shall be established by the Buyer for the purposes of this Contract on which the Supplier and the Buyer shall be represented.
- 4.2 The Operational Board members, frequency and location of board meetings and planned start date by which the board shall be established are set out in the Order Form.
- 4.3 In the event that either Party wishes to replace any of its appointed board members, that Party shall notify the other in writing for approval by the other Party (such approval not to be unreasonably withheld or delayed). Each Buyer board member shall have at all times a counterpart Supplier board member of equivalent seniority and expertise.
- 4.4 Each Party shall ensure that its board members shall make all reasonable efforts to attend board meetings at which that board member's attendance is required. If any board member is not able to attend a board meeting, that person shall use all reasonable endeavours to ensure that a delegate attends the Operational Board meeting in his/her place (wherever possible) and that the delegate is properly briefed and prepared and that he/she is debriefed by such delegate after the board meeting.
- 4.5 The purpose of the Operational Board meetings will be to review the Supplier's performance under this Contract. The agenda for each meeting shall be set by the Buyer and communicated to the Supplier in advance of that meeting.

## **5. Contract Risk Management**

- 5.1 Both Parties shall pro-actively manage risks attributed to them under the terms of this Call-Off Contract.
- 5.2 The Supplier shall develop, operate, maintain and amend, as agreed with the Buyer, processes for:
  - 5.2.1 the identification and management of risks;
  - 5.2.2 the identification and management of issues; and
  - 5.2.3 monitoring and controlling project plans.
- 5.3 The Supplier allows the Buyer to inspect at any time within working hours the accounts and records which the Supplier is required to keep.
- 5.4 The Supplier will maintain a risk register of the risks relating to the Call Off Contract which the Buyer and the Supplier have identified.

**Call-Off Schedule 15 (Call-Off Contract Management)**

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## **Annex: Contract Boards**

The Parties agree to operate the following boards at the locations and at the frequencies set out below:

N/A.

**Call-Off Schedule 16 (Benchmarking)**

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**Call-Off Schedule 16 (Benchmarking)****1. Definitions**

**1.1** In this Schedule, the following expressions shall have the following meanings:

<b>"Benchmark Review"</b>	a review of the Deliverables carried out in accordance with this Schedule to determine whether those Deliverables represent Good Value;
<b>"Benchmarked Deliverables"</b>	any Deliverables included within the scope of a Benchmark Review pursuant to this Schedule;
<b>"Comparable Rates"</b>	the Charges for Comparable Deliverables;
<b>"Comparable Deliverables"</b>	deliverables that are identical or materially similar to the Benchmarking Deliverables (including in terms of scope, specification, volume and quality of performance) provided that if no identical or materially similar Deliverables exist in the market, the Supplier shall propose an approach for developing a comparable Deliverables benchmark;
<b>"Comparison Group"</b>	a sample group of organisations providing Comparable Deliverables which consists of organisations which are either of similar size to the Supplier or which are similarly structured in terms of their business and their service offering so as to be fair comparators with the Supplier or which, are best practice organisations;
<b>"Equivalent Data"</b>	data derived from an analysis of the Comparable Rates and/or the Comparable Deliverables (as applicable) provided by the Comparison Group;
<b>"Good Value"</b>	that the Benchmarking Rates are within the Upper Quartile; and
<b>"Upper Quartile"</b>	In respect of Benchmarking Rates, based on an analysis of Equivalent Data, the Benchmarking Rates, as compared to the range of prices for Comparable Deliverables, are within the top 25% in terms of best value for money for the recipients of Comparable Deliverables.

**Call-Off Schedule 16 (Benchmarking)**

Call-Off Ref:

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**2. When you should use this Schedule**

- 2.1** The Supplier acknowledges that the Buyer wishes to ensure that the Deliverables, represent value for money to the taxpayer throughout the Contract Period.
- 2.2** This Schedule sets to ensure the Contracts represent value for money throughout and that the Buyer may terminate the Contract by issuing a Termination Notice to the Supplier if the Supplier refuses or fails to comply with its obligations as set out in Paragraphs 3 of this Schedule.
- 2.3** Amounts payable under this Schedule shall not fall with the definition of a Cost.

**3. Benchmarking****3.1 How benchmarking works**

- 3.1.1** The Buyer and the Supplier recognise that, where specified in Framework Schedule 4 (Framework Management), the Buyer may give CCS the right to enforce the Buyer's rights under this Schedule.
- 3.1.2** The Buyer may, by written notice to the Supplier, require a Benchmark Review of any or all of the Deliverables.
- 3.1.3** The Buyer shall not be entitled to request a Benchmark Review during the first six (6) Month period from the Contract Commencement Date or at intervals of less than twelve (12) Months after any previous Benchmark Review.
- 3.1.4** The purpose of a Benchmark Review will be to establish whether the Benchmarked Deliverables are, individually and/or as a whole, Good Value.
- 3.1.5** The Deliverables that are to be the Benchmarked Deliverables will be identified by the Buyer in writing.
- 3.1.6** Upon its request for a Benchmark Review the Buyer shall nominate a benchmarker. The Supplier must approve the nomination within ten (10) Working Days unless the Supplier provides a reasonable explanation for rejecting the appointment. If the appointment is rejected then the Buyer may propose an alternative benchmarker. If the Parties cannot agree the appointment within twenty (20) days of the initial request for Benchmark review then a benchmarker shall be selected by the Chartered Institute of Financial Accountants.
- 3.1.7** The cost of a benchmarker shall be borne by the Buyer (provided that each Party shall bear its own internal costs of the Benchmark Review) except where the Benchmark Review demonstrates that the Benchmarked Service and/or the Benchmarked Deliverables are not Good Value, in which case the Parties shall share the cost of the benchmarker in such proportions as the Parties agree (acting reasonably). Invoices

**Call-Off Schedule 16 (Benchmarking)**

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by the benchmarker shall be raised against the Supplier and the relevant portion shall be reimbursed by the Buyer.

**3.2 Benchmarking Process**

- 3.2.1 The benchmarker shall produce and send to the Buyer, for Approval, a draft plan for the Benchmark Review which must include:
  - (a) a proposed cost and timetable for the Benchmark Review;
  - (b) a description of the benchmarking methodology to be used which must demonstrate that the methodology to be used is capable of fulfilling the benchmarking purpose; and
  - (c) a description of how the benchmarker will scope and identify the Comparison Group.
- 3.2.2 The benchmarker, acting reasonably, shall be entitled to use any model to determine the achievement of value for money and to carry out the benchmarking.
- 3.2.3 The Buyer must give notice in writing to the Supplier within ten (10) Working Days after receiving the draft plan, advising the benchmarker and the Supplier whether it Approves the draft plan, or, if it does not approve the draft plan, suggesting amendments to that plan (which must be reasonable). If amendments are suggested then the benchmarker must produce an amended draft plan and this Paragraph 3.2.3 shall apply to any amended draft plan.
- 3.2.4 Once both Parties have approved the draft plan then they will notify the benchmarker. No Party may unreasonably withhold or delay its Approval of the draft plan.
- 3.2.5 Once it has received the Approval of the draft plan, the benchmarker shall:
  - (a) finalise the Comparison Group and collect data relating to Comparable Rates. The selection of the Comparable Rates (both in terms of number and identity) shall be a matter for the Supplier's professional judgement using:
    - (i) market intelligence;
    - (ii) the benchmarker's own data and experience;
    - (iii) relevant published information; and
    - (iv) pursuant to Paragraph 3.2.6 below, information from other suppliers or purchasers on Comparable Rates;
  - (b) by applying the adjustment factors listed in Paragraph 3.2.7 and from an analysis of the Comparable Rates, derive the Equivalent Data;
  - (c) using the Equivalent Data, calculate the Upper Quartile;

**Call-Off Schedule 16 (Benchmarking)**

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- (d) determine whether or not each Benchmarked Rate is, and/or the Benchmarked Rates as a whole are, Good Value.
- 3.2.6 The Supplier shall use all reasonable endeavours and act in good faith to supply information required by the benchmarker in order to undertake the benchmarking. The Supplier agrees to use its reasonable endeavours to obtain information from other suppliers or purchasers on Comparable Rates.
- 3.2.7 In carrying out the benchmarking analysis the benchmarker may have regard to the following matters when performing a comparative assessment of the Benchmarked Rates and the Comparable Rates in order to derive Equivalent Data:
  - (a) the contractual terms and business environment under which the Comparable Rates are being provided (including the scale and geographical spread of the customers);
  - (b) exchange rates;
  - (c) any other factors reasonably identified by the Supplier, which, if not taken into consideration, could unfairly cause the Supplier's pricing to appear non-competitive.

**3.3 Benchmarking Report**

- 3.3.1 For the purposes of this Schedule **"Benchmarking Report"** shall mean the report produced by the benchmarker following the Benchmark Review and as further described in this Schedule;
- 3.3.2 The benchmarker shall prepare a Benchmarking Report and deliver it to the Buyer, at the time specified in the plan Approved pursuant to Paragraph 3.2.3, setting out its findings. Those findings shall be required to:
  - (a) include a finding as to whether or not a Benchmarked Service and/or whether the Benchmarked Deliverables as a whole are, Good Value;
  - (b) if any of the Benchmarked Deliverables are, individually or as a whole, not Good Value, specify the changes that would be required to make that Benchmarked Service or the Benchmarked Deliverables as a whole Good Value; and
  - (c) include sufficient detail and transparency so that the Party requesting the Benchmarking can interpret and understand how the Supplier has calculated whether or not the Benchmarked Deliverables are, individually or as a whole, Good Value.
- 3.3.3 The Parties agree that any changes required to this Contract identified in the Benchmarking Report shall be implemented at the direction of the Buyer in accordance with Clause 24 (Changing the contract).



## **Call-Off Schedule 18 (Background Checks)**

Call-Off Ref:

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# **Call-Off Schedule 18 (Background Checks)**

## **1. When you should use this Schedule**

This Schedule should be used where Supplier Staff must be vetted before working on Contract.

## **2. Definitions**

**“Relevant Conviction”** means any conviction listed in Annex 1 to this Schedule.

## **3. Relevant Convictions**

3.1.1 The Supplier must ensure that no person who discloses that they have a Relevant Conviction, or a person who is found to have any Relevant Convictions (whether as a result of a police check or through the procedure of the Disclosure and Barring Service (DBS) or otherwise), is employed or engaged in any part of the provision of the Deliverables without Approval.

3.1.2 Notwithstanding Paragraph 3.1.1 for each member of Supplier Staff who, in providing the Deliverables, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the Buyer owes a special duty of care, the Supplier must (and shall procure that the relevant Sub-Contractor must):

- (a) carry out a check with the records held by the Department for Education (DfE);
- (b) conduct thorough questioning regarding any Relevant Convictions; and
- (c) ensure a police check is completed and such other checks as may be carried out through the Disclosure and Barring Service (DBS),

and the Supplier shall not (and shall ensure that any Subcontractor shall not) engage or continue to employ in the provision of the Deliverables any person who has a Relevant Conviction or an inappropriate record.

## **Call-Off Schedule 18 (Background Checks)**

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# **Annex 1 – Relevant Convictions**

Any previous or pending prosecutions, convictions, cautions and binding overs, excluding:

- any spent Convictions as contemplated by section 1(1) of the Rehabilitation of Offenders Act 1974 by virtue of the exemptions specified in Part II of Schedule 1 of the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 (SI 1975/1023) or any replacement or amendment to that Order); and
- any minor road traffic offences.



## **New Hospital Programme**

### **Interim Commercial Partner #2**

**Contract Reference: NHP – CF – 041**

### **Schedule 20**

# **Specification**

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## 1. DEFINITIONS

Expression or Acronym	Definition
CCS	Crown Commercial Services – NHP's Procurement Partner
DFMA	Design for Manufacturing and Assembly
DHSC	Department for Health and Social Care
FTE	Full Time Equivalent
GMPP	Government Major Projects Portfolio
HIP	Health Infrastructure Plan
ICP2	The Supplier, being The second Interim Commercial Partner contract, known as Interim Commercial Partner #2  ICP2 also refers to the ICP2
ISO	International Organization for Standardization
MMC	Modern Methods of Construction
Mutual	The government defines a public service mutual, which we refer to as a mutual, as an organisation which:  - has left the public sector (also known as 'spinning out') - continues to deliver public services and aims to have a positive social impact,  - has a significant degree of staff influence or control in the way it is run.
NHP	New Hospital Programme
NHSE	National Health Service England
PCR	The Public Contracts Regulations 2015
SBS	NHS Shared Business Services
SME	Small, Medium Enterprise  The UK government definition of SMEs encompasses:  - micro (less than 10 employees and an annual turnover under €2 million),  - small (less than 50 employees and an annual turnover under €10 million) and  - medium-sized (less than 250 employees and an annual turnover under €50 million) businesses.

Start-up	A company that has literally just started, through to one that has been trading for up to two years.
Task Order	A commitment under the ICP2 contract
UCR	Utilities Contracts Regulations 2016
VCSE	Voluntary, Community and Social Enterprise

## 2. PURPOSE

- 2.1 The purpose of this Specification is to identify the requirements the New Hospital Programme (NHP) has of its second Interim Commercial Partner contract. This agreement is referred to as the Interim Commercial Partner #2 contract (ICP2).

## 3. BACKGROUND TO THE CONTRACTING AUTHORITY

- 3.1 The Contracting Authority is the Secretary of State for Health & Social Care acting as part of the Crown.
- 3.2 The Customer is New Hospital Programme (NHP) – Department of Health and Social Care (DHSC).
- 3.3 The NHP is a Government Major Projects Portfolio (GMPP) Programme and has been set up jointly under the auspices of the Department for Health and Social Care (DHSC) and National Health Service England (NHSE) but is not an autonomous arm's length body.
- 3.4 In October 2020, the Prime Minister announced the details of 40 new hospitals to be built by 2030. Eight schemes which have already secured investment through the previous Government are set to deliver over the next ten years and an open process will be run to identify a further eight schemes. Together this will mean a total of 48 hospitals over the next decade, the biggest hospital building programme in a generation.
- 3.5 The Government has confirmed an initial £3.7bn funding allocation for NHP over the next four years (this current Strategic Review Period).
- 3.6 The new hospitals form part of the Government's wider Health Infrastructure Plan (HIP), a strategic long-term investment to ensure our world-class healthcare system and staff have the world-class facilities they need for the future. Full details of the Health Infrastructure Plan can be found via the link below:

<https://www.gov.uk/government/publications/health-infrastructure-plan>

- 3.7 NHP has adopted the following Vision Statement:

- 3.8 *“As part of the Government’s Health Infrastructure Plan, the New Hospital Programme will transform the delivery of national healthcare infrastructure across the NHS to provide world-leading experiences for patients and staff.”*
- 3.9 All the hospital projects that are part of the NHP programme will work with the central DHSC and NHSE team, with the support of regional, system and local Trust leadership, to design and deliver their hospitals. A package of support is being provided to all Trusts in the programme, including business case training and close working to support the scheme development and streamline approvals.
- 3.10 Standardisation of the process of designing and delivering New Hospitals is a key objective of and focus for NHP’s centralised programmatic approach, including rationalisation and standardisation of processes, deployment of Modern Methods of Construction (MMC), and commonality of components and commodities.
- 3.11 New standards will be developed to help this standardisation and the approach will facilitate continual improvement and adapt in response to lessons learned from earlier schemes.
- 3.12 As part of the delivery of these new hospitals, NHP will be incorporating best practice design certified with input from the UK’s best qualified healthcare professionals to ensure the highest quality standards; with particular focus in areas such as improved patient flow, digitisation of services and clinical requirements. The new hospitals will make an important contribution to the Government’s net zero target, and wider ambitions for sustainable development, and will complement those outlined in the NHS Long-Term Plan.
- 3.13 Strategic Objectives aligned with the Vision Statement and the above approach have been developed for the NHP, as set out below:
1. **We will build nationwide capability for the planning and delivery of Healthcare Infrastructure:** This expertise will ensure we are truly transforming delivery and continue to do so.
  2. **We will create an infrastructure ecosystem that owns, learns from and improves healthcare design iteratively:** We will continually refine and improve the quality of healthcare design, owning and sharing this IP across the health system.
  3. **We will reduce the time and cost of building Healthcare Infrastructure:** This will ensure we reach as many patients and staff as possible, as quickly as possible.
  4. **We will look beyond physical infrastructure:** This will be a healthcare transformation programme, with infrastructure at its core, but driving transformational change for each hospital, patient and staff member.

5. **We will build trust in the Programme – its’ products and ways of working – amongst key stakeholders:** this will ensure that Trusts and local NHS bodies want to work with us, and Government buys-in to our approach.
- 3.14 The NHP has developed a set of Commercial Objectives, which the ICP2 will align to in delivering this contract. The ICP2’s performance against NHP’s Commercial Objectives is included in KPI 1. The Commercial Objectives are to:
1. Enable NHP programme wide benefits via the development of fit-for-purpose commercial strategies that bring MMC, net zero, digitisation, design standardisation and centralised procurement to the core of NHP.
  2. Track, build and nurture a strong, confident and competitive market from which NHP can draw suppliers and partners in the delivery of NHP.
  3. Establish and manage NHP contracts in a way that provides NHP predictability of out-turn/outcomes and in a way which is sustainable for NHP suppliers.
  4. Deliver efficient procurements utilising existing routes to market where they exist and running effective tenders in the market that provide sufficient visibility of pipeline, offer sensible timeframes within which to engage and avoid any duplication or wasted effort.
  5. Build a foundation of robust cost management capability for NHP incorporating estimating, benchmarking and cost planning activities that brings rigour and consistency to business case cost baselines, provides confidence in project out-turn during delivery and establishes a legacy of maturing should-cost data.
  6. Build a capable and flexible commercial team that works dynamically with different Trust stakeholders to enable project by project success and that matures its approaches over the duration of the NHP programme.

## 4. BACKGROUND TO REQUIREMENT/ OVERVIEW OF REQUIREMENT

- 4.1 The ICP2 is one of a small number of Client-side-only contracts to augment NHP’s client capability. The ICP2 contract is a short-term contract (May 2023 to May 2024 with an option to extend by 6 months) as an interim measure and a precursor to longer-term plans to appoint a long-term Programme Delivery Partner (PDP).
- 4.2 As a government funded programme, it is important to NHP to ensure that it delivers its objectives and commitments, whilst achieving value for money for the taxpayer. The ICP2 will deliver the requirements of the ICP2 contract and



subsequent Task Orders, in alignment to the NHP's strategic and commercial objectives and to ensure value for money for the taxpayer.

- 4.3 Social Value is a Government imperative and is an important measure in what represents successful outcomes through the delivery of this contract. The ICP2 will be monitored and measured against its Social Value commitments.
- 4.4 Knowledge Skills and Transfer (KST) is also a Government imperative and is important to this contract as there will necessarily be a critical handover period between the ICP2 and both NHP and the future PDP provider.

## 5. SCOPE OF REQUIREMENT

- 5.1 This Specification describes DHSC's core requirements for interim commercial partner services to be performed by the ICP2 in relation to the New Hospital Programme. The Specification describes the high-level scope of services likely to be performed pursuant to the Call-Off Contract and the Framework Agreement. The actual services to be performed will be more particularly defined in Task Orders to be prepared by DHSC in conjunction with the ICP2.
- 5.2 Although the ICP2 contract provides no guarantee or warranty as to the value or volume of ICP2 services to be ordered via Task Orders, DHSC may order ICP2 services within the scope of services defined in this Specification and may order additional services of the same or similar nature, as DHSC may determine are required from time to time, due to the evolving nature of the New Hospital Programme, provided such services are within the scope of Lot 3 of the Framework Agreement.
- 5.3 The high-level requirements are:
  - i. Commercial services categorised within workstreams
  - ii. Collaboration with the NHP and its interim delivery partner
  - iii. Social value
  - iv. Knowledge & skills transfer
  - v. NHSE/ NHP Policies

### Commercial workstreams

- 5.4 The commercial workstreams are identified below, further detail is provided in Section 6.
  - i. Procurement
  - ii. Post contract commercial
  - iii. Commercial strategy
  - iv. Market management

- v. Cost management
- vi. Commercial assurance
- vii. Strategy, appraisal & technical writing
- viii. Collaboration
- ix. Data, reporting and social value
- x. Strategic plan, reporting, business cases and PAO
- xi. Transformation support
- xii. Modern methods of construction and DfMA strategy
- xiii. Commercial design challenge

#### Collaboration

- 5.5 The interfaces between the ICP2 and the NHP and its interim delivery partner are crucially important to the continued progress and momentum of the NHP programme. The ICP2 is required to collaborate with NHP, its interim delivery partner and other service providers.

#### Social Value

- 5.6 Procurement Policy Note (PPN) 06/20 mandates that social value considerations are incorporated into UK Government contracts.
- 5.7 Social value is an important part of the NHP ambition and is fully incorporated within the NHP Programme Delivery Balanced Scorecard.
- 5.8 The ICP2 will be monitored and measured against its Social Value commitments. Appendix A of this Specification contains the NHP Social Value Statement.

#### Knowledge & skills transfer (KST)

- 5.9 The Cabinet Office's default expectation is that all consultancy and professional services assignments, commissioned by the government, will generate tangible knowledge, transfer knowledge and skills, and share openly across government through the GCH Knowledge Exchange.
- 5.10 The ICP2 will be monitored and measured against its KST commitments.

#### NHSE/ NHP Policies

- 5.11 The ICP2, and the ICP2's personnel, shall comply at all times with NHSE policies. These are:
- i. NHSE Business continuity policy
  - ii. NHSE Confidentiality policy

- iii. NHSE Data protection policy
- iv. NHSE Equality, diversity and inclusion in the workplace policy
- v. NHSE External freedom to speak up policy for NHS workers
- vi. NHSE Health & safety policy
- vii. NHSE Information governance policy
- viii. NHSE Information security incident reporting procedure
- ix. NHSE Information sharing
- x. NHSE Internal freedom to speak up policy
- xi. NHSE Health inequalities legal duties 2015
- xii. NHSE Standards of business conduct
- xiii. NHP conflicts of interest supplier principles

#### Equipment and systems

- 5.12 The ICP2 shall provide all its own equipment necessary for its personnel to perform the services.
- 5.13 The ICP2 will be given access to specialist systems and data as necessary by NHP.
- 5.14 The ICP2 shall provide standard MS Office and Primavera software and licenses for delivering the requirements. The ICP2 is not expected to bring any other specialist software for use by others on the Programme but may be tasked with software option appraisal and recommendations for NHP to consider.

#### Onboarding

- 5.15 In accordance with the “Onboarding Process” described within Section 6 of this Specification, the ICP2 shall ensure that all personnel have written agreement from NHP before they commence the delivery of the services. This will include agreement as to the competency of the individual for the role/ activity, and the applicable grade/ rate to be charged. No cost will be paid where individuals are claimed to have worked but have not gone through this onboarding process and secured written agreement by a member of NHP team.

#### Out of scope

- 5.16 For clarity, the ICP2 is not intended to provide legal services – for which a separate contract is in place between NHP and a different provider.

#### Task Orders



- 5.17 The ICP2 call off contract will not be a commitment to spend. Due to the NHP being an evolving programme, the specific requirements will develop over time, and materialising as the contract progresses.
- 5.18 Therefore, Task Orders will be issued under the call-off contract, detailing the specific requirements and deliverables, and forming the commitment.
- 5.19 The process for Task Orders is set out later under Section 17 of this Specification.

## 6. THE REQUIREMENT

- 6.1 The requirement comprises the provision of support services across the workstreams described in Section 5, and as detailed in this Section 6.

### 6.2 Generally

#### Blend of Resources

- 6.2.1 A blend of resources across various framework grades is expected.
- 6.2.2 The Consultant positions itself with NHP's support, as a respected, trusted, and influential partner within the NHP Programme.

#### Onboarding Process

- 6.2.3 The ICP2 contract requires all Consultant's staff to be accepted by a member of the NHP Post-Contract Management team. The Acceptance of Consultant's Staff process is included in Appendix B to this Specification.
- 6.2.4 NHP reserves the right at its absolute discretion not to accept any proposed individual, or not to accept the proposed grade / rate. A reason for not accepting an individual will be that NHP is not satisfied that the qualifications / experience / competence of the individual proposed matches the proposed grade/ rate or required skills.
- 6.2.5 All individuals to be deployed shall attend an ICP2 NHP induction briefing – the ICP2 prepares and delivers the briefing content, which shall be agreed with NHP in advance. The cost of preparing, delivering and attending induction briefings will be a valid cost paid by NHP, provided these activities are covered by a valid Task Order.
- 6.2.6 All individuals to be deployed shall also sign a Project Specific NDA and conflicts of interest declaration statement before commencing activities. The form of such statements will be agreed with the ICP2 prior to commencement.
- 6.2.7 The ICP2 / NHP keep a joint register of individuals who have been approved and onboarded through this process. The joint register is kept up to date at all times.
- 6.2.8 NHP will not pay for the participation of any individuals who have not been fully through the above process. The production of CVs and preparing for onboarding prior to NHP approval will also not be an allowable cost under the contract.

#### Cultural Alignment

- 6.2.9 The ICP2 is a Client-side NHP partner role, embedded at the heart of the Programme. It is not expected to be a simply transactional service provision role, but to participate in strategic, as well as operational thinking and delivery.
- 6.2.10 As such, cultural alignment and true buy-in to the Programme and Commercial Strategic Objectives is essential. A genuinely collaborative approach is a necessary attribute for the ICP2, beyond the technical expertise, as well as genuine commitment to the Strategic Objectives.
- 6.2.11 The ICP2 will use its Collaboration workstream and resources to further develop cultural alignment between the parties, and wider with Stakeholders.

#### Transition, and Conflicts with others within the NHP environment

- 6.2.12 The ICP2 by definition and nature is an important but interim service, to be superseded in due course by a long-term PDP and also a small number of individual Client support services contracts are envisaged.
- 6.2.13 There will be similarities between services provided by the ICP2 contract and those expected to be provided by the PDP and the Client support services contracts.
- 6.2.14 The ICP2 acknowledges, that should it, or any of its constituent parties, decide to bid for the PDP or any of the Client support services contracts, that it will be necessary to ensure that any potential or perceived conflicts of interest are appropriately managed, and that fair competition is maintained.
- 6.2.15 The ICP2 acknowledges NHP's obligations to ensure the procurements of the PDP and Client support services contracts do not favour any party.
- 6.2.16 The ICP2 commits to the necessity of putting in place strong auditable conflicts of interest mitigation measures.
- 6.2.17 The ICP2 undertakes to provide sufficient information to the NHP from its delivery of the ICP2 services to assist NHP in its efforts to ensure that all future potential tenderers are equipped to tender competitively.
- 6.2.18 The ICP2 undertakes to support all transitions, between ICP2 and PDP and also between ICP2 and the Client support services contracts. This includes matters relating to IPR, data and knowledge transfer, and retaining Key Staff during the transition period for a minimum period of 4 weeks from the award of the PDP and Client support services contracts.

### ICP2 Director

- 6.2.19 The Consultant nominates a Director (the ICP2 Director) who acts as the primary day-to-day contact for the ICP2 services commission between the Client and the ICP2 team and is responsible for assuring delivery of all ICP2 activities and deliverables. The ICP2 Director is a role classed as a member of the Key Staff.
- 6.2.20 The ICP2 Director will be of the highest quality – they must be an industry recognised leader in their field and able to lead the ICP2 team.
- 6.2.21 This role will necessitate close day-to-day links and relationship with the NHP Executive team and in particular the NHP Commercial Director and their leadership team, and engaging management of senior stakeholders will be a demonstrated strength.

### 6.3 **Procurement Support**

- 6.3.1 NHP currently has a small Procurement Team, which is expected to remain for the immediate future, and the ICP2 procurement support team will work with, for and blend with the current NHP procurement leadership and team to act as one blended procurement team.
- 6.3.2 The ICP2 will supplement the capability and capacity of the existing NHP Procurement Team, by providing procurement resources, across a range of seniority and experience, well versed (at their level of experience) in running and supporting public procurements.
- 6.3.3 The ICP2 will deploy high quality resources evidenced through extensive procurement experience from major programme environments in relation to professional services and construction works.
- 6.3.4 The ICP2 nominates a Procurement Lead who acts as the primary day-to-day interface point with the NHP Procurement Team and is responsible for the performance of all procurement resources provided by the ICP2. The Procurement Lead will be an exceptional industry-recognised procurement professional, with extensive GMPP, major construction programme and industry experience.
- 6.3.5 The Procurement Lead is a role classed as a member of the Key Staff.
- 6.3.6 Other procurement roles that the ICP2 will deploy include:
  - **Senior Procurement Manager** – extensive relevant procurement experience, capable of developing strategies and plans, managing and being responsible for major procurements,

and managing procurement resources to deliver objectives, able to undertake procurement assurance and compliance activity and managing all such activities in a complex stakeholder landscape;

- **Procurement Specialist** – similar experience to Senior Procurement Manager, but with specific skills / sector knowledge in particular relevant areas / market specialisms – examples of areas where specialisms are likely to be sought include digital, logistics;
- **Procurement Manager** – experienced – able to manage / run small procurements in own right, or act as a reliable cornerstone in larger procurements; and
- **Procurement Assistant** – procurement-experienced, trusted to provide reliable support to the procurement team.

6.3.7 Beyond experience and competence, all ICP2 procurement resources will be expected to combine innovative thinking, with procurement reliability, cognisant and compliant with process and policies, as well demonstrate collaborative behaviours and help build the team.

6.3.8 ICP2 procurement resources will be expected to be familiar, comfortable with, and deploy their expertise (commensurate with their experience and position) in the following core areas:

- working under the requirements of applicable Procurement Law (Public Contract Regulations);
- current best practice including Public Procurement Policy Notes, Government Playbooks and IPA Route maps;
- procurement operations and reporting;
- probity and conflicts measures;
- the formation of procurement strategies and plans, applying knowledge and lessons learned from relevant best practice exemplars;
- advice and recommendations for the most appropriate routes to market, incorporating appraisals of available routes / existing frameworks;
- the drafting and issuing of Procurement Notices;
- the necessary building blocks of procurement documentation, including:
  - SQs;
  - construction of selection and evaluation (SQ and ITT) criteria;



- requirements formation (Works / Services Information / Scope), including liaising with relevant Programme functional owners / stakeholders; and
  - contract formation and the development of heads of terms and detailed contract clauses.
  - skills in modelling and scenario analysis of criteria and associated weightings to mitigate against bidder “gaming” approaches, to assure successful procurement outcomes;
  - providing governance and assurance documents and planning and shepherding procurement workstreams to and through a governance and assurance regime that includes NHP Commercial Board, and different levels of Lines of Defence (i.e. procurement assurance);
  - expert practitioner / familiarity with and use of e-sourcing and e-evaluation software tools; and
  - all other aspects of procurement in a public GMPP.
- 6.3.9 The ICP2 procurement resources will recognise that procurement is merely the vehicle to achieving the end objective, not the objective itself. Naturally NHP seek to avoid or mitigate procurement risk, and the ICP2 will support and protect NHP from such risks, however proactive risk-mitigation thinking and approaches which do not compromise the end objectives of best possible contract are necessary.
- 6.3.10 The NHP stakeholder landscape is complex, with key procurement operational interfaces with:
- Cabinet Office
  - Infrastructure Projects Authority
  - NHP’s procurement partner Crown Commercial Services (CCS)
  - SBS who support NHP on health-sector specific procurement aspects
  - NHP Supply Markets Team
  - Trust Delivery, Commercial and Procurement teams
  - NHP Commercial Governance and Assurance function
  - NHP’s legal advisors
- 6.3.11 The above are some of the key interfaces, but this list should not be considered exhaustive of all relevant interfaces.
- 6.3.12 The nature of the high-level sponsorship of the Programme requires a high degree of interface with these important stakeholder entities.

This landscape provides complexity in Governance and Assurance approvals that ICP2 resources will need to be accustomed to and comfortable with and will be an impacting factor on procurement steps and timeline in such an environment. NHP adopts a relationship-based “progressive assurance” approach to such stakeholders that the ICP2 will support.

- 6.3.13 Whilst these relationships will be owned by others, the ICP2 procurement resources will work with these stakeholders and manage many day-to-day interfaces and relationships across this space, representing NHP and NHP Procurement, working in line with agreements between NHP and those parties, where these have been communicated. The ICP2 shall make itself aware of any such agreements.
- 6.3.14 The ICP2 will participate in weekly procurement team review meetings and contribute to weekly flash reporting for the projects and deliverables for which it is responsible.
- 6.3.15 Task Orders will confirm specific procurement sub-workstreams that the ICP2 will be responsible for/ contribute to, with further detail on service obligations/ deliverables and the number of procurement resources to be deployed.

#### 6.4 **Post-Contract Commercial**

- 6.4.1 NHP currently has a small post-contract management team, including a Head of Contract Management position. The ICP2 post contract resources will report to the NHP’s Head of Contract Management, providing all post-contract management and administration support.
- 6.4.2 The ICP2 post contract resources will comprise a range of experienced contract administration and management resources, as well as commercial management resource. Resources will be required to run both live services and works contracts, but also to provide commercial evaluation management and resource to support ongoing and future procurements.
- 6.4.3 A range of different NEC3 and NEC4 PSC and ECC contracts will form the main contracting vehicles, however there may also be (predominantly service) contracts to be managed that have been sourced from CCS or other frameworks that may not be NEC based.
- 6.4.4 A firm, but fair and collaborative commercial approach, with an emphasis on dispute avoidance, is considered essential. The ICP2’s post-contract commercial resources will be expected to demonstrate and bring extensive contract and commercial experience working in

a GMPP/ major construction programme environment, understand the link and liaise with other programme directorates.

- 6.4.5 The ICP2 nominates a Post Contract Lead who acts as the primary day-to-day interface point with the Head of Contract Management and other functions within the NHP. The Post Contract Lead is responsible for the performance of all post-contract resources provided by the ICP2. The Post Contract Lead will be an exceptional industry-recognised contract management and commercial professional, with extensive major construction programme experience.
- 6.4.6 The Post Contract Lead is a role classed as a member of the Key Staff.
- 6.4.7 Other post contract roles that the ICP2 will deploy include:
- **Senior Contract Manager** – extensive relevant post contract / commercial management experience in comparable multi-contract programme environments;
  - **Contract Manager** – experienced in managing and being responsible for single works and services contracts, managing a team to effectively administer, manage and report on contracts to achieve value outcomes for the public purse;
  - **Contract Administrator** – experienced – able to manage / run small contracts in own right, or act as a reliable administration cornerstone in larger contracts as part of a wider team; and
  - **Junior / Assistant** – contract -experienced, trusted to provide reliable administration and support to the post-contract team procurement team.
- 6.4.8 The ICP2 will assist the Head of Contract Management with the development of a contract register and cost plan for all existing live contracts. The ICP2 Post-Contract Team will adopt, adapt and maintain these on a real-time basis.
- 6.4.9 The ICP2 will assist the Head of Contract Management with:
- Development of standard procedures to support business case development by Trusts
  - Maintenance of alignment with programme-wide strategic integrated plan and engagement with internal and external stakeholders.
  - Maintaining and developing cost and commercial policy.
  - Scoping, purchasing, and implementing tools and technology required to accelerate cost and commercial capability

- 6.4.10 No post-contract administration management systems are yet deployed on NHP, but if any such systems are deployed, ICP2 may be invited to provide advice and participate in an appraisal of options, and when deployed to utilise such systems as NHP will mandate.
- 6.4.11 The ICP2 will be expected to maintain configuration control of contracts and their status off-line via excel spreadsheets or other means as may be agreed. The ICP2 shall secure the Head of Contract Management's agreement to the format of such off-line systems before deploying.
- 6.4.12 The ICP2 Post Contract Team will, amongst other aspects, be responsible for:
- reporting up to PMO and across NHP teams
  - providing general commercial advice and opinions on a wide range of matters across the programme, this may require working alongside the NHP legal advisors
  - ensuring timely certification/ processing of contract payments, and assuring purchase orders have sufficiency for commitment for future payments
  - valuation and agreement of variations
  - timely management of communications e.g. notices to and from NHP and its suppliers
  - valuation and agreement of Task Orders (where contractually relevant) and approvals of same
  - financial reporting, including:
    - Actual Cost of Work/ Services Performed
    - Commitment vs. Budget reconciliation
    - Estimated Final Cost
    - Assessment of accruals/ cashflow profiling
  - management of contract deliverables and performance
  - contract deep-dive reviews not limited to cost and quality
  - interim and final account assessments, close-out and reporting
- 6.4.13 The ICP2 will participate in weekly contract progress review meetings and contribute to weekly flash reporting for the contracts for which they are responsible or are supporting.
- 6.4.14 Task Orders will confirm the specific contracts/ workstreams that the ICP2 will be responsible for/ contribute to, with further detail on service obligations/ deliverables and the number of procurement resources to be deployed.

## 6.5 Commercial Strategy

- 6.5.1 NHP has developed a Commercial Strategy for the delivery of the New Hospital Programme, however this will need to be further developed, “translated”, and progressed both into a number of supplementary supporting plans, and for a number of different procurement workstream-specific circumstances.
- 6.5.2 The ICP2 nominates a Commercial Strategy Lead who acts as the primary day-to-day interface point for the development of relevant sub-strategies and plans, and other functions within the NHP. The Commercial Strategy Lead is a role classed as a member of the Key Staff.
- 6.5.3 The Commercial Strategy Lead will be an exceptional industry-recognised commercial professional, with extensive experience of developing commercial and contract strategies within GMPP and major construction programmes. This individual will have innovative commercial thinking rooted in deep-founded commercial experience, including the following areas:
- developing commercial and contract strategies founded in best practice
  - procuring for value, and embedding commercial model principles
  - Construction, Sourcing and Consultancy Playbook principles, and how to “bring to life” these in commercial strategies
  - developing the “golden thread” from a Balanced Scorecard into commercial approaches
  - developing meaningful performance frameworks and incentivisation regimes that genuinely incentivise, and focus on maximising benefits realisation and successful achievement of objectives
  - contracting strategies with risk and liability positions that strike an optimal balance between protecting the Client and market acceptability/ palatability
  - commercial input to procurement plans
  - developing commercial cases for the various stages of the Treasury Five Case Business Case model
- 6.5.4 The Commercial Strategy Lead will take a prominent lead in the provision of strategic commercial advice and will act as the interface point with other relevant stakeholders, including, but not limited to, the NHP Commercial Director, NHP Head of Procurement and the Post-Contract Management team.

- 6.5.5 ICP2 may deploy any grade of individual to support the development of commercial and contracting strategies, models and sub-strategies. The experience and competence of resources deployed are expected to be commensurate with the grades, with emphasis on strategy formation and thinking.
- 6.5.6 Demonstration of deep and practical commercial strategic thinking, founded in experience of working in major GMPPs will be essential and expected for the ICP2 resources in this workstream.
- 6.5.7 Experience of constructing alliances, partnering agreements, and market-leading understanding of alliance and collaboration drivers and dynamics will be essential.
- 6.5.8 Extensive knowledge of market positions on risk and liability; understanding of programme delivery scorecard “golden thread” creation into procurements and contracts to maximise benefit realisation; creation of key performance indicators and their metrics; and packaging, is expected.
- 6.5.9 This team would be expected to be involved in (but not manage) the planning and delivery of market engagements for NHP.
- 6.5.10 The Commercial Strategy Lead will report to the NHP Commercial Director.
- 6.5.11 Task Orders will confirm the specific commercial strategy advice areas that the ICP2 will be responsible for/ contribute to, with further detail on service obligations/ deliverables and the number of resources to be deployed.

## 6.6 **Market Management**

- 6.6.1 The purpose of the Market Management workstream is:
  - Working within the NHP Commercial Directorate and fully integrating with the respective parts of the programme, thereby fully understanding the needs and requirements from the market
  - Supporting the NHP market engagement strategy and plans within the defined business workstream areas of H2.0 and Commercial & Strategic, undertaking the strategic and tactical engagements to support them
  - Setting out details for the who, what, where and when on planned market engagements, within the business workstreams areas of H2.0 and Commercial & Strategic

- To ensure that NHP has capable markets with the capacity to deliver the full range of NHP benefits and ambitions through market shaping
- To understand and build the relationships between the NHP and suppliers, both contracted suppliers and suppliers from the market outside of the Programme, to support NHP Market Management
- To provide an outward facing ongoing means of communication and data capture, throughout the Programme, to report on suppliers and their relationship with NHP
- Identification and management of suppliers critical to the success of NHP; Strategic Supplier Relationship Management (SSRM)

#### 6.6.2 The Market Management outcomes sought are:

- A seamless and integrated approach to team working within the NHP Market Management team to ensure the market shaping strategy, market engagement strategy and market engagement plans are continuously aligned to requirements of both the Programme and the NHS
- A unified and consistent 'NHP' voice to the market; working closely with the NHP Communications Team, in line with the Sourcing Playbook, Consultancy Playbook and Construction Playbook
- All materials used to engage the market have been assured and approved in line with the NHP governance process, including assured technical and engineering expertise to ensure they are meaningful
- A seamless collaboration between the NHP Market Management team and other NHP teams such as Contract Management, to ensure the Supplier Relationship Management Strategy is continuously aligned to requirements and desired outputs of the Programme
- A unified and consistent NHP approach to Supplier Relationship Management; working closely with all NHP teams, DHSC, Cabinet Office and NHS E, in line with the Sourcing Playbook, Consultancy Playbook and Construction Playbook
- A comprehensive and up to date understanding of the 'AS IS' market capability and capacity
- The market understands and contributes to development of the overarching strategies of the Programme



- The supply market has appetite for the Programme (strategically) and for specific procurements (tactically)
- Market capacity and capability is created and secured to deliver against the workstreams of H2.0 and Commercial & Strategic
- Supply chain risks are fully understood and plans in place to mitigate and resolve them
- A learning legacy is delivered for future hospital projects, opportunity for Government to maximise on the delivery of NHP, e.g. use in other sectors and cross Government initiatives
- Data, evidence and analysis consider the Aqua Book guidance, to ensure the production of quality analysis for government use
- A sustainable market is realised, in line with Programme Scorecard, ensuring social value for the ongoing Programme and the future legacy

6.6.3 The Market Management activities and deliverables within scope of this contract are:

#### Strategic engagements

- Share the NHP ambition: vision, mission, scorecard, commercial strategy, objectives
- Undertake market sector mapping analyses
- Gauge supplier readiness for the NHP ambition
- Validate the NHP Market Strategy
- Underpin the NHP Market Shaping Strategy
- Facilitate the development of supplier capabilities (market forming)
- Support suppliers to be able to navigate how to do business with NHP
- Balanced scorecard – engagement with local Trusts, Local Enterprise Partnerships and Innovation and Growth hubs

#### Tactical engagements

- Engage at a category and/or contract level
- Engage suppliers to inform emerging category plans/ procurement strategies (market soundings)
- Gauge appetite, capacity, capability, issues, risks – working with procurement to reduce participation barriers and maximise appetite and thereby achieving competition

#### Engagement activities

- Prior Information Notices (PIN)
- Desktop market sector analyses



- Industry briefing days
- Market soundings
- Structured one-to-ones
- National and regional roadshows
- Meet the Buyer, Meet the Bidder days
- Round table events and workshops
- Newsletters and publications
- Engage influencers e.g. Trade Associations

### Research

- Desk-top and active research activities to explore and analyse existing and new market sectors' trends, capability, opportunities and risks
- Detailed analysis of "what NHP will be buying" and "how NHP will support and shape the market to deliver and construct hospitals"
- Analysis of Risks and Opportunities in the market; highlight areas of significant spend, opportunities such as buying at scale/standardisation

### Market Intelligence

- Engage with the market to collect data for analysis in market intelligence activities, supporting Market Shaping and Supplier Relationship Management
- Using map of the current market to develop plans for engagement that will increase market intelligence data
- Maintain a map of the current market

### Market Structure & Gap analysis

- Develop a factual assessment, by market segment, that details the capability, capacity or appetite gap from 'AS IS' to 'TO BE' – How much does the market need to change to deliver NHP H2.0
- Provide in-depth insight on what are the gaps in the market in terms of capacity, capability and appetite
- Analyse the identified market gaps and how they will affect NHP delivery i.e. provides insight on what are the risks
- In relation to gaps and risk, develop strategy on what can be done (i.e. list of interventions) to prevent negative impact on the programme delivery

### Market shaping

- Write up market shaping plans for workstreams, including feedback from market engagement

- Develop cost and benefit estimates for required market interventions

#### Interfaces

- Continual engagement across NHP workstream teams to ensure current activity and requirements is aligned to the market engagement strategy
- Provide qualitative and quantitative inputs into the programme business cases in relation to market engagement activities

#### Market interventions

- Define interventions and incentives that would address specific gaps for each market segment
- Define activities required by supply market management incentivisation hypothesis
- Map key interventions to market drivers

#### Risk

- Identification of risks that will impact NHP and suppliers
- Engagement with suppliers to understand impact of risks and how to mitigate against the risks
- Identify alternative methods, processes, supply chains to avoid risks

#### Innovation

- Engage with suppliers to identify areas of innovation; both NHP contracted suppliers and suppliers outside of the Programme
- Support Market Shaping strategy with analysis and data from Supplier Relationship Management

#### Reporting

- Progress Reports – monthly
- Market Updates – monthly
- Market Management Team Meetings – weekly

6.6.4 The Market Management team will work closely all NHP directorates and report to the NHP Head of Market Management.

6.6.5 The ICP2 nominates a Market Lead – Commercial & Strategic and a Market Lead – H2.0. Both these roles are classed as a member of the Key Staff.

6.6.6 The Market Lead roles will be exceptional industry-recognised professionals, with extensive experience within Major Construction

Programmes and the wider construction industry, with emphasis on the areas highlighted above.

- 6.6.7 The ICP2 nominates a Market Manager – Commercial & Strategic and a Market Manager – H2.0 as well as two Market Management Analysts.
- 6.6.8 As requirements dictate, the ICP2 provides additional Market Management Analysts as well as best-in-class, subject matter experts in specific fields that will deliver against task and finish requirements, such as an eight-week deep dive into MEP market producing a full report.
- 6.6.9 Task Orders will confirm the specific Market Management support areas that the ICP2 will be responsible for/ contribute to, with further detail on service obligations/ deliverables and the number of resources to be deployed.

## 6.7 **Cost Management**

- 6.7.1 At its core this is a cost management and cost estimating function for the NHP Programme, and it is expected that the resources will have deep understanding of cost estimating, and cost management on GMPPs/ Major Construction Programmes as well as demonstrated understanding of health sector cost drivers.
- 6.7.2 These resources will support benchmarking for future schemes, as well as providing input into validation of future business cases and be the “custodian of the one source of cost truth” for NHP.
- 6.7.3 The ICP2 will “inherit” all data and associated data repositories from the current estimating team and shall allow for a period of transition and knowledge transfer to ensure a smooth transition.
- 6.7.4 The ICP2 will validate / adapt existing developed processes, assume custody of all cost data (historic and projected), be the central repository of truth for all cost information.
- 6.7.5 The ICP2 will also support with estimate information required for Strategies, Plans, Contract Notices, Business Cases, Economic modelling, as well as supporting contract management activities where cost inputs / viewpoints are required.
- 6.7.6 The ICP2 will support with development, maintenance and undertaking of cost modelling and target value design (value management) activities to drive cost and schedule efficiencies in the programme and schemes.

- 6.7.7 The ICP2 nominates a Cost Management Lead for this activity, who is responsible for the cost estimating team and function, relevant content and outputs, and acts as the primary day-to-day interface point with the Commercial Director, and other key members of the Commercial Function, as well as with other functions within the NHP.
- 6.7.8 The Cost Management Lead will be an exceptional industry-recognised commercial professional, with extensive cost estimating and management experience within GMPP/ Major Construction Programmes. The Cost Management Lead is a role classed as a member of the Key Staff.
- 6.7.9 ICP2 may deploy any grade of individual to support in this workstream. The experience and competence of resources deployed are expected to be commensurate with the grades, with emphasis on estimating and cost management skills.
- 6.7.10 Task Orders will confirm the specific tasks and support in this workstream that the ICP2 will be responsible for / contribute to, with further detail on service obligations / deliverables and the number of resources to be deployed.

## 6.8 Commercial Assurance

- 6.8.1 A number of NHP projects are 'in-flight' at various stages of construction and delivery by NHS Trusts.
- 6.8.2 The ICP2 will be required to deploy resources to undertake delivery and commercial assurance of these in-flight projects, aligning with NHP policy and Government Guidelines.
- 6.8.3 These activities will also cover NHP projects in earlier development phase.
- 6.8.4 The activities comprise conducting capability readiness assessments at stage gates, and a risk-based approach to observation, support, cost audit and assurance and intervention.
- 6.8.5 Areas to be covered include assessment of scope to go, existing project and commercial team readiness, processes, key risks and cost drivers, opportunities, the verification and/or production of accurate project information, out-turn confidence and verification of costs if applicable.
- 6.8.6 The ICP2 will assist with:
- Reporting to PMO and across NHP teams
  - Development of standard procedures to support business case development by Trusts

- Maintenance of alignment with programme-wide strategic integrated plan and engagement with internal and external stakeholders.
  - Maintaining and developing cost and commercial policy.
  - Scoping, purchasing, and implementing tools and technology required to accelerate cost and commercial capability
- 6.8.7 This assurance may take the form of regular reviews or may be ad-hoc depending on needs. It is expected that the teams will be very familiar and experienced in the delivery of complex infrastructure projects, associated contracting arrangements.
- 6.8.8 Outputs of these activities will be required in the form of Reports, including viewpoint / observations from the activities undertaken and recommendations for action.
- 6.8.9 Reports will undergo iterations – and be submitted in draft for NHP review/ comment before final issue.
- 6.8.10 The ICP2 nominates a Commercial Assurance Lead for this activity, who is responsible for all Capability Assurance activities, leading the supporting team, and acts as the primary day-to-day interface point with the Commercial Director, and other key members of the Commercial Function, as well as with other functions within the Programme. The Commercial Assurance Lead is a role classed as a member of the Key Staff.
- 6.8.11 The Commercial Assurance Lead will bring to bear a proven track record of capability and commercial assurance, and be an exceptional industry-recognised professional, with extensive experience of capability readiness planning and implementation within GMPPs/ Major Construction Programmes and the wider construction industry.
- 6.8.12 They will exercise highly developed forensic skills, and an instinct for avenues of assurance, leading a fair-minded but unrelenting team at the forefront of protecting the public purse.
- 6.8.13 ICP2 may deploy any grade of individual to support the development in this workstream. The experience and competence of these resources will be expected to be commensurate with the grades, with emphasis on forensic commercial assurance.
- 6.8.14 Task Orders will confirm the specific tasks and support in this workstream that the ICP2 will be responsible for/ contribute to, with further detail on service obligations/ deliverables and the number of resources to be deployed.

## 6.9 Strategy, Appraisal & Technical Writing

- 6.9.1 This aspect of the ICP2 activities entails the drafting of high-quality strategy and other position papers, option appraisals, Business Case drafting and review (with focus on Commercial Case) and associated presentations for internal and external stakeholders.
- 6.9.2 The resources for this activity will recognise that there is an art to good paper writing and presentation compilation for different audiences that is difficult to explain, but nevertheless very recognisable when present, or absent.
- 6.9.3 Excellent business English and precision of language is essential, as is the ability to understand the “audience” and each stakeholder’s positions (ensuring this are “talked to” in content), and the ability to succinctly communicate ideas, and confidence in the soundness of their foundation.
- 6.9.4 These resources will require the ability to extract notions and positions from the rest of the Commercial Function Team (and wider throughout the NHP Programme), often downloaded quickly, to provide own challenge input, “project manage” crystallise content, and shape iteration of papers to a high quality product conclusion with input owners and stakeholders, identifying and driving resolution of any outstanding critical elements to result in a high quality paper produced at short notice and sometimes with challenging deadlines.
- 6.9.5 The key outcome is flexible resource that is responsive to client requirements, often at short notice.
- 6.9.6 Flexible support to the Transformation Team, Delivery Team, Commercial Team, Finance Director, and other executives/ functions as agreed, in preparing papers, slide packs and other bespoke materials in response to ad-hoc commissions and requests. This support helps to ensure NHP can respond effectively to urgent issues, risks and challenges. This may include support to respond to ‘upstream’ governance, procurement, and reporting requirements, such as JIC, HMT and MPRG.
- 6.9.7 These resources must be cognisant of, and align outputs to, DHSC/ NHSE/ IPA/ Trust requirements and will operate within robust governance and assurance processes.
- 6.9.8 The ICP2 nominates a Technical Writing Lead for this activity, who is responsible for the relevant content and outputs, and acts as the primary day-to-day interface point with the Commercial Director, and other key members of the Commercial Function, as well as with other functions within the NHP, leads the wider team to be deployed.

- 6.9.9 The Technical Writing Lead is a role classed as a member of the Key Staff.
- 6.9.10 The Technical Writing Lead will be an exceptional industry-recognised professional, with extensive experience within GMPPs, Major Construction Programmes and the wider construction industry, compiling/ writing Board and Government level papers and presentations – expert at messaging, simplifying the complex, communicating and presenting.
- 6.9.11 ICP2 may deploy any grade of individual to support the development in this workstream. The experience and competence of these resources will be expected to be commensurate with the grades, with emphasis on analytical skills, representation and presentation.
- 6.9.12 Task Orders will confirm the specific tasks and support in this workstream that the ICP2 will be responsible for / contribute to, with further detail on service obligations/ deliverables and the number of resources to be deployed.

## 6.10 Collaboration

- 6.10.1 NHP is determined to build a highly collaborative environment across its spectrum of stakeholders and supply chain. This is seen as key to success across the whole Programme landscape.
- 6.10.2 The Main Works Contracting/ delivery models are going to incorporate multi-party collaboration as a key component, facilitated through the “NHP Agreement”.
- 6.10.3 Therefore, selecting suppliers (for services, works and goods) with the desired culture and soft competencies to drive, promote and actively participate in building and sustaining a collaborative environment is an important aspect. Cultural alignment, and collaborative behaviours will be a part of supplier selection tests where practicable.
- 6.10.4 It is recognised that true collaboration is an iterative journey, and will not be confined to supplier selection, but continue as an ongoing workstream through the development and delivery cycle of NHP.
- 6.10.5 It is also recognised that whilst NHP sets the culture, collaboration is truly multi-party, and that contractual models must support and sustain cultural behaviours, to ensure that financial drivers do not undermine behaviours.
- 6.10.6 The skills to advise on, design, implement and manage such collaboration / behavioural workstreams are sought from the ICP2. This is expected to comprise a mixture of collaboration specialists, and occupational psychologists who specialise in this area.



- 6.10.7 The ICP2 nominates a Collaboration Lead for this activity, who is responsible for the Collaboration activities. The Collaboration Lead acts as the primary day-to-day interface point with the NHP Programme Leadership, the Commercial Director, and other interfaces with other functions within the NHP. The Collaboration Lead is a role classed as a member of the Key Staff.
- 6.10.8 The Collaboration Lead will bring to bear an extensive background of successfully designing, leading, promoting, implementing, continuously improving and sustaining Collaboration workstreams in major infrastructure/ construction programmes.
- 6.10.9 The ICP2 is expected to provide and maintain the NHP Collaboration Strategy and Plan, providing a map of how NHP will harness resources and activities in the collaborative manner desired.
- 6.10.10 Activities will follow ISO 44001:2017 (Collaborative business relationship management systems — requirements and framework) and take account of latest best practice and research.
- 6.10.11 Occupational psychologists' support to this workstream will be accustomed to and experienced in both working in a Public Procurement Regulations environment (PCRs or UCRs), and within major multi-party construction industry programmes.
- 6.10.12 They will hold appropriate accreditation for such activities from the British Psychological Society, and other applicable accreditations such as ISO 10667 (Assessment service delivery — Procedures and methods to assess people in work and organizational settings).
- 6.10.13 ICP2 may deploy any grade of individual to support the development in this workstream. The experience and competence of these resources will be expected to be commensurate with the grades, with emphasis on forensic commercial assurance.
- 6.10.14 Task Orders will confirm the specific tasks and support in this workstream that the ICP2 will be responsible for / contribute to, with further detail on service obligations/ deliverables and the number of resources to be deployed.

## 6.11 Data, Reporting and Social Value

- 6.11.1 The outcomes for this ICP2 workstream are:

### Commercial Programme Management Service (CPMS)

- Provision of an industry leading CPMS with streamlined and efficient policy, process, system creation and skilled people to implement the requirements effectively.

### Senior Stakeholders



- Increase confidence in delivery provided to senior stakeholders including NHP, DHSC, Cabinet Office as required with regards Commercial Programme Management across the Programme.

#### Good Practice/ Project Controls

- Continue to build capability in commercial programme good practice and project controls sophistication / knowledge sharing across the NHP team, manage risks and conflicts proactively linked to NHP practices

#### Collaborative working with Interim Delivery Partner (IDP)

- Demonstrate progressive alignment of Commercial programme management activity, linked to delivery milestones and assurance, and supporting the facilitation of collaborative working to align the ICP2 and IDP in achieving NHP objectives.

#### Social Value

- Realise ICP2's commitment to support social value improvements that go beyond the provision of new or improved healthcare facilities and community assets.

#### Cohort 2 Enhanced Reporting

- Support the Development of the Document Management System Needs of the cohort using iterative development to improve the functionality to meet the timescales
  - Migration from NHS teams to a suitable system
  - Requirements gathered and documented and used to inform improvement
- Improve Data & Reporting
  - Creation of and continuous development of the Dashboarding and Reporting Solution for NHP
  - Identifying and integrating data sets to support the Cohort Delivery
  - Dashboard and reporting suite enhanced to account for further chapters

#### Commercial Enhanced Reporting

- Definition and development of principles and guidance around collection, storage, curation, and dissemination of data for the Commercial Workstream.
  - Enhanced, documented, Commercial Workstream data management principles, guidance, and protocols.
  - Transfer of lessons learnt from the development of Cohort 2 enhanced reporting to Commercial Workstream.

- Migration of commercial data storage into digital platform solution in accordance with the new processes, creating a strong foundation for insight.
  - Enables a clear understanding of the Commercial Workstream data platform needs and provides clarity for transfer and implementation
  - Clearly sets out the steps required, and level of effort, for implementation of digital ways of working in accordance with the commercial functions needs.
- Creation of an enhanced Commercial Workstream reporting dashboard / tool, with supporting upskilling of people and governance.
  - Improved efficiency of reporting
  - Better access to information
  - Improved decision making
  - Trusted data
  - Upskilled NHP staff

6.11.2 The outputs/ deliverables for this ICP2 workstream are:

- Monitoring, reporting and controls via creation of dashboards and processes on fortnightly basis, feeding into the commercial function.
- Governance, structure, and scope definition including terms of reference, escalation procedures and clear delegated authority.
- Weekly and monthly commercial outputs relating to time/ effort tracking and invoicing.
- Effective scope definition and management of programme milestones and KPIs.
- Planning strategy & scheduling, including dependency management.
- Defined quality assurance approach across ICP2 to feed into NHP ways of working.
- Contribution to NHP third line defence requirements – ie external assurance support.
- Resource management including definition of roles, responsibilities, and accountabilities.
- Risks, conflicts, and issues register creation and tracking, action planning and management regarding ICP2 scope and deliverables.

- KPI monitoring and control reporting.
- Information and data management – document control process and systems in place.
- Change management and controls to manage scope, resources, and cost in relation to change.
- ICP2 financial management – monthly financial invoicing and reporting into NHP.
- Social value (SV) – track social value hours delivered by ICP, report on the cumulative SV delivered in line with KPI and administer and analyse the Wellbeing survey.
- Enhanced reporting:
  - Requirements document and recommendation for the upgraded Document Management System
  - Reporting suite for information and management of Cohort 2 and its associated schemes
  - Commercial workstream As-Is assessment, and Enhanced Commercial Workstream data management principles, guidance, ways of working and protocols incorporating lessons learned from Cohort 2.
  - Data storage system implementation report, including improvement opportunities and recommendations, and system implementation roadmap.
  - Commercial Workstream dashboarding solution, training needs and plan and user guidance.

6.11.3 The ICP2 nominates a Data, Reporting and Social Value Lead for this workstream, who is responsible for the Data, Reporting and Social Value activities. The Data, Reporting and Social Value Lead acts as the primary day-to-day interface point with the NHP Commercial Director and other interfaces with other functions within the NHP. The Data, Reporting and Social Value Lead is a role classed as a member of the Key Staff.

6.11.4 The Data, Reporting and Social Value Lead will bring to bear an extensive background of successfully designing, leading, promoting, implementing, continuously improving and sustaining Data, Reporting and Social Value workstreams in major infrastructure/construction programmes.

6.11.5 ICP2 may deploy any grade of individual to support the development in this workstream. The experience and competence of these resources will be expected to be commensurate with the grades, with emphasis on forensic commercial assurance.

6.11.6 Task Orders will confirm the specific tasks and support in this workstream that the ICP2 will be responsible for/ contribute to, with further detail on service obligations/ deliverables and the number of resources to be deployed.

## 6.12 **Strategic Plan, Reporting, Business Cases and Programme Assurance Office**

6.12.1 This workstream is to support NHP on the following areas:

- **Strategic Plan:**

- Ownership of the L0 Strategic Integrated Plan (SIP) and its change control process.
- Review and challenge workstream and Cohort's L1 plans.
- Track milestone achievements and report via the Programme Performance Board.
- Review, challenge and analyse the impact of risks, durations and dependencies of identified workstream/ cohort tasks.
- Summarise issues and areas of concern and report to Programme Development Director and relevant governance forum; provide guidance and progressive recommendations to workstreams to improve the maturity of the SIP.
- Provide ongoing scheduling assurance support to the workstream, capturing any movement in tasks, resource management and managing the change control process via programme performance committee.

- **Reporting:**

- BAU production of reporting and dashboards to NHP Executive Committee, Performance Committee, Programme Board and Oversight Committee
- Workstream report tying workstream progress to Cohort milestones defined in the SIP

- **Programme Assurance Office/ Project Business Cases:**

- Coordination of the review and assurance process for Trust scheme business cases, from the point of Trust submission to JIC submission
- Commissioning reviews from workstreams/ NHSE and liaising with Trust Sponsors
- Consolidate and cascade know-how/ lessons learned to follow on cohorts

- Maintain and circulate the business case assurance pipeline, supporting functions to forward plan review resources.
- **Programme Assurance Office/ Risk Management:**
  - Provide guidance and progressive assurance aligned to risk recommendations to the Executive Committee to improve the maturity and effectiveness of the Risk Management process and policy.
  - Sync with the Programme Level IAAP requirements of assurance to be targeted towards addressing High Level Risks.
  - Day-to-day capture of programme risks advised by NHP Directorates into the Programme level register
  - Update, and input of monthly programme risk dates; defining and supporting the Programme to adhere to agreed Executive level reporting cadence timelines
  - Submission of risk inputs into Power BI Reporting Risk dashboard and presentation of dashboard outputs at the appropriate forums i.e., SLT, Exec Committee, Programme Board, Programme Performance Committee etc
  - Escalation and de-escalation of risks from Directorate/Scheme/Cohort risk registers to Executive and Programme risk registers and vice versa.
  - Collation and monitoring of risk related mitigation actions, dates, and action ownership
  - Informed and constructive challenge to the Executive in developing their Top-Level Risks at regular intervals defined by the Programme Risk cadence and related mitigating actions, by applying the NHP Risk policy requirements
  - Tracking of risk metrics and movements against agreed baseline and reporting of progress across Programme Level. This includes a specific focus on the “Top Risks” to the NHP programme
  - Challenge, review, and analysis of the impact of the noted Risks, time durations and dependencies of the identified tasks for each Executive area and whether they align to the durations noted in the SIP or put the SIP and/ or Programme Benefit realisation at risk
- **Integration and Governance:**
  - Progression of programme maturity assessments (i.e., policies/ processes/ systems/ tools/ people/capability) linked to Programme Governance and meeting the integration

requirements of the NHP Performance Committee terms of reference

- Review and challenge workstream and cohort maturity plans, governance, and integration independent of existing workstream and cohort Project Control environments
  - Capture and implementation of lessons learned from Cohorts 1 and 2 to enable continuous improvement, including standardisation of terminology across the NHP Programme.
  - On-going assessment identification and recommendations to Programme leadership on key governance and project control topics, including but not exclusive to: Risk Management, Contingency Management, Change Control, Management Information, Delegated Authority
- **Transition Planning:**
    - Continue the development and/ or implementation of the PAO Transition handbook
    - The Handbook will outline how the existing PAO remit and workstreams can be handed over from the current blended NHP and ICP team, to an internally delivered NHP PAO with Subject Matter Experts (SMEs) supplementing this team as they identify necessary to support i.e. call off specific SMEs for a targeted Assurance Review or establishing a co-sourced SME arrangement. Principal areas of the Transition Handbook being established will be:
      - Integrated Plan and Risk Management
      - Scheme / Project Business Case Assurance process and associated implementation activities
      - Performance Monitoring and Reporting
      - Programme Assurance Maturity, Integration and Governance
      - Development of a mutually agreed RACI and Timeline/Plan for the effective transition including planning and execution which transfers ICP contributions to NHP-PAO ownership and delivery where internal resource availability and capability allows this to occur

6.12.2 The ICP2 nominates a Strategic Plan/ Reporting/ BC/ PAO Lead for this workstream, who is responsible for the Strategic Plan/ Reporting/ BC/ PAO activities. The Strategic Plan/ Reporting/ BC/ PAO Lead acts as the primary day-to-day interface point with the NHP Commercial Director and other interfaces with other functions within

the NHP. The Strategic Plan/ Reporting/ BC/ PAO Lead is a role classed as a member of the Key Staff.

- 6.12.3 The Strategic Plan/ Reporting/ BC/ PAO Lead will bring to bear an extensive background of successfully designing, leading, promoting, implementing, continuously improving and sustaining Strategic Plan/ Reporting/ BC/ PAO workstreams in major infrastructure/ construction programmes.
- 6.12.4 ICP2 may deploy any grade of individual to support the development in this workstream. The experience and competence of these resources will be expected to be commensurate with the grades, with emphasis on forensic commercial assurance.
- 6.12.5 Task Orders will confirm the specific tasks and support in this workstream that the ICP2 will be responsible for/ contribute to, with further detail on service obligations/ deliverables and the number of resources to be deployed.

## 6.13 Transformation Support

- 6.13.1 This workstream is to support NHP on its journey to achieving:
  - Development of Hospital 2.0 by supporting delivery of key inputs, such as clinical briefs and standards
  - Prioritisation of schemes, through supporting clinical input to cross-programme multi-criteria analysis
  - Supporting adoption of Transformation standards and products, through provision of strategic support to develop the approach to supporting individual schemes/cohorts
  - Assurance that new hospitals are ready to open and deliver care, through development of the approach to Operational Readiness for cohorts
  - Development of specific strategies, evidence and approaches to develop the OBC/FBC, in particular on clinical, digital and innovation
  - Ensure Transformation fulfils its role within NHP through, robust project and programme management, ensuring timely deliverables and clear discharge of accountabilities
- 6.13.2 Deliverables will be interim and final outputs for review, amendment, approval or otherwise by NHP Management.
- 6.13.3 Examples of work activities:
  - **Hospital 2.0** - support to finalise clinical briefs and standards with input from previously completed EOI papers.



- **Prioritisation of schemes** - develop multi criteria analysis approach and input from clinical team to determine appropriate prioritisation of schemes 3 and 4.
- **Transformation standards and products** - ad hoc support for the products delivered as a part of the transformation directorate.
- **Operational assurance** - development of operational readiness approach with team to
- **OBC/FBC** - support resourcing and planning of OBC/FBC into Transformation teams timelines to review business cases. Support to review business cases.
- **Project and Programme management** - ongoing planning of timelines and overall view of workstreams to align gateway processes for products.

6.13.4 The ICP2 nominates a Transformation Lead for this workstream, who is responsible for the Transformation activities. The Transformation Lead acts as the primary day-to-day interface point with the NHP Transformation Director and other interfaces with other functions within the NHP. The Transformation Lead is a role classed as a member of the Key Staff.

6.13.5 The Transformation Lead will bring to bear an extensive background of successfully designing, leading, promoting, implementing, continuously improving and sustaining Transformation workstreams in major infrastructure/ construction programmes.

6.13.6 ICP2 may deploy any grade of individual to support the development in this workstream. The experience and competence of these resources will be expected to be commensurate with the grades, with emphasis on forensic commercial assurance.

6.13.7 Task Orders will confirm the specific tasks and support in this workstream that the ICP2 will be responsible for/ contribute to, with further detail on service obligations/ deliverables and the number of resources to be deployed.

## 6.14 **Modern Methods of Construction and DFMA Strategy**

6.14.1 The MMC strategy will integrate the various NHP workstreams into a coherent and tangible set of benefit driven opportunities, that will be created and deployed by NHP partners. The opportunities will be tested and evidenced through a decision-making process that will highlight high value opportunities for prototyping and testing. The opportunities will reflect the varying maturity of the scheme's designs, and over time will increase in complexity and benefits impact.

6.14.2 Examples of outcomes sought:



- **MMC Decision Making Framework:** Identify key programmatic Opportunities and Benefits for MMC across cohorts 2, 3, 4 and beyond. Work with other NHP workstreams/partners to evidence the benefits of the MMC opportunities (eg cost estimating, Estates, Clinical, Digital, etc.). Facilitate and implement the decision-making framework across NHP partners and workstreams to support high priority decisions programmatically (eg clinical, digital, etc.).
- **MMC Product Catalogue:** Implement the MMC opportunities process (including governance), to filter and prioritise MMC opportunities to be developed and deployed via the MMC Product Catalogue and in line with the agreed Hospital 2.0 releases. Drives the prioritisation and development of MMC with relevant stakeholders (eg, Trusts). Create MMC client briefs that define and scope the products (eg, performance specifications), that will form part of the product catalogue. Engage with industry in a series of workshops to facilitate collaborative approaches and feedback in developing MMC products, kit of parts and performance specifications for delivery of hospitals. Provide suitable handovers to other parts of the programme including NHP Designers and Cost Managers, who will be responsible for the design and creation of products and the commercial/procurement and Hospital 2.0 Implementation Team who will be responsible for their deployment.
- **Building safety act:** Lead in discussions with building safety regulator to embed requirements of BSA into standards and specifications of MMC products and kit of parts.
- **Prototyping:** Lead in the governance process for the deployment of a suite of prototypes that will enable decisions and development of MMC products to be deployed programmatically. Define a set of KPIs and Metrics for the prototyping suites to be measured and tracked to inform decision making. Manage industry liaison with the prototyping process and outputs. Manage prototype supply chain.

#### 6.14.3 Examples of outputs sought:

- Implement governance process for programme wide MMC prototyping strategy
- Implement and update Cohort 2 & 3 specific MMC strategy (aligned to the programme wide).
- Client briefs for MMC and DFMA products (designed / created by others)
- MMC opportunities dashboard

- MMC and DFMA implementation strategy to support Hospital 2.0 roll out
- KPIs and Metrics for MMC and DFMA prototyping
- Weekly update report for workstream lead
- Monthly successes and escalations summary for distribution to the NHP Exec. team
- MMC & DFMA Risk register
- Support the H2.0 delivery vehicle in the creation of wider MMC and DFMA product releases. Provide feedback and commentary to proposals as requested.

6.14.4 The ICP2 nominates an MMC Strategy Lead for this workstream, who is responsible for the Transformation activities. The MMC Strategy Lead acts as the primary day-to-day interface point with the NHP Programme Delivery Director and other interfaces with other functions within the NHP. The MMC Strategy Lead is a role classed as a member of the Key Staff.

6.14.5 The MMC Strategy Lead will bring to bear an extensive background of successfully designing, leading, promoting, implementing, continuously improving and sustaining MMC Strategy workstreams in major infrastructure/ construction programmes.

6.14.6 ICP2 may deploy any grade of individual to support the development in this workstream. The experience and competence of these resources will be expected to be commensurate with the grades, with emphasis on forensic commercial assurance.

6.14.7 Task Orders will confirm the specific tasks and support in this workstream that the ICP2 will be responsible for/ contribute to, with further detail on service obligations/ deliverables and the number of resources to be deployed.

## 6.15 **Commercial Design challenge**

6.15.1 NHP is looking to standardise design processes and to drive MMC and DfMA manufacturing processes and approaches into the design and delivery phases to maximise the unlocking of benefits opportunities and potential.

6.15.2 The nature of this proposed approach, which represents a market shift in delivery, emphasises the strong links between design, cost and schedule and creates an important commercial dynamic to design for NHP.

- 6.15.3 The ICP2 remit in this area will not be to directly design or engineer but be to provide another MMC-based innovation counterpoint view, a commercial challenge to the realisation of MMC delivery, and overall assurance to provide confidence to NHP and Stakeholders of the efficacy of the proposed MMC-based design approach successfully delivering against the key Critical Success Factors. To achieve this remit the ICP2 would establish and manage a Challenge Panel of industry leaders separate from those designing and engineering.
- 6.15.4 The Challenge Panel remit is essentially one of acting as an MMC thinking and ideas forum, and as promoters and lobbyists with key Stakeholders, influencing the design and delivery approach, whilst providing a healthy challenge in an assurance capacity to MMC thinking for NHP. The Challenge Panel will not assume design or engineering liability.
- 6.15.5 The Challenge Panel should comprise a mix of appropriate specialisms and be commercially led but supported by a number of SME design and engineering specialists with strong and industry-leading understanding of MMC potential, in the context of health sector design challenges.
- 6.15.6 NHP reserves the right to add its own nominees to the Challenge Panel (to be integrated and managed by the ICP2) or to request that its membership is extended by the ICP2.
- 6.15.7 Existing NHP design consultants should not be included as part of the Challenge Panel. It is expected that there will be a significant working interface, and the design consultant may be invited to attend Panel meetings as part of this activity and indeed they or others may be nominated by the NHP as a member of the Challenge Panel in due course.
- 6.15.8 The Challenge Panel will report to the NHP Programme Leadership, and NHP Delivery Director, and an NHP representative (to be nominated) will be invited to all Challenge Panel meetings as a sitting member. The assumption is that there would be a panel meeting every month of the ICP2 Call-off Contract Period.
- 6.15.9 The ICP2 nominates a Challenge Panel Lead for this activity, who is responsible for the Challenge Panel activities, chairing Challenge Panel Board sittings, and coordinating the Challenge Panel team. The Challenge Panel Lead acts as the primary day-to-day interface point with the NHP Programme Leadership, the NHP Head of Engineering/ Design, the Commercial Director, and other interfaces with other functions within the NHP. The Challenge Panel Lead is a role classed as a member of the Key Staff.

- 6.15.10 ICP2 may deploy any grade of individual to support the development in this workstream. The experience and competence of these resources will be expected to be commensurate with the grades, with emphasis on forensic commercial assurance.
- 6.15.11 Task Orders will confirm the specific tasks and support in this workstream that the ICP2 will be responsible for/ contribute to, with further detail on service obligations/ deliverables and the number of resources to be deployed.

## **7. KEY MILESTONES AND DELIVERABLES**

- 7.1 Task Orders will be agreed and issued under the ICP2 Call-off Contract in accordance with the process in paragraph. Specific key milestones and deliverables will be outlined within each Task Order

## **8. MANAGEMENT INFORMATION/ REPORTING**

- 8.1 The ICP2 will submit a monthly progress report to NHP using the template provided by NHP at the ICP2 kick-off meeting. The monthly progress report will outline as a minimum:
- progress against the programme and budget;
  - changes within the period;
  - any risks and opportunities; and
  - how the ICP2 is working in alignment with the Commercial Objectives.
  - Commercial information including spend till date allocated to Task Orders and monthly forecast till the projected end of the task order with resource backup.
- 8.2 The ICP2 is required to submit quarterly reports detailing progress against the KPIs in its Social Value Plan and provide evidence of delivery. It is recognised that measuring and delivering social value requires flexibility and a collaborative approach. Agreed social value commitments may require a certain amount of refinement as a result, however, the overall value of social value commitments made must be maintained. Social value is a key area in which the ICP2 contract will be monitored and measured.
- ## **9. CONTINUOUS IMPROVEMENT**
- 9.0 The ICP2 will be expected to continually improve the way in which the required Services are to be delivered throughout the ICP2 Call-off Contract Period.
- 9.1 The ICP2 should present new ways of working to NHP during contract review meetings and during the establishment of Task Orders.

- 9.2 Changes to the way in which the Services are to be delivered must be brought to the NHP's attention and agreed prior to any changes being implemented.

## 10. SUSTAINABILITY

- 10.1 NHP has a responsibility to act sustainably. The ICP2 is required to act in a sustainable manner in the delivery of the ICP2 Call-off Contract, particularly in terms of eliminating waste, reducing travel and minimising energy consumption. The ICP2 must comply with all current legislation regarding sustainability and legislation introduced or amended during the period of the ICP2 Call-off Contract pertaining to this.
- 10.2 This must include compliance with the Modern Slavery Act 2015 and the Climate Change Act 2008.
- 10.3 The ICP2 must consider their carbon footprint in allocating and deploying resources to undertake the requirements of the ICP2 Call-off Contract and subsequent Task Orders.

## 11. REIMBURSABLE EXPENSES

- 11.1 Expenses are recoverable as stated in Framework Schedule 3 (Framework Prices) Paragraph 4. The Buyer's expenses policy is extracted below:

### Payment

- Rates are inclusive of any travel expenses to and from Base Offices and to and from any office within the M25. Additional expenses will only be reimbursed where approved by the Service Manager in advance and in writing for extraordinary disbursement, including extraordinary travel and overnight accommodation.
- Expenses are included in the application for payment for the period in which they were incurred. Expenses will not be accepted without receipts.
- Base Offices are offices belonging to the Consultant or any of the Consultant's supply chain's offices.

### Expenses

- The Consultant considers the interest of public money when incurring expenses and complies with Sections 17 and 18 of the NHS Terms and Conditions of Service Handbook.
- The Consultant considers the impact on the environment and reduction in carbon in providing the scope of services and organising travel.
- The Consultant eliminates the need to travel or minimise the number of miles travelled by considering alternatives to physical travel such as virtual

meetings. Travel is the last option considered. Where physical travel is required, the Consultant uses the most economical locations, considering all participants' travel times and costs; varying venues to even out participants' travel arrangements.

- The Consultant uses public transport wherever possible, where this is not suitable, the Consultant obtains prior approval from the Service Manager for the use of a private car. Eligible mileage is outlined within Sections 17 of the NHS Terms and Conditions of Service Handbook. The Consultant uses the most economical means of public transport on every occasion, including travelling outside of peak times where practicable. The Consultant purchases advance tickets except in exceptional cases and the costs of travel does not exceed standard class rail travel, bus travel, or low-cost airlines. The Consultant seeks and reports any refunds that may come due as a result of delayed and cancelled travel.
- Where overnight accommodation is approved in advance by Service Manager, the Consultant books accommodation which complies with Section 18 of the NHS Terms and Conditions of Service Handbook.
- The Consultant does not gain from their travel or business expenditure including refunds, loyalty rewards or inconvenience payments for delays. For example, if a hotel offers a loyalty points system, these points must only be used in connection with ongoing business expenses and not for personal other non-NHP use.
- Where meetings are held at the beginning or end of a working week, the start and end times do not require an overnight stay on a Sunday or Friday.

## **12. STAFF AND CUSTOMER SERVICE**

- 12.1 The ICP2 shall provide a sufficient level of resource throughout the ICP2 Call-off Contract Period in order to consistently deliver a quality service.
- 12.2 The ICP2's staff assigned to the ICP2 Call-off Contract shall have the relevant qualifications and experience to deliver the ICP2 Call-off Contract to the required standard.
- 12.3 The ICP2 shall ensure that staff understand NHP's vision and objectives and will provide excellent customer service to the NHP throughout the ICP2 Call-off Contract Period.
- 12.4 No part of the Services or deliverable shall be subcontracted or delegated without the express agreement of the NHP in writing.
- 12.5 ICP2 shall remain liable and responsible for any part of the Services, or any deliverable provided by a subcontractor as if ICP2 had delivered the Services or deliverable itself.



## 13. SERVICE LEVELS AND PERFORMANCE

- 13.1 To measure the ICP2's progress and performance, to drive outcomes and continuous improvement and in alignment with the Construction Playbook, NHP will use the following KPIs and SLAs:

KPI/SLA	Service Area	KPI/SLA description	Target
1	Commercial Objectives	Provide evidence of how the ICP2 has aligned to the NHP Commercial Objectives	Monthly
2	Social Value	Progress against the KPIs within the NHP Social Value KPI Measurement Framework	Quarterly
3	Knowledge & Skills Transfer (KST)	Progress against the KST Plan and Programme	Monthly
4	Task Orders	Progress against milestones set within individual Task Orders	Monthly
5	Task Orders	The ICP2 complies with the Task Order process outlined in Section 17 of this Specification	Fully compliant
6	Reporting and deliverables	Provide evidence of submission of monthly reports including all required information; attendance of key persons at monthly progress meetings; provision of contract deliverables in a timely manner	Fully compliant as assessed quarterly
7	Specific KPIs	Specific KPIs will be agreed for each Task Order	As per Task Order

- 13.2 In the event of a Key Staff is not available for delivering Task Orders, NHP reserves the right to request the ICP2 to provide evidence that the replacement person is of the same calibre as the Key Staff. If the replacement individual is not of the same calibre as the Key Staff, a reduction in rate is made, comparable to the level of individual.
- 13.3 Should the KPIs, SLAs or monthly reporting show poor performance, NHP will request a meeting with the ICP2's director level individuals to discuss resolution. The ICP2 will be required to produce and submit a performance

improvement plan (PIP) addressing the poor performance in the time scales agreed with NHP.

## **14. SECURITY AND CONFIDENTIALITY REQUIREMENTS**

- 14.1 Unless required to be disclosed by law or competent authority all, material, outputs or information
- 14.1.1 provided, disclosed or made available by the NHP;
  - 14.1.2 or gleaned during the course of delivering the =Services; or
  - 14.1.3 developed, in relation to the ICP2 contract,
- shall be treated as strictly confidential and shall not be shared with or disclosed by any person or organisation outside the NHP without the express agreement of the NHP. The ICP shall ensure that this obligation is flowed down to any person providing the Services (directly or as a subcontractor)
- 14.2 Further, the ICP2 and its staff shall sign suitable NDAs on request of the NHP from time to time.
- 14.3 This paragraph is in addition to and does not obviate or effect any other confidentiality provision in the Call-Off Contract or Framework
- 14.4 Any request for approval to share material, outputs or any information must be made by the ICP2 to NHP, and approval sought, prior to sharing.

## **15. PAYMENT AND INVOICING**

- 15.1 No payment, price, expense or cost (whether cost reimbursable or lump sum) shall be payable to the ICP2 (or any subcontractor) unless:
- 15.1.1 the Services, products and deliverables have been ordered in a relevant Task Order; and
  - 15.1.2 the amount is within any quote or cap agreed in writing in such relevant Task Order.
- 15.2 Payment for any lump sum elements can only be made following satisfactory delivery of pre-agreed certified products and deliverables.
- 15.3 The ICP2 is to invoice on a monthly basis for reimbursable work (schedule to be agreed upon commencement of the first Task Order). Prior to formal invoice submission the ICP2 is to produce a draft invoice for review by NHP Contract Management. Draft invoices will either be approved for submission, require further substantiation or require amendments before formal submission. NHP's approval of the draft invoice shall not be unreasonably withheld.



- 15.4 Each invoice must include a detailed elemental breakdown of work completed against each Task Order and the associated costs along with a breakdown of days worked by individuals.
- 15.5 The ICP2 should keep accurate records including fully auditable timesheets to support all reimbursable invoices. NHP will conduct audits to ensure accuracy of invoices and to ensure accurate record keeping by the ICP2, including the correct allocation of days and grades. NHP reserve the right to make corrections to any invoices that may have previously been paid if audit reveals that invoices cannot be fully substantiated to NHP satisfaction. The ICP2 is to provide reasonable access.
- 15.6 Formal invoices following draft NHP approval should be addressed to:

Redacted in line with FOIA Sec 41



Invoices should be submitted to: Redacted in line with FOIA Sec 41

## 16. CONTRACT MANAGEMENT

- 16.1 It is important to NHP and the Contracting Authority that the ICP2 Call-Off Contract is managed collaboratively and delivers value for money. The management of the ICP2 will be aligned to the principles outlined in the Consultancy Playbook.
- 16.2 Within 2 weeks of the ICP2 Call-off Contract start date:
- The ICP2 will attend a kick-off meeting chaired by NHP.
  - NHP will provide templates for monthly reporting.
  - NHP will provide a change management process to be followed.
  - NHP will provide a Task Order covering the required workstreams and their outcomes, deliverables and scope of activities.
- 16.3 The ICP2 will attend monthly progress meetings with the NHP. The ICP2 will provide a populated and up to date monthly report (using the template provided by NHP) at each meeting. The monthly report will contain:
- Key financial information including spend to date and forecast spend.
  - Progress and schedule reporting.

- Risks and Opportunities.
- Reporting on adherence to KPIs and SLAs and alignment to objectives.

16.4 Any changes to the template will be agreed with NHP.

16.5 Only formal instructions issued by email endorsed by the authorised representative will constitute contractual change.

## 17. TASK ORDER PROCESS

17.1 NHP will maintain a pipeline of ICP2 deliverables, with collaborative input from the ICP2 to forecast Task Orders. ICP2 shall not carry out any Services, deploy staff, engage subcontractors or incur any expenditure for the NHP unless a relevant Task Order and either quotation or cost cap has been agreed. Any costs incurred ahead of an agreed and signed Task Order having been issued is at the ICP2's cost and risk.

17.2 The process of preparing and issuing Task Orders is as follows:

- NHP will issue a request for quotation to the ICP2 based on a set of deliverables, key milestone dates and any other factors which would impact the ICP2's quotation;
- Within 5 working days the ICP2 will provide NHP with a quotation in a format issued by NHP;
- NHP will review the quotation and request any clarifications from the ICP2 as soon as possible, but within 5 working days;
- The ICP2 will respond to any clarifications from NHP within 24 hours; and
- If the quotation is agreed, NHP will issue a Task Order signed by the authorised representative of the NHP to the ICP2 for signature.

17.3 The cost to ICP2 of preparing, issuing and agreeing Task Orders is not a claimable or valid cost under the ICP2 Call-of Contract and will not be paid by NHP.

## 18. LOCATION

18.1 The location of the Services will be carried out remotely, with ad-hoc requirements to visit NHP's London based offices and also, depending on the commercial activities, visits to site locations across England.

## **19. CO-ORDINATION**

- 19.1 ICP2 shall whenever required, co-ordinate its Services with IDP and any other consultant of the NHP and shall alert the NHP of any overlap between the respective instructions.







## APPENDIX A - NHP SOCIAL VALUE STATEMENT



Appendix A - NHP -  
Social Value Statement

## NHP Social Value on a Page

The NHP's approach to social value has been developed to comply with and build upon PPN 06/20 and align with the NHP Programme Delivery Scorecard – Impactful Sustainable Development strategic themes and critical success factors.

SOCIAL VALUE OBJECTIVE		CRITICAL SUCCESS FACTOR	KPI MEASUREMENT FRAMEWORK
	<b>OBJECTIVE 1</b> Skills, employment and workforce equality & inclusion	Employment opportunities	4 KPIs
		Apprenticeships, training and education	11 KPIs
		Workforce equality and inclusion	8 KPIs
	<b>OBJECTIVE 2</b> Sustainable supply chains	Supply opportunities	4 KPIs
		Supply chain capacity and resilience	7 KPIs
		Innovation, transformation and learning	4 KPIs
	<b>OBJECTIVE 3</b> Environmental responsibility	Net Zero Carbon	4 KPIs
		Resource efficiency	8 KPIs
		Environmental stewardship	6 KPIs
	<b>OBJECTIVE 4</b> Health, wellbeing and community cohesion	Wellbeing	4 KPIs
		Public / community cohesion	8 KPIs

The NHP Social Value KPI Measurement Framework is predominantly based on the National TOMS.

Tenderers will be asked to propose quantitative KPI targets against measures selected from the framework along-side a qualitative plan for delivery.

The KPI measures are aligned with the associated strategic themes and critical success factors of the NHP Programme Delivery Scorecard.

The measures carry a financial Proxy value that represents a social return on investment (SROI) for each delivered KPI and an overall SROI for the contract when summed.

## The New Hospital Programme Social Value and Sustainable Legacy Objectives

To ensure that the work we do around social value is both focused and achievable, we have set out four headline objectives we want to achieve through the delivery of the New Hospital Programme.



### OBJECTIVE 1

#### Skills, employment and workforce equality & inclusion

Create and fulfil skills and employment opportunities that enable a diverse, skilled and inclusive workforce that can deliver the NHP and supports sustainable growth in the future UK health infrastructure sector, maximising social and economic impact in communities local to the scheme(s)



### OBJECTIVE 2

#### Sustainable supply chains

Ensure we have diverse, sustainable supply chains with the capability and capacity to deliver NHP and develop a pioneering hospital and health construction industry benefitting economies throughout the UK, maximizing social and economic impact in communities local to the scheme(s)



### OBJECTIVE 3

#### Environmental responsibility

Ensure that we build new hospitals and healthcare infrastructure in an environmentally responsible way. Leading the drive to Net Zero Carbon



### OBJECTIVE 4

#### Health, Wellbeing and Community Cohesion

Ensure we protect and improve the health and wellbeing of the workforce and the communities we serve and impact upon



## OBJECTIVE 1

### Skills, employment and workforce equality & inclusion

Create and fulfil skills and employment opportunities that enable a diverse, skilled and inclusive workforce that can deliver the NHP and supports sustainable growth in the future UK health infrastructure sector, maximising social and economic impact in communities local to the scheme(s).



#### Employment opportunities

Create and fulfil new, sustainable jobs throughout the supply chain supporting the shifting balance of specialist skills, required for off-site manufacturing, MMC and DfMA. Meeting local employment and skills objectives, maximising social and economic impact in communities local to the scheme(s)



#### Apprenticeships, training and education

Create and fulfil attractive apprenticeship and training opportunities and promote construction sector career paths to develop and grow an appropriately skilled workforce capable of delivering future cohorts of the programme and beyond



#### Workforce equality and inclusion

Address workforce inequalities and widen the talent pool by targeting and supporting underrepresented groups, disadvantaged communities and people facing barriers to employment



# THE CHALLENGE

## Skills and Employment

Significant workforce challenges are facing the sector.  
We urgently need to attract new diverse talent and provide targeted training to develop and retain the skilled workforce required.

The UK currently has low unemployment and significant labour shortages across multiple sectors including the construction sector. This represents a significant challenge in an already constrained market that currently lacks the required capacity to deliver the NHP.

This is compounded by evidence that the appetite for careers in construction, particularly in young people, has declined in recent years.

A significant number of construction workers are nearing retirement, without the pipeline to replace them.

The construction sector urgently needs to attract new talent and provide targeted training to develop the skills required, along with upskilling and re-training efforts to modernise the existing workforce.



Low un-employment



Labour shortages



Capacity gap



Skills gaps



Aging, retiring workforce



Early retirement



Declining numbers of new entrants



Competing sectors



Fixed perception of the industry





# THE CHALLENGE

## Workforce equality and inclusion

81% of construction workers in the UK are white males



Compared to them making up approximately **43%** of the UK working age population

Only **16%** of the construction workforce are women



Compared to them making up approximately **50%** of the UK working age population

Only **7%** of the construction workforce are from Black and Ethnic Minority backgrounds



Compared to them making up **14.4%** of the UK working age population

Only **9%** of the construction workforce are disabled



Compared to **21%** of the UK's working age adults

Only **9%** of the construction workforce are aged 25 or under



Compared to this cohort making up **11.9%** of the UK workforce

The lack of diversity in the industry results in an unnecessary limitation on the size of the potential talent pool and impacts the opportunities available to significant portions of society.

To reverse the workforce decline and address the inequality that remains in the construction industry, we need to make the industry welcoming and appealing to much wider and more diverse groups of people.

By increasing diversity and representation, we can grow the talent pool. By growing the talent pool we can begin to address the skills and capacity gaps that the industry is facing.

Increasing diversity and representation not only addresses the skills gap, it creates a fairer society, it addresses workforce inequalities and contributes to positive change in peoples lives.

The NHP and its supply chain can turn the dial on diversity by ensuring opportunities reach underrepresented groups, disadvantaged communities and people facing barriers to employment in our social value approach, and by acknowledging and addressing pay gaps and historical inequalities in the industry.



## THE AMBITION

# Skills, employment and workforce equality & inclusion

Building a pipeline of new and diverse talent



The NHP investment to build 48 hospitals by 2030 will generate employment and training opportunities in the healthcare construction sector. From project managers, architects and engineers to construction trades and new MMC, digital, manufacturing and assembly jobs and more....



We understand that to build a pipeline of new talent and inspire the next generation of construction workers we need to make sure careers in construction are attractive.

During the life of the programme, we aim to contribute to making the construction industry a welcoming place where people of all backgrounds, ages and circumstances can envisage a long, rewarding and fulfilling career in the sector.



We recognise that clients and major programmes like the NHP can play a huge part in supporting the industry to achieve this. A collaborative and structured approach to social value in procurement and delivery is one of the key enablers.

We already have opportunities and tools available to us to assist:

- Modern Methods of Construction opens the door to more attractive occupations in design for manufacture, project management, digital architecture, innovation and assembly.
- We now have T Levels as well as apprenticeships to support career pathways into construction
- NHP can join the collective effort to help to re-brand and revitalise the sector to attract the required pipeline of diverse talent.
- We can work better with the 3rd sector, government funded programmes, schools, colleges and our Local Authorities. There is great work already going on in this space, nationally and locally.

The NHP and the Trusts responsible for each scheme wish to work with Tier 1 contractors, delivery partners, the supply chain and local partners to create sustainable jobs, training and education opportunities. Ensuring that opportunities reach underrepresented groups, disadvantaged communities, the long-term unemployed and people who face barriers to employment.



## THE ACTION PLAN

### Skills, employment and workforce equality & inclusion

With the aid of the NHP Social Value Measurement Framework, we aim to tackle the employment, skills and workforce equality challenge by working with our contracted suppliers to:

- 1 Reduce the requirement for roles that are potentially unattractive with a higher proportion of skilled factory labour that potentially offers improved job security and that offer better employee wellbeing
- 2 Widen the talent pool and generate improved social outcomes by recruiting from under-represented groups and disadvantaged communities local to schemes and throughout the UK
- 3 Enable collaboration and best practise to be shared through cross scheme working groups, maximising social value generation across all NHP supply chains
- 4 Identify and tackle inequality in employment, skills and pay in the contract workforce
- 5 Support in-work progression to help people, including those from disadvantaged or minority groups, to move into higher paid work by developing new skills relevant to the contract
- 6 Proactively identify and manage the risks of modern slavery in the delivery of the contract, including in the supply chain
- 7 Set up a centrally led, locally supported **Employment, Skills and Education Working Group** with representation from the programme, Trusts, supply chain, industry bodies and partners. The aim of the working group is to contribute to the effort of improving the industry to be more attractive to new entrants and work to ensure the required training and education paths are available to the widest pool of candidates possible.  
It will help to coordinate the generation of skills and education through NHP contracts at a national level in early cohorts that will produce the pipeline of skilled labour required to deliver later cohort projects through opportunities including but not limited to:
  - Shared Apprenticeship Schemes - to reduce the burden on suppliers but maximise the opportunities for the apprentice
  - Develop partnerships with government departments, local authorities, LEPs and VCSE's to support suppliers to meet social value targets
  - Co-ordinate with industry bodies and educational institutions to support and develop national and local targeted skills generation and training provision. Promote interest in STEM, T-Levels, apprenticeship schemes and MMC to attract more young people into construction careers
  - Explore the feasibility of creating an NHP Skills Academy



## OBJECTIVE 2

### Sustainable supply chains

Ensure we have diverse, sustainable supply chains with the capability and capacity to deliver NHP and develop a pioneering hospital and health construction industry benefitting economies throughout the UK, maximising social and economic impact in communities local to the scheme(s).



#### Supply opportunities

Ensuring access to contract opportunities for local suppliers, start-ups, SMEs and VCSEs. Encouraging diversity, growth and innovation in the supply chain



#### Supply chain capacity and resilience

Supporting suppliers and potential suppliers to build capacity, capability and resilience to meet the future demand of the NHP and Health Infrastructure sector



#### Innovation, transformation and learning

Supporting innovation, transformation and continuous learning throughout the supply chain by encouraging collaboration and development of disruptive technologies, scalable and future-proofed new methods to modernise delivery



# THE CHALLENGE

## Sustainable Supply Chains



The transformation of major healthcare infrastructure programme delivery, bringing capacity to the market and efficiency in construction is a key objective of the NHP.

The NHP is a new client entering into an already saturated market, exacerbated by post-Brexit, post-pandemic conditions, which are compounded by a spike in national demand for infrastructure projects.



Currently there are significant constraints within the supply markets to deliver the existing pipeline of works in the UK and demand generated by the NHP risks further exceeding market capacity. The scale of NHP will require the expansion of market capacity and the adoption of new methods and technologies.



This lack of capacity is further compounded by a general lack of appetite for the healthcare sector due to a variety of legacy issues. The health sector historically has been complex, difficult, and relatively unattractive. Over the past decade, a significant number of construction firms have left the sector.



Capability gap



Capacity gap



Saturated market



Lack of appetite



Unattractive sector



Shrinking sector



## THE AMBITION

# Sustainable Supply Chains

Leave an enduring nationwide capability for enhanced healthcare infrastructure delivery



The NHP investment to build 48 hospitals by 2030 will generate significant contract and supply chain opportunities in the healthcare construction sector.



To build the required capacity and capability in the market and to inspire the next generation of specialist contractors and suppliers, we need to make sure opportunities are attractive, accessible and MSMEs, VCSEs and new entrants to the market are supported, informed and developed.



During the life of the programme, we aim to ensure that every contract awarded contributes to building the capacity and capability required in the supply chain for the next contract.

We recognise that clients and major programmes like the NHP can play a huge part in supporting the industry to grow and develop. The NHP has mobilised a Supply Markets Management team to engage with suppliers across all relevant markets to maximise accessibility, share information, opportunities and the contract pipeline.

Additionally, part of the plan to revitalise the sector and build the capacity, capability and diversity required to deliver the Programme is the commitment to the implementation of social value and economic sustainability principles. Social value can be a significant enabler for growth and development in the supply chain, whether that be through awarding contracts to local SMEs or through expert volunteer hours dedicated to R&D, training and education.

The NHP and the Trusts wish to work with Tier 1 contractors, delivery partners, the supply chain and local partners to maximise opportunity, growth and innovation to build the supply chain diversity, capacity and resilience that is required to complete the programme and benefit economies across the UK.



## THE ACTION PLAN

### Sustainable Supply Chains

With the aid of the NHP Social Value Measurement Framework we aim to develop sustainable supply chains fit to deliver the Programme and beyond, by working with our contracted suppliers to:

- 1 Create a diverse supply chain to deliver the NHP including new businesses and entrepreneurs, start-ups, SMEs and VCSEs. Promote supply chain accessibility via the **CompeteFor** platform
- 2 Ensure supply chain procurement processes do not create barriers to small businesses, third sector bodies or social enterprises
- 3 Support SME's, VCSEs and start-ups to broaden their skills, experience and capability to underpin future growth for new opportunities in the sector and in later cohorts of the programme through volunteer hours and events
- 4 Ensure appropriate supply chain management structures are in place to support sub-contractors to meet performance requirements and avoid the risk of failure, including:
  - Meeting fair payment terms (min 30 days)
  - Proactively identifying and managing cyber security risks
  - Having clear issue and dispute resolution and escalation processes
  - Proactively managing the risks of modern slavery
- 5 Set up a centrally led, locally supported **Supply Chain Shaping Working Group** with representation from the programme, Trusts, supply chain, industry bodies and partners. The aim of the working group is to foster an environment of industry collaboration, innovation, learning and development. The aim will be to stimulate the generation of additional supply chain capacity and capability through contracts at a national level in early cohorts that will produce the supply chain capacity and diversity required to deliver later cohort projects. This transformation will be achieved in collaboration with the contracted suppliers through initiatives including but not limited to:
  - Participate in cross-project structures and processes
  - Coordinate and optimise volunteer hour efforts
  - Support of innovation and disruptive technologies in the supply chain to deliver viable lower cost and/or higher quality goods and services
  - Support the development of scalable and future-proofed new methods to modernise delivery and increase productivity
  - Promote collaboration and fair and responsible working practices throughout the supply chain
  - Ensure supply chain accessibility and opportunities for suppliers local to the schemes





## OBJECTIVE 3

### Environmental responsibility

Ensure that we build new hospitals and healthcare infrastructure in an environmentally responsible way. Leading the drive to Net Zero Carbon.



#### Net Zero Carbon

Ensure new facilities are designed to minimise their carbon footprint and achieve Net Zero emissions from operations by 2040 and Net Zero emissions from construction by 2045



#### Resource efficiency

Reduce negative environmental impacts such as greenhouse gas emissions and waste generation by reducing resource consumption, applying circular economy principles, and ensuring responsible waste management



#### Environmental stewardship

Support a flourishing natural environment, improving air quality, enhancing local biodiversity and preventing pollution and the use of harmful materials





## THE CHALLENGE

### Environmental Responsibility

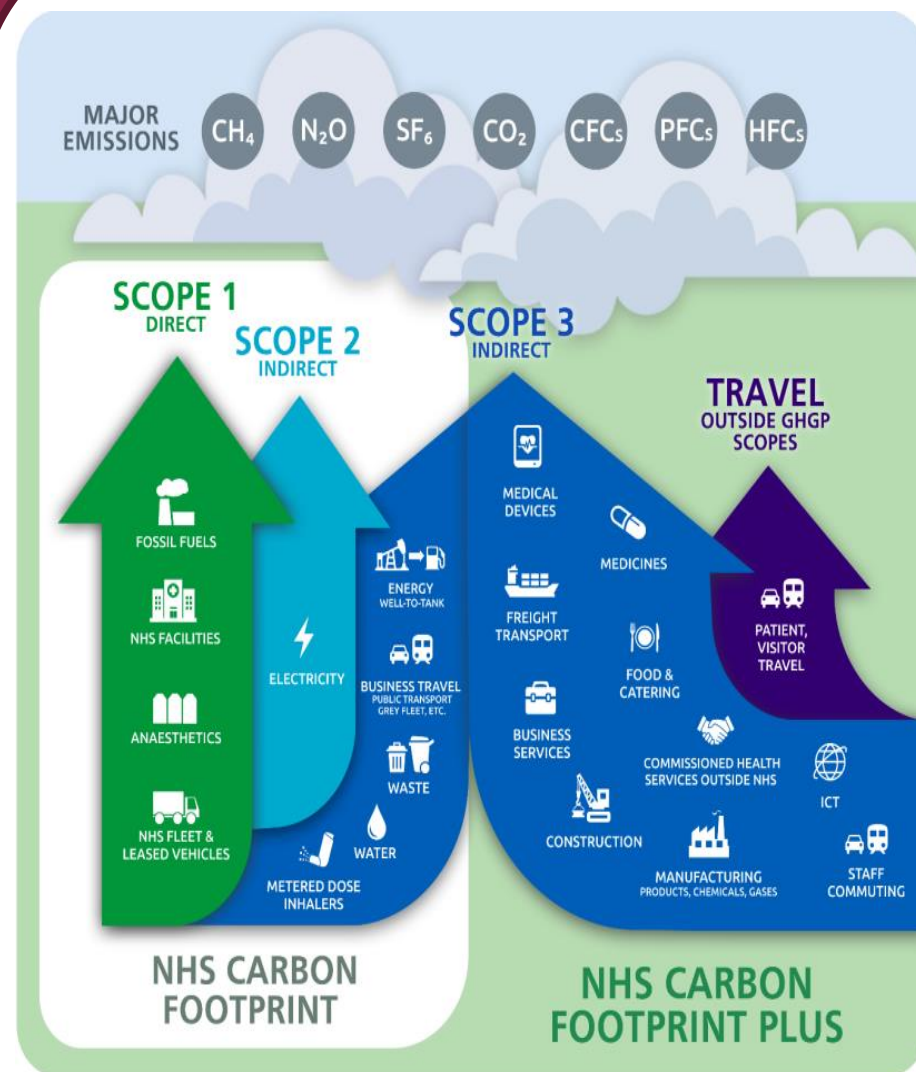
We emerge from the global COVID-19 pandemic at the forefront of the international emergency of climate change and biological degradation.

Currently 40% of UK species are in decline, and the Intergovernmental Panel on Climate Change has stated that greenhouse gas emissions must be reduced by 43% from 2019 levels by 2030 to restrict global warming to 1.5°C.

The impacts of climate change include more frequent and severe heatwaves, flooding and an increased spread of disease due to human and wildlife migration. These all present a significant health risk and thus increased long-term demands on NHS services.

Drivers of climate change are also the drivers of ill health and health inequalities e.g. the combustion of fossil fuels is the primary contributor to deaths in the UK from air pollution, disproportionately affecting deprived and vulnerable communities.

The NHS is the biggest employer in the country and is currently responsible for approximately 4% of the UK's carbon emissions and approximately 3.5% (9.5 billion miles) of all road travel (including patients, visitors, staff and suppliers) every year.





# THE AMBITION

## Environmental Responsibility



It is our vision to create a sustainable legacy, environmental responsibility should include maximising resource efficiency, minimising waste, protecting natural resources and biodiversity, establishing climate resilience and leading the drive towards net zero carbon.

The NHP's aim is to deliver 40+ 'net zero carbon ready' schemes, aligned to the NHS's Net Zero Carbon targets. This includes environmental considerations at all stages, during the design, construction process and in operation.



The NHP forms part of the NHS' response to the Climate Emergency; 'Delivering a Net Zero NHS' which sets out two clear targets:

The NHP and the Trusts wish to work with Tier 1 contractors, delivery partners, the supply chain and local partners to accelerate carbon reduction and increase the maturity and capability of its supply chain to align itself with the required targets.



Net zero by **2040** for the emissions the NHS controls directly



Net zero by **2045** for the emissions the NHS has the ability to influence

The application of social value in this context acts as a way to accelerate this process through stretch targets over and above the design and scope requirements of the programme.



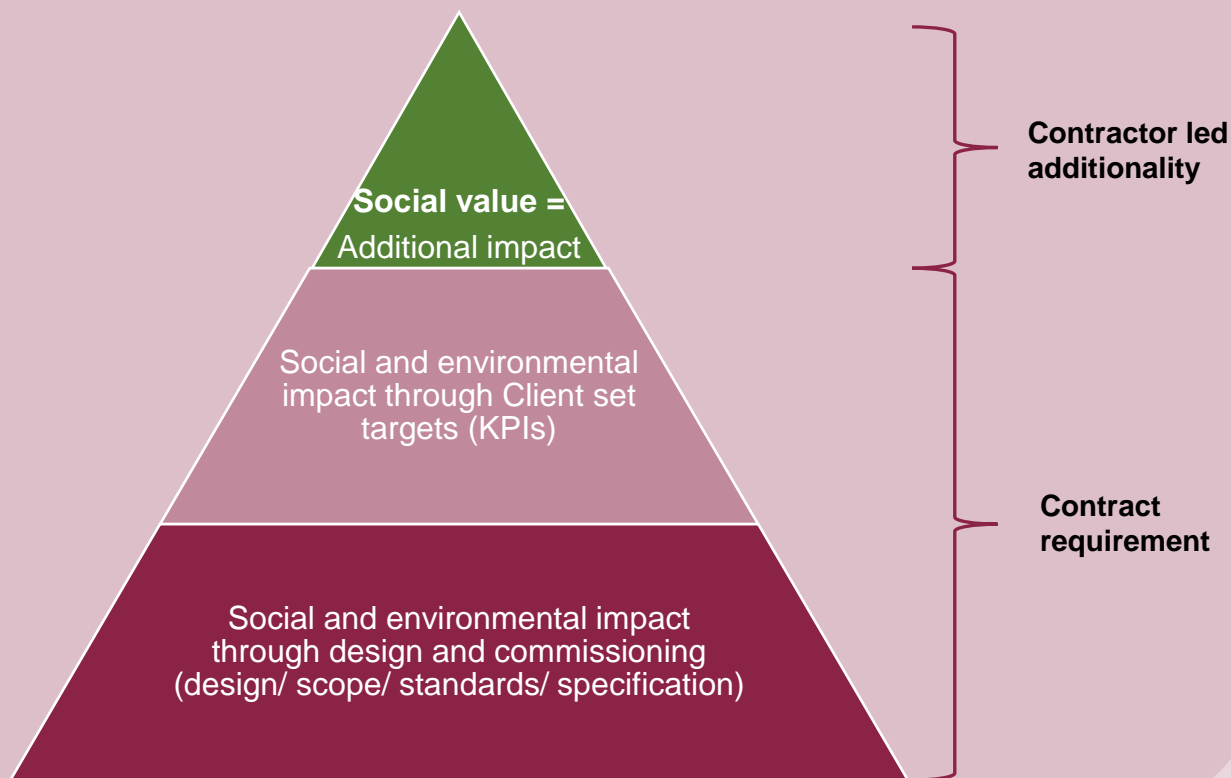
# Environmental Responsibility

Sustainability expectations and social value

We recognised that in the built environment there is often an overlap and risk of duplication between sustainability scope and specification, and environment related social value commitments made by suppliers. We aim to bring some clarity to this by providing clear definition in an Environmental Responsibility KPI matrix to highlight what are specified sustainability requirements and what is considered to be social value additionality.

We believe social value in relation to environmental responsibility is all about demonstrating leadership. Leading the way through innovation, pushing boundaries and influencing others across the supply chain. Making additional impact over and above what is required to meet the contractual standard.

## Social value in the context of sustainability





## THE ACTION PLAN

### Environmental Responsibility

With the aid of the NHP Social Value Measurement Framework we aim to build new hospitals and healthcare infrastructure in an environmentally responsible way by working with our contracted suppliers to deliver social value above and beyond the contract scope/ specification requirements to:

- |   |   |
|---|---|
| 1 Use of the Evergreen Sustainable Supplier Assessment tool for suppliers to share information about their sustainability journey with the NHS                        | 6 Aim for targets above and beyond specified standards within contract to demonstrate environmental leadership  |
| 2 Identify products/resources with high sustainability credentials including low embodied carbon and water usage, minimising use of scarce or unsustainable materials | 7 Improve supply chain maturity, capability and accuracy in carbon measurement, benchmarking, emissions reporting, setting carbon reduction targets and developing emission reduction plans |
| 3 Invest in reducing material consumption and wastage, increasing re-use and recycled products  | 8 Reduce travel emissions across contract delivery e.g. through promotion of sustainable modes of travel  |
| 4 Focus on energy and water efficiency throughout delivery processes  | 9 Influence staff, suppliers, customers and communities to support environmental protection and improvement   |
| 5 Invest in increased use of renewable energy to support delivery   | 10 Invest in green spaces and to improve biodiversity   |



## OBJECTIVE 4

# Health, Safety, Wellbeing and Community Cohesion

Ensure we protect and improve the health and wellbeing of the workforce and the communities we serve and impact upon.



## Health and Wellbeing

Ensuring the physical, mental health and wellbeing of the programme and construction workforce, stakeholders, patients and community is protected and where possible improved



## Public / community cohesion

Promoting strong, integrated communities, supporting and encouraging additional community benefits through engagement, co-design/ creation, training, education, collaborating, and volunteering



## THE CHALLENGE

### Health and Wellbeing

In 2020 the CIOB published a research paper that studies the alarming suicide statistics in the construction industry workforce. Whilst the skilled construction trades make up just 7% of the total UK workforce, a disproportionate 13.2% of in-work suicides in the UK were in the construction sector. From the individuals surveyed:



87% experienced anxiety



70% experienced depression



97% experienced stress



96% experienced fatigue



95% experienced poor concentration



91% felt overwhelmed



86% experienced a lack of self-confidence



26% had suicidal thoughts







## THE CHALLENGE

### Health and Wellbeing

A coordinated industry approach is gathering momentum, but **we still need to do better**



In construction, suicide often kills more people than falls from height.

The risk of suicide among some site based male construction workers is three times the national average.



The CIOB study cites job insecurity, long hours, time away from loved ones, poor HR support and late payments amongst the contributory causes.

Inadequate or no toilet facilities, poor sanitary conditions and poor or no catering provision was also reported.



Females frequently found that employers failed to make workplace adjustments. Whilst for males, who represent the vast majority of the sector's workforce, the traditional 'macho' culture is still prevalent.



MENTAL HEALTH AND WELLBEING RESEARCH

## Mental Health and Construction: A Coordinated Approach



AUGUST  
2021



## THE AMBITION

### Health and Wellbeing



Whilst great strides have already been made in the sector to improve the situation, there is still a long way to go.

Major government programmes like the NHP can be a catalyst for positive change in this area by putting workforce wellbeing high on its agenda.

Encouraging the supply chain to invest in workforce wellbeing can lead to increased resilience, better employee engagement, reduced sickness absence, higher performance and productivity.



By taking the opportunity to go above and beyond statutory obligations through Social Value commitments we can contribute to a new improved culture in the sector.

A culture where health and wellbeing of the workforce and communities we impact upon is paramount and we begin to correct the some of the alarming statistics highlighted in the CIOB report

The shift towards offsite manufacturing will have a positive health, safety and wellbeing impact. The offsite roles involve a reduction in working at height and manual handling leading to fewer accidents (supported by statistics).



Ultimately, there is no reason why construction should be different to any other sector when it comes to suicide rates or health and wellbeing statistics.

The NHP and Trusts wish to work with Tier 1 contractors, delivery partners, the supply chain and local partners to contribute to inspiring a culture change that results in the material improvement of wellbeing in the construction industry.





## THE ACTION PLAN

### Health and Wellbeing

With the aid of the NHP Social Value Measurement Framework we aspire for the Programme to be a catalyst for positive change in the health and wellbeing of the construction workforce by working with our contracted suppliers to deliver social value above and beyond the statutory obligation to:

- 1 Provide access to comprehensive and multidimensional wellbeing programmes for the construction workforce
- 2 Provide professional support for anxiety and depression for the construction workforce
- 3 Provide access to workplace mental and physical health screening
- 4 Undertake campaigns to remove stigma around mental health
- 5 Cascade best practices throughout supply chains

- 6 Set up a centrally led, locally supported **Wellbeing Working Group** with representation from the programme, Trusts, supply chain, industry bodies and partners. The aim of the working group is to embed the high standards and innovative approaches to health and wellbeing that is required for the NHP and to contribute to addressing the issues that are apparent in the industry in general.

This will be achieved in collaboration with the contracted suppliers through initiatives including but not limited to:

- Participation in cross-project structures and processes
- Testing, challenging and improving where possible the minimum standard for site welfare facilities and services
- Support the development of new wellbeing activities, services and support for the workforce
- Establish industry leading wellbeing training standards
- Establish a comprehensive NHP induction programme for the workforce



## THE AMBITION

### Community Cohesion and Benefits



Largescale public investment programmes like the NHP deliver outcomes intended to yield benefits into the long term. However, the process of delivering the ultimate outcome can also have the potential for additional beneficial legacies for the local community.



Suppliers delivering individual schemes will be well positioned to contribute to such initiatives and increase their social value contribution through connection with local communities, 3rd sector organisations and agencies.



The NHP recognises that Trusts, Local Authorities, Planning Authorities and community groups will want to collaborate with appointed contractors and the supply chain in creating a shared vision for the places in which they live and work.

Local schemes may require suppliers to demonstrate a long-term focus in their proposals, with achievement of legacy benefits factored into their designs and delivery plans and capture lessons learnt and establishing a learning legacy.

This is a prime area for the generation of social value that is likely to be bespoke to each scheme and community. There are many recent examples of how major infrastructure programmes and its supply chain can get involved with or initiate community projects that generate tremendous value. Examples include; HS2, 2012 Olympics, Thames Tideway, Crossrail etc.

The NHP and Trusts wish to work with Tier 1 contractors, delivery partners, the supply chain and local partners to identify and deliver social value through community projects and local engagement, meet local needs, and ensure the NHP leaves a positive lasting legacy at both local and national level.



## THE ACTION PLAN

### Community Cohesion and Benefits Action Plan

With the aid of the NHP Social Value Measurement Framework we aim to promote strong, integrated communities, supporting and encouraging additional community benefits by working with our contracted suppliers to:

1 Provide volunteering hours (for training, upskilling, community collaboration, time donated to local groups, causes, community projects etc.)

2 Make donations (money, materials, equipment etc.) to community projects

3 Create or contribute to initiatives to help resolve local issues

4 Co-design with local community stakeholders

5 Help local people and businesses recover from the impacts of COVID-19

6 Help to address local health inequalities

7 The NHP will make available a community and innovation fund.

Funding will be accessible to VCSE's and not for profit organisations via a grant funding application process to support projects that meet the required criteria (to be confirmed) and help the NHP and Trusts to deliver its social value, community and innovation objectives.



## APPENDIX B - ACCEPTANCE OF CONSULTANT'S STAFF



NHP\_ICP2\_calloffda  
ward\_acceptance of

Acceptance of consultant's staff

# Interim Commercial Partner #2

## Acceptance of Consultant's Staff

## 1. Description

The ICP2 contract requires all Consultant's staff and resources provided through any subconsultants to be accepted by a member of the NHP Post-Contract Management team prior to commencing work on the project. This document sets out the process for the acceptance of Consultant's staff.

## 2. Definitions & Abbreviations

NHP	New Hospitals Programme
PCM	NHP Post-Contract Management
Consultant	A member of the Interim Commercial Partner 2 team
PCO	The PCM Officer responsible for the day-to-day administration of the ICP2 contract
PCM	The PCM Manager responsible for the day-to-day management of the ICP2 contract
HPCM	The Head of PCM responsible for the overall management of the ICP2 contract
HoW	NHP's Head of an ICP2 workstream, or their delegate
Key Staff	As defined within the ICP2 contract

## 3. Responsibilities

### Consultant

The Consultant is responsible for proposing staff who are suitably qualified and experienced to undertake the role and services required by NHP, at the grade agreed.

The Consultant is required to provide a sufficiently detailed curriculum vitae to justify that the proposed individual's experience meets or exceeds the grade required by NHP and is appropriate for the role and activities identified.

The grades are defined by the RM6187 MCF3 Grade Definitions document (Annex A).

### Post Contract Management Manager (PCM)

The PCM is responsible for reviewing the CVs proposed by the Consultant. The PCM will be responsible for confirming that either the individual proposed by the Consultant meets the grade and role requirements, or the individual proposed

doesn't meet requirements. The PCM will confer with other members of the NHP team, such as the HoWs, to confirm that the individual being proposed is appropriate for the task required.

**Important note:** where an individual is more qualified and/ or more experienced than the role they are being proposed for requires, the individual can still be accepted but the grade and rate must reflect the role that is being resourced. For example, someone who has the experience and qualifications commensurate with a Senior Consultant, when proposed for a role that has been defined as a Consultant, will be charged at the rate of a Consultant. It is possible for a single individual to be assigned to more than one role and therefore have more than one rate, but all such arrangements must be agreed in advance with the PCM and ICP representatives.

### **Head of Post Contract Management (HPCM)**

The HPCM is responsible for the further review of Key Staff and staff proposed to senior position grades (Partner, Managing Consultant/ Director, Principal Consultant/ Associate Director).

The HPCM is responsible for reviewing the suitability of the proposed candidate with specific reference to knowledge of the candidate's capabilities. The HPCM will confer with other members of the NHP team, such as the HoWs, to satisfy himself that the individual is appropriate to be accepted.

### **Post Contract Management Officer (PCO)**

The PCO is responsible for ensuring that:

- the staff grade and rate proposed by the Consultant is compliant with conforms to the agreed contract rates and within the limits of the framework rates.
- details of the acceptance check are recorded on a master schedule of accepted staff, maintained by the PCO.
- records of the acceptance process and discussions held with the ICP2 are appropriately documented and recorded.

## **4. Procedure**

- i. The Consultant prepares a pro-forma (form as shown in Annex B) with a CV attachment, including relevant details of the staff being proposed. This is submitted directly to the PCM.
- ii. The PCM reviews the submission, in consultation with others as necessary, and then either rejects or accepts. If the submission is rejected, the PCM returns it directly to the Consultant with comments on the reason for rejection. The Consultant either amends and resubmits or withdraws the submission. The Consultant may submit an alternative individual for the PCM to review. A reason for rejecting a submission is

that the grade proposed, and hence rate, is too high for the scope of the role that the NHP seeks to be undertaken

- iii. If the PCM accepts the submission and if the role is not for a senior grade or Key Staff, the pro-forma is passed to the PCO.
- iv. If the PCM accepts the submission and if the role is for a senior grade or Key Staff, the pro-forma is passed to the HPCM. The HPCM reviews the submission, in consultation with others as necessary. If the HPCM rejects the submission, then the pro-forma is returned to the Consultant with the reasons for rejection included. The Consultant either amends and resubmits or withdraws the submission. The Consultant may submit a different individual for the PCM and HPCM review.
- v. If the HPCM accepts the submission, the pro-forma is signed and is passed to the PCO.
- vi. The PCO validates that the staff proposed by the Consultant aligns with the contract terms and framework contract and notifies the Consultant. The PCO issues the Consultant with a unique reference number for the accepted staff.
- vii. The PCO extracts data from the pro-forma and places this on a master schedule of accepted staff and provides an update of the schedule to the Consultant.
- viii. The Consultant does not commence any staff working on the contract until the accepted staff has been issued with a unique reference number.



## **Annex A: CCS MCF3 Grade definitions**

### **Partner**

Partners are expected to be acknowledged experts in at least one function, capability and/or industry and have extensive experience of leading major and/or complex projects.

Activities are likely to include but are not limited to:

- being accountable for overall project delivery and overseeing knowledge transfer to customer
- bringing innovative strategic insight and best practice
- applying relevant private and public sector knowledge including policy and political issues
- delivering results that meet or exceed customer expectations
- developing strong customer relationships with senior stakeholders

Someone working at this grade would typically be expected to have over ten years relevant experience.

### **Managing Consultant/ Director**

Managing Consultants/ Directors are expected to have deep expertise in at least one function, capability and/or industry and perform a wide range of leadership responsibilities.

Activities are likely to include but are not limited to:

- providing leadership to the project team and the customer
- reviewing and improving the project team's recommendations
- providing relevant thought leadership and expertise to the customer
- forming strong working relationships with customer stakeholders

Someone working at this grade would typically have over eight years relevant experience.

**Principal Consultant/ Associate Director**

Principal Consultants/ Associate Directors are expected to have specialised knowledge of a function, capability and/or industry and be responsible for providing leadership both internally for the project team and when interfacing with the customer.

Activities are likely to include but are not limited to:

- designing the project structure
- providing leadership and coaching to internal project team members
- contributing to the development of customer-facing presentations
- leading on the delivery of presentation of recommendations to customer stakeholders

Someone working at this grade would typically have between seven- and eight-years relevant experience.

**Senior Consultant/ Engagement Manager/ Project Lead**

Senior Consultants/ Engagement Manager/ Project Leads are expected to have specialised knowledge of a function, capability and/or industry and be responsible for managing several or all components of a project.

Activities are likely to include but are not limited to:

- - managing the project across multiple workstreams
- - prioritising the team's workload
- - bringing together the team's inputs into coherent recommendations
- - engaging customer stakeholders including presenting recommendations

Someone working at this grade would typically have between five- and six-years relevant experience.

## **Consultant**

Consultants are expected to have knowledge of a function, capability and/or industry and be responsible for larger and/or more complex components of a project. They would have strong analytical skills, along with excellent verbal, written and presentation skills.

Activities are likely to include but are not limited to:

- analysing and modelling data
- drawing out high quality insights
- creating slides to present recommendations
- meeting with customer stakeholders to understand their issues

Someone working at this grade would typically have between two- and four-years relevant experience.

## **Analyst/ Junior Consultant**

Analysts/ Junior Consultants are expected to be responsible for a specific component of a project and have good analytical and communication skills.

Activities are likely to include but are not limited to:

- identifying and researching information sources
- gathering and interpreting data
- executing qualitative and quantitative analysis
- interacting with customer stakeholders

Someone working at this grade would typically have up to two-years relevant experience.

## 5. Annex B: Acceptance of Consultant's staff and staff rates proforma

<b>NHP Interim Commercial Partner 2</b> <b>Acceptance of consultant's staff Proforma</b>							
<b>Name of Proposed Individual:</b> First Name: ..... Last Name: .....							
<b>Name of Employer:</b> .....							
<b>ICP2 Workstream:</b> .....							
<b>Proposed Job Title:</b> ..... <b>Role:</b> ..... <b>Proposed Grade:</b> ..... <b>Key Person (Y/N):</b> ..... <b>Years of Experience:</b> .....							
<b>Professional Qualifications/Memberships:</b> .....							
<b>Comments / Other Supporting Information:</b> ..... ..... .....							
<b>On behalf of the consultant, I consider that the above has the relevant qualifications, knowledge and experience in relation to the role and grade proposed.</b> <b>Signed by Consultant:</b> ..... <b>Print Name</b> ..... <b>Date</b> .....							
<b>FOR Post-Contract Management use</b>		<b>Responsibilities</b>			<b>Accept</b>	<b>Decline</b>	<b>Comments/ Signature</b>
<b>Post-Contract Manager</b>		Does the CV match the ROLE? <input type="checkbox"/>	Does the CV match the GRADE? <input type="checkbox"/>	Does the GRADE match the ROLE? <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Signed by: ..... Print Initials: ..... Date: .....
<b>Head of Post-Contract Management (if required)</b>		Are there any reasons known to the PDP why the proposed staff should not be accepted?			<input type="checkbox"/>	<input type="checkbox"/>	Signed by: ..... Print Initials: ..... Date: .....
<b>Post-Contract Officer</b>		Grade validated against contract? <input type="checkbox"/>	Data entered on master staff register <input type="checkbox"/>	Unique staff reference generated and issued to consultant <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Signed by: ..... Print Initials: ..... Date: .....
				<b>Accepted Reference Number</b>			

Acceptance of consultant's staff

## **APPENDIX C - NHP POLICIES**

1. NHSE Business continuity policy
2. NHSE Confidentiality policy
3. NHSE Data protection policy
4. NHSE Equality, diversity and inclusion in the workplace policy
5. NHSE External freedom to speak up policy for NHS workers
6. NHSE Health & safety policy
7. NHSE Information governance policy
8. NHSE Information security incident reporting procedure
9. NHSE Information sharing
10. NHSE Internal freedom to speak up policy
11. NHSE Health inequalities legal duties 2015
12. NHSE Standards of business conduct
13. NHP conflicts of interest supplier principles



# Business Continuity Policy

NHS England

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# Business

# Continuity

# Policy

Version number: 4.0

First published: 04 December 2014

Date updated: May 2022

Next review date: May 2023

Policy prepared by: Corporate Business Continuity Team

Policy Owner: Mark Blakeman

Brief summary of changes since previous version:

- Updates to organisations who have recently come into NHSE and ones that will be merging.
- Diagrams of processes
- Name of EPRR to NHS Resilience Team

This information can be made available in alternative formats, such as easy read or large print, and may be available in alternative languages, upon request. Please contact the central BC mailbox on: [england.businesscontinuity@nhs.net](mailto:england.businesscontinuity@nhs.net)

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## 1. Purpose

Business continuity is defined as the “*capability of the organisation to continue delivery of products or services at acceptable predefined levels following a disruptive incident.*” (Source ISO 22300)

The types of disruptive business continuity incidents are broadly grouped as denial of access (e.g., via gas leak), lack of people (e.g., via contagious illness) or lack of infrastructure (e.g., via IT network outage).

This policy covers NHS England.

NHS England is a ‘category one’ responder within the Civil Contingencies Act (CCA) 2004, under which NHS England must show that they can deal with disruptive incidents whilst maintaining services. Consequently, NHS England must be able to maintain functions (prioritised activities) when faced with disruption from identified risks.

NHS England have developed a Business Continuity Management System (BCMS) to support effective functioning during an incident and to continue working to secure the best possible outcomes for patients.

## 2. Scope

Services and staff of the following organisations are within the scope of this policy:

NHS England:

- Corporate Directorates and Regional Teams  
(Following conclusion of the NHS Merger Programme in Apr 2023, NHS Digital, HEE and NHS England will develop a joint BCMS).

Hosted bodies, Including:

- All Commissioning Support Units (CSUs) - Commissioning support units (CSUs) are hosted by NHS England and provide CCGs with external support, specialist skills and knowledge to support them in their role as commissioners; for example, by providing business intelligence services, clinical procurement services and business support services such as human resources (HR), payroll, procurement of goods and services and some aspects of informatics. Risk interdependencies and cumulative exposure to commissioning risk may be included within the NHS England corporate risk register.

## 3. Policy Statement

NHS England is committed to the delivery of a robust BCMS. This policy provides a clear statement of commitment to ensure that business critical activities can be maintained throughout a disruptive incident.

A key element in the development of a successful BCMS is embedding a strong business continuity culture throughout NHS England.

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## 4. Aims

The Business Continuity policy ‘provides the intentions and direction of an organisation as formally expressed by its top management’ (ISO 22301:2019).

The aims of this policy are to:

- Provide strategic direction within which the business continuity programme is delivered
- Define the way in which NHS England will approach business continuity and how the programme will be structured and resourced.
- Ensure that business continuity is communicated to all interested parties.

## 5. Objectives

The Chief Delivery Officer (CDO) is the Senior Responsible Officer for the NHS England BCMS.

NHS England business continuity objectives are to:

- Ensure that the BCMS provides planning, processes, training and continuous improvement to manage operational incidents through NHS England and hosted bodies
- Ensure coordination between the business continuity and NHS Resilience Team functions of NHS England. See [Appendix 2](#) for BC Operating Model and Interaction with NHS Resilience Team.
- Ensure the successful delivery of NHS England objectives and support the delivery of the NHS Long-Term Plan despite any business continuity disruption.

## 6. Business Continuity management system guidance and standards

The NHS England BCMS will be based on the following guidance and standards:

- Health and Care Act 2022
- Civil Contingency Act 2004
- ISO 22301: Societal security - Business continuity management systems – Requirements;
- ISO 22313: Societal security - Business continuity management systems – Guidance;
- NHS England Core Standards for NHS Resilience Team
- BCI Good Practice Guidelines 2018

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## 7. Business Continuity Governance

Establishing governance for business continuity provides a central point of accountability for the implementation and continuous monitoring of NHS England functions. The oversight and governance of the BCMS will incorporate monitoring and measurement of progress against key performance indicators. Corporate Services, based in the Chief Delivery Officer Directorate, will ensure that the business continuity policy and programme is being implemented effectively and aligned to the organisations objectives and strategy.

The NHS England Business Continuity operating model and interaction with NHS Resilience Team is detailed in appendix 2.

## 8. Risk Management

Business continuity risk management will be maintained through the BCMS, specifically the Business Impact Analysis (BIA) process conducted by teams and captured in Business Continuity Plans. The risk assessment will evaluate the likelihood and impact of a variety of risks that could cause a business interruption. By assessing risks to activities, teams will be able to identify mitigating measures to ensure continued delivery in the event of an incident. The risk assessment should focus on critical activities and resources identified in the Business Impact Analysis (BIA) stage. The NHS England Automated BIA App can be found [here](#).

To undertake a risk assessment, teams should follow the steps set out within the NHS England risk management process and procedures manual. The 3 main categories of risk that may impact on NHS England are:

- Denial of access
- Lack of people
- Lack of infrastructure

A summary of the risk management process and procedures is as follows:

1. Identify and document the risk to the organisation
2. List the likelihood of the risk occurring
3. List the arrangements that are currently in place to prevent or reduce the likelihood of the risk occurring.
4. List what arrangements could be put in place to prevent or reduce the risk
5. Using the information above, assign a likelihood score to each risk
6. Rank the risks and make an informed decision about what action to take

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## 9. Business Continuity Management Lifecycle

NHS England will apply the 'Plan-Do-Check-Act' (PDCA) cycle to planning, establishing, implementing, operating, monitoring, maintaining and continually improving the effectiveness of the NHS England BCMS. The PDCA approach is illustrated in figure 1 below:

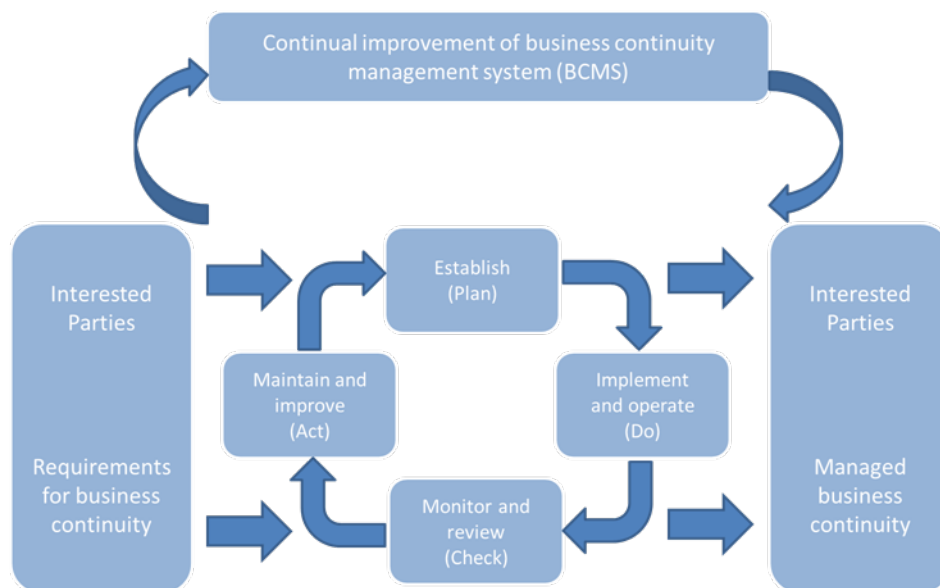


Figure 1: PDCA model applied to BCMS processes (ISO 22313:2019)

## 10. Roles and Responsibilities

### 10.1 National Director: Chief Delivery Office (CDO)

The CDO has overall accountability for the BCMS within NHS England.

### 10.2 National and Regional Directors

Each National and Regional Director is responsible for:

- Designating a primary business continuity lead.
- Nominating enough business continuity leads and Business Impact Analysis Leads to meet the requirements of the directorate.
- Ensuring the nominated business continuity leads are supported to develop the appropriate skills, knowledge, experience and undertake relevant training to conduct their role effectively.
- Supporting the delivery of the Business Continuity Policy within their directorate or region.
- Ensuring that the directorate/region has a robust business continuity incident response structure.
- Supporting the directorate business continuity incident response, as appropriate.
- Ensuring that the directorate/region complies with NHS England NHS

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Resilience Team assurance process, in accordance with NHS England's Core Standards for NHS Resilience Team.

### 10.3 CSU's are responsible for:

- Designating a primary business continuity lead.
- Nominating enough business continuity leads to meet the requirements of the Region.
- Ensuring the nominated business continuity leads are supported to develop the appropriate skills, knowledge, experience and undertake relevant training to conduct their role effectively.
- Supporting the delivery of the Business Continuity Policy within the hosted body.
- Ensuring that the hosted body has a robust business continuity incident response structure.
- Supporting the hosted body business continuity incident response arrangements, as appropriate.

Ensuring that the hosted body complies with the NHS England NHS Resilience Team assurance process, in accordance with the NHS England Core Standards for NHS Resilience Team.

### 10.4 Directorate, Regional and Hosted Bodies Business Continuity Leads are responsible for:

- Develop and maintain appropriate skills, knowledge, experience and undertake appropriate training to conduct the role effectively.
- Embedding the business continuity culture within the Directorate / Region.
- Supporting the delivery of the Business Continuity Policy Supporting Business Impact Analysis (BIA), to identify prioritised activities, and the development of a Business Continuity Plan (BCP); undertaking BC exercises annually and developing work plans.
- Supporting the development and implementation of appropriate business continuity strategies to manage risks.
- Developing robust business continuity incident response structures in co-ordination with existing operational structures.
- Ensuring information governance standards continue to be applied during an incident.
- Ensuring assurance of business continuity management is provided through the NHS England NHS Resilience assurance process, in accordance with the NHS England Core Standards for NHS Resilience Team.

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## 10.5 Corporate Business Continuity Team

The Corporate Business Continuity Team is responsible for ensuring NHS operates effective Business Continuity arrangements through:

- Reporting to the Chief Delivery Officer on the NHS England BCMS.
- Ensuring any corporate BC incidents are managed effectively via the Corporate services on call manager.
- The Corporate services on call manager will provide support to regions in the event of a BC incident.
- Providing annual assurance of business continuity management to the Chief Delivery Officer and to the Department of Health and Social Care through the NHS England NHS Resilience Team assurance process, in accordance with the NHS England Core Standards for NHS Resilience Team.
- Co-ordinating with the national NHS Resilience Team to ensure the development of business continuity management within NHS England and the NHS in England is aligned, including NHS England NHS Resilience Team and business continuity risk registers.
- Providing direction and support to NHS England and hosted bodies in business continuity development, including BIA and BCP development, training, exercise and delivery.
- The development maintenance and review of the BCMS and exercising of BCPs for the Corporate Directorates.
- Development and implementation of appropriate business continuity strategies to manage risks to the Corporate Directorates and corporate activities;
- Liaising with the Procurement team to ensure the provision of business continuity assurance from third party suppliers;
- Supporting the management and recovery of any business continuity incident under the command and control of the nominated Incident Director;
- Maintaining an overview of business continuity incidents affecting NHS England and hosted bodies, to identify learning and inform future arrangements.
- Update and maintain BC documentation e.g., BC Policy, BIA, BC Plans etc.

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## 10.6 NHS England and Hosted Bodies Staff

All staff are responsible for:

- Acknowledging roles and responsibilities during an incident to ensure effectiveness by understanding the business continuity programme.
- Maintaining awareness of the BCP that affects their teams and business areas, including their individual role following invocation.
- Reporting any business continuity incident in accordance with the relevant incident reporting system.
- Support the response with regards to a business continuity incident.

## 11. Impact Assessments

### 11.1 BCP Content

A BCP will be developed using the corporate templates. The BCP will be based on:

- Functions derived from the BIA analysis and key points from the BCP.
- Identification of prioritised activities, continuity requirements and recovery plans.
- Incident response structures.

The NHS England Corporate Directorate and Regional BCP templates can be found [here](#).

### 11.2 BCP Review and Maintenance

A planned review will be undertaken on an annual basis by the Head of Corporate Services for audit and assurance purposes. Additional updates may be taken in view of:

- Lessons identified from incidents and exercises
- Staff changes or changes to the organisational structure
- Changes in NHS England functions
- Changes to risk assessments or business objectives/processes e.g. organisational changes or restructures
- Bi-annual BCMS senior management review with Director of Corporate Operations

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## Appendix 1:

### 12. Business Continuity Incidents

#### 12.1 Incident Response Structure

The incident response structures will be detailed within the relevant BCP to ensure effective incident response and recovery phases. There is a specific BC plan for Pandemic incidents. Business continuity leads will support the designated incident manager and incident response team, as detailed in the relevant BCP. In addition, due to their role as 'category 1 responders' the following guidance applies;

#### NHS England and Regional teams:

- In hours reporting and response: Via BCP incident response structure
- Out of hours reporting and response: Via existing NHS Resilience Team on call arrangements, or other locally determined arrangements.
- Corporate Services also maintain a 24/7 Corporate on Call function available 365 days a year for the Corporate Directorates. Regional teams have their own on call arrangements, although the Corporate on call manager is also responsible for supporting regional colleagues in relation to a BC incident or disruption.

#### 12.2 Incident Response Levels

The Incident Response Levels in table 1 will be used by NHS England and hosted bodies to ensure consistent notification, escalation and co-ordination of incidents. In addition, these levels are aligned to the NHS England NHS Resilience Team Incident Alert and Response Levels to correlate regional and national response for both business continuity and NHS Resilience Team.

Table 1: Incident response levels are above.

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## 12.3 Incident Co-ordination Centre Locations

An appropriate incident co-ordination centre primary and secondary location is to be identified to enable effective incident response.

## 12.4 Incident Response and Recovery Arrangements

Business continuity incidents may occur due to both internal and external hazards and threats. Appropriate response and recovery arrangements will be defined in BCPs.

Business Continuity Incident		
Severity Level	Criteria	Key Actions
(1) Low Impact	<ul style="list-style-type: none"> <li>The incident is having none or limited impact on business operations.</li> <li>The incident is only affecting a single site.</li> <li>The incident can be dealt with and closed by site staff, without additional support or resources.</li> <li>The business continuity plans do not need to be invoked.</li> </ul>	<ul style="list-style-type: none"> <li>Managed locally and continually assessed.</li> <li>For awareness, inform the Regional Business Continuity Leads and Corporate Services on Call and NHS Resilience Team.</li> </ul>
(2) Medium Impact	<ul style="list-style-type: none"> <li>The incident is having a moderate impact on business operations.</li> <li>Business continuity plans will need to be invoked.</li> <li>The incident is affecting one or more sites.</li> <li>In the short term the incident can be dealt with by site staff, but additional support is most likely required from regional staff.</li> <li>The incident is affecting a major site used by multiple Central Directorates and support is required from Corporate Operations to manage the incident.</li> </ul>	<ul style="list-style-type: none"> <li>Business continuity plans are invoked.</li> <li>Dependent upon location, the incident will be managed by the regional business continuity incident response team or Corporate Operations.</li> <li>The Corporate Services on Call will be alerted and provide support, as required.</li> <li>Commercial directorate senior management team alerted to support the response, as required.</li> </ul>
(3) High Impact	<ul style="list-style-type: none"> <li>The incident is severely affecting business operations</li> <li>Business continuity plans will need to be invoked.</li> <li>The incident is affecting multiple sites and requires immediate support from regional staff.</li> <li>The incident requires inter-regional, national or external support.</li> <li>The incident is affecting multiple major sites used by Central Directorates and requires Corporate Operations, inter-regional and external support.</li> </ul>	<ul style="list-style-type: none"> <li>Business continuity plans are invoked.</li> <li>Dependent upon location, the incident will be managed by the regional business continuity incident response team and supported centrally (National Director and Incident Response Team) or by Commercial Directorate for central directorate major sites.</li> </ul>

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### 13. Supply Chain/Procurement

NHS England third party supplier procurement and assurance process is undertaken by the Commercial Team, which incorporates oversight of our top suppliers.

For most services or functions commissioned by NHS England the expenditure exceeds £100,000. Consequently, this involves supplier selection via approved government framework agreements. The primary purpose of framework agreements is to undertake appropriate validation and ensure due diligence is conducted once. Within the approved framework agreements, designated suppliers are required to validate the governance and compliance arrangements pertaining to a variety of predetermined conditions and standards, including business continuity management.

### 14. Business Continuity Mutual Aid

Mutual aid agreements (MAA) will be developed as appropriate and maintained by NHS England and hosted bodies to ensure the continued delivery of prioritised activities during a business continuity incident.

We have working relationships with governmental and non-governmental organisations; whereby mutual aid will be sought depending on the business continuity incident and operational requirements.

### 15. Communication

Communication and consultation on the development of the BCMS will be undertaken with the relevant stakeholders. In the event of a business continuity incident all communications will be undertaken in liaison with internal communications and media relations.

### 16. Training

BC leads and supporting roles within the NHS England BCMS will be provided with appropriate training for their role/s.

Training and mentorship will be provided to BC leads across the organisation. Appropriate skills and competence levels will be identified, to highlight training requirements. A BC lead induction will also be undertaken by the relevant parties.

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## 17. Exercising

In accordance with the NHS England Core Standards for NHS Resilience Team, national, regional and hosted bodies' BCPs are to be exercised, reviewed and updated to determine whether any changes are required to plans, procedures or roles and responsibilities. As a minimum the exercise programme should include:

- Everbridge test for Corporate On Call Service - Monthly
- BCP table top exercise – annually;
- Live exercise – every 3 years.

Within NHS England, the business continuity exercise schedule should be co-ordinated with relevant NHS Resilience Team leads.

## 18. Performance Evaluation

An annual assurance of the BCMS for NHS England and hosted bodies will be undertaken as part of the NHS Resilience Team assurance process, in accordance with the NHS England Core Standards for NHS Resilience Team and provided to the Department of Health and Social Care.

The annual assurance is reported after seeking assurances from the organisation i.e. corporate directorates, regions and hosted bodies. This is done to determine whether the organisation is compliant or non-compliant. Further information is provided to explain reasons for non-compliance.

An annual and bi-annual management review of the NHS England will be undertaken by the Director of Corporate Operations, Commercial Directorate.

The NHS England BCMS will be evaluated by internal audit. Appropriate action will be taken following an audit to ensure the BCMS conforms to NHS England requirements and complies with relevant standards.

The NHS England BCMS is also be subject to the internal audit programme.

## 19. Climate Change Impacts

NHSEI will assess the internal risks of Climate Change, including extreme weather, flooding, heatwaves and power outages. These risks will be considered in relevant Business Continuity Plans. For more information on our approach to Net Zero/ Climate Action see the [NHSEI Green Plan](#).

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## 20. Distribution and Implementation

### 20.1 Distribution Plan

This document will be made available to all staff via the NHS England intranet Policies and Procedures page and from the [Corporate BC team intranet page](#).

### 20.2 Awareness Plan

Awareness of this policy will be promoted by NHS England via the Corporate BC team and BC leads in both directorate and regional teams.

## 21. Monitoring

### 21.1 Compliance

Compliance with this policy will be monitored by the Corporate BC team. Non-compliance will be reviewed to determine corrective actions.

The Head of Corporate Services, Chief Delivery Officer Directorate, is responsible for monitoring, revising and updating this policy.

### 21.2 Impact Assessments

#### Policy Impact Assessment

As part of the development of this policy, its impact on the business has been assessed; no detrimental issues were identified.

#### Equality and Health Inequality Analysis

As part of the development of this policy, its impact on equality has been analysed and no detrimental issues were identified.

## 22. Reference Documentation

- [Civil Contingencies Act 2004](#)
- [Health and Care Act 2022](#)
- BCI Good Practice Guidelines 2018 Edition
- ISO 22300: Societal security – Terminology.
- ISO 22301: Societal security – Business continuity management systems - Requirements.
- ISO 22313: Societal security – Business continuity management systems - Guidance.
- [NHS England Core Standards for Emergency Preparedness, Resilience and Response \(NHS Resilience Team\)](#)

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## Appendix 1: Terminology and definitions

Unless a contrary intention is evident or the context requires otherwise, words or expressions contained in this document shall have the same meaning as set out in the National Health Service Act 2006 and the Health & Care Act 2022 or in any secondary legislation made under the National Health Service Act 2006 and the Health & Care Act 2022 and the following defined terms shall have the specific meanings given to them below:

Term	Definition
Board	means the Chair, Executive Members and Non-executive Members of NHS England collectively as a body.
Budget	means a resource, expressed in financial terms, proposed by the Board for the purpose of carrying out, for a specific period, any or all of the functions of NHS England.
Business Continuity	Means capability of the organisation to continue delivery of products or services at acceptable predefined levels following a disruptive incident.
Business Continuity Management (BCM)	Means a holistic management process that identifies potential threats to an organisation and the impacts to business operations those threats, if realized, might cause, and which provides a framework for building organisational resilience with the capability of an effective response that safeguards the interests of its key stakeholders, reputation, brand and value-creating activities.
Business Continuity Management System (BCMS)	Means part of the overall management system that establishes, implements, operates, monitors, reviews, maintains and improves business continuity. NOTE: The management system includes organisational structure, policies, planning activities, responsibilities, procedures, processes and resources.
Business Continuity Plan (BCP)	Means documented procedures that guide organisations to respond, recover, resume, and restore to a pre-defined level of operation following disruption. NOTE: Typically this covers resources, services and activities required to ensure the continuity of critical business functions.
Business Continuity Programme	Means an ongoing management and governance process supported by top management and appropriately resourced to implement and maintain business continuity management.
Business Impact Analysis (BIA)	Means a process of analysing activities and the effect that a business disruption might have upon them.
NHS Resilience Team	Means the programme of work to plan for, and respond to, a wide range of incidents and emergencies that could affect health or patient care
Executive Member	Means a Member of the Board who is appointed under paragraph 3 of Schedule A1 of the NHS Act 2006.

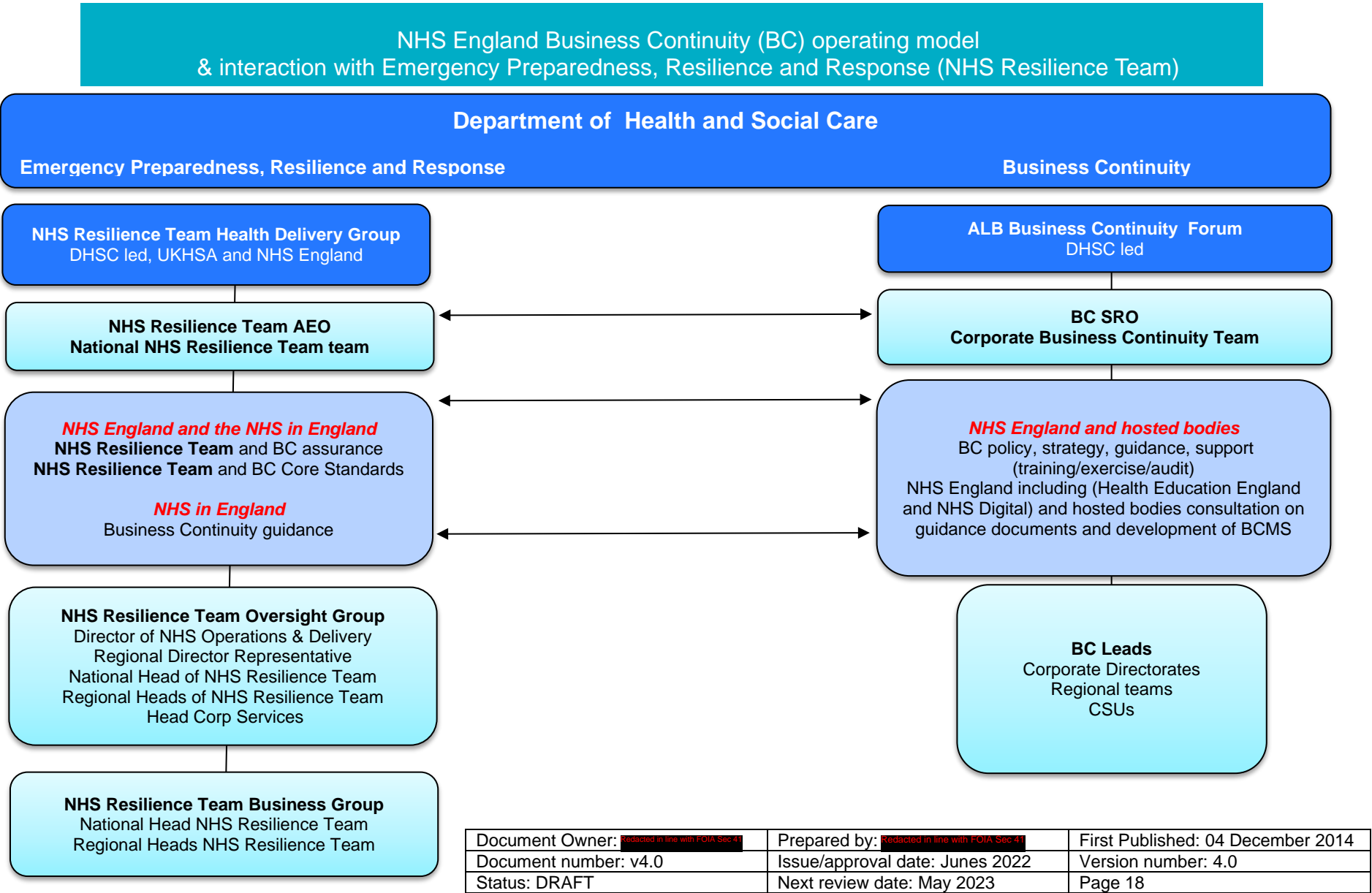
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Incident	means a situation that might be, or could lead to, a disruption, loss, emergency or crisis.
National Director	means an Executive Member or other Officer of NHS England who reports directly to the Chief Executive.
NHS England	NHS England is an executive non-departmental public body of the Department of Health. NHS England oversees the budget, planning, delivery and day-to-day operation of the NHS in England as set out in the Health and Care Act 2022.
NHS England	From 1 April 2019, NHS England have come together as a single organisation to support the NHS to improve care for patients.
Prioritised Activities	activities to which priority must be given following an incident in order to mitigate impacts. NOTE: Terms in common use to describe activities within this group include: critical, essential, vital, urgent and key.
Risk Assessment	overall process of risk identification, risk analysis and risk evaluation.

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Appendix 2: NHS England BC Operating Model and Interactions with NHS Resilience Team





# Confidentiality Policy

NHS England

# Confidentiality Policy

Version number: 5.3

First published: April 2013

Date updated: June 2022

Next review date: March 2025

Policy prepared by: Redacted in line with FOIA Sec 41

Policy Owner: Redacted in line with FOIA Sec 41

Brief summary of changes since previous published version: Reviewed for accuracy. Updated references to legislation and added reference to public inquiries.

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## 1. Purpose

The purpose of this Confidentiality Policy is to lay down the principles that must be observed by all who work within NHS England and have access to person-identifiable information or confidential information (see appendix D). All staff need to be aware of their responsibilities for safeguarding confidentiality and preserving information security.

All employees working in the NHS are bound by a legal duty of confidence to protect personal information they may come into contact with during the course of their work. This is not just a requirement of their contractual responsibilities but also a requirement within the common law duty of confidence and data protection legislation – the UK General Data Protection Regulation (GDPR) and Data Protection Act 2018 (DPA2018).

Confidentiality is also a requirement within the NHS Care Record Guarantee, produced to assure patients regarding the use of their information.

The Health Care Act 2022 created a single NHS Organisation comprising of what was previously Monitor and TDA (NHS Trust Development Authority). The 2022 Health and Care Act introduced new legislative measures that aim to make it easier for health and care organisations to deliver joined-up care for people who rely on multiple different services, building on earlier recommendations by NHS England and NHS Improvement.

## 2. Scope

All our staff and of hosted organisations, without exception, are within the scope of this policy, including and without limitation:

- Central and Regional Teams;
- All Commissioning Support Units;
- NHS Interim and Management Support (NHS IMAS);
- NHS Sustainable Development Unit;
- Strategic Clinical Networks;
- Clinical Senates;
- Healthcare Safety Investigation Branch (HSIB); and

## 3. Policy Statement

It is important that NHS England protect and safeguard person-identifiable and confidential business information that it gathers, creates processes and discloses, in order to comply with the law, relevant NHS mandatory requirements and to provide assurance to patients and the public.

This policy sets out the requirements placed on all staff when sharing information within the NHS and between NHS and non-NHS organisations.

Person-identifiable information is anything that contains the means to identify a person, e.g. name, address, postcode, date of birth, NHS number and must not be stored on removable media unless it is encrypted as per current NHS Encryption Guidance or a business case has been approved by the Corporate Information Governance Team.

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Confidential information within the NHS is commonly thought of as health information; however, it can also include information that is private and not public knowledge or information that an individual would not expect to be shared. It can take many forms including patient level health information, employee records, occupational health records, etc. It also includes NHS England confidential business information. Legally privileged information is a type of confidential information. This is information that may only be shared or accessed by specified individuals to ensure it retains a legally privileged status and may apply to information obtained for the purposes of seeking legal advice, or where it forms part of litigation. Maintaining legal privilege is an important factor where this may be relied on as reason not to disclose information.

Information can relate to patients and staff (including temporary staff), however stored. Information may be held on paper, CD/DVD, USB sticks, computer file or printout, laptops, palmtops, mobile phones, digital cameras or even heard by word of mouth.

A summary of Confidentiality Do's and Don'ts can be found at Appendix A. The Legal and NHS Mandated Framework for confidentiality which forms the key guiding principles of this policy can be found in Appendix B.

How to report a breach of this policy and what should be reported can be found in Appendix C.

Definitions of confidential information can be found in Appendix D.

## 4. Roles and Responsibilities

### The Chief Executive

The Chief Executive has overall responsibility for strategic and operational management, including ensuring that NHS England policies comply with all legal, statutory and good practice guidance requirements.

### The Caldicott Guardian

A senior person responsible for protecting the confidentiality of patient and service user information and enabling appropriate information sharing by providing advice to professionals and staff.

### Senior Information Risk Owner

Sign off and take accountability for risk-based decisions and reviews in regards to the use, disclosure or processing of confidential data in regard to the operating functions of NHS England. The SIRO (or their deputy) chairs the National IG Steering Group (see 3.5).

### Data Protection Officer (DPO)

To provide advice to the highest level of the organisation and all of its employees on data protection issues which can include confidentiality issues which would be

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reviewed in collaboration with the Caldicott Guardian as appropriate to ensure the organisation's compliance with data protection law.

## **The National Information Governance Steering Group**

The National Information Governance Steering Group oversees the development and implementation of Information Governance in NHS England and ensures that the organisation complies with supporting the Legal and NHS Mandatory Framework with regard to Information Governance.

## **Director with responsibility for HR**

The Director with responsibility for HR is responsible for ensuring that the contracts of all staff (permanent and temporary) are compliant with the requirements of the policy and that confidentiality is included in corporate inductions for all staff.

## **Senior Managers**

Senior Managers are responsible for ensuring that the policy and its supporting standards and guidelines are built into local processes and that there is on-going compliance. They must ensure that any breaches of the policy are reported, investigated and acted upon via the Information Security Incident Reporting Procedure.

## **Head of Corporate Information Governance**

The Head of Corporate Information Governance is responsible for ensuring the policy is kept up to date, providing advice on request to any member of staff on the issues covered within it, and ensuring that training is provided for all staff groups to further their understanding of the principles and their application.

## **All staff**

Confidentiality is an obligation for all staff. Staff should note that they are bound by the [Confidentiality: NHS Code of Practice 2003](#). There is a Confidentiality clause in their contract and it is mandatory to participate in induction, training and awareness raising sessions carried out to inform and update staff on confidentiality issues. Any breach of confidentiality, inappropriate use of health data, staff records or business sensitive/confidential information, or abuse of computer systems is a disciplinary offence, which could result in dismissal or termination of employment contract, and must be reported to an appropriate line manager and via the [NHS England Information Security Incident Portal](#).

## **Corporate Level Procedures**

### **Principles**

All staff must ensure that the following principles are adhered to:

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- Person-identifiable or confidential information must be effectively protected against improper disclosure when it is received, stored, transmitted or disposed of.
- Access to person-identifiable or confidential information must be on a need-to-know basis.
- Disclosure of person identifiable or confidential information must be limited to that purpose for which it is required.
- Recipients of disclosed information must respect that it is given to them in confidence.
- If the decision is taken to disclose information, that decision must be justified and documented.
- Any concerns about disclosure of information must be discussed with either your Line Manager or the Corporate Information Governance Team.

NHS England is responsible for protecting all the information it holds and must always be able to justify any decision to share information.

Person-identifiable information, wherever appropriate, in line with the data protection principles stated in the Data Protection Policy, must be anonymised by removing as many identifiers as possible whilst not unduly compromising the utility of the data in line with the ICO's [Anonymisation Code of Practice](#).

Access to rooms and offices where terminals are present, or person-identifiable or confidential information is stored must be controlled. Doors must be locked with keys, keypads or accessed by swipe card. In mixed office environments measures should be in place to prevent oversight of person-identifiable information by unauthorised parties.

All staff should clear their desks at the end of each day. In particular they must keep all records containing person-identifiable or confidential information in recognised filing and storage places that are locked.

Unwanted printouts containing person-identifiable or confidential information must be put into a confidential waste bin. Discs, tapes, printouts and fax messages must not be left lying around but be filed and locked away when not in use.

NHS England's Contract of Employment includes a commitment to confidentiality. Breaches of confidentiality could be regarded as gross misconduct and may result in serious disciplinary action up to and including dismissal.

## Disclosing Personal/Confidential Information

To ensure that information is only shared with the appropriate people in appropriate circumstances, care must be taken to check they have a legal basis for access to the information before releasing it.

It is important to consider how much confidential information is needed before disclosing it and only the minimal amount necessary is disclosed.

Information can be disclosed:

- When effectively anonymised in accordance with the Information Commissioner's Office Anonymisation Code of Practice (<https://ico.org.uk/>). In certain circumstances pseudonymised data which is anonymous in context may be shared where there is an appropriate legal basis to do so. Advice must

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always be sought from the Corporate Information Governance team before sharing pseudonymised data.

- When the information is required by law or under a court order. In this situation staff must raise in the first place with the Corporate IG team by e-mailing the [DPO inbox](#). The IG team will then consult the DPO or Caldicott Guardian if necessary before advising.
- In relation to public inquiries the Inquiries Act 2005 'S21 notice' to produce documents creates a statutory obligation to disclose. Any obligation of confidentiality must be considered and if this can be overridden by the statutory obligation to disclose. Appropriate legal advice must always be sought.
- In identifiable form, when it is required for a specific purpose, with the individual's written consent or with support under the Health Service (Control of patient information) Regulations 2002, obtained via application to the Confidentiality Advisory Group (CAG) within the Health Research Authority<sup>1</sup>. Referred to as approval under s251 of the NHS Act 2006.
- In Child Protection proceedings if it is considered that the information required is in the public or child's interest. In this situation staff must raise in the first place with the Corporate IG team by e-mailing the [DPO inbox](#). The IG team will then consult the DPO or Caldicott Guardian if necessary before advising.
- Where disclosure can be justified for another purpose, this is usually for the protection of the public and is likely to be in relation to the prevention and detection of serious crime. In this situation staff must raise in the first place with the Corporate IG team by e-mailing the [DPO inbox](#). The IG team will then consult the DPO or Caldicott Guardian if necessary before advising.
- For any proposed routine disclosures of personal/confidential information, please consult the [IG Requirements for New Processes Procedure](#) to see if a Data Protection Impact Assessment should be undertaken.

If staff have any concerns about disclosing information they must raise in the first place with the Corporate IG team by e-mailing the [DPO inbox](#). The IG team will then consult the DPO or Caldicott Guardian if necessary before advising.

Care must be taken in transferring information to ensure that the method used is as secure as it can be. Data sharing agreements provide a way to formalise arrangements between organisations. For further information on Data Sharing Agreements contact the Corporate Information Governance team or see the Information Sharing Policy.

Staff must ensure that appropriate standards and safeguards are in place to protect against inappropriate disclosures of confidential personal data. See the [Safe Haven Procedure](#) for guidance on the safe transfer of confidential or person-identifiable information.

When transferring patient information or other confidential information by email, services or methods that meet NHS Encryption standards must be used. Emails between NHS Mail accounts meet this requirement (nhs.net to nhs.net). Emails between NHS Mail and other secure government domains also meet this requirement (e.g. gov.uk). As there are a number of these, please consult the Corporate IG team for advice when intending to send confidential information by email to a non-nhs.net address. If you are sending sensitive information outside of NHS Mail, then the encryption feature should be used. This service only works when the sender of the

<sup>1</sup> This group has replaced the NIGB's Ethics and Confidentiality Advisory Group

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email is using an NHS Mail account. The sender must insert **[secure]** in the subject field (the square brackets must be used or the email will not be encrypted), and the recipient will be required to create an account to decrypt the message.

It is not permitted to include confidential or sensitive information in the body of an email. When e-mailing to addresses other than the secure domains described above the information must be sent as an encrypted attachment with a strong password communicated through a different channel or agreed in advance. When communicating via the secure domains, to protect against the risk of accidentally sending to an incorrect recipient, the data should be sent in a password protected attachment, again with the password communicated through a different channel or agreed in advance.

Sending information via email to patients is permissible, provided the risks of using unencrypted email have been explained to them, they have given their consent, or the information is not person-identifiable or confidential information.

### **Working Away from the Office Environment**

There will be times when staff may need to work from another location or whilst travelling. This means that these staff may need to carry NHS England information with them which could be confidential in nature e.g. on a laptop, USB stick or paper documents. Please refer to the [Mobile Working Procedure](#).

Taking home/removing paper documents that contain person-identifiable or confidential information from NHS England premises is discouraged.

To ensure safety of confidential information staff must keep them on their person at all times whilst travelling and ensure that they are kept in a secure place if they take them home or to another location. Confidential information must be safeguarded at all times and kept in lockable locations.

When working away from NHS England locations staff must ensure that their working practice complies with NHS England's policies and procedures. Any electronic removable media must be encrypted as per the current NHS Encryption Guidance.

Staff must minimise the amount of person-identifiable information that is taken away from NHS England premises.

If staff need to carry person-identifiable or confidential information they must ensure the following:

- Any personal information is in a sealed non-transparent container i.e. windowless envelope, suitable bag, etc. prior to being taken out of NHS England buildings.
- Confidential information is kept out of sight whilst being transported.

If staff need to take person-identifiable or confidential information home, they have personal responsibility to ensure the information is kept secure and confidential. This means that other members of their family and/or their friends/colleagues must not be able to see the content or have any access to the information. It is particularly

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important that confidential information in any form is not left unattended at any time, for example in a car.

Staff must NOT forward any person-identifiable or confidential information via email to their home e-mail account. Staff must not use or store person-identifiable or confidential information on a privately-owned computer or device.

## Carelessness

All staff have a legal duty of confidence to keep person-identifiable or confidential information private and not to divulge information accidentally. Staff may be held personally liable for a breach of confidence and must not:

- Talk about person-identifiable or confidential information in public places or where they can be overheard.
- Leave any person-identifiable or confidential information lying around unattended, this includes telephone messages, computer printouts, faxes and other documents.
- Leave a computer terminal logged on to a system where person-identifiable or confidential information can be accessed, unattended.

Steps must be taken to ensure physical safety and security of person-identifiable or business confidential information held in paper format and on computers.

Passwords must be kept secure and must not be disclosed to unauthorised persons. Staff must not use someone else's password to gain access to information. Action of this kind will be viewed as a serious breach of confidentiality. If you allow another person to use your password to access the network, this constitutes a disciplinary offence and is gross misconduct which may result in your summary dismissal. This could also constitute an offence under the Computer Misuse Act 1990.

## Abuse of Privilege

It is strictly forbidden for employees to knowingly browse, search for or look at any personal or confidential information about themselves without a legitimate purpose, unless through established self-service mechanisms where such access is permitted (e.g. viewing your ESR record). Under no circumstances should employees access records about their own family, friends or other persons without a legitimate purpose. Action of this kind will be viewed as a breach of confidentiality and may be an offence under the Data Protection Act 2018.

When dealing with person-identifiable or confidential information of any nature, staff must be aware of their personal responsibility, contractual obligations and undertake to abide by the policies and procedures of NHS England.

If staff have concerns about this issue they should discuss it with their Line Manager, Corporate Information Governance Team or DPO.

## Confidentiality Audits

Good practice requires that all organisations that handle person-identifiable or confidential information put in place processes to highlight actual or potential

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confidentiality breaches in their systems, and also procedures to evaluate the effectiveness of controls within these systems. This function will be co-ordinated by the Corporate Information Governance team through a programme of audits.

## **Distribution and Implementation Distribution Plan**

This document will be made available to all staff via the intranet site. A notice will be issued in the staff bulletin notifying of the release of this document.

## **Training Plan**

The IG Training Programme incorporates a training needs analysis for all NHS England staff.

Based on the findings of that analysis, appropriate training will be provided to staff as necessary.

Guidance will be provided on the Corporate Information Governance intranet site.

## **Compliance**

Compliance with the policies and procedures laid down in this document will be monitored via the Corporate Information Governance team and may be subject to external audit.

The Head of Corporate Information Governance is responsible for the monitoring, revision and updating of this document on a 3 yearly basis or sooner if the need arises.

## **5. Impact Assessments**

### **Policy Impact Assessment**

As part of the development of this policy, its impact on the business has been assessed; no detrimental issues were identified.

### **Equality and Health Inequality Analysis**

As part of the development of this policy, its impact on equality has been analysed and no detriment identified.

## **6. Associated Documentation**

The following documents will provide additional information:

- Acceptable Use of ICT and User Obligations
- Confidentiality Policy
- Corporate Document and Records Management Policy
- Data Protection Policy
- Freedom of Information Policy
- Information Governance Policy

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- Information Security Policy
- Information Sharing Policy
- Accessing Encrypted Emails Guide for non-NHSmial users

## Appendix A: Confidentiality Do's and Don'ts

### Do's

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- Do safeguard the confidentiality of all person-identifiable or confidential information that you come into contact with. This is a statutory obligation on everyone working on or behalf of NHS England.
- 
- Do clear your desk at the end of each day, keeping all non-digital records containing person-identifiable or confidential information in recognised filing and storage places that are locked at times when access is not directly controlled or supervised.
- Do switch off computers with access to person-identifiable or business confidential information, or put them into a password-protected mode, if you leave your desk for any length of time.
- Do ensure that you cannot be overheard when discussing confidential matters.
- Do challenge and verify where necessary the identity of any person who is making a request for person-identifiable or confidential information and ensure they have a need to know.
- Do share only the minimum information necessary.
- Do transfer person-identifiable or confidential information securely when necessary i.e. use an nhs.net email account to send confidential information to another nhs.net email account or to a secure government domain e.g. gov.uk. For up to date information of secure domains please contact the Corporate IG Team.
- Do seek advice if you need to share patient/person-identifiable information without the consent of the patient/identifiable person's consent and record the decision and any action taken.
- Do report any actual or suspected breaches of confidentiality.
- Do participate in induction, training and awareness raising sessions on confidentiality issues.

## Don'ts

- Don't share passwords or leave them lying around for others to see.
- Don't share information without the consent of the person to which the information relates unless there are statutory grounds to do so.
- Don't use person-identifiable information unless absolutely necessary, anonymise the information where possible.
- Don't collect, hold or process more information than you need, and do not keep it for longer than necessary.

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**Appendix B: Summary of Legal and NHS Mandated Frameworks**

NHS England is obliged to abide by all relevant UK and European Union legislation. The requirement to comply with this legislation shall be devolved to employees and agents of NHS England, who may be held personally accountable for any breaches

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of information security for which they may be held responsible. NHS England and shall comply with the following legislation and guidance as appropriate:

**The UK Data Protection Regulation (GDPR) and Data Protection Act (2018)** regulate the use of “personal data” and sets out eight principles to ensure that personal data is:

1. Processed lawfully, fairly and in a transparent manner in relation to individuals.
2. Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes.
3. Adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.
4. Accurate and where necessary kept up to date.
5. Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed.
6. Processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

**The Caldicott Report (1997)** and subsequent Caldicott or National Data Guardian reviews recommended that a series of principles be applied when considering whether confidential patient-identifiable information should be shared:

- Justify the purpose for using patient-identifiable information.
- Don't use patient identifiable information unless it is absolutely necessary.
- Use the minimum necessary patient-identifiable information.
- Access to patient-identifiable information should be on a strict need to know basis.
- Everyone should be aware of their responsibilities.
- Understand and comply with the law.
- The duty to share information can be as important as the duty to protect patient confidentiality.
- Inform patients and service users about how their confidential information is used.

<https://www.gov.uk/government/publications/the-information-governance-review>  
<https://www.gov.uk/government/publications/caldicott-information-governance-review-department-of-health-response>

Article 8 of the **Human Rights Act (1998)** refers to an individual's “*right to respect for their private and family life, for their home and for their correspondence*”. This means that public authorities should take care that their actions do not interfere with these aspects of an individual's life.

[Click here for an online link to the Human Rights Act 1998](#)

The **Computer Misuse Act (1990)** makes it illegal to access data or computer programs without authorisation and establishes three offences:

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1. Unauthorised access to data or programs held on a computer e.g. to view test results on a patient whose care you are not directly involved in or to obtain or view information about friends and relatives.
2. Unauthorised access with the intent to commit or facilitate further offences e.g. to commit fraud or blackmail.
3. Unauthorised acts with intent to impair, or with recklessness so as to impair, the operation of a computer e.g. to modify data or programs held on computer without authorisation.

a) Making, supplying or obtaining articles for use in offences 1-3

[Click here for an online link to the Computer Misuse Act 1990](#)

The **NHS Confidentiality Code of Practice (2003)** outlines four main requirements that must be met in order to provide patients with a confidential service:

- Protect patient information.
- Inform patients of how their information is used.
- Allow patients to decide whether their information can be shared.
- Look for improved ways to protect, inform and provide choice to patients.

[Click here for an online link to NHS Confidentiality Code of Practice 2003](#)

### Common Law Duty of Confidentiality

Information given in confidence must not be disclosed without consent unless there is a justifiable reason e.g. a requirement of law or there is an overriding public interest to do so.

### Administrative Law

Administrative law governs the actions of public authorities. According to well established rules a public authority must possess the power to carry out what it intends to do. If not, its action is “ultra vires”, i.e. beyond its lawful powers.

### The NHS Care Record Guarantee

The Care Record Guarantee sets out twelve high-level commitments for protecting and safeguarding patient information, particularly in regard to: patients’ rights to access their information, how information will be shared both within and outside of the NHS and how decisions on sharing information will be made. The most relevant are:

Commitment 3 - We will not share information (particularly with other government agencies) that identifies you for any reason, unless:

- You ask us to do so.
- We ask, and you give us specific permission.
- We have to do this by law.
- We have special permission for health or research purposes; or

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- We have special permission because the public good is thought to be of greater importance than your confidentiality, and
- If we share information without your permission, we will make sure that we keep to the Data Protection Act, the NHS Confidentiality Code of Practice and other national guidelines on best practice.

Commitment 9 - We will make sure, through contract terms and staff training, that everyone who works in or on behalf of the NHS understands their duty of confidentiality, what it means in practice and how it applies to all parts of their work. Organisations under contract to the NHS must follow the same policies and controls as the NHS does. We will enforce this duty at all times.

[Click here for an online link to NHS Care Record Guarantee](#)

## Appendix C: Reporting of Policy Breaches

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## What should be reported?

Misuse of personal data and security incidents must be reported so that steps can be taken to rectify the problem and to ensure that the same problem does not occur again.

All breaches should be reported to the Corporate Information Governance Team. If staff are unsure as to whether a particular activity amounts to a breach of the policy, they should discuss their concerns with their Line Manager or Corporate Information Governance staff. The following list gives examples of breaches of this policy which should be reported:

- Sharing of passwords.
- Unauthorised access to NHS England systems either by staff or a third party.
- Unauthorised access to person-identifiable information where the member of staff does not have a need to know.
- Disclosure of person-identifiable information to a third party where there is no justification and you have concerns that it is not in accordance with the Data Protection Act and NHS Code of Confidentiality.
- Sending person-identifiable or confidential information in a way that breaches confidentiality.
- Leaving person-identifiable or confidential information lying around in a public area.
- Theft or loss of person-identifiable or confidential information.
- Disposal of person-identifiable or confidential information in a way that breaches confidentiality i.e. disposing of person-identifiable information in an ordinary waste paper bin.

## Seeking Guidance

It is not possible to provide detailed guidance for every eventuality. Therefore, where further clarity is needed, the advice of a Senior Manager or Corporate Information Governance staff should be sought.

## Reporting of Breaches

A regular report on breaches of confidentiality of person-identifiable or confidential information shall be presented to the National Information Governance Steering Group and the Central Team Information Governance Operational Group . The information will enable the monitoring of compliance and improvements to be made to the policy and procedures.

## Appendix D: Definitions

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The following types of information are classed as confidential. This list is not exhaustive:

**Person-identifiable information** is anything that contains the means to identify a person, e.g. name, address, postcode, date of birth, NHS number, National Insurance number etc. Even a visual image (e.g. photograph) is sufficient to identify an individual. Any data or combination of data and other information, which can indirectly identify the person, will also fall into this definition.

**Special categories of personal information or criminal conviction and offences data, (previously known as 'sensitive' personal data) as defined by the Data Protection Act 2018 refers to personal information about:**

- Race or ethnic origin
- Political opinions
- Religious or philosophical beliefs
- Trade union membership
- Genetic data
- Biometric data
- Health data
- Sexual history and/or sexual orientation
- Criminal data

**Non-person-identifiable information** can also be classed as confidential such as confidential business information e.g. financial reports; commercially sensitive information e.g. contracts, trade secrets, procurement information, which should also be treated with the same degree of care.

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# Data Protection Policy

NHS England

# Data Protection Policy

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- 21/6/22 removal of NHS Improvement, updated logo

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## 1. Purpose

NHS England need to collect and process personal data about people with whom it deals in order to carry out its business and provide its services. Such people include but are not limited to patients, employees (present, past and prospective), suppliers and other business contacts. The data may include identifiers such as name, address, email address, data of birth, NHS Number, National Insurance Number. It may also include private and confidential information, and special categories of personal data.

In addition, NHS England may occasionally be required to collect and use certain types of such personal information to comply with the requirements of the law. No matter how it is collected, recorded and used (e.g. on a computer or other digital media, on hardcopy, paper or images, including CCTV) this personal information must be dealt with properly to ensure compliance with data protection legislation – the UK General Data Protection Regulation (GDPR) and Data Protection Act 2018 (DPA2018) which together comprise data protection law in the UK.

The lawful and proper treatment of personal information by NHS England is extremely important to the success of our business and in order to maintain the confidence of our service users and employees. NHS England must ensure that it processes personal information lawfully and correctly.

## 2. Scope

All our staff and of hosted organisations, without exception, are within the scope of this policy, including and without limitation:

- Central and Regional Teams;
- All Commissioning Support Units;
- NHS Interim and Management Support (NHS IMAS);
- NHS Sustainable Development Unit;
- Strategic Clinical Networks;
- Clinical Senates;
- Healthcare Safety Investigation Branch (HSIB)

## 3. Policy Statement

The responsibilities and measures that NHS England has put in place to ensure compliance with legislation include:

- Appointment of a Data Protection Officer and support function
- Appointment of a Senior Information Risk Owner
- Updated Data Protection Impact Assessment (DPIA) process
- An Information Asset Register

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## Data Protection Overview

NHS England must comply with the 7 principles of the General Data Protection Regulation. Personal information will be:

- i) processed lawfully, fairly and in a transparent manner in relation to individuals,
- ii) collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes,
- iii) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed,
- iv) accurate and, where necessary, kept up to date,
- v) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed, and
- vi) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures,
- vii) Accountable. All NHS England staff are responsible for complying with the UK GDPR and we must demonstrate our compliance.

Personal data shall be processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures. Information covered by data protection legislation

The GDPR definition of "personal data" covers any information relating to an identified or identifiable natural person – i.e. living individuals. Pseudonymised personal data is covered, however anonymised or aggregated data is not regulated by the GDPR or DPA2018, providing the anonymisation or aggregation has not been done in a reversible way.

Individuals can be identified by various means including their name and address, telephone number or Email address, NHS Number, NI Number.

The GDPR defines special categories of personal data and criminal conviction and offences data (previously both referred to as sensitive personal information) as information related to:

- Race or ethnic origin
- Political opinions
- Religious or philosophical beliefs
- Trade union membership
- Genetic data
- Biometric data
- Health data
- Sexual history and/or sexual orientation
- Criminal data

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## 4. Roles and Responsibilities

### NHS England will:-

- Implement the requirements of the Joint Controller and Information Sharing Framework Agreement
- ensure that an appropriate framework is in place encompassing relevant roles within the organisation that have responsibility for data protection, including the Data Protection Officer and Head of Information Governance, the Senior Information Risk Owner and Caldicott Guardians
- provide training for all staff members who handle personal information and ensure access to further guidance and support
- provide clear lines of report and supervision for compliance with data protection
- carry out regular checks to monitor and assess new processing of personal data and to ensure the NHS England notification to the Information Commissioner is updated to take account of any changes in processing of personal data
- develop and maintain procedures to ensure compliance with data protection legislation, to cover for example:
  - data protection impact assessment
  - managing responses to subjects' rights requests
  - management of personal data breaches
  - provision of privacy information
  - training and compliance testing
- Maintain a record of processing activities
- Ensure the organisation complies with its transparency and fair processing obligations in relation to data subjects' personal data

### The Data Protection Officer

As a public authority NHS England is required to appoint a Data Protection Officer by the GDPR. The Information Governance Policy establishes this role. The DPO is responsible for providing advice, monitoring compliance, and is the first point of contact in the organisation for data protection matters. The DPO reports to the SIRO and directly to the Board in relation to data protection matters.

### Employee Responsibilities

All employees will, through appropriate training and responsible management:

- Observe all forms of guidance, codes of practice and procedures about the collection and use of personal information.
- Understand fully the purposes for which NHS England uses personal information.
- Collect and process appropriate information, and only in accordance with the purposes for which it is to be used by NHS England to meet its service needs or legal requirements.
- Ensure the information is destroyed (in accordance with the provisions of the Act) when it is no longer required and in compliance with the Corporate Document and Records Management Policy and Retention Schedule

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- On receipt of a request by or on behalf of an individual for information held about them, or any other data subject's rights in relation to their personal data, staff will immediately notify their line manager and the customer contact centre and abide by the [Procedure for managing personal data requests](#).
- Not send any personal information outside of the United Kingdom without the authority of the Data Protection Officer.
- Understand that breaches of this Policy may result in disciplinary action, up to and including dismissal.

Section 170 (1) of the Data Protection Act 2018: Unlawful obtaining etc of personal data, states it is an offence for a person knowingly or recklessly:

- a) to obtain or disclose personal data without the consent of the controller
- b) to procure the disclosure of personal data to another person without the consent of the controller, or
- c) after obtaining personal data, to retain it without the consent of the person who was the controller in relation to the personal data when it was obtained

## 5. Impact Assessments

### 5.1 Policy Impact Assessment

As part of the development of this policy, its impact on the business has been assessed no detrimental issues were identified

### 5.2 Equality and Health Inequality Analysis

As part of the development of this policy, its impact on equality has been analysed and no detriment identified no detrimental issues were identified.

## 6. Associated Documentation

The following documents will provide additional information:

- Acceptable Use of ICT and User Obligations
- Confidentiality Policy
- Corporate Document and Records Management Policy
- Data Protection Policy
- Freedom of Information Policy
- Information Governance Policy
- Information Security Policy
- Information Sharing Policy

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# Equality, Diversity and Inclusion in the Workplace Policy

NHS England

This information can be made available in alternative formats, such as braille or large print. Please contact the Diversity and Inclusion Team at [england.diversity@nhs.net](mailto:england.diversity@nhs.net)

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## 1. Key messages

Our organisation is committed to treating all our people fairly and responsibly. All aspects of our business, including the relationships we create, our approach to work and the decisions we make are built on values including a commitment to equality, diversity and inclusion.

This policy supports all workers to pro-actively promote equality and diversity and remove any barriers to our people doing a great job.

We operate a zero-tolerance approach to discrimination, bullying and harassment. This means that all reported instances will be addressed. Everybody's behaviour is expected to be exemplary and reflect this policy.

This policy supports workers to tackle and eliminate both overt and covert acts of discrimination and to highlight requirements and practices which, although possibly unintentional, are discriminatory in nature.

Information, support and advice is available to help put this policy into practice. This is explained throughout this policy.

## 2. Definitions and scope

This policy sets out what we mean by different terms. The following definitions have come from our previous policies. They have been updated in line with feedback from our key stakeholders including our Diversity Staff Networks. The definitions also reflect our legal obligations.

This policy covers all **workers**. For the purposes of this policy, this term covers job applicants, employees of NHS England, contractors/agency staff, visitors including members of the public, secondees and workers from other organisations working on the same sites.

**Equality** means creating fair circumstances where everyone can fulfil their role and reach their potential. This means removing barriers, eliminating discrimination and ensuring equal opportunities and access for all groups and identities.

**Diversity** means differences. Our organisation is committed to promoting a culture that actively values differences. Everyone is an individual, and everyone is different, whether this is visible or not.

**Inclusion** means a culture where everyone respects and accepts differences, and everyone can feel valued for their contributions and be themselves at work without needing to hide aspects of their identity out of fear. A safe and inclusive culture enhances the way we all work.

We promote equality across the following **protected characteristics**, covered in law by the Equality Act 2010:

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Age  
 Disability including physical and mental health conditions  
 Gender reassignment  
 Marital or civil partnership status  
 Pregnancy and maternity  
 Race  
 Religion and belief or lack of belief  
 Sex  
 Sexual orientation

In addition, our organisation promotes fair and equal treatment for all people. No worker or job applicant should be treated unfairly based on **other characteristics** such as gender identity and expression (covering all trans and non-binary identities), paternity, parental and caring status, lifestyle preferences (for example veganism), or political belief. This list is not exhaustive.

It is recognised that employees may perceive that they are treated unfairly for reasons which are unrelated to a protected characteristic. Whilst it is hoped any such concerns may be addressed on an informal basis, employees may wish to refer to the NHS England [Grievance Policy](#) and the NHS England [Respect at Work policy](#).

**Positive action** is a limited range of lawful actions that seeks to address an imbalance in employment opportunities among targeted groups who have previously experienced disadvantage, or who have been subject to discriminatory policies and practices, or who are underrepresented on the workforce.

The organisation supports a positive action approach to diversity and supports its use where necessary.

Broadly speaking, **discrimination** is treating a person less favourably than you would treat (or would treat) others because of a protected characteristic. For example, a manager withholding progression opportunities from a bisexual colleague based on personal prejudices, assumptions and stereotypes.

**Harassment** is unwanted conduct related to a relevant protected characteristic which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual, and where it was reasonable for the conduct to have had that effect. For example, team members dictating which bathroom facilities a trans colleague should use.

The Equality Act 2010 also protects you if people in your life, like family members or friends, have a protected characteristic and you are treated unfairly because of that. This is called **discrimination by association**. For example, a line manager refusing to consider flexible working arrangements for a worker whose son is disabled and for whom they have a caring responsibility.

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**Discrimination by perception** is when you are discriminated against because of a perceived protected characteristic. Whether or not this is accurate, this form of discrimination is illegal. An example is an unfair recruitment decision about a candidate because they are believed to be from a certain religious background; even though the candidate may not be, the law protects them.

For more information see the NHS England [Respect at Work Policy](#) and Section 4 below.

### 3. The context of this policy

Our organisation aims to represent the diversity of the communities we serve. This means we want our workforce to reflect the wider population in terms of demographics. We want to attract and retain a wide range of staff who identify across the protected characteristics in the same proportion as the wider population of England. A diverse workforce helps us understand and stay in touch with issues that are relevant to a diverse population.

The NHS Long Term Plan sets a 10-year vision to help us deliver our role in the health system and make improvements. As the NHS was founded to provide universal access to healthcare, the Long-Term Plan aims to reduce health inequalities and promote compassionate and diverse leadership.<sup>1</sup>

Respect, equality and diversity are central to changing culture and are at the heart of the NHS People Plan, which says it is not enough for the NHS merely to continue to champion the idea of inclusion and diversity. “We must recognise our shortcomings in this area and listen to the experience of those who face exclusion and marginalisation to understand how to advance equality and diversity better. We need to develop leaders who have the knowledge, skills and behaviours to create and sustain cultures of compassion and inclusion.”<sup>2</sup>

Considering this vision for the NHS, employment can be considered a health outcome. This means that staying in employment, and having a good experience at work, can help people be healthier and reduce health inequalities. Some people and groups face barriers that others do not. Ensuring equal opportunity and access may mean taking extra steps to remove barriers and enable full participation.

### 4. Applying this policy in practice

#### 4.1 If you become aware of discrimination, bullying and harassment

All workers have a responsibility to challenge discrimination when it occurs, and promptly raise any concerns relating to unlawful discrimination or equality, diversity and

<sup>1</sup> [NHS Long Term Plan](#), 4.7

<sup>2</sup> [Interim NHS People Plan](#), page 16.

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inclusion in a timely manner to their line manager, HR & OD or Trade Union representative.

Workers may not harass or victimise others who raise complaints or allegations of bullying, harassment or discrimination, or who provide information on this. Workers are not permitted to discriminate or induce others to do so.

All workers have a duty to maintain a professional and inclusive working environment and treat everyone with respect and dignity.

All managers are expected to be familiar with related policies, including the policy on [Respect at Work \(NHS England\)](#), and address bullying and harassment, complaints and grievances promptly and fairly, in a consistent manner. For example, if a manager becomes aware of comments made in the office based on stereotypes about sexual orientation or trans identities, they must address the incident promptly to raise the standards of professionalism and rebuild a safe team culture.

Managers are expected to work with staff directly to promote equality law, individual responsibilities and to prevent discrimination. Managers must ensure the workers and teams they manage are fully trained, compliant and knowledgeable of relevant laws and policies as soon as they start work here. They must hold those who directly report into them responsible and accountable for implementing this policy locally, including those within their line management chain.

Managers must ensure the teams and workers they manage know how to report instances of bullying, harassment and discrimination as below.

Managers are expected to be safe and approachable individuals in this respect but also must be positive and effective role models with regard to their own behaviour relating to diversity and inclusion issues.

Proven cases of bullying, harassment or discrimination may lead to the issue of sanctions under the Disciplinary Policy. Cases of harassment or discrimination with proven malicious intent may be considered as gross misconduct and may lead to dismissal under the [Disciplinary Policy for NHS England](#).

The organisation has a zero-tolerance approach to discrimination, bullying and harassment. This means that all reported instances will be addressed. For more information about reporting and handling concerns, see the NHS England [Respect at Work policy](#).

## 4.2 Recruitment and selection

Managers are expected to promote equality and diversity throughout recruitment, selection, support and promotion. When making decisions that impact the development and employment of others, managers must ensure they follow due process and make fair evidence-based decisions following the [Recruitment and Selection Policy](#).

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This includes making reasonable adjustments, see Section 4.7 below. For more information see the [Inclusive Recruitment checklist](#).

### 4.3 Learning and Development

The organisation upholds equality of access to learning and development. This covers fair access to opportunities, training and funding which are to be made available in a transparent and inclusive way.

The organisation recognises that positive action may be necessary in some cases, which is in accordance with the Equality Act 2010. This means that extra encouragement and support can be targeted at groups underrepresented on our workforce, where there is a need for such encouragement.

Our equality and diversity learning and development strategy is to support our participation in the Disability Confident Employer scheme and/or other accreditations and national standards.

All workers are required to complete Mandatory and Statutory Training (MaST) on Equality and Diversity as per the NHS England [Learning and Development Policy](#).

Workers will also be required to participate in training and development activities from time to time, to encourage the promotion of the principles of this policy.

### 4.4 Promotion

The organisation upholds equality of access to career development. This covers fair access to opportunities, which are to be made available in a transparent and inclusive way.

The organisation recognises that positive action may be necessary in some cases, which is in accordance with the Equality Act 2010 and the [Recruitment and Selection Policy](#).

For more information, see [The Recruitment and Retention of Transgender Staff – Guidance for Employers](#) by the Government Equalities Office and Inclusive Employers.

### 4.5 Participation in Diversity Staff Networks

Participation by staff in our Diversity Staff Networks is valuable to the organisation and is considered 'work' and should be treated as such. Staff will not be expected to take annual leave to cover time spent on Diversity Staff Network activity during work hours.

Skills and experience gained from participating in Staff Networks can be considered as part of personal appraisal, with respect to the privacy of protected characteristics. Transferrable skills gained from experience with Staff Networks can also be considered in the recruitment process.

To find out more about accessing the Diversity Staff Networks, see Section 6 below.

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## 4.6 Transitioning at work and trans inclusion at work

We expect our trans workers and job applicants may require extra support to have a good experience at work. Support is available in line with our [Trans Equality Policy](#).

## 4.7 Reasonable adjustments

The organisation has a legal duty to provide reasonable adjustments for staff with a disability or disabilities, as defined under the Equality Act 2010. This applies to staff with physical and sensory impairments, long term conditions including mental health conditions, people experiencing menopause, people with a learning disability, autism or both, and people with neurodiverse conditions. This list is not exhaustive.

We know our staff thrive when they have the necessary support in place. Discussion should take place the member of staff with the aim of understanding their needs and potential reasonable adjustments. For example, a worker tells their line manager that they need some support to manage a long-term condition like anxiety or depression. Together they explore options like flexible working and adapting the way some meetings are run, to reduce pressure and enhance wellbeing.

The organisation subscribes to the social model of disability. This means we have a collective commitment to removing barriers and providing appropriate support when the need becomes apparent.

Managers are expected to help remove barriers and consider reasonable adjustments as soon as the need becomes apparent. If someone may need an adjustment in future, adjustments should be implemented in anticipation. As a general principle, managers do not need to wait to be asked.

Additionally, the organisation is under an anticipatory duty to provide reasonable adjustments. This means we need to think about potential reasonable adjustments in advance, and not just in response to individual cases.

In practice this means prioritising accessibility upfront. For example, in the recruitment process, very common reasonable adjustments are likely to be needed. Examples include step-free access to interview venues, with good lighting to enable lip reading. The Recruiting Manager must ensure these adaptations are provided, so nobody is unfairly disadvantaged. Another example is willingness to modify interview or assessment methods to accommodate different abilities, including different formats. Again, the Recruiting Manager has overall responsibility for making recruitment accessible and inclusive.

Guidance is available to help managers and individuals ensure adjustments happen promptly for [NHS England colleagues- the process is laid out within these links](#). Currently, the process differs slightly depending on the arrangements of each employer, but overall the ethos is the same. Managers have the authority to explore and agree a wide range of adjustments, in line [with guidance from the Equality and Human Rights Commission](#). If

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more requirements are more complex, workers and managers can seek advice from HR & OD and Occupational Health.

Additionally, the [Workplace Adjustment Passport](#) has been created to help managers and the organisation to ensure there are no barriers in the way of colleagues carrying out their duties.

This passport is designed to help workers capture a record of the adjustments needed and the agreements made with the line manager and other relevant parties. Individuals can take this record with them as they move around the organisation. It's a confidential, optional record that individuals own. It can be used to keep information in one place. Individuals can refer to it or show it (or parts of it) to other parties if they wish, when explaining support and access requirements.

Colleagues with a learning disability can use the [Easy Read version of the Workplace Adjustment Passport](#).

#### 4.8 Consideration of religious and cultural requirements

It is reasonable to expect that our staff and job applicants may require consideration and adaptations for religious and cultural reasons. For example, time to observe Chanukah or Ramadan, or regular time for prayer.

Consideration for flexible working is available to all staff; see our [Flexible Working Policy for NHS England](#).

Facilities to accommodate faith practices will be provided where possible and practical. Decisions to change or remove facilities will be equality impact assessed to check the impact on different groups.

#### 4.9 Accommodating other needs

It is reasonable to expect that our staff and job applicants may have other requirements throughout the recruitment process or throughout their time working here. For example, requirements relating to pregnancy or breastfeeding, childcare and other caring responsibilities, dietary needs and so on.

Consideration for flexible working is available to all staff; see our [Flexible Working Policy for NHS England](#).

Facilities to accommodate the above needs will be provided where possible and practical. Decisions to change or remove facilities will be equality impact assessed to check the impact on different groups.

### 5. Compliance, oversight and governance of equality and diversity

All staff will uphold this policy. Employees who discriminate or cause unlawful conduct or fail to adhere to this policy may be subject to the disciplinary policy. Concerns about

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agency workers, secondees or contractors' conduct will be reported to their agency or employer.

A disclosure of information, made in the public interest by a worker who has reasonable belief that a relevant failure has occurred, and that qualifies for protection under the Public Interest Disclosure Act 1998, can also be reported as per NHS England's [Freedom to Speak Up policy](#).

Workers may pursue complaints through the [NHS England Grievance Policy](#). Agency workers, secondees or contractors should contact their agency or employer in the first instance if they have any concerns. All workers may report harassment through the NHS England [Respect at Work Policy](#).

## 5.1 Chief Executive, Board and Directors

The Chief Executive must ensure that our organisation applies the principles of equality, diversity and inclusion to all its operations and demonstrate a commitment to the advancement and safeguarding of equality, diversity and inclusion.

The Chief Executive is expected to lead by example developing and promoting an organisational culture that is supportive of the benefits of practically delivering improvements in equality, diversity and inclusion.

The Board and Directors have a duty to ensure equality and diversity is integrated into all our business- in service delivery and treatment of staff and job applicants. They hold primary responsibility for this policy being implemented with ultimate oversight and governance, with support from HR and Organisation Development to address key areas for action and improvement.

## 5.2 Equality Act 2010

This policy encourages a work environment where we treat all workers as individuals, fairly and in a consistent way. At our organisation, we work within the Equality Act 2010 and the spirit of the Act by promoting a culture of respect and dignity and actively challenging discrimination, should it ever arise. We will remove unnecessary barriers for our workers seeking opportunities through training and development, promotion and career planning.

At all times, all workers will respect the legal requirement to meet the general and specific duties of the Equality Act 2010.

## 5.3 Human Rights Act 1998

This policy supports staff to act in accordance with the Human Rights Act 1998 and take a values-based approach to putting human rights into practice: fairness, dignity, autonomy and respect.

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## 5.4 Public Sector Equality Duty

This policy supports our legal duty to have due regard to the need to:

1. Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010
2. Advance equality of opportunity between people who share a protected characteristic and those who do not
3. Foster good relations between groups of staff who share a protected characteristic and those who do not.

## 5.5 Workforce monitoring standards

Reporting on our workforce equality is a legal requirement.

The organisation participates in the following:

- Workforce Race Equality Standard
- Workforce Disability Equality Standard
- Stonewall Workplace Equality Index
- Gender Pay Gap reporting

## 5.6 Handling and storing data

Any processing (handling or storing etc.) of personal identifiable information must be compliant with relevant data protection laws - the Data Protection Act (DPA) 2018 and the General Data Protection Regulation (GDPR). Please consult the NHS England [Information Governance Policy](#) for more information.

# 6. How to seek advice and support

## 6.1 Human Resources and Organisation Development (HR and OD)

Contact [your HR & OD team](#) for specific advice on implementing this policy, including advice on creating a safe team culture free from bullying and harassment.

The Director of HR and OD holds senior accountability for the implementation of this policy. The HR and OD team have strategic and operational responsibility to promote and monitor the application of this policy, and a responsibility to work closely with Trade Union representatives / Partnership Forum and Diversity Staff Networks to continuously improve the levels of implementation of equality and diversity principles.

Where issues crossover between Equality and Diversity and other areas of employment, consult the [HR policy library for related policies](#).

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## 6.2 Trade Unions and elected staff representatives

Trade Unions can also provide support and advice on the implementation of this policy. Contact details are [here on the Hub](#).

Representatives provide support and advice and representation to any members/workers who have either experienced discrimination or have been alleged to have discriminated against someone. Additionally, they help the organisation understand key issues and barriers for groups of staff.

## 6.3 Diversity Staff Networks

We host several [diversity staff networks](#) who provide peer support to staff and work with our internal teams to influence corporate policy development.

The role of Diversity Staff Networks is to support a community of staff united by identity, lived experience, knowledge, and/or a commitment to enhancing specific areas of equality and diversity. They play a valuable role in giving a voice to underrepresented groups of staff.

Networks can advise the organisation from a place of lived experience and expertise. The purpose of this is to assist HR & OD, Estates, IT and other organisational teams on development of inclusive strategies, policies, systems, facilities and service delivery.

Informal advice or support may be provided by staff networks to their members if requested, but on the understanding staff network members (including the Chair and Executive) are not necessarily trained in employment law.

Instead, Diversity Staff Networks champion the rights of underrepresented groups and identities in the workplace.

When staff approach Diversity Staff Networks with any queries or concerns, it is the role of diversity staff networks to signpost staff to the correct organisational procedure or policy.

For example, the NHS England [Respect at Work policy](#), NHS England [Freedom to Speak Up policy](#) or our [reasonable adjustments guidance](#).

The organisation has a role in providing appropriate support to Diversity Staff Networks as needed, to help them deliver their role.

## 6.4 Freedom to Speak Up Guardians

To raise a concern about any aspect of this policy not being put into practice, contact a [Freedom to Speak Up](#) Guardian.

Freedom to speak up guardians (FTSU Guardians) are available to support staff who would like to raise a concern under this policy, where there is reasonable belief that raising the concern is in the public interest, and the wrongdoing affects others, for example a workplace culture of bullying and harassment.

FTSU Guardians provide feedback to HR & OD and the Board to help continuously improving the levels of implementation of inclusion, equality and diversity principles.

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## 6.5 Employee Assistance Programme

The [Employee Assistance Programme](#) is available to all staff for personalised advice and support. Additionally our EAP provider offers specific line manager support and coaching, covering:

- Team member stress management
- Holding difficult conversations
- Conflict resolution
- Communicating change
- Performance and appraisal
- Post-trauma support

## 6.6 External resources

You can also seek advice from [Citizens Advice Bureau](#), the [Equality Advisory Support Service](#), [Advisory Conciliation and Arbitration Service](#) or the [Equality and Human Rights Commission](#).

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# External Freedom to Speak Up policy for NHS workers

Version 1, 29 September 2022

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# 1. Speak up – we will listen

This policy outlines how we will respond to and support workers who speak up to NHS England.

Its aim is to ensure all matters are captured and considered appropriately.

By speaking up at work you will be playing a vital role in helping us to keep improving NHS services for all patients. We welcome speaking up and we will listen.

## 2. What can I speak up to NHS England about?

You can speak up about anything you think is harming the NHS healthcare service your organisation delivers or commissions, to the extent that relates to NHS England's role (outlined below). You can also find further details of our role [here](#).

This might include matters relating to (but by no means restricted to):

- unsafe patient care
- unsafe working conditions
- a bullying culture (across a team or organisation rather than individual instances of bullying)
- financial irregularities (suspicions of fraud can also be reported to your organisation's counter-fraud team)
- conduct of senior leaders
- poor governance of an organisation.

If in doubt, please speak up. It does not matter if you are mistaken or if there is an innocent explanation for the matters you raise.

If the matter you are raising is a personal complaint about your employment that only affects you, we cannot get involved. These are private matters between an employee and employer.

However, we will consider whether employment matters could indicate wider problems with how an NHS organisation is being run.

## 2.1 NHS England's role

NHS England uses its statutory functions to support and oversee:

- Providers of NHS services: NHS England exercises its functions to support these providers with the objective of giving patients consistently safe, high-quality, compassionate care within local health systems that are financially sustainable. By holding providers to account and, where necessary, intervening, we help the NHS to meet its short-term challenges and secure its future). These providers include:
  - GP (general practitioners) surgeries
  - dental practices
  - pharmacies,
  - optometrists
  - mental health and community healthcare services
  - ambulance trusts
  - NHS trusts and foundation trusts
  - some independent providers
  - some specialised services, such as healthcare in prisons, detention centres and the military
- Commissioners of NHS services, specifically with regard to:

- our role in ensuring that procurement and patient choice operate in the best interests of patients and work with commissioners (or purchasers) of NHS services to deliver this.

## 3. Feel safe to speak up

It is important to hear from people who want to speak up, as what they have to say is often linked to safety and other risks. If we do not know about these risks and have the opportunity to address them, this could have serious implications. Therefore, we see your speaking up to us as a gift which helps us identify opportunities for improvement within the NHS.

If we hear of anything which indicates that you may be experiencing disadvantage because of speaking up to us, we will carefully consider whether this indicates a wider issue about how the organisation is being run and consider what action we might need to take to address that.

## 4. Who can speak up?

This policy is for **all** NHS workers.

Anyone who works in NHS healthcare, including pharmacy, optometry and dentistry. This encompasses any healthcare professionals, non-clinical workers, administrative workers, directors, managers, contractors, volunteers, students, trainees, junior doctors, locum, bank and agency workers and former workers.

We also know some groups in the NHS workforce feel they are seldom heard or find it difficult to speak up. You could be an agency worker, volunteer, bank worker, locum or student. We also know that workers with disabilities, or those who are from a minority ethnic background or the LGBTQ+ community, do not always feel able to speak up.

We hope this policy will encourage all workers to speak up.

## 5. How to speak up

### 5.1 Where you work

In most circumstances, the best way to resolve matters is to raise them within your organisation. If you need further support with this, the organisation where you work should have details of how you can speak up.

Typically, these may be on your intranet, in your organisation's Freedom to Speak Up policy, in your staff handbook or your line or practice manager should have details.

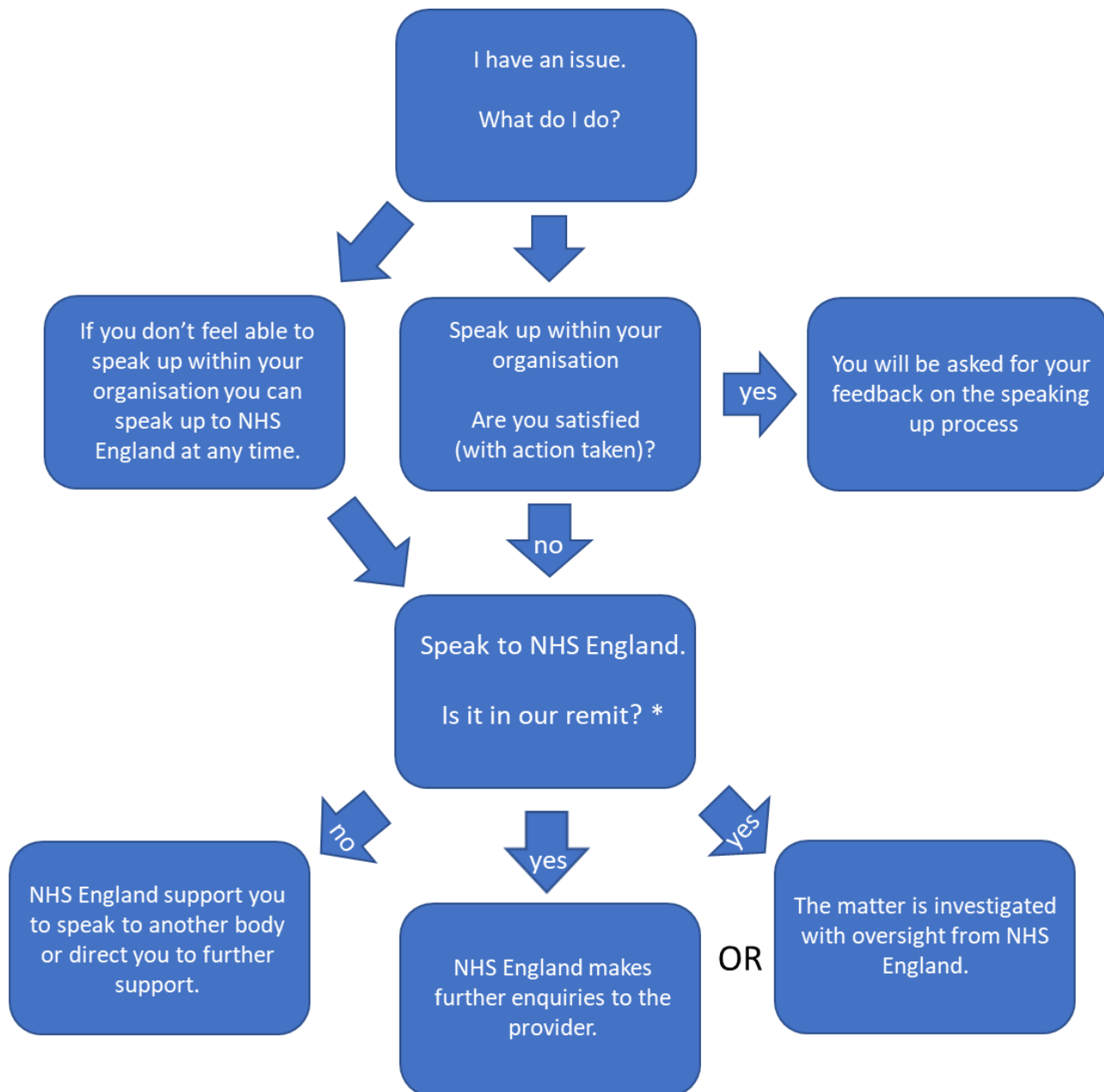
Alternatively, where you have access to a Freedom to Speak Up guardian, you can approach them. Freedom to Speak Up guardians support workers to speak up and work in partnership with others in their organisation to tackle barriers to speaking up.

We hope that doing this will give you confidence that the matter will be, or has been, looked into properly. However, we appreciate there may be times when you will want to raise matters outside your organisation – for example, if you consider it may not be effectively managed or if you remain concerned having previously raised it internally.

## 6. Speaking up to NHS England

If you do not want to speak up within your organisation (for example, you do not feel able to speak up to your organisation), you can speak up to NHS England.

## 6.1 Speak up process



\* Our remit includes primary and secondary care providers of NHS services and relates to organisational and financial governance and leadership.

## 7. How should I speak up?

### 7.1 How do I speak up?

You can contact our customer contact centre via telephone or in writing to provide details of the matters you are raising.

Colleagues in our customer contact centre will listen to workers' concerns confidentially and will direct you to the correct team. If you prefer, you can also email the NHS England national Freedom to Speak Up team directly.

You can speak up:

- by phone: 0300 311 22 33
- in writing (including email): [england.speakup1@nhs.net](mailto:england.speakup1@nhs.net)

NHS England  
PO Box 16738  
Redditch  
B97 9PT.

Whichever route you choose, please be ready to explain as fully as you can the information and circumstances that gave rise to your speaking up.

If you require additional support to speak to us, please let us know at any stage and we will do our best to make alternative suitable arrangements.

### 7.2 Confidentiality

The most important aspect of your speaking up is the information you can provide, not your identity.

You have a choice about how you speak up:

- **Openly:** you are happy that we know your identity and we can share this with anyone else involved in responding.



- **Confidentially:** you are happy for your identity to be known to us, but you do not want this to be shared with anyone else.<sup>1</sup>
- **Anonymously:** you do not want to reveal your identity to anyone. This may make it difficult for us to ask you for further information about the matter and may make it more complicated to act to resolve the issue. It also means that we might not be able to advise on further support you can access, and we may be limited in our ability to provide feedback.

We will take your concerns seriously whether you choose to speak up openly, confidentially or anonymously.

## 8. What will we do?

### 8.1 Making a decision

We will gather any relevant information we hold on the organisation. We will discuss this information confidentially with colleagues in the relevant NHS England regional team to decide what we need to do, having received that information.

### 8.2 Enquiries and investigation

We may decide we need to make enquiries of the organisation (in some cases, we may need to take immediate steps before we are able to discuss this further with you).

Making enquiries enables us to decide what action, if any, is needed to address any issues of concern.

If the matters require specific investigation, examples of how we do this include (but are not limited to):

- approaching the relevant organisation for further information

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<sup>1</sup> In this situation all reasonable steps will be taken to keep your identity confidential, unless required to disclose it by law (for example, in response to a police warrant or court order). In these situations, we would discuss this with you.

- asking the relevant [integrated care board](#) to investigate
- asking the relevant organisation to investigate the issues, often with our input
- sending the matters for review to the ‘responsible officer’ who [manages performance concerns](#) (for concerns relating to individual GPs (general practitioners), dentists or optometrists).

In exceptional circumstances, we may investigate the issue(s) ourselves. We will take the following factors into account:

- the potential impact of the issues raised on patient safety
- whether the matter has already been looked at, or investigated, by another appropriate organisation (for example, the trust) and how effective its response has been
- our confidence in the ability of the organisation’s senior leadership to respond and investigate effectively
- the potential learning available to the wider system because of an investigation
- how long ago the events in question occurred.

## 8.3 Communicating with you

We will always treat you with respect and will thank you for speaking up. We will discuss the issues with you to ensure we understand exactly what is worrying you.

Where it is appropriate for us to look into it further, we will tell you how long we expect this to take, whether we are doing an investigation or making enquiries to the provider.

In all cases, we will tell you how we plan to use the information you have given us.

We will agree with you how you would like to be kept updated on progress.

Wherever possible we will share the feedback or investigation report with you (while respecting the confidentiality of others and recognising that some matters may be strictly confidential; as such it may be that we cannot even share the outcome with you).

Where we decide not to pursue the matter further, we will explain why.

## 8.4 How we learn from your speaking up

We want speaking up to improve the services the NHS provides and the environments our staff work in. Where speaking up has identified improvements that can be made, we will support providers to make those improvements.

Lessons will be shared either within organisations or more widely across systems or the wider NHS as appropriate.

# 9. Advice and support

We know that speaking up can be daunting. However, you are not alone as support is available.

You can find out about the local support available to you either on your staff intranet, staff handbook, from your line manager, the practice manager, occupational health department or HR (human resources) team. Where you have them, staff networks can also be a valuable source of support.

You can also access a range of health and wellbeing support via NHS England:

[Support available for our NHS people](#)

[Looking after you: confidential coaching and support for the primary care workforce](#)

NHS England also has a [Speaking Up support scheme](#) that you can apply to if you have encountered disadvantage for speaking up.

You can also contact the following organisations:

- [Speak Up Direct](#) provides free, independent, confidential advice on the speaking up process
- the charity [Protect](#) provides confidential and legal advice on speaking up
- the [Trades Union Congress](#) provides information on how to join a trade union
- [the Law Society](#) may be able to point you to other sources of advice and support
- [the Advisory, Conciliation and Arbitration Service](#) gives advice and assistance, including on early conciliation regarding employment disputes.

## 10. Learning and improvement

We will regularly monitor the effectiveness of this policy and our speaking up arrangements, using all feedback as an opportunity to improve.

## 11. Impact assessments

### 11.1 Policy impact assessment

As part of the development of this policy, its impact on the business has been assessed.

No detrimental issues were identified

### 11.2 Equality and health inequality analysis

As part of the development of this policy, its impact on equality has been analysed and no detriment identified

No detrimental issues were identified.

# Appendix 1

## Making a ‘protected disclosure’

NHS England is a prescribed body to which you can make a ‘protected disclosure’ where those disclosures are relevant to our role.

A protected disclosure is defined in the Public Interest Disclosure Act 1998. This legislation allows certain categories of worker to lodge a claim for compensation with an employment tribunal if they suffer because of speaking up. The legislation is complex and to qualify for protection under it, specific criteria must be met in relation to who is speaking up, about what and to whom. To help you consider whether you might meet these criteria, please seek independent advice from Protect or a legal representative

There is a defined list of other ‘prescribed persons’ to whom you may also make a protected disclosure.

NHS England  
Wellington House  
133-155 Waterloo Road  
London  
SE1 8UG

Contact: [enquiries@england.nhs.uk](mailto:enquiries@england.nhs.uk)

This publication can be made available in a number of alternative formats on request.



# Health and Safety Policy

NHS England

# Health and Safety Policy

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# 1 Statement of Intent

NHS England recognises that complying with The Health and Safety at Work etc. Act 1974 and pertaining regulation is a legal requirement, not a matter of choice. We will act positively to minimise the incidence of all workplace risks and all activities will be carried out with the highest regard for the health, safety and welfare of our staff, contractors, visitors and the public at large.

We are committed to providing the financial and physical resources necessary to ensure that a high standard of health, safety and welfare is achieved. We will empower our staff by providing high quality information, instruction, training and supervision to enable them to work safely and effectively and to ensure they are competent and confident in the work they carry out.

We will carry out and regularly review risk assessments to identify hazards and existing control measures; it will prioritise, plan and complete any corrective actions required to reduce risk to an acceptable level. We will also ensure that the premises we occupy and the equipment we provide meet with the minimum legal requirement.

We will actively consult with our workforce and nurture an open attitude to health and safety issues, encouraging staff to identify and report hazards and suggest innovative solutions so that we can all contribute to creating and maintaining a safe working environment.

This policy reflects our commitment to ensuring that health and safety at work is paramount to what we do and that effective health and safety management actively contributes to our ongoing success. The successful implementation of this policy requires total commitment from all members of staff.

This policy will be reviewed every two years or in the light of legislative or organisational change.

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## 2 Introduction

NHS England is striving to create a positive and inclusive working environment and culture, providing the conditions for individuals and teams to thrive and achieve the highest standard of performance and service, where contributions are fully recognised and valued by all.

It is committed to supporting its employees, be this via learning and development or through more informal mechanisms such as the development of a productive and positive workplace culture.

The organisation believes that all employees should have rewarding and worthwhile jobs, with the freedom and confidence to be empowered to raise health and safety concerns where appropriate. To do this, employees need to be trusted, empowered and actively listened to by those with whom they work and interact. Employees must be treated with respect at work, and be given the tools, training and support to work safely with opportunities to develop and progress.

All organisation policies support the values and pledges set out in the NHS Constitution. In particular, this policy and procedure supports the following NHS Constitution pledge:

Health and Safety	
NHS Constitution Staff Pledge	Employee Responsibility
The NHS commits to provide support and opportunities for staff to maintain their health, well-being and safety.	You have a duty to take reasonable care of health and safety at work for you, your team and others, and to co-operate with employers to ensure compliance with health and safety requirements.

## 3 Scope

This policy applies to all employees of NHS England, NHS Improvement and any contractors, seconded staff, placements and agency staff of either organisation.

## 4 Roles and responsibilities

### 4.1 All Employees

All employees are reminded of their legal duty to:

- take reasonable care of their own health and safety and that of other people who may be affected by their work under the Health and Safety at Work, etc. Act 1974;
- inform their employer of any danger to health and safety posed by a work activity under The Management of Health and Safety at Work Regulations 1999 (MHSWR);

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- c) inform their employer of any shortcomings in the employer's protection arrangements under MHSWR and;
- d) co-operate with their employer's health and safety arrangements under the MHSWR.

## 4.2 Chief Executive Officer

The Chief Executive has overall responsibility for health and safety within the organisation.

## 4.3 Chief Delivery Officer

The Chief Delivery Officer has the delegated responsibility for implementation of this policy and ensuring the Board is regularly kept fully informed on health and safety issues that arise as and when appropriate.

## 4.4 NHS Executive Group Members

All members of the NHS Executive Group have delegated responsibility to ensure this policy and associated procedures, protocols, guidance and management systems are fully understood, applied and resourced within their respective areas of responsibility. They should also provide leadership by example and proactively promote responsible attitudes towards health and safety by:

- a) Ensuring that suitable and sufficient risk assessments are undertaken, records made as required and all significant risks reduced to an appropriate level.
- b) Ensuring the requirements of the health and safety management system are fully embedded within their teams.
- c) Ensuring health and safety is always considered at the planning stage when making any changes that may affect the health, safety or welfare of staff.
- d) Ensuring the reporting and investigation of all accident/incidents to identify learning or improvements needed to improve safety.
- e) Monitoring the effectiveness of the health and safety system in their area of responsibility.
- f) Ensuring that their line management structure is held accountable for health and safety in areas of their control and compliance is reviewed at individual line manager annual appraisals.

## 4.5 Health and Safety Manager

The Health and Safety Manager fulfils the statutory duty to appoint one or more competent person(s) to assist in undertaking the measures needed to comply with the requirements and prohibitions imposed by or under relevant statutory provisions. This role is responsible for:

- a) Co-ordination of the health and safety management system and monitoring its overarching effectiveness to meet organisational needs.

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- b) The provision of health and safety advice and the implication of the law.
- c) The production and maintenance of this policy and associated health and safety procedures, protocols and guidance.
- d) Assisting in the identification and implementation of health and safety training needs.
- e) Acting as the organisations formal link with The Health and Safety Executive, Local Authority enforcement teams and other external agencies for health and safety matters.
- f) Providing recommendations and reports as and when required.

## 5 Arrangements to deliver this policy

This policy will be delivered by:

- a) The development of procedures, protocols and guidance that meet the requirements of health and safety law as applicable. These shall be made available to all staff via online publications and smarter working systems as required.
- b) Ensuring management conduct suitable and sufficient risk assessments and controls for their areas of responsibility.
- c) The use of online technologies to provide management tools that both assist managers to implement requirements of the Health and Safety management system and to proactively and reactively monitor their progress.
- d) The provision of appropriate health and safety training such as Health and Safety Awareness, Display Screen Equipment Assessment etc. via an online learning management system (LMS).
- e) The promotion of health, safety and welfare of all colleagues through campaigns, communications, seminars and questionnaires.
- f) Engaging with nominated staff side colleagues in effective consultation via Health and Safety Committee and actively supporting Safety Representatives and Representatives of Employee Safety in the fulfilment of their role.

## 6 Distribution

Employees will be made aware of this policy via:

- The organisations intranet and smarter working technologies.
- Staff publications and communications channels.

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## 7 Monitoring

[Guidance on making documents accessible](#) is available on the Intranet.

Q1. Element to be monitored i.e. measurable policy objective
Organisation wide policy. Monitored by measuring compliance with the Health and Safety Management System.
Q2. Position responsible for monitoring
Health and Safety Committee
Q3. Method
Audits, Inspections, Active Monitoring.
Q4. Frequency
Quarterly meetings of the Health and Safety Committee
Q5. Reporting arrangements – Committee/Group that monitoring is reported to, including responsibility for action plans
Annual Health and Safety Report to the Board of Directors. Monitoring arrangements are detailed in the Health and Safety Committee Terms of Reference. Roles and responsibilities for action plans are outlined in this policy.

## 8 Equality and Health Inequalities Analysis

All procedural documents will include the following Policy Equality Statement.

This procedural document forms part of the groups commitment to create a positive culture of respect for all individuals including staff, patients, their families and carers as well as community partners. The intention is to identify, remove or minimise discriminatory practice in the areas of race, disability, gender, sexual orientation, age and 'religion, belief, faith and spirituality' as well as to promote positive practice and value the diversity of all individuals and communities.

Every corporate procedural document must include an assessment of the impact it will have on inequalities and on addressing health inequalities and the following template must be completed.

Further advice can be obtained from the Equality & Health Inequalities Team.

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## 8.1 Section 1: Equality analysis

Evidence
<p><b>What evidence have you considered?</b></p> <p>Health and Safety at Work etc. Act. Regulations arising from the Act, Approved Codes of Practice and relevant guidance provided by The Health and Safety Executive (<a href="http://www.hse.gov.uk">www.hse.gov.uk</a>).</p>
<p><b>Age</b></p> <p>General risk assessments must consider all persons to whom the organisation owes a duty of care under health and safety law. Age related issues are an inclusive part of this process and require suitable and sufficient arrangements made to reduce the likelihood of any perceived harm so far as is reasonably practicable.</p>
<p><b>Disability</b></p> <p>General risk assessments must consider all persons to whom the organisation owes a duty of care under health and safety law. Ability related issues are an inclusive part of this process and require suitable and sufficient arrangements made to reduce the likelihood of any perceived harm so far as is reasonably practicable.</p>
<p><b>Gender reassignment (including transgender)</b></p> <p>General risk assessments must consider all persons to whom the organisation owes a duty of care under health and safety law. Gender related issues are an inclusive part of this process and require suitable and sufficient arrangements made to reduce the likelihood of any perceived harm so far as is reasonably practicable.</p>
<p><b>Marriage and civil partnership</b></p> <p>General risk assessments must consider all persons to whom the organisation owes a duty of care under health and safety law. Personal circumstance related issues are an inclusive part of this process and require suitable and sufficient arrangements made to reduce the likelihood of any perceived harm so far as is reasonably practicable.</p>
<p><b>Pregnancy and maternity</b></p> <p>General risk assessments must consider all persons to whom the organisation owes a duty of care under health and safety law. New or expecting mother related issues are an inclusive part of this process and require suitable and sufficient arrangements made to reduce the likelihood of any perceived harm so far as is reasonably practicable.</p>
<p><b>Race</b></p> <p>General risk assessments must consider all persons to whom NHS England owes a duty of care under health and safety law. Race related issues are an inclusive part of this process and require suitable and sufficient arrangements made to reduce the likelihood of any perceived harm so far as is reasonably practicable.</p>
<p><b>Religion or belief</b></p> <p>General risk assessments must consider all persons to whom the organisation owes a duty of care under health and safety law. Belief related issues are an inclusive part of this process and require suitable and sufficient arrangements</p>

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made to reduce the likelihood of any perceived harm so far as is reasonably practicable
<b>Sex</b> General risk assessments must consider all persons to whom the organisation owes a duty of care under health and safety law. Gender related issues are an inclusive part of this process and require suitable and sufficient arrangements made to reduce the likelihood of any perceived harm so far as is reasonably practicable.
<b>Sexual orientation</b> It is not anticipated that implementation of this policy will be an issue within the realm of this characteristic.
<b>Carers</b> General risk assessments must consider all persons to whom the organisation owes a duty of care under health and safety law. Employees who also act as carers should be considered as part of this process and suitable and sufficient arrangements made to reduce the likelihood of any perceived harm so far as is reasonably practicable.
<b>Other identified groups</b> No other groups identified.

Engagement and involvement
<i>How have you engaged stakeholders with an interest in protected characteristics in gathering evidence or testing the evidence available?</i> The policy will undergo a formal consultation process. Comment will be actively sought from both management and staff-side employees.
<i>How have you engaged stakeholders in testing the policy or programme proposals?</i> The policy will undergo a formal consultation process. Comment will be actively sought from both management and staff-side employees via the Strategic Health and Safety Committee.
Summary of Analysis
<i>Considering the evidence and engagement activity you listed above, please summarise the impact of your work. Consider whether the evidence shows potential for differential impacts, if so state whether adverse or positive and for which groups and/or individuals. How you will mitigate any negative impacts? How you will include certain protected groups in services or expand their participation in public life?</i>  The Health and Safety at Work etc. Act places a statutory duty on the organisation to ensure the health and safety of all those affected by its undertaking. By undertaking suitable and sufficient localised risk assessments, all equality issues should be identified and adequately mitigated.  <i>Now consider and detail below how the proposals impact on elimination of discrimination, harassment and victimisation, advance the equality of opportunity and promote good relations between groups.</i>

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Through continual review and promotion of the safety culture by active engagement with all employees, it is anticipated that any issues which may arise will be dealt with appropriately and expediently.

### **Eliminate discrimination, harassment and victimisation**

*Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sexual orientation).*

It is anticipated that there will be neutral impact to these protected characteristics.

### **Advance equality of opportunity**

*Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sexual orientation).*

It is anticipated that there will be neutral impact to these protected characteristics.

### **Promote good relations between groups**

*Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sexual orientation).*

It is anticipated that there will be neutral impact to these protected characteristics.

## **Evidence based decision-making**

*Please give an outline of what you are going to do based on the gaps, challenges and opportunities you have identified in the summary of analysis section. This might include action(s) to eliminate discrimination issues, partnership working with stakeholders and data gaps that need to be addressed through further consultation or research.*

No gaps were identified at this time.

*How will you share the findings of the Equality analysis? This can include corporate governance, other directorates, partner organisations and the public.*

The equality analysis will form part of the published policy which will be made available to all employees and stakeholders.

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## 8.2 Section 2: Health Inequalities Analysis

### Evidence

**What evidence have you considered to determine what health inequalities exist in relation to your work?**

Health and Safety at Work etc. Act. Regulations arising from the Act, Approved Codes of Practice and relevant guidance provided by The Health and Safety Executive ([www.hse.gov.uk](http://www.hse.gov.uk)).

### Impact

**What is the potential impact of your work on health inequalities?**

General risk assessments must consider all persons to whom NHS England owes a duty of care under health and safety law. Health inequality related issues are an inclusive part of this process and require suitable and sufficient arrangements made to reduce the likelihood of any perceived harm so far as is reasonably practicable.

**How can you make sure that your work has the best chance of reducing health inequalities?**

Through continual review and promotion of the safety culture by active engagement with all employees, it is anticipated that any issues which may arise will be dealt with appropriately and expediently.

### Monitor and Evaluation

**How will you monitor and evaluate the effect of your work on health inequalities?**

Monitoring and evaluation will be undertaken by the Strategic Health and Safety Committee as and when appropriate.

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# Information Governance Policy

NHS England

# Information Governance Policy

Version number: 5.3

First published: April 2013

Date updated: June 2022

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Policy prepared by: Redacted in line with FOIA Sec 41

Policy Owner: Redacted in line with FOIA Sec 41

Brief summary of changes since previous version:

- 21/6/22 – removed reference to NHS Improvement, updated logo.

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## 1. Purpose

The purpose of this policy is to inform NHS England staff (permanent or otherwise), including those working for Commissioning Support Units (CSUs), and hosted bodies of their Information Governance responsibilities and the management arrangements and other policies that are in place to ensure demonstrable compliance.

This is the central policy in a suite of policies that informs staff of what they should do:

- To maximise the value of organisational assets by ensuring that NHS England demonstrates data is:
- Held securely and confidentially
- Processed fairly and lawfully
- Obtained for specific purpose(s)
- Recorded accurately and reliably
- Used effectively and ethically, and
- Shared and disclosed appropriately and lawfully

To protect the organisation's information assets from all threats, whether internal or external, deliberate or accidental. NHS England will ensure:

- Information will be protected against unauthorised access
- Confidentiality of information will be assured
- Integrity of information will be maintained
- Information will be supported by the highest quality data
- Regulatory and legislative requirements will be met
- Business continuity plans will be produced, maintained and tested
- Information governance training will be available to all staff, and
- All information governance breaches, actual or suspected, will be reported to, and investigated by the Corporate Information Governance team in conjunction with the Data Protection Officer

## 2. Scope

All our staff and of hosted organisations, without exception, are within the scope of this policy, including and without limitation:

- Central and Regional Teams;
- All Commissioning Support Units;
- NHS Interim and Management Support (NHS IMAS);
- NHS Sustainable Development Unit;
- Strategic Clinical Networks;
- Clinical Senates;
- Healthcare Safety Investigation Branch (HSIB).

## 3. Policy Statement

The role of NHS England is to commission healthcare services, both directly and indirectly, so that valuable public resources secure the best possible outcomes for patients. In doing so, NHS England will seek to meet the objectives prescribed in the NHS Mandate and to uphold the NHS Constitution.

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This policy is important because it will help the people who work for NHS England to understand how to look after the information they need to do their jobs, and to protect this information on behalf of patients.

Information Governance is a framework for handling personal information in a confidential and secure manner to appropriate ethical and quality standards in a modern health service. It provides a consistent way for employees to deal with the many different information handling requirements including:

- Information Governance Management
- Clinical Information assurance for Safe Patient Care
- Confidentiality and Data Protection assurance
- Corporate Information assurance
- Information Security assurance
- Secondary use assurance
- Respecting data subjects' rights regarding the processing of their personal data

The formal framework that leaders of all health and social care organisations should commit to is set out in the National Data Guardian's ten data security standards. These are the basis of the Data Security and Protection Toolkit that health and social care organisations must use to assess their information governance performance. Under data protection legislation, organisations that process personal data are accountable for, and must be able to demonstrate their compliance with the legislation. The arrangements set out in this and related policies and procedures are intended to achieve this demonstrable compliance.

## 4. Roles and Responsibilities

### Chief Executive

Overall accountability for procedural documents across the organisation lies with the Chief Executive as the Accountable Officer that has overall responsibility for establishing and maintaining an effective document management system and the governance of information, meeting all statutory requirements and adhering to guidance issued in respect of information governance and procedural documents.

### Caldicott Guardian

The National Medical Director has been appointed Caldicott Guardian. They will:

- Ensure that NHS England satisfies the highest practical standards for handling patient identifiable information
- Facilitate and enable appropriate information sharing and make decisions on behalf of NHS England following advice on options for lawful and ethical processing of information, in particular in relation to disclosures
- Represent and champion Information Governance requirements and issues at Board level
- Ensure that confidentiality issues are appropriately reflected in organisational strategies, policies and working procedures for staff, and

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- Oversee all arrangements, protocols and procedures where confidential patient information may be shared with external bodies both within, and outside, the NHS

Caldicott Guardians have been appointed in Regions and in all hosted bodies i.e. Commissioning Support Units. These Caldicott Guardians will be accountable to the Medical Director as Senior Responsible Caldicott Guardian for NHS England.

### **Senior Information Risk Owner (SIRO)**

The National Director of Transformation and Corporate Development has been nominated as Senior Information Risk Owner (SIRO) for NHS England. The responsibilities of the SIRO are:

- Take overall ownership of the organisation's Information Risk Policy
- Understand how the strategic business goals of NHS England, and how other NHS organisation's business goals may be impacted by information risks, and how those risks may be managed
- Implement and lead the Information Governance Risk Assessment and Management processes within NHS England
- Sign off and take accountability for risk-based decisions and reviews in regard to the processing of personal data
- Advise the Board on the effectiveness of information risk management across NHS England, and
- Receive training as necessary to ensure they remain effective in their role as SIRO.



Deputy SIROs will also be appointed in Regions and in all CSUs. These SIROs are accountable to the SIRO for NHS England.

### **Data Protection Officer**

The Data Protection Officer (DPO) is the Head of Corporate Information Governance, who reports to the SIRO, but also can act independently of the SIRO and report directly to the Board about data protection matters. These may include information governance risks to the organisation, privacy concerns or recommendations with regard to potential changes to, or new initiatives that, involve processing of personal data.

With the support of their office, the DPO will:

- provide advice to the organisation and its employees on compliance obligations with data protection law
- advise on when data protection impact assessments are required
- monitor compliance with data protection law and organisational policies in relation to data protection law
- co-operate with, and be the first point of contact for the Information Commissioner
- be the first point of contact within the organisation for all data protection matters
- be available to be contacted directly by data subjects
- take into account information risk when performing the above

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## Information Asset Owners

Information Asset Owners (IAOs) will:

- Lead and foster a culture that values, protects and uses information for the benefit of patients
- Know what information comprises or is associated with their asset(s) and understand the nature and justification of information flows to and from the asset
- Know who has access to the asset, whether system or information, and why, and ensure access is monitored and compliant with policy
- Understand and address risks to the asset and provide assurance to the SIRO
- Ensure there is a legal basis for processing and for any disclosures, and
- Refer queries about any of the above to the Corporate Information Governance team
- Ensure all information assets they are owner for are recorded on the Information Asset Management System (IAMS) and maintained
- Undertake specialist information asset training as required

## Head of Corporate Information Governance

With the support of the Corporate Information Governance team, the Head of Corporate Information Governance will:

- Maintain an awareness of information governance issues within NHS England
- Review and update the information governance policy in line with local and national requirements
- Review and audit all procedures relating to this policy where appropriate on an ad-hoc basis, and
- Ensure that line managers are aware of the requirements of the policy
- Work with the Caldicott Guardian, SIRO and DPO functions to ensure organisational authority and awareness regarding issues relating to data protection or confidentiality concerns.

## Head of Corporate ICT Technology and IT Cyber Security

The role of the Head of Corporate Information Governance is supported by NHS England's Head of Corporate ICT Technology and IT Cyber Security.

The Head of Corporate ICT Technology and IT Cyber Security are responsible for developing, implementing and enforcing suitable and relevant information security procedures and protocols to ensure NHS England systems and infrastructure remain compliant with data protection legislation.

The Head of Corporate ICT Technology and Cyber Security are responsible for ensuring that all NHS England electronic equipment and assets have adequate security measures to comply with data protection and data security legislation and regulations.

## Director of Corporate Operations

The Director of Corporate Operations is responsible for:

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- The formulation and implementation of ICT related policies and the creation of supporting procedures, ensuring these are embedded within the service and developing, implementing and managing robust ICT security arrangements in line with best industry practice;
- Effective management and security of the NHS England ICT resources, for example, infrastructure and equipment;
- Developing and implementing a robust IT Disaster Recovery Plan;
- Ensuring that ICT security levels required by the NHS Statement of Compliance are met;
- Ensuring the maintenance of all firewalls and secure access servers are in place at all times, and;
- Acting as the Information Asset Owner for the ICT infrastructure with specific accountability for computer and telephone equipment and services that are operated by corporate and clinical work force, e.g. personal computers, laptops, personal digital assistants and related computing devices, held as an NHS asset.
- Work with the Corporate Information Governance team and DPO office as appropriate regarding matters relating to data and IT security.

## Line Managers

Line managers will take responsibility for ensuring that the Information Governance Policy is implemented within their group or directorate.

## All Staff

It is the responsibility of each employee to adhere to this policy and all associated information governance policies and procedures.

Staff will receive instruction and direction regarding the policy from several sources:

- Corporate Information Governance Team
- Policy/strategy and procedure manuals
- Line manager
- Specific training course
- Other communication methods, for example, team meetings; and
- Staff intranet

All staff are mandated to undertake annual information governance training in line with the training needs analysis programme as agreed by the National IG Steering Group.

All staff must make sure that they use the organisation's IT systems appropriately and adhere to the [Acceptable Use of ICT Policy and User Obligations Policy](#).

Section 170 (1) of the Data Protection Act 2018: Unlawful obtaining etc of personal data, states it is an offence for a person knowingly or recklessly:

- a) to obtain or disclose personal data without the consent of the controller
- b) to procure the disclosure of personal data to another person without the consent of the controller, or
- c) after obtaining personal data, to retain it without the consent of the person who was the controller in relation to the personal data when it was obtained.

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## 5. Information Governance Policy Framework

NHS England have developed a framework for their Information Governance Policy. This is supported by a set of Information Governance policies and related procedures to cover all aspects of Information Governance which are aligned with the NHS Operating Framework and the Data Security and Protection toolkit requirements.

Associated Information Governance Policies include:

Policies	Description
Data Protection Policy	<i>This policy sets out the roles and responsibilities for compliance with data protection legislation.</i>
Freedom of Information Policy	<i>This policy sets out the roles and responsibilities for compliance with the Freedom of Information Act and Environmental Information Regulations.</i>
Confidentiality Policy	<i>This policy lays down the principles that must be observed by all who work within NHS England and have access to personal or confidential business information. All staff must be aware of their responsibilities for safeguarding confidentiality and preserving information security in order to comply with common law obligations of confidentiality and the NHS Confidentiality Code of Practice.</i>
Corporate Document & Records Management Policy	<i>This policy is to promote the effective management and use of information, recognising its value and importance as a resource for the delivery of corporate and service objectives.</i>

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Information Sharing Policy	<i>The policy will ensure that all information held or processed by NHS England is made available subject to appropriate protection of confidentiality and in line with the terms and conditions under which the data has been shared with NHS England. This policy sets out what is required to ensure that fair and equal access to information can be provided and is supported by a range of procedures.</i>
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Many of these proposals are supported by underpinning procedures. The Information Governance Handbook provides a brief introduction to Information Governance and summarises the key user obligations that support the Information Governance policies and procedures. The IG Handbook should be read by every member of staff within the policy scope .

## 6. National Information Governance Steering Group

NHS England has established a National IG Steering Group to monitor and co-ordinate implementation of the IG Policy and the Data Security and Protection (DSP) Toolkit requirements and other information related legal obligations.

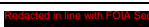
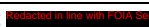
## 7. Corporate Information Governance Team

The Corporate Information Governance Team will provide expert advice and guidance to all staff on all elements of Information Governance. The team is responsible for:

- Providing advice and guidance on internal Information Governance to all staff
- Managing the delivery of improvement plans to meet DSP Toolkit assertions.
- Working with NHSX to ensure there is consistency of IG across the organisation and its hosted bodies
- Developing internal IG policies and procedures
- Working with NHSX to establish protocols on how to share information
- Developing IG awareness and training programmes for staff
- Ensuring compliance with Data Protection, Information Security and other information related legislation
- Providing support to the team who handle freedom of information requests
- Implementing Department of Health and Social Care system-wide Information Governance guidance and policy, and
- Providing support to the Caldicott Guardian and Senior Information Risk Owner (SIRO) for internal Information Governance related issues.

The Corporate Information Governance Team is responsible for:

- Liaison with strategic external stakeholders such as the Department of Health and Social Care, the ICO and the National Data Guardian
- Identifying key strategic IG issues and lead work to analyse problems, find solutions and communicate outcomes

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- Providing support advice and guidance to internal strategic projects and programmes
- Ensuring responsibility for Information Governance issues is transferred to the Corporate Information Governance team when programmes and projects become established as ongoing business as usual
- Leading on the scoping, commissioning, quality assuring and where appropriate providing Information Governance advice and guidance to the NHS as a whole
- Leading on the scoping, commissioning, quality assuring of Information Governance Standards
- Drafting Directions to NHS Digital as required under the Health and Social Care Act
- Working with the Corporate Information Governance team to ensure there is consistency of Information Governance across the organisation and to establish protocols on how information is to be used (including sharing)
- Working with external stakeholders to ensure consistency of information governance standards and requirements across the health and social care system.

## 8. Distribution and Implementation

### Distribution Plan

This document will be made available to all staff via the intranet site. A notice will be issued in the staff bulletin notifying of the release of this document.

### Training Plan

A training needs analysis will be undertaken with staff affected by this document. Based on the findings of that analysis appropriate training will be provided to staff as necessary.

Guidance will be provided on the Corporate Information Governance Team Intranet site.

### Monitoring

Compliance with the policies and procedures laid down in this document will be monitored via the Corporate Information Governance team, together with independent reviews by both Internal and External Audit on a periodic basis. The Head of Corporate Information Governance is responsible for the monitoring, revision and updating of this document on a 3 yearly basis or sooner if the need arises.

## 9. Policy Impact Assessment

As part of the development of this policy, its impact on the business has been assessed.

### Equality and Health Inequality Analysis

As part of the development of this policy, its impact on equality has been analysed and no detriment identified.

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## 10. Associated Documentation

The following documents will provide additional information:

- Acceptable Use of ICT and User Obligations
- Confidentiality Policy
- Corporate Document and Records Management Policy
- Corporate Records Management Retention Schedule
- Data Protection Policy
- Freedom of Information Policy
- Cyber Security Incident Policy
- Cyber and Information Security Exception policy
- Information Sharing Policy

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# Information Security Incident Reporting Procedure



# Information Security Incident Reporting Procedure, DSP Toolkit Reporting Process and Templates

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Policy prepared by: Corporate Information Governance

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Brief summary of changes since previous version:

- 20/6/22 removal of NHS Improvement, updated logo

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## 1. Purpose

Ensuring good information security is essential to NHS England's compliance with data protection and other legislation and to ensuring that confidentiality is respected. Information security is the responsibility of all NHS England staff, including those in CSUs.

It is a legal obligation under the EU General Data Protection Regulation (GDPR) to notify personal data breaches within 72 hours, to the Information Commissioner's Office (ICO), unless it is unlikely to result in a risk to the rights and freedoms of individuals. It is also a legal obligation to communicate the breach to those affected without undue delay when it is likely to result in a high risk to individuals' rights and freedoms.

The mechanism for reporting incidents to the ICO is the Data Security and Protection Incident Reporting Tool. However, this should not be used in place of an incident management process. It is solely for the purposes of reporting to the relevant regulatory authority. There is a legal requirement to maintain a local file containing the particulars of the breach and subsequent investigation and action, if any.

The reporting of incidents in accordance with this procedure enables NHS England to comply with its legal obligations.

The analysis of all incidents highlights any areas of vulnerability, identifying where greater awareness is needed, or procedures/ protocols that require reviewing. Good reporting generates better statistical data thus, keeping the organisation better informed.

These procedures have been developed to inform organisation's employees about how to identify information governance incidents, suspected information security weaknesses or near misses, information security threats to services or systems and how to report these incidents through appropriate management channels.



The NHS England centralised incident reporting tool has been developed for the purposes of reporting information security incidents. This procedure has therefore been developed to provide the arrangements for Information Governance (IG) incident management for NHS England, including Regional Teams, Commissioning Support Units (CSU's) and NHS England's data processors.

## 2. Scope

The following staff of NHS England are in scope of this document

- Staff working in or on behalf of NHS England (this includes contractors, temporary staff, embedded staff, secondees and all permanent employees);
- NHS England's Commissioning Support Units.

Staff responsible for entering into contracts with data processors must ensure that incident reporting obligations written into their contracts. This is best achieved by using the standard data processing agreement template. The data processor must be obliged to report incidents where NHS England is a data controller, to the nominated NHS England local contact. The NHS England local contact is responsible for ensuring this Information Security Incident Reporting Procedure is followed.

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All primary care independent contractors e.g. GP's, Dentists, Opticians and Pharmacists must have their own incident management procedure to follow and are therefore outside of this scope.

Commercially sensitive information should be considered within the scope of information within this procedure, as well as personal data. Please see section 9.5 for further information.

### 3. An Information Security Incident

The terms information security incident and suspected incident are very broad and include, but are not limited to the GDPR definition which is:

*'...a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed.'*

Examples of information security incidents include:

- Unlawful disclosure of personal information
- Loss or theft of IT equipment, portable electronic media or manual records
- Inappropriate disposal of confidential waste
- Accessing a persons' record inappropriately e.g. viewing your own health record or family members, neighbours, friend etc,
- Threat of cyber security e.g. phishing email, ransomware, hacking
- Malfunction of mobile devices resulting in unintended data processing.

Diligent employees should question procedures, protocols and events that they consider could cause damage, harm, distress, breach of compliance or bring the organisations name into disrepute. Any concerns can be escalated to NHS England's Data Protection Officer (DPO) at [england.dpo@nhs.net](mailto:england.dpo@nhs.net).

All reported incidents will be reviewed by the relevant Region or Central Team IG Lead and monitored, to identify what incidents need reporting to the ICO, to recommend actions or procedural changes, to mitigate against future occurrences, and to share lessons learned from the incident.

When reporting an information security incident, it is important to ensure sufficient information is given to enable the Corporate Information Governance Team to understand and respond appropriately to the report.

If it is not clear if a possible incident requires reporting, the Region or Central Team IG Lead can provide advice if necessary.

A repeat incident is defined as one or more previous incidents of similar type in the past 12 months within the same team/location.

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A first Aid kit has been developed to provide advice in terms of common incidents that occur within NHS England. The incident kit can be found on SharePoint [here](#).

## 4. Description of Incident

It is important that information security incident reports provide as much detail as possible. These should include a description of activities leading up to the security incident, information about circumstances prevailing at the time, how the incident came about, how the security incident was detected.

The information security incident or suspected security incident report where possible should not include personal identifiable information in the free text fields.

Whenever possible, when reporting security incidents, relate them to the protocols or procedures that may have been compromised. An audit report can be a useful document, providing background to security incidents.

Information security incidents must be reported as soon as possible after the event has been identified. Reports sent immediately after the incidents are likely to be the most valuable; if there is a delay between an incident occurring and the discovery of the said incident, it should still be reported.

Whenever possible document in the incident report any immediate mitigation actions that have been taken.

## 5. Reporting of Information Security Incidents

If you receive a request from the IG team to provide or identify personal data, this is because they are responding to a request in relation to data being processed by yourself or your team/department, or data that you or your team have access to.

If you believe the IG team has identified you or your team/department incorrectly as processing the personal data referred to, let them know immediately.

For subject access requests and requests for personal data from law enforcement agencies

All information security that NHS England is responsible for must be reported utilising the IG incident electronic form via NHS England's Information Security Portal, within 24 hours of becoming aware of the incident. The electronic form is located [here](#).

Where you become aware of a PCSE related incident, an Information Governance & Security Incident Notification Form needs to be completed and sent to the following mailbox where the incident will be managed by the PCSE IG and Security team.

PCSE Mailbox Redacted in line with FOIA Sec 41



TMP005\_IGS Incid  
Notification Form

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Reporting the incident on the electronic form will alert the Corporate IG Team via an email to the [england.DPO@nhs.net](mailto:england.DPO@nhs.net) mailbox. Opening the electronic incident form will generate a unique reference number and this will be included in the alert email once submitted.

The same incident form will also be used for the reporting of any IT security incidents identified and the IT security team will be alerted to these for further investigation and management.

CSUs must contact the [england.DPO@nhs.net](mailto:england.DPO@nhs.net) to report incidents that have been provisionally scored as needing to be reported on the DSP Toolkit for review by the NHS England Central Team IG Lead. The CSU must report the incident as soon as they become aware of the incident.

CSU's must report and investigate incidents in accordance with this procedure, and the CSU Information Governance Risk Management & Escalation Procedure, where they are processing data under contract as a data processor to NHS England.

Where the CSU has an incident in relation to processing under contract as a data processor to an organisation other than NHS England (e.g. a CCG), this incident must be reported to the contracting data controller in accordance with the procedures it has agreed with the CSU. The CSU must also alert the NHS England DPO to the incident by emailing [england.dpo@nhs.net](mailto:england.dpo@nhs.net).

An incident reporting process diagram for Central Team / Regions is shown in Appendix 1.

An incident reporting process diagram for CSU's is shown in Appendix 2

An incident reporting process diagram for data processors is shown in Appendix 3.


## 6. Grading of Information Security Incidents and decisions to notify

Email alerts from the electronic form, and email reports from CSUs are allocated to the relevant Central / Regional IG Lead to review and verify that the grading is appropriate, and to ensure that the incident is investigated in accordance with this procedure.

The incident must be graded for severity using the [Guide to the Notification of Data Security and Protection Incidents](#) published by NHS Digital.

The relevant Region / Central Team IG Lead review the incident form and verifies the grading that is reported on the online form.

Where an incident is assessed as notifiable, the Regional / Central Team IG Lead emails the [england.DPO@nhs.net](mailto:england.DPO@nhs.net) email address and Regional Deputy SIRO, if applicable, via their own nhs.net email address (Appendix 4 email template).

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The email needs to be sent immediately after the incident is reported to ensure that it is notified on the DSP Toolkit within 72 hours, should this be required.

The Senior Information Governance Lead checks the grading, and if it is agreed as notifiable, forwards to the Head of Corporate IG.

The Head of Corporate IG escalates incidents that are graded as notifiable to the National SIRO for agreement of the score, copying Regional IG Lead and Regional Deputy SIRO, if applicable.

Where the incident is raised by a CSU, the Director of CSU Transition and Head of Relationships (Corporate), CSU Transition Team is copied in.

## 7. Procedures for responding to subjects' rights requests

Where an incident has been graded as notifiable, the Corporate IG Team notify the incident via the DSP Toolkit and forward the DSP Toolkit Incident reference to the Head of Corporate IG (DPO) and the Region IG Lead.

The incident must be notified in line with NHS Digital's [Guide to the Notification of Data Security and Protection Incidents](#).

Where the incident is raised by a CSU, the Corporate IG Team advises the CSU that the incident scoring has been agreed and can now be externally reported via the CSU's DSP Toolkit within 24 hours of being notified by the CSU.

The Head of Corporate IG determines whether there are legitimate reasons for not notifying the individuals affected by the breach – see Appendix 7.

If there are no legitimate reasons for not notifying individuals affected, the Head of Corporate IG directs the team responsible for the breach to work with the Regional / Central IG lead to write to the individuals affected to inform them of the breach, including the information in Appendix 7.

## 8. Investigation of Notifiable Incidents

The Head of Department where the incident occurred will be the appointed investigatory lead. An investigatory officer can be identified for fact finding if necessary.

Any incident graded as notifiable and reported on the Toolkit must be investigated immediately. The investigatory lead should determine whether it is appropriate to co-ordinate an incident investigation group, with advice and support from the IG lead. This will be arranged and chaired by the investigatory lead.

Typical stakeholders can include:

- Regional / Central team / CSU IG Lead

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- Investigatory Lead
- Investigatory officer (if applicable)
- Geographical area IG Lead
- Deputy SIRO/ depending on severity of incident
- Caldicott Guardian/depending on severity of incident

The stakeholders of the investigation group will need to agree a documented Terms of Reference and timescale of a formal internal investigation and subsequently formulate a report/action plan using the template (Appendix 6).

Weekly incident briefings will be sent by the Investigatory Lead/Local Information Governance Officer to members of the investigation group and to the DPO email inbox [england.DPO@nhs.net](mailto:england.DPO@nhs.net) until the final investigation report has been approved and final closure of the investigation has been signed off.

The incident investigation group will be responsible for the review and monitoring of actions and deadlines. The reports and action plans will be monitored and reported to regional/central IG operational groups.

The CSU / Region / Central Team IG Lead must inform their Deputy Senior Information Risk Owner (SIRO) and relevant Caldicott Guardian as appropriate of the incident.

A final outcome report and action plan including lessons learned must be completed and provided to NHS England via the [england.DPO@nhs.net](mailto:england.DPO@nhs.net) email address, (Appendix 6). If over the course of the investigation further information comes to light that reduces the score of the incident, and the incident no longer meets the threshold for being notifiable on the DSP Toolkit, the Toolkit entry must be updated to reflect this.

The action plan should be monitored by the IG lead until all actions have been completed and closed. Once all actions have been completed, including implementation of lessons learned, the IG lead will close the incident on the Information Security Portal.

Once the incident action plan has been completed, an email should be sent to the [england.DPO@nhs.net](mailto:england.DPO@nhs.net) to notify the DPO that the incident has been closed.

## 9. Investigation of Non-Notifiable Incidents

Incidents graded as not notifiable on the DSP Toolkit are to be investigated and managed locally by the Region / Directorate responsible for the incident.

If a data processor is responsible for the incident, they will carry out the investigation and management of the incident, with oversight from the NHS England local IG Lead.

The responsible Region / Directorate / NHS England local contact must inform the relevant Region / Central Team IG Lead upon the conclusion of the investigation that the incident can be closed.

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CSU's can utilise their own internal process / system for the management of these incidents. A log must be maintained and provided to the Corporate IG team for inclusion in the Central Team incident reports to the Central Team IG Operational Group. The information will be requested by the Corporate IG Team on a monthly basis. (See Appendix 4)

An incident involving commercially sensitive information, and not affecting personal data, is not to be considered notifiable on the DSP Toolkit. However, any such incidents should still be investigated and managed in line with the rest of this procedure and should involve stakeholder engagement from the Commercial Team, the Legal Team and any other team or stakeholder as appropriate.

## 10. Monitoring of Incidents

The Region / Central Team IG Lead is alerted to all IG incidents that are recorded and will monitor these incidents and discuss them with the relevant managers and staff.

The Region / Central Team IG Lead will produce quarterly reports for the Region IG Group / Central Team IG Operational Group.

The CSU will provide the Central Team IG Lead with incident data on a monthly basis to be included in the Central Team IG Operational Group report, where the CSU has reported the incident acting as a data controller or a data processor. The Corporate IG team will produce quarterly reports of all DSP Toolkit reportable incidents for the National IG Steering Group.

## 11. Learning Lessons

The Region / Central Team IG Lead will collate any lessons learned from all incidents reported and the Corporate IG team will provide regular lessons learned bulletins and reports to the National IG Steering Group.

CSU's and third parties will implement and provide their own lessons learned from IG incidents.

## 12. Publishing details of DSP Incidents in Annual Reports and Statements of Internal Control (SIC)

Refer to Appendix 6 of the Guide to the Notification of Data Security and Protection Incidents published by NHS Digital.

## 13. Equality Impact Assessment

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This document forms part of NHS England's commitment to create a positive culture of respect for all staff and service users. The intention is to identify, remove or minimise discriminatory practice in relation to the protected characteristics (race, disability, gender, sexual orientation, age, religious or other belief, marriage and civil partnership, gender reassignment and pregnancy and maternity), as well as to promote positive practice and value the diversity of all individuals and communities.

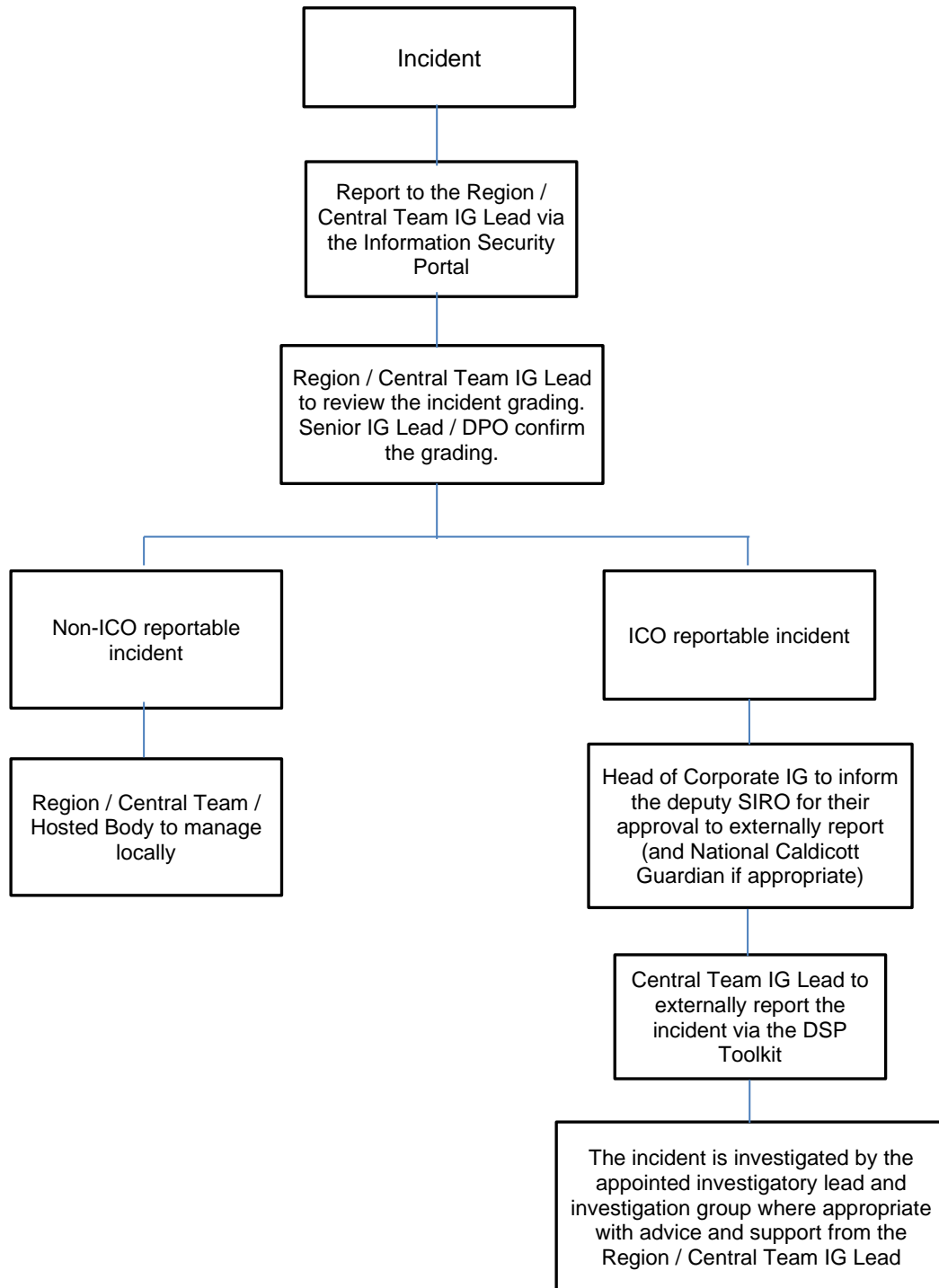
As part of its development this document and its impact on equality has been analysed and no detriment identified.

## 14. Associated Documentation

Details of and/or links to associated documentation.

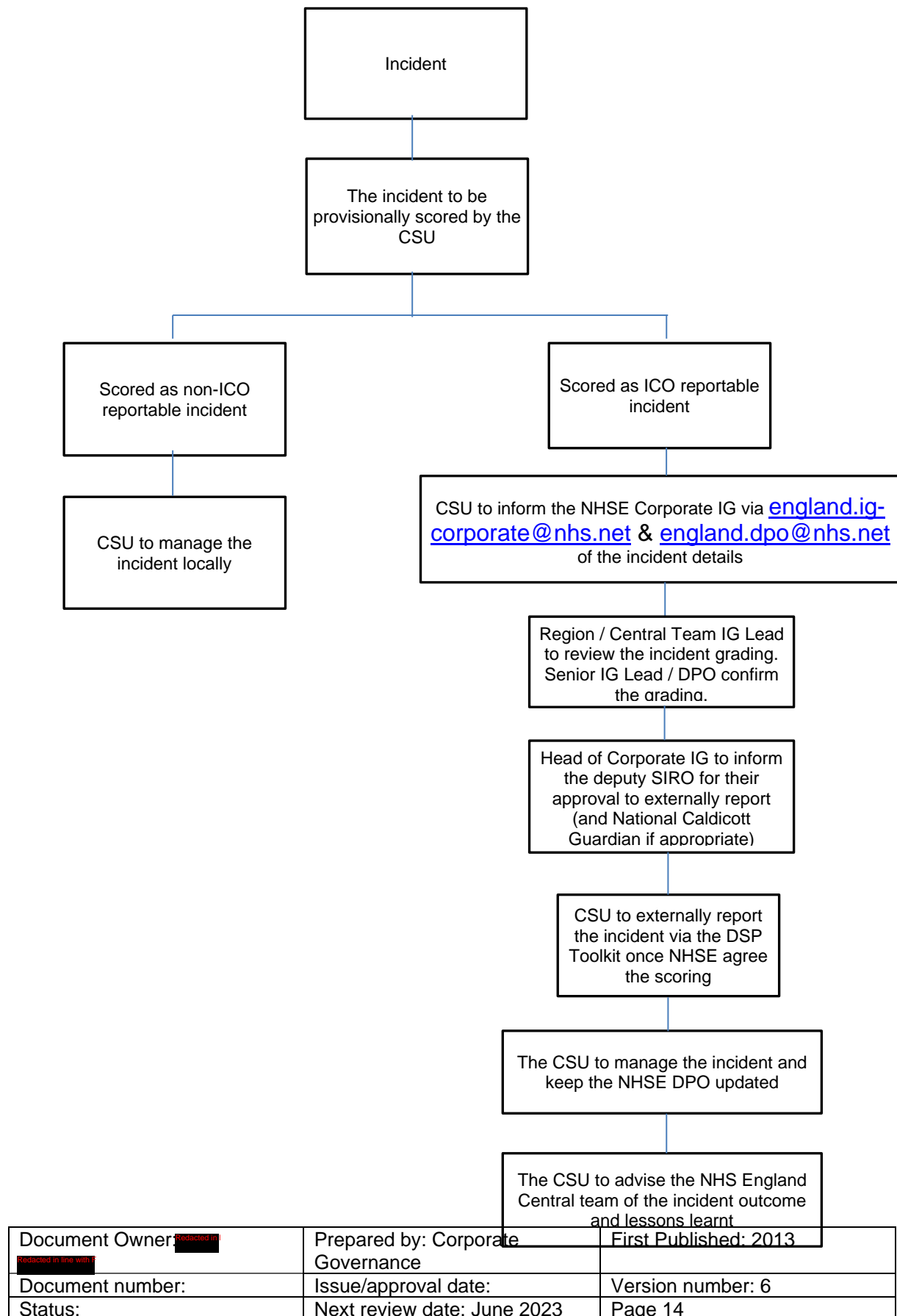
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## Appendix 1: Incident Reporting Flow Process for Central Team/ Regions / Hosted Bodies (not CSU's)

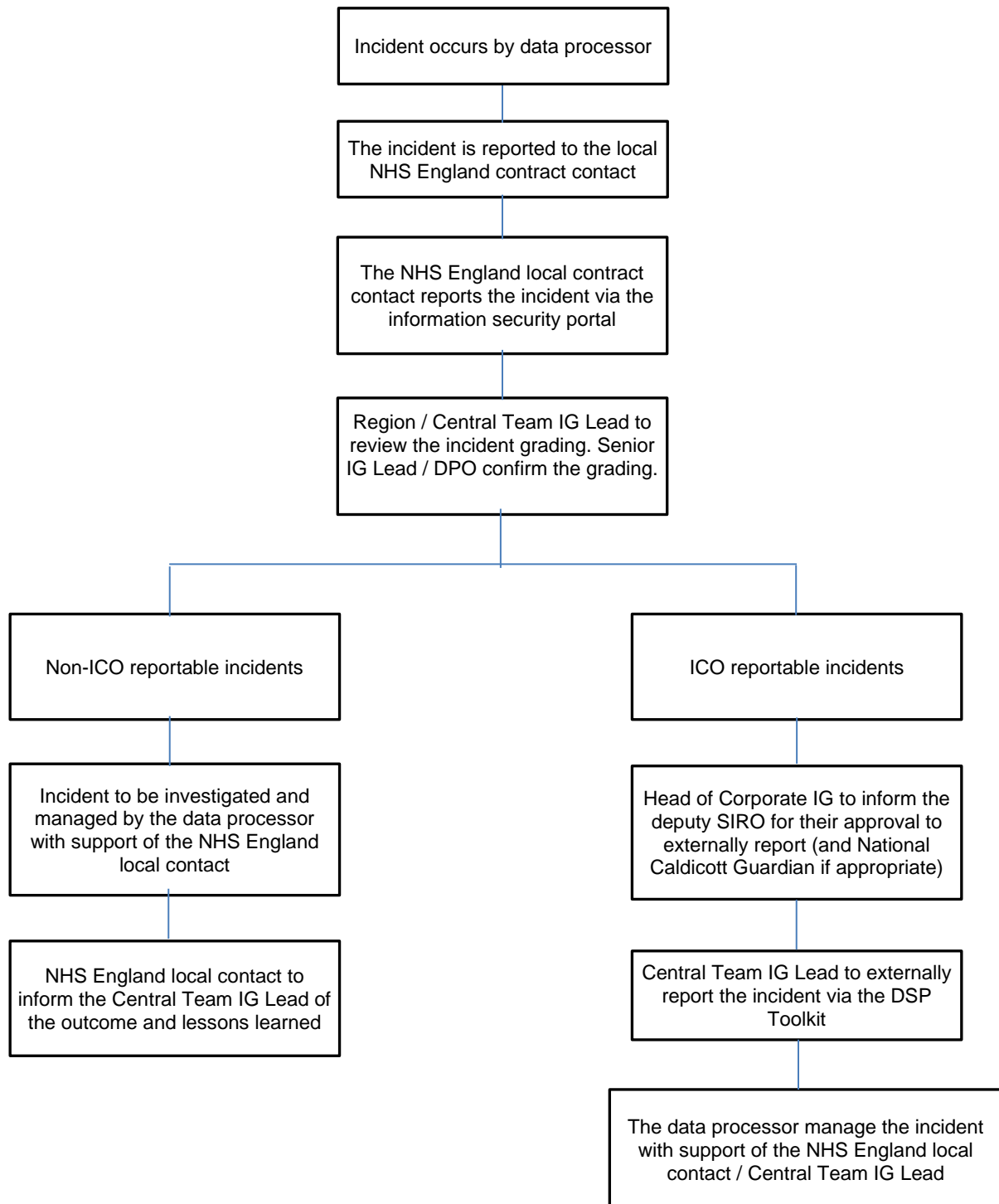


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## Appendix 2 – Incident Reporting Flow Process for CSU's (when acting as, or on behalf of NHS England)



## Appendix 3 – Incident Reporting Flow Process for Data Processors



## Appendix 4 – Email template for 24 hour notification to Regional Deputy SIRO and Head of Corporate IG

### Overview of the Incident

Summary:

*E.g. Short summary of the incident*

Impact and Likelihood of Adverse effect:

*Impact and likelihood scores applying criteria in [Guide to the Notification of Data Security and Protection Incidents](#): When is an incident reportable under GDPR – Grading the personal data breach.*

Appointed Lead investigator:

*E.g. Head of department incident occurred*

### Details of the incident:

Date of incident	Nature of incident	Nature of data involved	Number of data subjects potentially affected	Notification steps
<i>E.g. 01.01.2018</i>	<i>Loss of unencrypted electronic storage device</i>	<i>Name; address; NHS No Staff details, patient details, Contractor details</i>	<i>9999</i>	<i>Informed regional IG lead</i>

### Immediate actions taken:

*E.g. Search for encrypted storage device and device found*

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## Appendix 5 – Incident Investigation Process

### Information Security Incidents Requiring Investigation

This process describes the plan and latitude allowed to those conducting the investigation.

Have regard for previous internal investigations findings, and identify the following:

INCIDENT REFERENCE INTERNAL:	
INCIDENT REFERENCE EXTERNAL:	
INCIDENT DESCRIPTION:	
DATE OF INCIDENT:	

<b>1. Specific problem or issues to be addressed:</b>
<b>2. Who commissioned the investigation (and at which level in the organisation):</b>
<b>3. Investigation lead and team:</b>
<b>4. Aims and objectives of the investigation and desired outputs:</b>  Aim and Objective: <ul style="list-style-type: none"> <li>- To understand how and why the incident occurred.</li> </ul> Desired Outputs: <ul style="list-style-type: none"> <li>- To identify any changes required to existing processes or any new processes which need to be implemented.</li> <li>- To minimise the risk of recurrence.</li> </ul>
<b>5. Scope and boundaries beyond which the investigation should not go (e.g. disciplinary process):</b>

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The incident investigation will focus on 'what went wrong, not who went wrong'. However, any emerging performance or capability concerns will be managed in accordance with reference to the relevant HR policy and procedures, as required.

**6. Timescales for the report and for reviewing progress on the action plan:**

- The investigation / RCA will be completed by [insert date]
- The completion of the action plan will be monitored via the existing governance mechanisms (e.g. Central Team IG Operational Group or national IG Steering Group).

**7. Project administration arrangements (including accountability, meetings, resources, reporting and monitoring arrangements):**

**8. Timescales:**

**9. Actual or potential for involvement of the Police, Information Commissioners Office and plans for this to be addressed and managed effectively at the earliest point:**

**10. Lessons learned**

**11. Date closed**

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## Appendix 6 – Investigation/RCA Report Template

**Investigation / RCA Report: ...**  
**[Incident No.] ...**  
**On... in...**

### 1. Executive Summary

### 2. Synopsis of Incident & Sequence of Events

*A factual description of the incident covering:*

- *Who or what was involved.*
- *What happened.*
- *When it happened.*
- *Where it happened.*
- *How it happened.*

*Include also details of any immediate action taken on identification of the incident including communication with patient / relatives, support to staff, escalation internally and notification to any external stakeholders.*

### 3. Outcome

*For the patient, staff or Trust (i.e. those affected by the incident).*

### 4. Incident Investigation / Methodology Used

*For example: "The incident was investigated using the NHS Digital Guide to the Notification of Data Security and Protection Incidents)*

*You may also wish to include details of the investigation team, details of staff interviewed and the information used to inform the investigation, and the timings and outcomes agreed for the investigation (e.g. who the report / action plan will be copied to etc.).*

### 5. Findings

*i.e. problems identified.*

### 6. Root Cause(s) Identified

*i.e. why the incident occurred.*

### 7. Key Learning Points

*Include details of lessons learned and also details of how learning from this incident will be shared within the Department / Directorate and across the wider organisation.*

### 8. Conclusion

*i.e. whether the incident could have been prevented.*

### 9. Recommendations

*i.e. the action(s) required to minimise the risk of recurrence.*

### 10. Appendices

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*Include any relevant supporting documents e.g. Incident Timeline, action plan, etc.  
An action plan template is provided overleaf.*

## **11. Author and Date of Report**

*To be included on front sheet or in main body of the report.*

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INCIDENT INVESTIGATION / RCA - ACTION PLAN TEMPLATE

DATE OF INCIDENT:

Recommendation (what are the key learning points / what changes need to be made)	Action to be Taken (how the changes will be made)	Lead (for ensuring each action happens)	Timescale for Completion / Date Completed	Evidence Of Completion (sources of verification)	Date Investigation Report / Action Plan Submitted to regional/central team IG operational group meeting

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## Appendix 7 – Communication of a personal data breach to the data subject

When a personal data breach is likely to result in a high risk to the rights and freedoms of an individual, the personal data breach must be communicated to the data subject by NHS England without undue delay, except if:

- NHS England has implemented appropriate technical and organisational protection measures, and those measures were applied to the personal data affected by the personal data breach, in particular those that render the personal data unintelligible to any person who is not authorised to access it, such as encryption;
- NHS England has taken subsequent measures which ensure that the high risk to the rights and freedoms of data subjects is no longer likely to materialise;
- it would involve disproportionate effort. In such a case, there shall instead be a public communication or similar measure whereby the data subjects are informed in an equally effective manner.

When notifying an individual about a personal data breach, the following must be included within the notification:

- a description of the nature of the personal data breach including, where possible, the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned.
- The name and contact details of the data protection officer or other contact point from whom more information can be obtained.
- A description of the likely consequences of the personal data breach.
- A description of the measures taken or proposed to be taken by the controller to address the personal data breach, including, where appropriate, measures to mitigate its possible adverse effects.

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# Information Sharing Policy

NHS England

# Information Sharing Policy

Version number: 1

First published: June 2021

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Policy prepared by: Redacted in line with FOIA Sec 41

Policy Owner: Redacted in line with FOIA Sec 41

Brief summary of changes since previous version:

- 20/6/22 removal of NHS Improvement and change of logo

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## 1. Purpose

NHS England hold information that we might be obliged, or wish, to share with a third party and/or that a third party might request from us (other than under the information access legislation e.g. as an individual under the Freedom of Information Act 2000 or as a data subject under the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 (DPA 2018)). (For example, we often receive such requests for information from other NHS organisations, government departments, academic institutions, professional regulators, local authorities and police forces.) Any sharing of information might be either a one-off or regular disclosure. It might also involve the disclosure of personal data (which could include information that is also subject to the common law duty of confidentiality).

The purpose of this policy is to inform and facilitate decision making in these situations.

(Please note the disclosure of personal data to a data processor, a third party acting only under our instructions (e.g. Primary Care Support England), does not constitute information sharing for the purposes of this policy.)

## 2. Scope

The policy applies to all corporate internal policies issued by NHS England and where relevant, Hosted Bodies will need to observe the policy requirements but are free to prepare their own policies, referring to this document for advisory purposes.

## 3. Policy Statement

### Legal obligations in relation to information sharing and discretionary disclosures

Where we are obliged to share information with a third party (for example, as the result of a clear legal obligation), we should ensure that the disclosure is:

- limited to what is necessary to fulfil the legal obligation;
- marked up appropriately (with regard to Government Security Markings);
- made with a suitable level of security (taking into account the nature of the information);
- communicated promptly; and,
- recorded properly (with regard to our [Corporate Document and Records Management Policy](#)).

Where there is any doubt as to the nature, or extent, of a legal obligation cited by a third party, written clarification should be sought from them in the first instance. We should also be alert to the possibility of a third party attempting to 'blag' information from us and double-check their credentials as necessary (e.g. by looking up, separately, the switchboard number for an organisation purportedly represented by the requester to ascertain that they are indeed an employee in the stated role). Where there is any residual uncertainty, the Corporate IG team and/or the Legal team should be consulted about the validity and scope of the legal obligation, and/or the verification of the identity of the third party, before any disclosure is made. Where the sharing of information is discretionary, we should ensure:

- there is a legal power (which might potentially be derived from this [list](#) of statutory functions designated to NHS England) and a lawful basis (or bases) for the disclosure;
- the disclosure is reasonable and proportionate; and,

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- where appropriate, there is transparency about the disclosure.  
(The same procedural steps should be taken for a discretionary disclosure as for information sharing where there is a legal obligation.)

### Personal data and confidential information

There are particular considerations relating to the discretionary disclosure of personal data and the sharing of confidential information.

It is incumbent on NHS England to exercise due caution in disclosing personal data and confidential information to third parties because of the high sensitivity of much of the information that is entrusted to us and the position of the organisation as the leader of the healthcare system. Accordingly, when sharing information, it is important that we are mindful of the consequences that might possibly flow from a personal data breach and/or the breaching of a duty of confidence – e.g. distress to patients, identity theft, reputational damage, loss of public trust in the health care system, the undermining of the principle of medical confidentiality, a monetary penalty, enforcement action, litigation, and, indeed, distress to any staff member(s) involved in the disclosure.

For this reason, in some situations, it can be expedient to consider whether the objective of the information sharing could be achieved through the disclosure of anonymous information (only).

However, this is not to say that we should refrain from sharing personal data where this is crucial to the fulfilment of statutory functions or in the wider public interest – and particularly in emergency situations (e.g. where there is the risk of serious harm to human life). In all cases, we are likely to be judged against the overall fairness of our conduct in information sharing, and so this is the benchmark that we should keep in mind at all times and on each occasion. Were we conduct a balancing exercise, weighing the likely benefits and risks of information sharing, and the public interest against privacy concerns, we should try to take into account all the relevant factors in order to reach a demonstrably reasonable decision. To this end, and in case of any later challenge, it will be helpful if a record is kept of the decision making underlying the disclosure of personal data or confidential information, detailing the objective, the outcome of the weighing of the likely risks and benefits, and the justification for sharing. This may be done retrospectively in an emergency situation.

### *Anonymisation, pseudonymisation and personal data*

Anonymous information is defined as ‘information which does not relate to an identified or identifiable natural person or to personal data rendered anonymous in such a manner that the data subject is not or no longer identifiable’ (Recital 26 UK GDPR). The disclosure of anonymous information does not fall within the scope of the data protection legislation. In general, therefore, it can be simpler to disclose anonymous information rather than personal data, as fewer legal restrictions apply. Effective anonymisation of personal data is achievable. However, the techniques used must reduce the risk of the identification of an individual to a level at which this is a sufficiently remote possibility.

Pseudonymisation (such as replacing the name(s) of an individual with a code number) is a process intended to reduce data protection risk, but not to the level of anonymisation. It should be considered as a security and risk mitigation measure

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rather than as an anonymisation technique. Pseudonymised personal data are subject to data protection requirements in the same way as personal data. Personal data are defined as ‘any information relating to an identified or identifiable living individual’ (section 3(2) of the DPA 2018).

Section 3(3) defines an ‘identifiable living individual’ as:

‘a living individual who can be identified, directly or indirectly, in particular by reference to — (a) an identifier such as a name, an identification number, location data or an online identifier, or (b) one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual’.

It can be challenging to determine the status of data – i.e. where they lie on the spectrum between anonymisation and personal data – and the effective anonymisation of personal data can be a complex undertaking (sometimes requiring security engineering or the application of statistical methodologies), so it is strongly recommended that where there is any uncertainty about the level of data protection risk posed by a potential disclosure, this should be flagged to the Corporate IG team at the earliest opportunity. The Corporate IG team will likely refer to guidance on anonymisation issued by the Information Commissioner’s Office when this is relevant to a query concerning information sharing.

There are also categories of personal data that are afforded a higher level of protection by the data protection legislation due to their sensitivity. ‘Special category personal data’ are defined as:

- personal data revealing racial or ethnic origin;
- personal data revealing political opinions;
- personal data revealing religious or philosophical beliefs;
- personal data revealing trade union membership;
- genetic data;
- biometric data (where used for identification purposes);
- data concerning health;
- data concerning a person’s sex life; and,
- data concerning a person’s sexual orientation.

(For example, it is for this reason that the organisation has an ‘Appropriate Policy Document’ to allow for the processing of special category and criminal offence personal data in line with the condition for processing employment, social security and social protection data (at paragraph 1, Part 1, Schedule 1 of the DPA 2018) and the substantial public interest conditions in Part 2, Schedule 1 of the DPA 2018.) Separate rules apply to personal data about criminal allegations, proceedings or convictions.

We must also take extra care when sharing personal data about children. The best interests of the child should be a primary consideration.

It follows that any planned information sharing involving these categories of personal data should usually be brought to the attention of the Corporate IG team in order that these additional considerations can be taken into account and any necessary safeguards put in place.

The Corporate IG team will seek to ensure that the sharing of personal data is carried out in accordance with the data protection legislation, including the Information

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Commissioner's Office's [Data Sharing Code](#) made under section 121 of the Data Protection Act 2018.

In brief, and without limitation, this requires consideration of whether:

- there is a legal power for NHS England to share the personal data;
- the disclosure is lawful (including whether there is any prohibition on the sharing of the personal data);
- the sharing will not result in the personal data being further processed in a manner that is incompatible with the initial purposes of our processing of them;
- the disclosure is of the minimum personal data necessary for the purposes for which they are to be processed by the recipient;
- the personal data are accurate and up to date;
- the recipient is proposing to retain the personal data for a period that is suitable in the circumstances;
- the disclosure will be made securely;
- whether, and to what extent, any exemption(s) contained in the DPA is/are relevant to the processing of the personal data; and,
- whether it is necessary to notify the data subject(s) of the disclosure.

### *Data protection impact assessments*

Where any processing of personal data, including disclosure, is 'likely to result in a high risk to the rights and freedoms of natural persons' (Article 35 UK GDPR), we must, prior to the sharing of personal data taking place, carry out a data protection impact assessment (DPIA). This includes some specified types of processing – notably, processing on a large scale of special category personal data (e.g. health data) - and these are reflected in our [DPIA template](#). A DPIA helps us to identify and minimise the data protection risks of a project.

### *Data Protection Officer*

Our Data Protection Officer (DPO) is involved in the DPIA process, as required by the UK GDPR, and ad hoc queries from employees about the obligations imposed by the Regulation and DPA 2018 may also be referred to them. NHS England are under a duty to enable the DPO to perform their duties and tasks in an independent manner.

### *International transfers*

If it is proposed that personal data should be shared outside the UK, it is strongly recommended that the Corporate IG team should be consulted as to whether any additional safeguards should be put in place. (This does not apply to staff members accessing, and further processing, personal data held in the systems of NHS England while working abroad, as this does not involve an international transfer. However, staff members intending to work while abroad should follow the relevant process.)

The reason for this is that the UK GDPR restricts the transfer of personal data to countries outside the UK or to international organisations.

However, the UK government has stated that transfers of data from the UK to the EEA are permitted and the EU Commission has adopted decisions (which are expected to last until 27 June 2025 – before any further extension) on the UK's adequacy under the EU's GDPR and Law Enforcement Directive. This means that

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most personal data can continue to flow from the EU and the EEA without the need for additional safeguards.

In general, then, it is transfers to countries or to international organisations outside the EEA that require closer scrutiny. There is no ban on such transfers, and a number of countries and territories are covered by UK 'adequacy regulations' (which facilitate the transferring of personal data to them), and a transfer might be permitted by one or more of the appropriate safeguards listed in the UK GDPR, but the legal position is complex, and advice should therefore be sought prior to the disclosure of any personal data in this way.

### *Data sharing agreements*

There is no legal requirement for there to be a data sharing agreement (DSA) in respect of the disclosure of personal data between separate data controllers. However, they can be helpful in enabling compliance with the accountability principle set out in the UK GDPR. This requires us to demonstrate our compliance with the principles relating to processing of personal data.

A DSA can also be useful in clarifying the roles of the parties, setting out the purposes of the data sharing, describing the lifecycle of the data, and explaining how subject rights requests will be dealt with by the data controllers (although those rights may still be exercised by a data subject against either/any of them).

There is a [DSA template](#) that can be used for the purpose.

(Please note there is a legal obligation for there to be a transparent agreement in place where we are acting with another data controller as joint controllers of personal data, and for this to be made available to data subjects, so there is a [separate template](#) for this purpose.)

### *Confidential information*

In general, we should not share information where this would result in a breach of confidence that is actionable. As NHS staff members, we agree a clause in our contract of employment that commits us to adhering to any obligation of confidence imposed on NHS England.

The legal principles that apply are those relating to the common law test of confidence. When determining if disclosure would constitute a breach of confidence, we need to consider whether:

- the information has the quality of confidence;
- it was imparted in circumstances importing an obligation of confidence; and,
- disclosure would be an unauthorised use of the information to the detriment of the confider (we can assume detriment where the information concerns the confider's private life).

For example, it is accepted that medical records attract the duty of confidence and that this endures beyond the death of the patient. On the other hand, in the case of commercial confidentiality, this might be lost if the information has intentionally been placed in the public domain at any time.

The assessment also has to be made with regard to Article 8 of the Human Rights Act 1998 – which protects the right to respect for private life, family life, home and

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correspondence – and the exercise of this right without interference by a public authority – except in specific circumstances.

However, the duty of confidence may also be set aside in certain situations. These are where the information is required by law or the courts, where sharing information is sufficiently in the public interest to justify breach of confidence, and, in healthcare (in England and Wales), in certain cases, where the disclosure of confidential patient information without consent for medical purposes is supported under The Health Service (Control of Patient Information) Regulations 2002 (which were made pursuant to section 251 of the National Health Service Act 2006).

In turn, though, as NS England and coordinate publicly-funded healthcare in England, we need to comply with the national data opt-out. This allows a patient to choose if they do not want their confidential patient information to be used for purposes beyond their individual care and treatment - for research and planning. That said, the opt-out choice is also qualified by a number of exemptions and may be disapplied where a use or disclosure is deemed to be in the overriding public interest.

As can be seen, then, the sharing of confidential patient information, in particular, can be fraught with some difficulty. It is therefore suggested that the Corporate IG team be consulted where any potential disclosure of confidential patient information, without explicit consent, is being considered and there is no clear precedent for this taking place.

It is the case, of course, that a confider may consent to the waiving of a duty of confidence. It is also accepted that a patient impliedly consents to the sharing of medical information about them for the purpose of their individual care (e.g. when a GP refers a patient to a Trust for diagnostic investigation or treatment) – unless they expressly withhold such consent. Where consent is to be sought to the sharing of personal confidential information by NHS England, it is recommended that advice be sought from the Corporate IG team and/or the Legal team to ensure that the terms of the consent and the arrangements for recording and reviewing consents are suitable. Anonymised information is not confidential and its disclosure can therefore be less problematic than the sharing of confidential information.

### *Caldicott principles*

In dealing with personal confidential information, we must also pay due attention to the Caldicott principles. The National Data Guardian for health and social care states: These principles apply to the use of confidential information within health and social care organisations and when such information is shared with other organisations and between individuals, both for individual care and for other purposes.

The principles are intended to apply to all data collected for the provision of health and social care services where patients and service users can be identified and would expect that it will be kept private. This may include for instance, details about symptoms, diagnosis, treatment, names and addresses. In some instances, the principles should also be applied to the processing of staff information.

They are primarily intended to guide organisations and their staff, but it should be remembered that patients, service users and/or their representatives should be included as active partners in the use of confidential information.

The Caldicott principles are:

Principle 1: Justify the purpose(s) for using confidential information

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Principle 2: Use confidential information only when it is necessary

Principle 3: Use the minimum necessary confidential information

Principle 4: Access to confidential information should be on a strict need-to-know basis

Principle 5: Everyone with access to confidential information should be aware of their responsibilities

Principle 6: Comply with the law

Principle 7: The duty to share information for individual care is as important as the duty to protect patient confidentiality

Principle 8: Inform patients and service users about how their confidential information is used

### *Caldicott Guardian*

In cases where there is uncertainty as to the correctness of some proposed information sharing, the issues should be referred to the Caldicott Guardian for advice, and, possibly, determination. (The Caldicott Guardian for NHS England has a number of Deputies with delegated responsibility for local decision making and the Corporate IG team can advise on the routing of a query.)

The National Data Guardian states:

Caldicott Guardians are senior people within an organisation who protect the confidentiality of people's information by considering the ethical and legal aspects of data sharing. They play a vital role in ensuring that health and social care data is used responsibly to support the delivery of better care.

There is [Guidance about the appointment of Caldicott Guardians, their role and responsibilities published by the National Data Guardian for Health and Social Care](#).

This was issued under section 1(2) of the Health and Social Care (National Data Guardian) Act 2018 and is applicable to NHS England.

The guidance includes these paragraphs in a section dealing with 'Roles and responsibilities of the Caldicott Guardian':

4.1 Caldicott Guardians help their organisations to ensure that confidential information about health and social care service users is used ethically, legally, and appropriately.

4.2 Caldicott Guardians should provide leadership and informed advice on complex matters involving the use and sharing of patient and service user confidential information, especially in situations where there may be areas of legal and/or ethical ambiguity.

4.3 The Caldicott Guardian should play a key role in helping to ensure that their organisation(s) satisfy the highest ethical and legal standards for processing patient and service user confidential information. Their main concern is confidential information relating to patients, service users and their care. However, in some circumstances the Caldicott Guardian's judgment may also be needed in relation to the use of information about other individuals, such as staff or relatives of service users.

A section on 'Accountability' explains:

6.1 The Caldicott Guardian role is primarily advisory but in practice, Caldicott Guardians may legitimately make judgments or decisions on matters of confidentiality, sharing and disclosure.

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### Senior Information Risk Owner

A Senior Risk Information Owner (SIRO) has been appointed by NHS England and NHS Digital summarises the purpose of this role as follows:

A Senior Information Risk Owner (SIRO) is an Executive Director or member of the Senior Management Board of an organisation with overall responsibility for an organisation's information risk policy.

The SIRO is accountable and responsible for information risk across the organisation. They ensure that everyone is aware of their personal responsibility to exercise good judgement, and to safeguard and share information appropriately. There are also Deputy SIROs with delegated responsibilities. Again, the Corporate IG team can advise on the routing of a query.

It is advisable for the SIRO, or a Deputy, to be notified of, and consulted about, any planned information sharing that has foreseeable potential to be high-profile or especially contentious.

### Summary

It will be apparent from the length of this policy statement that any information sharing must be undertaken with care and with regard to the nature of the information and various other contextual factors. It is also the case that, due to the nature of our work, NHS England operate in a complex, and continually changing, data environment, and it can be difficult to monitor developments to legislation and other frameworks. Moreover, there will also be a tension between keeping sensitive information safely within the organisation and disclosing it to a third party where that might possibly bring a degree of exposure and liability, and there can be difficulty in striking the right balance. However, often, the key consideration is whether a disclosure is fair, reasonable and proportionate in the particular circumstances of the case, and there are resources available within the organisation and externally to assist with the decision making. We would strongly recommend that (early, if possible) use is made of those resources where necessary.

## **4. Roles and Responsibilities**

We all hold responsibility for the compliance of NHS England with the legislation and other frameworks relating to information sharing.

The Corporate IG team, including the Data Protection Officer, and/or the Legal team can offer advice and support with decision making in this area.

The Caldicott Guardian and their Deputies can provide advice in relation to the disclosure of personal confidential information.

The SIRO and their Deputies can advise on, and supervise decisions in relation to, high-risk information sharing.

## **5. Impact Assessments**

### **5.1 Policy Impact Assessment**

As part of the development of this policy, its impact on the business has been assessed; no detrimental issues were identified.

### **5.2 Equality and Health Inequality Analysis**

As part of the development of this policy, its impact on equality has been analysed and no detriment identified

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6. Associated Documentation

None

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# Internal Freedom to Speak Up (FTSU) Policy

NHS England

# Internal Freedom to Speak Up (FTSU) Policy

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Appendix A: Flowchart: What will happen when I speak up

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.

## 1. Purpose

### Speak up – we will listen

- 1.1 We welcome speaking up and we will listen. By speaking up at work you will be playing a vital role in helping us to keep improving our services for all patients and the working environment for our staff.
- 1.2 We ask all our workers to complete the online training on speaking up. The online module on listening up is specifically for managers to complete and the module on following up is for senior leaders to complete. You can find out more about what Freedom to Speak Up (FTSU) is in these [videos](#).

## 2. Scope

- 2.1 This policy is for all NHS England workers. The NHS People Promise commits to ensuring that “we each have a voice that counts, that we all feel safe and confident to speak up, and take the time to really listen to understand the hopes and fears that lie behind the words”.
- 2.2 We want to hear about any concerns you have, whichever part of the organisation you work in. We know some groups in our workforce feel they are seldom heard or are reluctant to speak up. You could be a secondee, an agency worker, bank worker, locum, graduate trainee or student. We also know that workers with disabilities, or from a minority ethnic background or the LGBTQ+ community do not always feel able to speak up. This policy is for all workers and we want to hear all our workers’ concerns.

## 3. Policy Statement

- 3.1 This policy is based on the national FTSU policy for the NHS (produced by NHS England) that was a recommendation of the review by Sir Robert Francis into creating a just and open culture in the NHS, aimed at improving the experience of speaking up in the NHS.
- 3.2 This is not the only policy which you can use to raise issues. There is a suite of Employee Relations Policies which may be more relevant and includes:
  - [Respect at Work Policy](#);
  - [Grievance Policy and Procedure](#).
- 3.3 If you are unsure which Policy to use, you may like to discuss your concern with your line manager, FTSU Guardian, an HR colleague or your Trade Union representative, who will be able to advise you. There is a separate external policy for concerns relating to organisations that NHS England oversees.

## 4. What can I speak up about?

- 4.1 You can speak up about anything that gets in the way of patient care or affects your working life. That could be something which doesn’t feel right to you: for example, a way of working or a process that isn’t being followed; you feel you are being discriminated against; or you feel the behaviours of others is affecting your wellbeing, or that of your colleagues or patients.

4.2 Speaking up is about all of these things.

4.3 Speaking up, therefore, captures a range of issues, some of which may be appropriate for other existing processes (for example, HR or Information Governance). That's fine. As an organisation, we will listen and work with you to identify the most appropriate way of responding to the issue you raise.

### ***We want you to feel safe to speak up***

4.4 Your speaking up to us is a gift because it helps us identify opportunities for improvement that we might not otherwise know about. We will not tolerate anyone being prevented or deterred from speaking up or being mistreated because they have spoken up.

## **5. Who can speak up?**

5.1 Anyone who works in NHS England. This encompasses any healthcare professionals, non-clinical workers, PAs, directors, managers, contractors, volunteers, students, trainees, junior doctors, locum, bank and agency workers, and former workers.

## **6. Who can I speak up to?**

### ***Speaking up internally***

6.1 Most speaking up happens through conversations with supervisors and line managers where challenges are raised and resolved quickly. We strive for a culture where that is normal, everyday practice and encourage you to explore this option – it may well be the easiest and simplest way of resolving matters.

6.2 However, you have other options in terms of who you can speak up to, depending on what feels most appropriate to you.

- Senior manager or director with responsibility for the subject matter you are speaking up about.
- Our HR team, via [The Hub](#).
- One of our Freedom to Speak Up Guardians (you can find details of all our Guardians [here](#)), who can support you to speak up if you feel unable to do so by other routes. You can seek support from any of our Guardians – they do not need to be in your directorate or region.  
The guardian will ensure that people who speak up are thanked for doing so, that the issues they raise are responded to, and that the person speaking up receives feedback on the actions taken. You can find out more about the guardian role [here](#).
- Local counter fraud team (where concerns relate to fraud): you can find their details [here](#).

- Our executive director responsible for Freedom to Speak Up, Richard Barker, ([england.ftsuexec@nhs.net](mailto:england.ftsuexec@nhs.net)) - he provides senior support for our Guardians and is ultimately responsible for the effectiveness of our FTSU arrangements.
- Our non-executive director responsible for Freedom to Speak Up, Sir Andrew Morris ([Andrew.morris@nhs.net](mailto:Andrew.morris@nhs.net)) – this role provides more independent support for our Guardians; provides a fresh pair of eyes to ensure that investigations are conducted with rigor; and helps escalate issues, where needed.

### *Speaking up externally*

6.3 In many circumstances the easiest way to get your concern resolved will be to raise it internally. Alternatively, you can speak up outside NHS England, with, for example:

- the Department of Health and Social Care;
- an MP;
- a legal adviser;
- NHS Counter Fraud Agency for concerns about fraud and corruption, using their online reporting form or calling their freephone line 0800 028 4060; or
- Any other relevant bodies from the full list of prescribed bodies [here](#). Appendix B contains information about making a 'protected disclosure'

6.4 If you would like to speak up about the conduct of one of our workers from a regulated profession, you can do this by contacting the relevant professional body such as the General Medical Council, Nursing and Midwifery Council, Health & Care Professions Council, General Dental Council, General Optical Council or General Pharmaceutical Council.

## **7. How should I speak up?**

7.1 You can speak up to any of the people or organisations listed above in person, by phone or in writing (including email or via our [FTSU form](#)).

### *Confidentiality*

7.2 The most important aspect of your speaking up is the information you can provide, not your identity. You have a choice about how you speak up:

- **Openly:** you are happy that the person you speak up to knows your identity and that they can share this with anyone else involved in responding.
- **Confidentially:** you are happy to reveal your identity to the person you choose to speak up to on the condition that they will not share this without your consent.
- **Anonymously:** you do not want to reveal your identity to anyone. This can make it difficult for others to ask you for further information about the matter and may make it more complicated to act to resolve the issue. It also means that you might not be able to access any extra support you need and receive



any feedback on the outcome. In all circumstances, please be ready to explain as fully as you can the information and circumstances that prompted you to speak up

## 8. Advice and support

8.1 You can access a range of health and wellbeing support available to you [via the Hub](#). Our [staff networks](#) can be a valuable source of support.

8.2 You can also contact the following organisations:

- [Speak Up Direct](#) provides free, independent, confidential advice on the speaking up process.
- The charity [Protect](#) provides confidential and legal advice on speaking up.
- The [Trades Union Congress](#) provides information on how to join a trade union.
- The [Law Society](#) may be able to point you to other sources of advice and support.
- The [Advisory, Conciliation and Arbitration Service](#) gives advice and assistance, including on early conciliation regarding employment disputes

## 9. What will we do?

9.1 The matter you are speaking up about may be best considered under a specific existing policy/process; for example, our process for dealing with respect at work. If so, we will discuss that with you. If you speak up about something that does not fall into an existing process, this policy ensures that the matter is still addressed. What you can expect to happen after speaking up is shown in Appendix A.

### ***Resolution and investigation***

9.2 We support our managers to listen to the issue you raise and take action to resolve it wherever possible. In most cases, it's important that this opportunity is fully explored, which may be with facilitated conversations and/or mediation. Where an investigation is needed, this will be objective and conducted by someone who is suitably independent (this might be someone outside your organisation or from a different part of the organisation) and trained in investigations. It will reach a conclusion within a reasonable timescale (which we will notify you of), and a report will be produced that identifies any issues to prevent problems recurring. Any employment issues that have implications for you/your capability or conduct identified during the investigation will be considered separately.

### ***What happens when you speak up to a FTSU Guardian?***

9.3 On receipt the concern will be recorded in a confidential section of CRM and you will receive an acknowledgement within two working days from one of our FTSU Guardians. This record, accessible only our Guardians<sup>1</sup>, will record the date the concern was received, whether you have requested confidentiality, a summary of the concerns and dates when we have given you updates or feedback. The Guardian will explore with you how your concern might be resolved and will work with you on the actions to achieve this. However, if this is not appropriate, or such attempts have been unsuccessful, the FTSU Guardian will refer the case to a (confidential) FTSU Steering Group (see further below).

9.4 Guardians will engage directly with senior leaders in relevant directorates/regions regarding an individual case where considered appropriate (taking account of confidentiality). All executive directors will receive a quarterly data report on FTSU cases, providing high level themes and case numbers.

9.5 The process followed by Guardians is set out below:

- The worker speaks up to the FTSU Guardian.
- The concern is logged on CRM case management system.
- The FTSU Guardian explores the possibility of local resolution.
- If there is resolution the case is closed and the log updated.
- If there is no local resolution the case is referred to the FTSU Steering Group (FTSU SG) for triage.

## 10. FTSU Steering Group (FTSU SG)

10.1 The role of our FTSU SG at this stage is to decide what action is necessary to resolve the concerns. The Steering Group may:

- request further information from the FTSU Guardian;
- ask the FTSU Guardian to make further attempts at resolution;
- refer the case to an alternative process (eg, HR, safeguarding, counter-fraud etc), requesting notification of the outcome of that process;
- ask the relevant executive director to commission mediation; and/or
- ask the relevant executive director to commission an investigation and draft the Terms of Reference.
- Following investigation, the FTSU SG will:
  - receive the investigation report;
  - decide how and with whom it is shared;

---

<sup>1</sup> In exceptional circumstances, the records might be accessed by another, subject to agreement of the FTSU Steering Group, Executive and Non-Executive Lead for internal FTSU.

- update the executive, non-executive FTSU leads where considered appropriate;
- request the relevant director to nominate a responsible officer to implement recommendations and update the FTSU SG.

10.2 The role of the Group is to bring their FTSU and HR and OD expertise to ensure a prompt multi-disciplinary decision-making point on behalf of our internal FTSU executive lead (you can find the Terms of Reference for the Group [here](#)). The FTSU SG membership will be strictly limited to maintain confidentiality and its standing members are:

- appointed deputy for our (internal) FTSU national executive lead;
- senior member of the central FTSU team;
- senior HR representative(s); and
- senior legal representative.

In addition, the relevant FTSU Guardian will be invited to attend the FTSU SG regarding cases that it refers. The FTSU SG will be convened monthly and stood down if there is nothing to discuss.

**10.3 It is important to stress that the name of the individual who spoke up need not be disclosed to the Steering Group by the FTSU Guardian – it is the concerns raised that the FTSU SG will be focusing on.**

10.4 The FTSU SG will keep the national executive lead updated monthly, but the involvement of the Group may be bypassed in exceptional circumstances. If the concerns relate to the national executive lead, the matter will be put to the Chief Executive and/or the nominated non-executive director. If the concern relates to the Chief Executive, the Chair will be engaged and agree with the non-executive lead the most appropriate actions.

## 11. Investigation

11.1 Where you have been unable to resolve the matter with your line manager, we will investigate where we consider it proportionate to do so and we will reach a conclusion within a reasonable timescale (which we will notify you of). The investigation will be objective and evidence-based and will produce a report that focuses on learning lessons to prevent problems recurring.

11.2 The relevant executive director will be informed of the concern and the decision to investigate (usually via their chief of staff). The allocated investigator will contact the person raising the concern within three working days of being allocated the case, unless they have requested complete confidentiality (and the local guardian is unable to share their name with the investigator).

11.3 Any employment issues identified during the investigation will be kept separate and any relevant employment policies and processes followed. Findings will not be used as a basis for any disciplinary action. However, information gathered could prompt a further, HR investigation, if considered appropriate by the relevant executive director.

- 11.4 Every effort will be made to conclude investigations as quickly as possible, however, should the investigation last for a protracted period of time, we commit to updating you at least monthly, even if little progress has been made

## **12. Communicating with you**

- 12.1 We will treat you with respect at all times and will thank you for speaking up. We will discuss the issues with you to ensure we understand exactly what you are worried about. If we decide to investigate, we will tell you how long we expect the investigation to take and agree with you how to keep you up to date with its progress.
- 12.2 Wherever possible, we will share the full investigation report with you (while respecting the confidentiality of others and recognising that some matters may be strictly confidential; as such it may be that we cannot even share the outcome with you).

## **13. How we learn from your speaking up**

- 13.1 We want speaking up to improve the work we do for other NHS organisations, the environment our staff work in, and ultimately the service provided to patients. Where it identifies improvements that can be made, we will ensure necessary changes are made, and are working effectively. Lessons will be shared with teams across the organisation, or more widely, as appropriate.

## **14. Review**

- 14.1 We will seek feedback from workers about their experience of speaking up.
- We will review the effectiveness of this policy and our local process annually, with the outcome published and changes made as appropriate. Senior leaders' oversight Our most senior leaders will receive a report at least annually providing a thematic overview of speaking up by our staff to our FTSU guardian(s).

## **15. Impact Assessments**

### **15.1 Policy Impact Assessment**

As part of the development of this policy, its impact on the business has been assessed;

No detrimental issues were identified

### **15.2 Equality and Health Inequality Analysis**

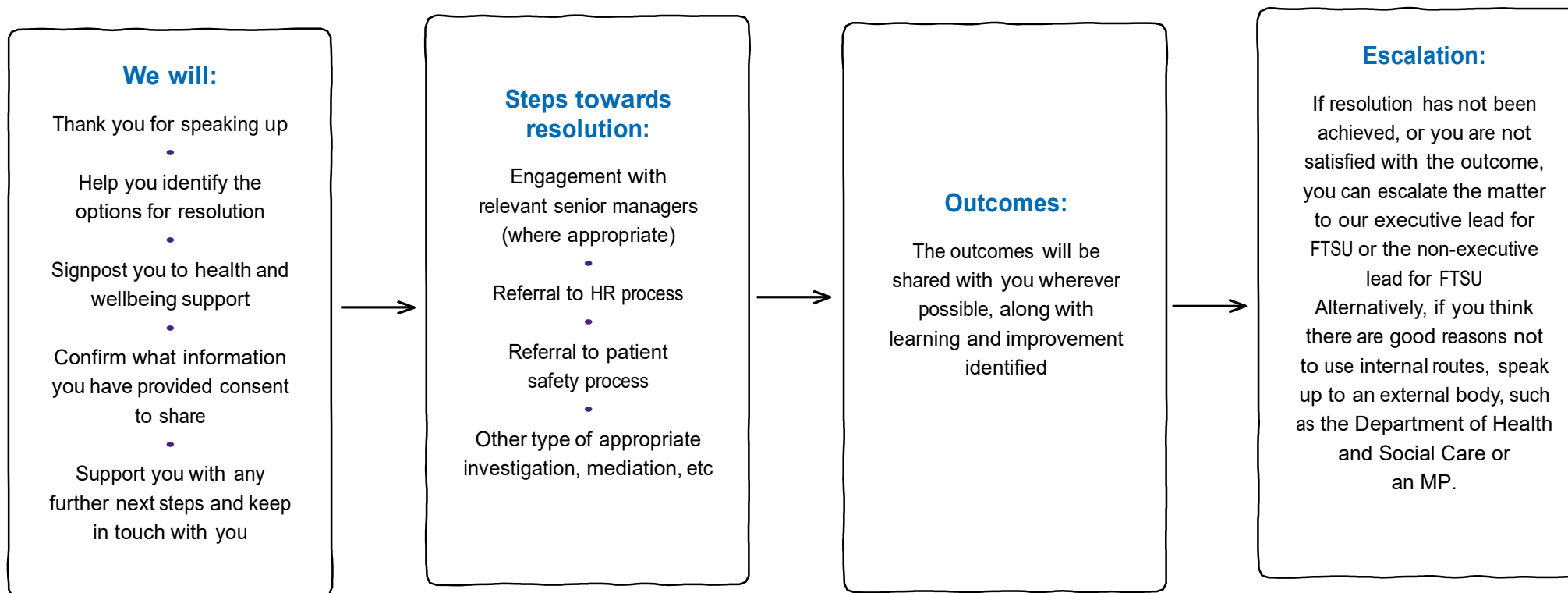
As part of the development of this policy, its impact on equality has been analysed and no detriment identified.

## **16. Associated Documentation**

- [Respect at Work Policy](#);
- [Grievance Policy and Procedure](#).

# Appendix A:

## What will happen when I speak up?





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# **Guidance for NHS commissioners on equality and health inequalities legal duties**

## OFFICIAL

**NHS England INFORMATION READER BOX****Directorate**Medical  
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Guidance

**Document Name**

Guidance for NHS commissioners on equality and health inequalities legal duties

**Author**

NHS England/Commissioning Strategy/Equality and Health Inequalities Unit

**Publication Date**

14 December 2015

**Target Audience**

CCG Clinical Leaders, CCG Accountable Officers, CSU Managing Directors, NHS England Regional Directors, NHS England Directors of Commissioning Operations, All NHS England Employees

**Additional Circulation List**

Directors of PH, Local Authority CEs, Communications Leads

**Description**

This guidance is to support Clinical Commissioning Groups (CCGs) and NHS England to meet their legal duties with regard to equality and health inequalities.

**Cross Reference**

Equality Delivery System 2

**Superseded Docs**  
(if applicable)

02728 Guidance for NHS commissioners on equality and health inequalities legal duties December 2014

**Action Required**

Clinical Commissioning Groups and NHS England may wish to use this guidance to meet and demonstrate they are meeting their legal duties on equality and health inequalities

**Timing / Deadlines**  
(if applicable)**N/A****Contact Details for further information**Equality and Health Inequality Unit  
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## Guidance for NHS commissioners on equality and health inequalities legal duties

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Prepared by: Equality and Health Inequalities Unit

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The National Health Service Commissioning Board was established on 1 October 2012 as an executive non-departmental public body. Since 1 April 2013, the National Health Service Commissioning Board has used the name NHS England for operational purposes.

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## 1 Policy statement

Promoting equality and addressing health inequalities are at the heart of NHS England's values. Throughout the development of the policies and processes cited in this document, we have:

- Given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as cited under the Equality Act 2010) and those who do not share it; and
- Given regard to the need to reduce inequalities between patients in access to, and outcomes from healthcare services and to ensure services are provided in an integrated way where this might reduce health inequalities.

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## 2 Introduction

This guidance has been updated in December 2015 to reflect changes since the original publication in 2014. It is to support Clinical Commissioning Groups (CCGs) and NHS England in meeting their legal duties in respect of equality and health inequalities. The original guidance was developed in consultation with the NHS Commissioning Assembly health inequalities sub-group and the Department of Health.

CCGs and NHS England play key roles in addressing equality and health inequalities; as commissioners, as employers and as local and national system leaders, in creating high quality care for all.

CCGs and NHS England have two separate key duties, one on equality and one on health inequalities. Both require informed consideration by decision makers, but it is important to appreciate that they are two distinct duties.

These duties come from:

- [The Equality Act 2010](#)
- [The National Health Service Act 2006](#) as amended by the [Health and Social Care Act 2012](#)

This document is therefore divided into two parts. Section one contains the guidance in relation to the Equality Act 2010. Section two is the guidance in relation to the health inequalities duties in the National Health Service Act 2006.

## 3 Scope

This guidance may be used by CCGs and NHS England as well as other relevant partners to help them understand:

- the legal duties in relation to equality and to reducing health inequalities, as set out in the relevant legislation; and
- how to fulfil these duties in their work to improve health outcomes and the experiences of patients, communities and the workforce.

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## 4 Section one: Equality

All public authorities are required to have due regard to the aims of the Public Sector Equality Duty (PSED) of the Equality Act 2010 in exercising their functions, such as when making decisions and when setting policies.

Publishing guidance or policies, or making decisions without demonstrating how you have paid due regard to the PSED leaves the organisation open to legal challenge.

This means CCGs and NHS England should understand the potential effect of policies and practices on people with characteristics that have been given protection under the Equality Act, especially in relation to their health outcomes and the experiences of patients, communities and the workforce. This will help the organisation to consider whether the policy or practice will be effective for all people.

This section provides background and guidance on taking account of equality issues when making decisions and setting policies in relation to the Equality Act. There is also other legislation that has obligations related to equality including:

- the Public Services (Social Value) Act 2012;
- the Autism Act 2009; and
- the Children's Act 2004.

### 4.1 Legal compliance

All listed public authorities (including CCGs and NHS England) have legal obligations relating to:

- Section 149 of the Equality Act 2010 (the Public Sector Equality Duty), and
- The Equality Act 2010 (Specific Duties) Regulations 2011.

In summary this means that CCGs and NHS England have legal obligations to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

These are often referred to as the three aims of the Public Sector Equality Duty (PSED) and apply to the following protected characteristics:

- Age
- Disability
- Gender
- Gender reassignment
- Pregnancy and maternity

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- Race
- Religion or belief
- Sexual orientation
- Marriage and civil partnership (but only in regards to the first aim - eliminating discrimination and harassment)

To demonstrate compliance with the Equality Act 2010 CCGs and NHS England are required to meet specific duties of publishing equality information and setting and publishing equality objectives, as required under the 2011 regulations.

## 4.2 Coverage

The PSED applies to the “exercise of functions” by CCGs and NHS England. This includes, for instance, any decision made, any policy developed, any programme implemented and any practices driving activity. It also applies to functions and services provided by others on behalf of the organisation. Both new policies and decisions and existing policies and decisions, when reviewed, come within the PSED.

The overall aim of the PSED is to make sure that public authorities take equality into account as part of their decision making process. It is not possible to consider equality issues retrospectively and comply with the PSED.

Taking action, for example, deciding a policy or publishing something, without demonstrating how you have paid due regard to the PSED leaves the organisation open to legal challenge.

## 4.3 “Having due regard”

Having “due regard” to the PSED simply involves considering the aims of the Duty in a way that is proportionate to the issue at hand.

Decision makers should ensure that they give real consideration to these aims and think about the impact of policies with rigour and with an open mind, in such a way that might influence the final decision. They should do this before and during policy formation and when a decision is taken. Addressing equality in this way should be considered business as usual, not an exceptional activity.

Case law has established that what is important is not the preparation of a particular document, but that officials give proper, informed consideration to equality issues at the right time and that they keep a record of that consideration.

Equality analyses / equality impact assessments are just one of many ways of demonstrating compliance with the PSED.

It is important that any conclusions arising from your equality analyses are able to influence your policies and practices.

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## 4.4 Evidence of having due regard

In order to demonstrate compliance with equalities legislation and, specifically, the PSED, you will need to provide any evidence you have that demonstrates the impact or potential impact your work may have on people sharing protected characteristics.

This evidence could be in the form of policy papers, project documentation or background research that takes into account what you know about the equality implications of your work. The important thing is that any conclusions arising from your equality analysis are able to influence your work and the material produced. You may also have evidence from earlier consultations and stakeholder engagement.

Carrying out an equality impact analysis can produce valuable evidence to develop new approaches that can be used in other settings. , from talking to stakeholders, primary research conducted where gaps are identified, or even where data sets have been matched by analysts

## 4.5 The Equality Delivery System for the NHS – EDS2

[The Equality Delivery System – EDS2](#) may help CCGs and NHS England:

- improve the services they provide for their local communities;
- improve the experiences of people using the services;
- consider reducing health inequalities in their locality; and
- provide better working environments, free of discrimination, for those who work in the NHS.

At the heart of EDS2 is a set of outcomes covering patient care, access and experience, working environments and leadership. NHS commissioners may analyse their performance against these outcomes for each group afforded protection under the Equality Act 2010, plus Inclusion Health groups (i.e. refugees, asylum seekers, homeless, and sex industry workers). Ideally this should be done in discussion with local stakeholders including patients, communities and staff, and using the best available evidence.

As a result of this analysis, organisations with local stakeholders are able to select their equality priorities.

This analysis can go a long way to providing the information required by law to demonstrate compliance with the Public Sector Equality Duty.

[Further information on EDS2](#) can be found on the NHS England website.

## 4.6 CCG Assurance

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The CCG assurance process has been designed to provide confidence to internal and external stakeholders and the wider public that CCGs are operating effectively to commission safe, high-quality and sustainable services within their resources, delivering on their statutory duties and driving continuous improvement in the quality of services and outcomes achieved for patients.

The 2015-16 CCG assurance framework assesses whether a CCG has effective systems in place to ensure compliance with its statutory functions. In addition, there are particular statutory functions for which NHS England will require more detailed focus as part of the assurance process in a particular year. This includes equality.

The CCG assurance operating manual sets out that NHS England will want to be assured that CCGs can demonstrate:

- due regard to the metrics contained in the Workforce Race Equality Standard to help improve workplace experiences and representation at all levels for black and minority ethnic staff;
- robust implementation of EDS2 to help meet the Public Sector Equality Duty and to improve their performance for people with characteristics protected by the Equality Act 2010; and
- comprehensive insight into their local population's diverse health needs and assets; be able to describe how, through all their own commissioning and wider collaboration through health and wellbeing boards, they are meeting the reducing inequality challenge for their population.

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## 5 Section two: Health inequalities

### 5.1 Why address health inequalities?

Avoidable health inequalities are – by definition - unfair and socially unjust. A person's chance of enjoying good health and a longer life is determined by the social and economic conditions in which they are born, grow, work, live and age. These conditions also affect the way in which people look after their own health and use services throughout their life. Addressing such avoidable inequalities and moving towards a fairer distribution of good health requires a life course approach and action to be taken across the whole of society.

The [NHS Five Year Forward View](#) sets out the need to address the health and wellbeing gap, preventing any further widening of health inequalities. To do so requires a move towards greater investment in health and health care where the level of deprivation is higher.

The World Health Organisation (WHO) defines health inequalities as “differences in health status or in the distribution of health determinants between different population groups”<sup>1</sup>. There is clear evidence that reducing health inequalities improves life expectancy and reduces disability across the social gradient. Tackling health inequalities is therefore core to improving access to services, health outcomes, improving the quality of services and the experiences of people. It is also core to the NHS Constitution and the values and purpose of the NHS.

The NHS Constitution<sup>2</sup> states that the NHS has a duty to “...pay particular attention to groups or sections of society where improvements in health and life expectancy are not keeping pace with the rest of the population”. This is reflected in the National Health Service Act 2006 (as amended by the [Health and Social Care Act 2012](#)), which introduced for the first time legal duties to reduce health inequalities, with specific duties on CCGs and NHS England.

### 5.2 Legal duties

The Health and Social Care Act 2012 introduced the first legal duties on health inequalities, with specific duties on NHS England and CCGs, as well as duties on the Secretary of State for Health (covering the Department of Health and executive agencies Annex A) and Monitor. These duties took effect from 1 April 2013.

<sup>1</sup> World Health Organisation (2014) *Health Impact Assessment Glossary of Terms Used* [Online] Available at: <http://www.who.int/hia/about/glos/en/index1.html>

<sup>2</sup> NHS Constitution for England (2012) [Online] Available at: <https://www.gov.uk/government/publications/the-nhs-constitution-for-england>

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**5.2.1 CCGs have duties to:**

- Have regard to the need to reduce inequalities between patients in access to health services and the outcomes achieved (s.14T);
- Exercise their functions with a view to securing that health services are provided in an integrated way, and are integrated with health-related and social care services, where they consider that this would improve quality, reduce inequalities in access to those services or reduce inequalities in the outcomes achieved (s.14Z1);
- Include in an annual commissioning plan an explanation of how they propose to discharge their duty to have regard to the need to reduce inequalities (s. 14Z11);
- Include in an annual report an assessment of how effectively they discharged their duty to have regard to the need to reduce inequalities (s. 14Z15).

**5.2.2 NHS England has duties to:**

- Have regard to the need to reduce inequalities between patients in access to health services and the outcomes achieved (s. 13G);
- Exercise its functions with a view to securing that health services are provided in an integrated way, and are integrated with health-related and social care services, where it considers that this would improve quality, reduce inequalities in access to those services or reduce inequalities in the outcomes achieved (s.13N);
- Include in an annual business plan an explanation of how it proposes to discharge its duty to have regard to the need to reduce inequalities (s. 13T);
- Include in an annual report an assessment of how effectively it discharged its duty to have regard to the need to reduce inequalities (s. 13U);
- Conduct an annual assessment of CCGs, including an assessment of how well each CCG has discharged their duty to have regard to the need to reduce inequalities, and publish a summary of the result (s. 14Z16).

**5.2.3 What is meant by “...have regard to...” in the duties?**

- Lawyers advise that “have regard to the need to reduce” means health inequalities must be properly and seriously taken into account when making decisions or exercising functions, including balancing that need against any countervailing factors.
- Part of “having regard” includes accurate record keeping of how the need to reduce health inequalities has been taken into account when making decisions or exercising functions.
- The duty must be exercised with rigour and an open mind and should not materialise as an afterthought in the process of reaching a decision.

The body/person subject to the duty must be able to demonstrate that:

- they are fully aware of the duty;
- the duty was considered during the appropriate stages of work, from the beginning of the decision making process and throughout;
- the appropriate amount of weight has been given to factors which would reduce health inequalities in the decision making process;

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- they have actively considered whether integration would reduce inequalities and act with a view to securing such integration where it would do so;
- accurate records have been kept to show that the need to reduce health inequalities was taken into account throughout decision making processes.

### 5.2.4 Which groups are covered by the legal duties on health inequalities?

The Act does not define a list of groups impacted by the duties. Any group experiencing health inequalities is covered. The duties therefore take a whole population approach. This means that CCGs and NHS England must consider the whole of the population for which they are responsible, and identify inequalities within that population group.

### 5.2.5 Failure to meet the legal duties

CCGs and NHS England could be challenged in several ways on whether the duties have been complied with, including through Judicial Review.

A Judicial Review will test whether a decision was lawful and give a judgement on whether the duty has been complied with. It is likely to rely on evidence including primary documentation, effective governance processes and risk management when reaching a decision.

Robust processes and documentation of compliance with the duty mitigates the risk of challenge.

As the health inequality duties are new legal duties there is currently no reported case law. However, principles emerging from a challenge to the Public Sector Equality Duty (PSED), the 'Brown principles', are also relevant to the health inequalities duties. These are set out in Annex B.

## 5.3 Putting duties into practice

### 5.3.1 Who do the duties apply to?

As organisations, CCGs and NHS England are corporately responsible for complying with the duties. In order to discharge these duties, it is important that all employees, officers, members and agents acting on their behalf contribute towards meeting the organisations' legal obligations in the course of their work.

### 5.3.2 What do the duties mean in practice?

To be compliant with the legislation, CCGs and NHS England should consistently have regard to the need to reduce inequalities when exercising their functions. This is likely to require considering:

- the impact on inequalities as part of all decision making processes, and keeping a record of such processes;
- which dimensions of inequality are relevant to their work, and taking account of how inequalities could be reduced;

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- strategically the potential impact on health inequalities and the application of the duty to their functions.

An internal [analysis template document](#) is available to help NHS England staff consider the implications of their work on equality and addressing health inequalities. This aims to help ensure that the action they are taking has the best chance of achieving improvements in the health outcomes and the experiences of people; reducing health inequalities; advancing equality of opportunity; whilst capturing the evidence of doing so.

This approach should support NHS England in meeting its separate legal duties on equality and health inequalities. Section one of the document contains the equality analysis and section two the health inequalities analysis.

If a CCG would like a copy of this NHS England analysis template document please contact [england.eandhi@nhs.net](mailto:england.eandhi@nhs.net).

Other issues that CCGs and NHS England may consider include:

- How local communities' experiences of the NHS influences future action?
- Has action been taken to ensure all staff are aware of the duties?
- Is there clear accountability at a sufficiently senior level?
- Is there clear communication to ensure the duties are being applied?
- Is the approach being taken evidence-based?
- Are inequalities in access and outcomes being routinely monitored?
- Have records and evidence of compliance with the duty been kept?

Using [The Equality Delivery System – EDS2](#) is also likely to support organisations to deliver on aspects of their health inequalities work.

## Commissioning and health inequalities duties

### 5.3.3 Primary care co-commissioning

NHS England has invited CCGs to take on greater responsibility for commissioning primary medical services (i.e. GP services). There are three co-commissioning models:

- Greater involvement in primary care decision making;
- Joint commissioning arrangements; and
- Delegated commissioning arrangements.

Under greater involvement, NHS England and CCGs work more closely together to commission primary medical services. However, NHS England retains the legal responsibility for commissioning the services and the duties relating to equality and health inequalities.

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Under joint commissioning arrangements, NHS England and CCGs establish joint committees to make decisions about primary medical services together. Both NHS England and CCGs will need to make their own arrangements to ensure their duties relating to equality and health inequalities are met, though a joint exercise will usually be appropriate.

Under delegated commissioning arrangements, NHS England delegates full responsibility and funding for the commissioning of primary medical services to CCGs. CCGs are primarily responsible for making arrangements to meet the equality and health inequalities duties. While NHS England retains ultimate liability for the exercise of all of its functions, including those delegated to CCGs, the Delegation Agreement and Terms of Reference make clear that these duties should be exercised by the CCG. However, NHS England will require assurance that these duties are being discharged effectively by the CCG via the CCG assurance process.

### 5.3.4 Delegation

NHS England may delegate legal responsibility and funding for commissioning services to other organisations other than through co-commissioning, for example through local improvement schemes.

The extent to which NHS England retains responsibility for making arrangements to involve the public will depend upon the model for delegation used in each instance. However, for so long as NHS England retains ultimate responsibility for commissioning services, even where such functions are delegated, it will still need to be satisfied that appropriate arrangements are in place to involve the public. This is, even if it does not make those arrangements directly and relies on another organisation to do so.

### 5.3.5 Devolution

In the Queen's Speech 2015, plans were announced to introduce legislation to provide for the devolution of powers to cities with metro elected mayors. Work has already started to achieve the delegation and ultimate devolution of health and social care responsibilities in Greater Manchester.

The extent to which NHS England retains responsibility for making arrangements to involve the public will depend upon the model for devolution used in each instance.

However, for so long as NHS England retains ultimate responsibility for commissioning services, even where such functions are delegated, it will still need to be satisfied that appropriate arrangements are in place to involve the public. This is, even if it does not make those arrangements directly and relies on another organisation to do so.

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**5.3.6 CCGs**

CCGs have a duty to have regard to the need to reduce inequalities between patients in access to services that they commission. This involves:

- Knowing the local population and local needs, commissioning through the use of joint strategic needs assessments (JSNAs) and additional supporting data and evidence, such as local health profiles and qualitative sources.
- Identifying the local health inequalities and commissioning for all of the population in the area, not just relying on General Practice registrations.
- Identifying evidence of what has previously worked in reducing inequalities and evaluating good practice, whilst also considering the 'clustering' of risk factors in some groups. Universal services should aim to reduce inequalities by being progressively aimed at those who need them the most.
- Carrying out evidence-based service reviews.

This requires considering whether:

- services are universal and should reach all members of society, which may be achieved by explicitly targeting specific population groups;
- services are commissioned on the basis of need, which may be achieved by ensuring the quantity and quality of services in deprived areas is adequate.

CCGs also have a duty to have regard to the need to reduce inequalities between patients in outcomes from services they commission. This involves:

- Effective monitoring and evaluation that identifies health inequalities and to support action to overcome inappropriate variations in outcomes for all people.
- Looking at how the outcome is distributed across society by area of deprivation and by different groups, rather than focusing on average outcomes for all people.
- Considering how services can be commissioned to reduce inequalities and prevent undesirable outcomes. For example, targeting life-style factors in health and compliance with treatment, and developing key provider indicators with health inequality outcomes.

Many changes to address health inequalities will have a long-term impact on health outcomes, so their effectiveness may not be visible on an annual reporting basis. This should not detract from implementing such changes, if they are based upon robust evidence supporting the reduction in health inequalities.

CCGs already work closely with their local health and wellbeing board (HWB) and public health teams in local authorities (LAs). Particularly on the use and development of the JSNAs and implementing the joint health and wellbeing strategy (JHWS).

LAs are mandated to provide public health support to the NHS. They are a source of expertise in using health related data sets to inform commissioning, reduce inappropriate variation in the local area, identify vulnerable populations and marginalised groups, and support commissioning to meet their needs. Part of this involves awareness of and joint discussions around the wider determinants of health.

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CCGs may contribute to addressing the wider underlying causes in partnership with the HWB, including identifying where the integration of services would improve quality and reduce inequalities, and developing commissioning pathways to support such integration.

### 5.3.7 NHS England

NHS England has a duty to have regard to the need to reduce inequalities between patients in access to services commissioned through its direct commissioning functions. This may involve:

- Identifying health inequalities, evaluating how such inequalities might impact on people's ability to access services, and commissioning for all of the population and all needs.
- Identifying evidence of what has previously worked in reducing inequalities in access to services and evaluating notable practice.

NHS England may also consider whether:

- services are universal and should reach all members of society, which may be achieved by explicitly targeting specific population groups;
- services are commissioned on the basis of need, which may be achieved by ensuring the quantity and quality of services in deprived areas is adequate.

NHS England also has a duty to have regard to the need to reduce inequalities between patients in outcomes from services commissioned through its direct commissioning functions. This involves:

- Effective monitoring and evaluation that identifies health inequalities and to support action to overcome inappropriate variations in outcomes for all people.
- Looking at how the outcome is distributed across society by area of deprivation and by different groups, rather than focusing on average outcomes for all people.
- Considering how services can be commissioned to reduce inequalities and prevent undesirable outcomes. For example, targeting life-style factors in health and compliance with treatment, and developing key provider indicators with health inequality outcomes.

Many changes to address health inequalities will have a long-term impact on health outcomes, so their effectiveness may not be visible on an annual reporting basis. This should not detract from implementing such changes, if they are based upon robust evidence supporting the reduction in health inequalities.

## 5.4 Reporting requirements

### 5.4.1 Reporting requirements for Clinical Commissioning Groups

To fulfil its legal duties a CCG will need to set out:

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- in an annual commissioning plan an explanation of how it proposes to discharge its duty to have regard to the need to reduce inequalities; and
- in an annual report an assessment of how effectively it discharged its duty to have regard to the need to reduce inequalities.

Each annual report must be published and a meeting held to present the report to members of the public. In preparing their annual report on how they have discharged their function, a CCG should consult with their relevant health and wellbeing board.

CCGs may wish to consider using:

- the [analysis template document](#) developed by and for NHS England; and
- the Equality Delivery System 2 may help to assure that equalities and health inequalities are being effectively addressed throughout the work of the organisation

Key steps to consider based on Brown's principles (Annex B):

- Understanding and awareness of the duties
- Inequalities taken into account before and whilst decision is being considered
- Sound evidence and information underpins decision making
- Duty is considered continuously throughout the decision making process
- Keep sound record and evidence that the duty has been considered

#### 5.4.2 NHS England Annual Report

NHS England is required as part of its annual reporting to set out:

- an assessment of how effectively it discharged its duties to have regard to the need to reduce inequalities;
- an assessment of how well CCGs have discharged their duty to have regard to the need to reduce inequalities.

The Secretary of State for Health will respond with an assessment of how well NHS England has fulfilled these legal duties.

#### 5.4.3 Duties on NHS England to assess how effectively CCGs have complied with their duty to reduce health inequalities

The CCG assurance process has been designed to provide confidence to internal and external stakeholders and the wider public that CCGs are operating effectively to commission safe, high-quality and sustainable services within their resources, delivering on their statutory duties and driving continuous improvement in the quality of services and outcomes achieved for patients.

The 2015-16 CCG assurance framework assesses whether a CCG has effective systems in place to ensure compliance with its statutory functions. In addition, there are particular statutory functions for which NHS England will require more detailed focus as part of the assurance process in a particular year. This includes reducing

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health inequalities. The CCG assurance operating manual sets out that NHS England will want to be assured that CCGs can demonstrate:

- due regard to the metrics contained in the Workforce Race Equality Standard to help improve workplace experiences and representation at all levels for black and minority ethnic staff;
- robust implementation of EDS2 to help meet the Public Sector Equality Duty and to improve their performance for people with characteristics protected by the Equality Act 2010; and
- comprehensive insight into their local population's diverse health needs and assets and be able to describe how, through all their own commissioning and wider collaboration through health and wellbeing boards, they are meeting the reducing inequality challenge for their population.

## 5.5 Related legal duties and responsibilities

The legal duties for CCGs and NHS England to address health inequalities are standalone duties. However, this does not mean that addressing them should be done in isolation, nor is this realistic. There are several other legal duties and responsibilities on commissioners which are complementary and provide a means through which to implement the health inequalities legal duties. These include, but are not exclusive to, the following:

1. Individual Participation Duties
2. Public Participation Duties
3. Duties to have regard to JSNAs and JHWS (CCGs)
4. Integrated Care
5. Quality of Care
6. Improving Patient Outcomes

## 5.6 Useful resources

There are many resources available online to support staff in NHS England, CCGs and in partner organisations to work to reduce health inequalities. These have been produced by expert bodies and include, but are not limited to, local analytical tools, commissioning guidelines and academic literature.

Should you have any enquiries please get in touch with the Equality and Health Inequalities Unit: [england.eandhi@nhs.net](mailto:england.eandhi@nhs.net)

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## 6 Annex A - other health inequalities duties

### The Secretary of State for Health has an overarching duty to:

- have regard to the need to reduce inequalities between the people of England with respect to the benefits that may be obtained by them from the health service.

This duty covers all of the Secretary of State for Health's NHS and public health functions, and relates to the whole population of England including those not registered with general practice, or who are not patients. The duty encompasses all health inequalities dimensions, not just income or socio-economic inequalities.

### The Secretary of State for Health also has duties to:

- include in his annual report on the performance of the health service in England, an assessment of how effectively he has discharged his duty to have regard to the need to reduce inequalities; and
- set out in a letter to NHS England, which is published and laid before Parliament, his assessment of how it has discharged its duty to have regard to the need to reduce health inequalities, based on NHS England's annual report.

The Secretary of State for Health's duties on health inequalities covers the following bodies:

- Public Health England
- Health Education England
- NHS Trust Development Authority
- Medicines and Healthcare Regulatory Agency
- NHS Blood & Transplant Authority
- NHS Business Services Authority
- NHS Litigation Authority
- Health Research Authority

The Secretary of State for Health's duties on health inequalities do not cover the following bodies:

- Care Quality Commission
- Monitor
- NHS England
- NICE
- Health and Social Care Information Centre
- Human Fertilisation and Embryology Authority
- Human Tissue Authority
- Council for Healthcare Regulatory Excellence

Note: Sponsors of bodies not covered by the Secretary of State for Health duties will still have to act consistently with the duties when fulfilling their sponsorship responsibilities. These sponsors should also be aware of any duties that the Arm's Length Body has.

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## 7 Annex B – Brown’s principles

In response to a legal challenge, Brown -v- Secretary of State for Work and Pensions (2008)<sup>3</sup>, about the public sector equality duty, the court set out a set of principles which are also relevant to the health inequalities duty. These are:

1. Decision maker must be aware of his/her duty to have “due regard”;
2. “Due regard” must be fulfilled before and at the time a particular decision is considered;
3. The duty must be exercised in substance, with rigour and an open mind;
4. The duty is non-delegable;
5. The duty is a continuing one; and
6. It is good practice to keep an adequate record showing the duty had been considered.

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<sup>3</sup> See <http://www.moray.gov.uk/downloads/file89347.pdf>



# **Standards of Business Conduct Policy**

# NHS England

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## 1. Introduction

- 1.1 The Standards of Business Conduct policy describes the standards and public service values which underpin the work of the NHS and reflects current guidance and best practice which all NHS England staff must follow.
- 1.2 As publicly funded organisations, we have a duty to set and maintain the highest standards of conduct and integrity. We expect the highest standards of corporate behaviour and responsibility from Board members and all officers. The [NHS Constitution](#) sets out some of the key responsibilities of NHS staff. All officers, regardless of their role, are expected to act in the spirit set out in the seven principles of public life; the 'Nolan Principles' (Appendix A).
- 1.3 It is a long and well-established principle that public-sector organisations must be impartial and honest in their business and that their officers must act with integrity.
- 1.4 As well as promoting the standards of business conduct expected of public bodies, this policy aims to protect our organisations and officers from any suggestion of corruption, partiality or dishonesty by providing a clear framework through which the organisation can provide guidance and assurance that its officers conduct themselves with honesty, integrity and probity. The policy should be read in conjunction with all relevant organisational policies which are developed and agreed in line with the principles set out in this policy.

## 2. Scope

- 2.1 All our staff and of hosted organisations, without exception, are within the scope of this policy, including and without limitation:
  - Central and Regional Teams;
  - All Commissioning Support Units;
  - NHS Interim and Management Support (NHS IMAS); NHS Sustainable Development Unit;
  - Strategic Clinical Networks
  - Clinical Senates;
  - Healthcare Safety Investigation Branch (HSIB); and NHS leadership Academy
- 2.2 In the context of this policy, the term 'officers' includes all staff of NHS England and jointly appointed staff, including interims, agency workers, specialist contractors, consultants and secondees who carry out work for NHS England.
- 2.3 In addition, some people who work with, but are not employed by either organisation are required to comply with this policy, for example members of advisory groups, such as Clinical Reference Groups and patient representatives (PPV partners). References within this policy to "officers" should be construed accordingly.
- 2.4 Throughout this policy, reference is made to NHS England policies and management structures. In applying the policy, other in scope organisations to whom the policy applies are expected to do so in accordance with their HR and other related policies and structures.

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## Decision making officers

- 2.5 Some officers are more likely than others to have a decision-making role or influence on the use of public money because of the requirements of their role. In the context of this policy, the officers listed below are referred to as 'decision making officers':
- Board members
  - National and Regional Directors
  - Executive and Senior Managers (ESM) and equivalent Officers at Agenda for Change Band 8d and above
  - Level 4 Patient and Public Voice partners
- 2.6 Declarations made by decision making officers will be published in accordance with paragraph 5.1.

## 3. Failure to comply with Standards of Business Conduct Policy

- 3.1 Failure by an employee to comply with the requirements set out in this policy may result in action being taken in accordance with the relevant organisational disciplinary procedure. Such disciplinary action may include termination of employment (where applicable).
- 3.2 Where the failure to comply relates to an officer that is not a direct employee of NHS England, this may result in action being taken in accordance with the relevant engagement procedures (e.g. termination of a secondment agreement).
- 3.3 Any financial or other irregularities or impropriety which involve evidence or suspicion of fraud, bribery or corruption by any officer, will be reported to NHS England Counter Fraud Team in accordance with Standing Financial Instructions and the Tackling Fraud, Bribery & Corruption Policy & Corporate Procedures, with a view to an appropriate investigation being conducted and potential prosecution being sought.

## 4. Raising concerns and breaches

- 4.1 There may be occasions when interests have not been identified, declared or managed appropriately and effectively. This may happen innocently, accidentally, or because of deliberate actions. Members of the Board and officers should speak up about any genuine concerns in relation to compliance with this policy. Officers can raise these concerns directly with their own line manager or alternatively the Director of Governance and Legal, or Corporate Compliance Manager.
- 4.2 All reported concerns will be treated with the appropriate confidentiality and investigated in line with NHS England (as applicable) policies and procedures.
- 4.3 The Director of Governance and Legal will take a report on breaches and responses to the Audit and Risk Assurance Committee and the Board on an annual basis.
- 4.4 Officers must report any suspicions of fraud, bribery and corruption as soon as they become aware of them to NHS England Counter Fraud Team to ensure that they are investigated appropriately and to maximise the chances of financial recovery,

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via NHS England Counter Fraud team [england.counter-fraud@nhs.net](mailto:england.counter-fraud@nhs.net) and/or please see [Counter Fraud](#) to contact a member of the Counter Fraud team

- 4.5 Officers may wish to report concerns using the [Internal Freedom to Speak Up \(FTSU\) Policy](#).

## 5. Publication

- 5.1 Declarations made in accordance with this policy by 'decision making officers' will be published on the NHS England website at intervals set out in Appendix C. Registers of all officer declarations held by the Corporate Compliance team will be made available on request.
- 5.2 In exceptional circumstances, where the public disclosure of information could give rise to a real risk of harm or is prohibited by law, an individual's name and/or other information may be redacted from the publicly available register(s). Where an officer believes that substantial damage or distress may be caused to him/herself or somebody else by the publication of information about them, they are entitled to request that the information is not published. Such a request must be made in writing to the Corporate Compliance team, who will seek legal advice where required. A confidential, un-redacted version of the register will be held securely by the Corporate Compliance team.
- 5.3 Officers should be aware that external organisations, e.g. Association of British Pharmaceutical Industries (ABPI), may also publish information relating to commercial sponsorship or other payments. We will review such publications to ensure that appropriate internal declarations have been made in accordance with this policy and will take appropriate action where they have not.
- 5.4 Anonymised information relating to breaches and how those breaches have been managed will be published on the NHS England website annually.

## 6. Conflicts and Declarations of Interest

- 6.1 Officers are expected to act at all times with the utmost integrity and objectivity and in the best interests of the organisation in performing their duties, and to avoid situations where there may be a potential conflict of interest. Officers must not use their position for personal advantage or seek to gain preferential treatment.
- 6.2 Officers in the scope of this policy are required to declare any actual or potential interests which may be perceived as conflicting with that overriding requirement.

### What are conflicts of interest?

- 6.3 A conflict of interest is a set of circumstances by which a reasonable person would consider that an individual's ability to apply judgement or act, in the context of carrying out their role is, or could be, impaired or influenced by another interest they hold.
- 6.4 A conflict of interest may be:
- Actual – there is a relevant and material conflict between one or more interests now; or
  - Potential – there is the possibility of a material conflict between one or more interests in the future.

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6.5 Officers may hold interests for which they cannot see a potential conflict. However, caution is always advisable because others may see it differently. It is important to exercise judgement and to declare such interests where there is otherwise a risk of suggestion of improper conduct.

6.6 Interests can arise in a number of different contexts. A material interest is one which a reasonable person would take into account when making a decision regarding the use of taxpayers' money because the interest has relevance to that decision.

Interests can generally be considered in the following categories:

- *Financial interests* – this is where an individual may get direct financial benefit from the consequences of a decision they are involved in making.
- *Non-financial professional interests* – this is where an individual may obtain a non-financial professional benefit from the consequences of a decision they are involved in making, such as increasing their professional reputation or status or promoting their professional career.
- *Non-financial personal interests* – this is where an individual may benefit personally in ways that are not directly linked to their professional career and do not give rise to a direct financial benefit, because of decisions that are involved in making in their professional career.
- *Indirect interests* – This is where an individual has a close association (see paragraph 6.8) with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest who would stand to benefit from a decision they are involved in making.
- *Loyalty interests* - As part of their role, officers may need to build strong relationships with colleagues across the NHS and in other sectors. These relationships can be hard to define as they may often fall into the category of indirect interests. They are unlikely to be directed by any formal process or managed via any contractual means, however these 'loyalty' interests can influence decision making.

In this context, a 'benefit' may be financial gain or avoidance of loss.

6.7 Where there is potential for interests to be relevant and material to the organisation, the interest should be declared and recorded in the register held and maintained by the Corporate Compliance team (see section 6.10). Examples of interests which should be regarded as 'relevant and material' are shown below, although this list should not be regarded as exhaustive. Further guidance is given at Appendix B.

- Directorships, including non-executive directorships, held in private companies or PLCs
- Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS
- Shareholdings and ownership interests in any publicly listed, private or not for profit company, business, partnership or consultancy, which are doing, or might reasonably be expected to do, business with NHS England
- A position of authority in another NHS organisation, commercial, charity, voluntary, professional, statutory or other body which could be seen to influence your role
- A position on an advisory group or other paid or unpaid decision-making forum that could influence how NHS England spends taxpayers' money

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- Are or could be involved in the recruitment or management of close family members and relatives, close friends and associates, and business partners
- Any connection with a private, public, voluntary or other organisation contracting for NHS services
- Any other commercial interest relating to any relevant decision to be taken by the organisation

6.8 Conflicts can occur because of interests held by a close family member, business partner, close friend or associate. If officers are aware of material interests (or could be reasonably expected to know about these) then these should be declared. In this context, a close family member is defined as:

- spouse or civil partner
- any other person with whom the individual cohabits
- children or step children
- spouse/partners' children or step children
- parents
- grandparents
- siblings

### Declaring interests

6.9 All officers must declare any relevant and material interests. Declarations should be made as soon as is reasonably practicable, and within 28 days after the interest arises, using the [CoreStream System](#). If officers are in any doubt as to whether they have an interest or whether it is declarable, they should consult their line manager or the Corporate Compliance team. In addition, officers are required to review and declare interests at the following points:

Board Members and National Directors	On appointment Through a monthly review In formal meetings (nil returns are to be made)
Decision making officers	On appointment Through a quarterly review When moving to a new role, or responsibilities change In formal meetings (nil returns are to be made)
All other officers within the scope of this policy	On appointment Through an annual review When moving to a new role, or responsibilities change In formal meetings

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## Register of Declared Interests

- 6.10 The register of interests is maintained by the Corporate Compliance team who will formally record the declared interests of all officers. They will retain a record of historic interests for a minimum of six years after the date on which the interest expired. There may be occasions when an officer declares an interest which the Corporate Compliance team later decides is not material. In such an instance the declaration will be recorded but not published.

## Patents and Intellectual Property

- 6.11 Officers should declare patents and other intellectual property rights they hold (either individually or by virtue of their association with a commercial or other organisation) relating to goods and services which are, or might reasonably be expected to be, procured or used by NHS England.
- 6.12 Any patents, designs, trademarks or copyright resulting from the work (e.g. research) of an officer carried out as part of their employment shall be the Intellectual Property of NHS England.
- 6.13 Where the undertaking of external work, gaining patent or copyright or the involvement in innovative work, benefits or enhances our reputation or results in financial gain, consideration will be given to rewarding officers subject to any relevant guidance for the management of Intellectual Property in the NHS issued by the Department of Health and Social Care (DHSC).
- 6.14 Officers must seek prior permission through their line manager before entering into any agreement with bodies regarding product development where this impacts on normal working time or uses our equipment and/or resources.
- 6.15 Where holding of patents and other intellectual property rights give rise to a conflict of interest, then this must be declared in accordance with paragraph 6.9.

## Managing conflicts of interest - general

- 6.16 All declarations of interest must be reviewed by the appropriate line manager, with consideration given to any actions required to mitigate the conflict in the individual circumstances. There may be occasions where the conflict of interest is profound and acute. In such cases it may be necessary to consider a range of possible actions which may include:
- deciding that no action is warranted;
  - restricting the officer's involvement in discussions and excluding them from decision making;
  - removing the officer from the whole decision-making process;
  - removing the officer's responsibility for an entire area of work;
  - removing the officer from their role altogether if the conflict is so significant that they are unable to operate effectively in the role.

An audit trail of the actions taken must be maintained.

## Managing conflicts of interest at meetings

- 6.17 All formal meetings, including the Board and its Committees, must have a standing agenda item at the beginning of each meeting to determine whether anyone has

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any conflict of interest to declare in relation to the business to be transacted at the meeting. The Rules of Procedure/Standing Orders and all Committee terms of reference will incorporate this requirement. Any new interests declared at the meeting should be included in the relevant register of interest as soon as practicable after the meeting.

- 6.18 In the event that the chair of the meeting has a conflict of interest, the deputy chair is responsible for deciding the appropriate course of action to manage conflicts of interests. If the deputy chair is also conflicted, then the remaining non-conflicted voting members of the meeting should unanimously agree how to manage the conflict(s).
- 6.19 When a member of the meeting (including the chair or deputy chair) has a conflict of interest in relation to one or more items of business to be transacted at the meeting, the chair (or deputy chair or remaining non-conflicted members where relevant as described above) must decide how to manage the conflict. The appropriate course of action will depend on the particular circumstances, but could include one or more of the following:
- Where the chair has a conflict of interest, deciding that the deputy chair (or
  - another non-conflicted member of the meeting if the deputy chair is also conflicted) should chair all or part of the meeting;
  - Requiring the individual who has a conflict of interest (including the chair or deputy chair if necessary) not to attend the meeting;
  - Ensuring that the individual does not receive the supporting papers or minutes of the meeting which relate to the matter(s) which give rise to the conflict;
  - Requiring the individual to leave the discussion while the relevant matter(s) are being discussed and when any decisions are being taken in relation to those matter(s);
  - Allowing the individual to participate in some or all of the discussion when the relevant matter(s) are being discussed but requiring them to leave the meeting when any decisions are being taken in relation to those matter(s);
  - Noting the interest and ensuring that all attendees are aware of the nature and extent of the interest but allowing the individual to remain and participate in both the discussion and in any decisions. This is only likely to be an appropriate course of action where it is decided that the declared interest in either immaterial or not relevant to the matter(s) under discussion;
  - Conflicts of interest arising at a Board meeting must be managed in accordance with the requirements of the Standing Orders/Rules of Procedure.
- 6.20 In all cases however, a quorum must be present for the discussion and decision; and interested parties cannot be counted in determining whether the meeting is quorate for that item.
- 6.21 All decisions under a conflict of interest must be recorded by the meeting secretariat and clearly reported in the minutes of the meeting. The minutes will include:
- Who has the interest
  - The nature and extent of the conflict

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- An outline of the discussion
- The actions taken to manage the conflict and
- Evidence that the conflict was managed as intended

6.22 To support chairs in their role, the secretariat will provide access to details of any conflicts which have already been made by members of the group.

## Procurement

6.23 Conflicts of interest need to be managed appropriately through the whole procurement process. At the outset of any process, the relevant interests of individuals involved should be identified and clear arrangements put in place to manage any conflicts. This includes consideration as to which stages of the process a conflicted individual should not participate in, and in some circumstances, whether the individual should be involved in the process at all.

6.24 Further guidance is provided in the [Standing Financial Instructions](#), and the [NHS England Joint Procurement Policy](#).

## Grants

6.25 Grants should be awarded and governed in accordance with NHS England's powers under the NHS Act 2006 (amended), and [Revenue Grants Policy](#) and [Guidance](#). Labelling a payment as a grant payment should not be seen as a way of avoiding the procurement processes laid out in the Standing Financial Instructions. State aid rules apply to the awarding of grants therefore the process to award a grant must be treated the same as any other procurement exercise, and should comply with all appropriate requirements of [Standing Financial Instructions](#).

# 7. Gifts and Hospitality

- 7.1 All officers should ensure that they are not placed in a position that risks, or appears to risk, compromising their role or the organisation's public and statutory duties or reputation. Officers must not, or be perceived to, secure valuable gifts and hospitality by virtue of their role.
- 7.2 The [Bribery Act 2010](#) makes it a criminal offence to give or offer a bribe, or to request, offer to receive or accept a bribe. The Act reformed the criminal law of bribery, making it easier to tackle this offence proactively in both the public and private sectors. It introduced a corporate offence which means that commercial organisations, including NHS bodies, will be exposed to criminal liability, punishable by an unlimited fine, for failing to prevent bribery.

## Gifts

- 7.3 Officers should not ask for or accept gifts, gratuities or honoraria (such as grants, scholarships) from any individual or organisation that may be capable of being construed as being able to influence any decision or cast doubt on the integrity of such decisions. Officers are reminded that it may be considered to be a breach of the organisation [Disciplinary Policy](#) to solicit gifts. It may also be illegal, under the [Bribery Act 2010](#), and staff that are found to have done so may face disciplinary action and prosecution.
- 7.4 Officers should always refuse gifts or other benefits which might reasonably be seen to compromise their personal judgement or integrity. Under no circumstances

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should officers accept a personal gift of cash or cash equivalents (e.g. tokens, vouchers, gift cards, lottery tickets or betting slips) regardless of value.

### **Gifts from suppliers, contractors or customers**

- 7.5 Gifts from suppliers or contractors NHS England does business (or is likely to do business) with, or customers, should be declined, whatever the value. Subject to this, low cost branded promotional aids (such as calendars, diaries or other small gifts) may be accepted where they are valued at under £6 in total. Team or directorate gifts of low value, such as confectionary (up to approximately £20) intended to be shared by the team may also be accepted. Gifts accepted from suppliers in accordance with this provision must be declared via [CoreStream System](#). A clear reason should be recorded as to why it was considered permissible to accept the gift, alongside the actual or estimated value and include line manager approval.

### **Gifts from other sources (eg. patients, families, service users, foreign dignitaries)**

- 7.6 The acceptance of gifts of over £50 should be treated with caution and only accepted on behalf of the organisation, not in a personal capacity. Gifts accepted over a value of £50 must be declared via [CoreStream System](#). A clear reason should be recorded as to why it was considered permissible to accept the gift, alongside the actual or estimated value and include line manager approval.
- 7.7 For gifts exceeding a value of £50 the following options are suggested:
- share the gift with all staff;
  - raffle the gift for charity;
  - donate the gift to charity; or
  - make a donation to charity and keep the gift.
- 7.8 Modest gifts accepted under a value of £50 need not be declared, however multiple gifts from the same source over a 12 month period should be declared where the cumulative value exceeds £50.
- 7.9 A common sense approach should be applied to the valuing of gifts, using the actual amount if known, or an estimate that a reasonable person would make as to its value.
- 7.10 If there is any doubt about the appropriateness of accepting a gift, officers should either politely decline or consult their line manager or the Corporate Compliance team.

### **Hospitality**

- 7.11 Hospitality in this context means the provision of meals and refreshments, invitations to functions such as ceremonies, receptions, presentations and conferences as well as invitations to social, cultural and sporting events. Some offers may include overnight accommodation and travel to and from a venue at which an event is being held.
- 7.12 Hospitality must only be accepted when there is a legitimate business reason and it is proportionate to the nature and purpose of the event. Officers should exercise discretion in accepting offers of hospitality in case it would, or might appear to:
- place them under any obligation to the individual or organisation making the offer;

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- compromise their professional judgement and impartiality; or otherwise be improper.

## Hospitality from suppliers or contractors

7.13 Particular caution should be exercised when hospitality is offered by actual or potential suppliers or contractors. Offers can be accepted if modest and reasonable but must be declared and approved by the line manager.

## Meals and refreshments

7.14 Meals and refreshments under the value of £25 may be accepted and need not be reported. In case of doubt, officers should seek advice from their line manager or the Corporate Compliance team.

7.15 Meals and refreshments offered of a value between £25 and £75 may be accepted and must be declared, indicating whether it has been accepted or declined, via [CoreStream System](#).

7.16 Offers over a value of £75 should be refused unless (in exceptional circumstances) ESM approval is given in advance of acceptance. A clear reason should be recorded on the declaration as to why it was permissible to accept hospitality of this value.

7.17 A common sense approach should be applied to the valuing of meals and refreshments, using an actual amount, if known, or an estimate.

## Travel and accommodation

7.18 Modest offers to pay some or all the travel and accommodation costs related to attendance at events may be accepted but must be declared. Offers which go beyond the type which would be funded by NHS England must have ESM approval in advance. A clear reason should be recorded on the declaration as to why it was permissible to accept travel and accommodation of this type.

7.19 Examples of travel and accommodation which we would not normally be funded are shown below, although this list should not be regarded as exhaustive:

- offers of business or first-class travel and accommodation (including domestic travel)
- offers of foreign travel and accommodation.

7.20 All references to hospitality include that provided by contractors, organisations or individuals concerned with the supply of goods or services.

7.21 Where a meeting is funded by the pharmaceutical industry, this must be disclosed in the papers relating to the meeting and in any published minutes or actions. The Department or Directorate organising or hosting the event must ensure that the funding has been approved in line with the requirements set out in the [Commercial Sponsorship](#) section of this policy.

## Declaring gifts and hospitality

7.22 All officers must declare any gifts and hospitality in accordance with the guidance above as soon as is practicable. Declarations should be made via [CoreStream System](#).

- Your declaration will need to include the following:
- date of offer of gift or hospitality, and date of event where

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- relevant name, job title and organisation of recipient / provider
- nature and purpose of gift or hospitality received or declined the name of any other organisation involved
- estimated value
- confirmation of approval where relevant in accordance with 7.16, 7.18 and 7.21 above.

## Register of Gifts and Hospitality

7.23 The register of gifts and hospitality is maintained by the Corporate Compliance team who will formally record the declarations of all officers.

## Gifts and hospitality provided by NHS England

- 7.24 Gifts provided by NHS England are included in the restricted list of expenditure and would require HM Treasury approval, via DHSC. Any proposal would require the prior approval of the relevant National Director.
- 7.25 Care should also be taken when providing hospitality from NHS England funds and officers must be aware that hospitality provided is still sourced from public funding and the public expect these funds to be used for legitimate purposes and demonstrate value for money.
- 7.26 In certain circumstances, it may be acceptable for us to provide modest hospitality in the way of working lunches and/or dinners as long as this is:
- subject to a genuine business reason; and
  - with the prior approval of the relevant National or Regional Director.

# 8. Sponsorship

## Sponsored Posts

- 8.1 Officers who are considering entering into an agreement regarding the external sponsorship of a post within NHS England must seek formal approval from the relevant National or Regional Director and the Executive HR Sub Committee for final approval. Officers will be required to demonstrate acceptance of a sponsored post is transparent and does not stifle competition.
- 8.2 Rolling sponsorship of posts should be avoided unless appropriate checkpoints are put in place to review and confirm the appropriateness of the arrangements continuing.
- 8.3 There should be written confirmation that the sponsorship arrangements will have no effect on any commissioning or other management decisions over the duration of the sponsorship and auditing arrangements should be established to ensure that this is the case. These written arrangements should set out the circumstances under which we may exit the sponsorship arrangements if conflicts of interest arise which cannot be mitigated.
- 8.4 Holders of sponsored posts must not promote or favour the sponsor's specific products or organisation and information about alternative suppliers must be provided.

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- 8.5 Sponsors must not have any influence over the duties of the post or have any preferential access to services, materials or intellectual property related to or developed in connection with the sponsored post.

## Sponsored events

- 8.6 Sponsorship of events, including courses, conferences and meetings, by external bodies should only be approved if it can be demonstrated that the event will result in clear benefits for NHS England and the wider NHS. Any sponsorship would require the approval of the relevant National or Regional Director in advance. Sponsorship should not in any way compromise any of our decisions or be dependent on the purchase or supply of goods or services. Sponsors should not have any influence over the content of an event, meeting, seminar, publication or training event. We will not endorse individual companies or their products or services because of the sponsorship.
- 8.7 During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection (or other) legislation. As a general rule, information which is not in the public domain should not be supplied and no information should be supplied to a company for its commercial gain.
- 8.8 At our discretion, sponsors or their representatives may attend or take part in the event, but they should not have a dominant influence over the content or the main purpose of the event.
- 8.9 The involvement of a sponsor in an event should always be clearly identified in the interests of transparency.

## Sponsored research

- 8.10 Funding sources for research purposes must be transparent. Any proposed research must go through the relevant approvals process.
- 8.11 There must be a written protocol and written contract between officers, NHS England and/or the institute at which the study will take place and the sponsoring organisation, which specifies the nature of the services to be provided and the payment for those services. Where the contract includes provision of people this, and accompanying arrangements, must be clearly articulated.
- 8.12 The study must not constitute an inducement to commission any service.

## Declaring sponsorship

- 8.13 All pharmaceutical companies entering into sponsorship agreements must comply with the [Code of Practice for the Pharmaceutical Industry](#).
- 8.14 Should there be any doubt about the appropriateness of accepting sponsorship, officers should seek advice from their line manager or the Corporate Compliance team.
- 8.15 All officers must declare any sponsorship in accordance with the guidance above including the value of the sponsorship. A common-sense approach should be applied to valuing the sponsorship if there is not a contractual value specified, for example a room and refreshments being provided for an event.
- 8.16 All officers must declare any sponsorship secured through, contracted by, paid directly to or managed through a 3<sup>rd</sup> party, such as exhibitors at our events sold through a 3<sup>rd</sup> party or a sponsor paying for catering directly to an event venue.

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- 8.17 Declarations should be made via [CoreStream System](#) within 28 day of the occurrence by the officer responsible for the event who will usually be a decision making officer. For the purposes of events the declaration should be made within 28 days of when the sponsorship was agreed rather than the date of the event. In exceptional circumstances where there are multiple sponsorship arrangements, the sponsorship may be declared within 28 days of the event taking place provided that this is agreed in advance by the Director of Governance and Legal or the Corporate Compliance Manager.
- 8.18 Declarations made in accordance with the policy will be published on the NHS England website at intervals set out in the Appendix D. In exceptional circumstances the value of the sponsorship may be published in bands where there are multiple sponsors of an event. A complete register will be held by the Corporate Compliance team.

### Register of sponsorship

- 8.19 The register of sponsorship is maintained by the Corporate Compliance team who will formally record the declarations of all officers.

## 9. Outside employment and clinical private practice

- 9.1 All officers (depending on the details of their contract as regards outside employment and private practice) are required to seek approval from their line manager if they are engaged in or wish to engage in outside employment in addition to their work with NHS England. This approval should be sought even if the officer is temporarily absent from work e.g. through sickness, maternity leave or secondment.
- 9.2 Outside employment or private practice must neither conflict with nor be detrimental to the NHS work of the officer in question. Examples of outside employment or private practice which may give rise to a conflict of interest includes, but is not limited to:
- employment with another NHS body;
  - employment with another organisation which might be in a position to supply goods/services to NHS England; and
  - self-employment, including private practice, in a capacity which might conflict with the work
  - of NHS England or which might be in a position to supply goods/services to NHS England.
- 9.3 Where a risk of conflict of interest is identified, these should be managed in accordance with the guidance provided at paragraph 6.16. We reserve the right to refuse permission where we reasonably believe a conflict will arise or that approval would be detrimental to the work of the officer in question.
- 9.4 In undertaking any outside employment, officers should have regard to section Trading on official NHS Premises.
- 9.5 NHS England may have legitimate reasons within employment law for knowing about outside employment of officers, even where this does not give rise to the risk of a conflict of interest. Nothing in this policy prevents such enquiries being made.
- 9.6 Where an officer is approached to speak at an externally sponsored event, the officer should ensure that the provisions of Section 8 –Sponsorship are observed.

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## Declaring outside employment and private practice

- 9.7 All officers must declare any relevant outside employment or private practice on appointment, and when any new employment arises, in accordance with the guidance above. Declarations should be made by via [CoreStream System](#).

## Register of outside employment and private practice

- 9.8 The register of outside employment and private practice is maintained by the Corporate Compliance team who will formally record the declarations of all staff.

# 10. Charitable Collections

## Individual

- 10.1 Whilst we support officers who wish to undertake charitable collections amongst immediate colleagues, no reference or implication should be drawn to suggest that NHS England is supporting the charity. Permission is not required for informal collections amongst immediate colleagues on an occasion like retirement, marriage, birthday or a new job.

## Organisational

- 10.2 Charitable collections which reference NHS England must be authorised and documented by the appropriate National or Regional Director in advance and reported to the Corporate Compliance team via [CoreStream System](#).

# 11. Political activities

- 11.1 Any political activity should not identify an individual as an officer of NHS England. Conferences or functions run by a party-political organisation should not be attended in an official capacity, except with prior written permission from a National or Regional Director.

# 12. Personal Conduct

## Corporate Responsibility

- 12.1 All officers have a responsibility to respect and promote the corporate or collective decision of NHS England, even though this may conflict with their personal views. This applies particularly if we are yet to decide on an issue or has decided in a way with which they personally disagree. Directors and officers may comment as they wish as individuals however, if they decide to do so, they should make it clear that they are expressing their personal view and not the view of NHS England.
- 12.2 When speaking as a member of NHS England, whether to the media, in a public forum or in a private or informal discussion, officers should ensure that they reflect the current policies or view of the organisation. For any public forum or media interview, approval should be sought in advance:
- in the case of the Board, from the Chairman and/or Chief Executive or their nominated deputies, and Communications Team; in the case of all other
  - officers, the Communications Team.

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- When this is not practicable, they should report their action to the Chairman or Chief Executive, or their nominated deputies, as soon as possible.

12.3 All officers must ensure their comments are well considered, sensible, well informed, made in good faith, in the public interest and without malice and that they enhance the reputation and status of NHS England.

12.4 Officers must follow the guidance for communication with the media; disciplinary action may be taken if this is not followed.

## Use of Social Media

12.5 Officers should be aware that social networking websites are public forums and should not assume that their entries will remain private. Officers communicating via social media must comply with the relevant organisational social media and associated policies. officers must not:

- conduct themselves in a way that brings NHS England into disrepute;
- disclose information that is confidential to NHS England business, staff or patients.

## Confidentiality

12.6 Officers must, at all times, operate in accordance with the General Data Protection Regulation and Data Protection Act 2018, and maintain the confidentiality of information of any type, including but not restricted to patient information; personal information relating to officers; commercial information.

This duty of confidence remains after officers (however employed) leave NHS England.

12.7 For the avoidance of doubt, this does not prevent the disclosure of information where there is a lawful basis for doing so (e.g. consent). Staff should refer to the suite of NHS England Information Governance and Corporate Information Technology policies for detailed information.

## Gambling

12.8 No officer may bet or gamble when on duty or on NHS England premises, with the exception of small lottery syndicates or sweepstakes related to national events such as the World Cup or Grand National among immediate colleagues within the same offices where no profits are made or the lottery is wholly for purposes that are not for private or commercial gain (e.g. to raise funds to support a charity see section 10).

## Lending and borrowing

12.9 The lending or borrowing of money between officers should be avoided, whether informally or as a business, particularly where the amounts are significant.

12.10 It is a particularly serious breach of discipline for any officer to use their position to place pressure on someone in a lower pay band, a business contact, or a member of the public to loan them money.

## Trading on official NHS Premises

12.11 Trading on official premises is prohibited, whether for personal gain or on behalf of others. This includes, but is not limited to:

- Flyers advertising services/products in common areas; and

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- Catalogues in common areas

12.12 Canvassing within the office by, or on behalf of, outside bodies or firms (including non-NHS England interests of officers or their relatives) is also prohibited. Trading does not include small tea or refreshment arrangements solely for officers.

### **Individual Voluntary Arrangements, County Court Judgment (CCJ), Bankruptcy/Insolvency**

12.13 Any officer who becomes bankrupt, insolvent, has active CCJ, or made individual voluntary arrangements with organisations must inform their line manager and the HR and OD Directorate as soon as possible. Officers who are bankrupt or insolvent cannot be employed, or otherwise engaged, in posts that involve duties which might permit the misappropriation of public funds or involve the approval of orders or handling of money.

### **Arrest or Conviction**

12.14 An officer who is arrested, subject to continuing criminal proceedings, or convicted of any criminal offence must inform their line manager and the People Directorate as soon as is practicably possible.

## **13. Training and Annual Attestation**

13.1 An annual training package to raise awareness and understanding of this policy will be included in the NHS England mandatory training for all officers. All decision-making officer will be required to submit an annual attestation that all appropriate declarations required by the policy have been submitted.

### **References**

[Nolan Principles](#)

[Code of Conduct for NHS Managers](#)

[UK Corporate Governance Code](#)

[Standards for members of NHS boards and CCG governing bodies in England](#)

## **Relevant organisational policies**

Fraud & Corruption Policy

Voicing your concerns policy

Expenses Policy

NHS England Non-Clinical Procurement Policy

NHS England Standing Orders, Standing Financial Instructions & Scheme of Delegation

Disciplinary Policy

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## Appendix A - Nolan Principles

### Selflessness

Holders of public office should act solely in terms of the public interest

### Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family or their friends. They must declare and resolve any interests and relationships.

### Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for doing so.

### Honesty

Holders of public office should be truthful.

### Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

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## Appendix B – Examples of types of interests

Type of Interest	Description
Financial interest	<p>This is where an individual may get direct financial benefit from the consequences of a decision they are involved in making. This could, for example, include being:</p> <ul style="list-style-type: none"> <li>• a director (including a non-executive director) or senior employee in another organisation which is doing, or is likely to do business with an organisation in receipt of NHS funding</li> <li>• a shareholder, partner, or owner of an organisation which is doing, or is likely to do business with an organisation in receipt of NHS funding</li> <li>• someone in secondary employment</li> <li>• someone in receipt of secondary income</li> <li>• someone in receipt of a grant</li> <li>• someone in receipt of other payments (e.g. honoraria, day allowances, travel or subsistence)</li> <li>• someone in receipt of sponsored research</li> </ul>
Non-financial professional interests	<p>This is where an individual may obtain a non-financial professional benefit from the consequences of a decision they are involved in making, such as increasing their professional reputation or status or promoting their professional career. This could include situations where the individual is:</p> <ul style="list-style-type: none"> <li>• an advocate for a particular group of patients</li> <li>• a clinician with a special interest</li> <li>• an active member of a particular specialist body</li> <li>• an advisor for the Care Quality Commission or National Institute of Health and Care Excellence</li> <li>• a research role</li> </ul>
Non-financial personal interests	<p>This is where an individual may benefit personally in ways that are not directly linked to their professional career and do not give rise to a direct financial benefit, because of decisions that are involved in making in their professional career. This could include where the individual is:</p> <ul style="list-style-type: none"> <li>• a member of a voluntary sector board or has a position of authority within a voluntary organisation</li> <li>• a member of a lobbying or pressure group with an interest in health and care</li> </ul>
Indirect interests	<p>This is where an individual has a close association with an individual who has a financial interest, a non-professional personal interest or a non-financial personal interest who would stand to benefit from a decision they are involved in.</p>
Loyalty interests	<p>As part of their role, staff may need to build strong relationships with colleagues across the NHS and in other sectors. These relationships can be hard to define as they may often fall into the category of indirect interests. They are unlikely to be directed by any formal process or managed via any contractual means, however these 'loyalty' interests can influence decision making.</p>

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## Appendix C – Publication

As publicly funded organisations, NHS England has a duty to set and maintain the highest standards of conduct and integrity. The Standards of Business Conduct Policy describes the standards and public service values which underpin the work of the NHS and reflects current guidance and best practice which all NHS England staff must follow. To demonstrate this we publish information on <https://www.england.nhs.uk/publication/decision-making-staff-register-of-interests/> at the following intervals:

Staff Group	Declaration	Monthly	Quarterly	Six Monthly	Annual	Publish
<b>Board Members and National Directors</b>	Declarations of interest	√	N/A	N/A	N/A	Yes
	Gifts & Hospitality	N/A	√	N/A	N/A	Yes
	Meetings with non-NHS bodies	N/A	√	N/A	N/A	Yes
	Sponsorship	N/A	√	N/A	N/A	Yes
	Outside employment	N/A	√	N/A	N/A	Yes
	Attestation that all declarations have been properly made	N/A	N/A	N/A	√	No
<b>Decision Making staff (including Role 4 PPV Partners)</b>	Declarations of interest	N/A	N/A	√	N/A	Yes
	Gifts & Hospitality	N/A	N/A	√	N/A	Yes
	Sponsorship	N/A	N/A	√	N/A	Yes
	Outside employment	N/A	N/A	√	N/A	Yes
	Attestation that all declarations have been properly made	N/A	N/A	N/A	√	No
<b>All other staff within the scope of this policy</b>	Declarations of interest	N/A	N/A	N/A	√	No
	Gifts & Hospitality	N/A	N/A	N/A	√	No
	Sponsorship	N/A	N/A	N/A	√	Yes
	Outside employment	N/A	N/A	N/A	√	No
	Attestation that all declarations have been made	N/A	N/A	N/A	√	No
<b>Organisational</b>	Events Sponsorship	N/A	TBC	√	TBC	Yes
	Charitable collections	N/A	TBC	TBC	√	Yes

All officers in scope of this policy who do not have access to NHS England network and are unable to access [CoreStream System](#), they are required to complete and submit an external staff declaration form, which can be obtained from the Corporate Compliance team on [nhsei.compliance@nhs.net](mailto:nhsei.compliance@nhs.net)

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# New Hospital Programme

## Conflict of Interest Supplier Principles

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**Security Classification: OFFICIAL**

### Revision History

Issue	Date	Detail	Author
0.1	23/06/2021	New NHP Col supplier principles	Redacted in line with FOIA Sec 41
0.2	15/07/2021	Legal review	
1.0	09/09/2021	Final first version	

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# 1 Purpose

- 1.1 To provide best practice guidance for New Hospital Programme (NHP) applicants, tenderers and suppliers in relation to conflict of interest management. In addition to those areas detailed in this document, suppliers may include other appropriate measures aligned to their policies and processes. Suppliers should undertake a risk based approach to conflict of interest management, dependant on the specific nature and risk associated with the conflict.

# 2 Current and Past Suppliers Engaged

- 2.1 NHP wishes to avoid any actual, potential or perceived conflicts of interest that may arise from the engagement of suppliers' personnel who are currently or have previously worked with NHP by organisations:
- i. who will be tendering for NHP contracts; or
  - ii. who are carrying out studies, reviews or other examinations of NHP activities.
- 2.2 All NHP contracted suppliers who are engaged client side either directly or through a sub-contracted arrangement, cannot be engaged on the delivery side in situations where their client side role has any involvement with the supplier's delivery side role. This is particularly relevant where the client side role is advisory, commercial, technical or assurance related and therefore also operating on the delivery side would be deemed an actual conflict of interest.

# 3 Supplier Management

- 3.1 Suppliers contracted by NHP either directly or through a sub contracted arrangement should, dependant on the size of the organisation, provide a single point of contact who will manage the ongoing monitoring of actual, potential or perceived conflicts of interest matters and will report to NHP.
- 3.2 The supplier will maintain a register of all personnel (including affiliate company personnel) involved on the NHP programme for control, monitoring and auditing purposes.

# 4 Ring Fenced Discrete Team

- 4.1 Supplier personnel should be ring fenced and must not be subsequently moved between teams at a later date (unless with NHP prior agreement). Individual personnel working on each assignment should have distinct and separate reporting lines and supervision arrangements from the personnel working on other NHP assignments. There should be no common support functions, shared secretaries or printing facilities (which must be password protected).

# 5 Distinct Premises

- 5.1 Each ring-fenced team working on each assignment must operate from different physical locations (such that confidentiality is not compromised). Where this is not possible, we would expect the supplier to consult with NHP to demonstrate that adequate information barriers are in place including measures ensuring that confidential information held by one team is not disclosed to other teams thus abiding by NHP confidentiality and security requirements.

# 6 Document Storage

- 6.1 Isolated and secure firewalls preventing teams accessing documents within IT document



management systems must be in place, including but not limited to:

- i. restricted access or password protection;
- ii. an agreed list of those named personnel with authorised access;
- iii. an audit trail of all access; and
- iv. data encryption.

- 6.2 All hard copies of data (reports, emails, legal opinions etc.) when not in use must be held in secure and locked filing cabinets accessible only to authorised personnel.

## **7 Confidentiality Agreements**

- 7.1 Once appointed by NHP, a supplier will be required to sign a non-disclosure agreement to confirm that all information received in relation to the assignment is held confidentially and not disclosed or used for unapproved purposes without prior written consent from NHP. Information should be shared with individual team members on a need-to-know basis only.

## **8 Applicants and Tenderers**

- 8.1 Applicants, and if invited to tender for the procurement, tenderers, are required to provide NHP with a list of organisations and associated key personnel that they have engaged to assist them in the development of their tenders. This information should not be restricted to existing and past NHP suppliers as it is required to give NHP visibility of all organisations engaged on the tendering side and will enable the supplier and NHP to review, manage and mitigate any conflict of interest that could arise.

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Crown  
Commercial  
Service

## **RM6187 Core Terms**



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## **1. Definitions used in the contract**

Interpret this Contract using Joint Schedule 1 (Definitions).

## **2. How the contract works**

- 2.1 The Supplier is eligible for the award of Call-Off Contracts during the Framework Contract Period.
- 2.2 CCS does not guarantee the Supplier any exclusivity, quantity or value of work under the Framework Contract.
- 2.3 CCS has paid one penny to the Supplier legally to form the Framework Contract. The Supplier acknowledges this payment.
- 2.4 If the Buyer decides to buy Deliverables under the Framework Contract it must use Framework Schedule 7 (Call-Off Award Procedure) and must state its requirements using Framework Schedule 6 (Order Form Template and Call-Off Schedules). If allowed by the Regulations, the Buyer can:
  - (a) make changes to Framework Schedule 6 (Order Form Template and Call-Off Schedules);
  - (b) create new Call-Off Schedules;
  - (c) exclude optional template Call-Off Schedules; and/or
  - (d) use Special Terms in the Order Form to add or change terms.

### **2.5 Each Call-Off Contract:**

- (a) is a separate Contract from the Framework Contract;
  - (b) is between a Supplier and a Buyer;
  - (c) includes Core Terms, Schedules and any other changes or items in the completed Order Form; and
  - (d) survives the termination of the Framework Contract.
- 2.6 Where the Supplier is approached by any Other Contracting Authority requesting Deliverables or substantially similar goods or services, the Supplier must tell them about this Framework Contract before accepting their order.
- 2.7 The Supplier acknowledges it has all the information required to perform its obligations under each Contract before entering into a Contract. When information is provided by a Relevant Authority no warranty of its accuracy is given to the Supplier.
- 2.8 The Supplier will not be excused from any obligation, or be entitled to additional Costs or Charges because it failed to either:
  - (a) verify the accuracy of the Due Diligence Information; or
  - (b) properly perform its own adequate checks.
- 2.9 CCS and the Buyer will not be liable for errors, omissions or misrepresentation of any information.

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- 2.10 The Supplier warrants and represents that all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.

### **3. What needs to be delivered**

#### **3.1 All deliverables**

##### **3.1.1 The Supplier must provide Deliverables:**

- (a) that comply with the Specification, the Framework Tender Response and, in relation to a Call-Off Contract, the Call-Off Tender (if there is one);
- (b) to a professional standard;
- (c) using reasonable skill and care;
- (d) using Good Industry Practice;
- (e) using its own policies, processes and internal quality control measures as long as they do not conflict with the Contract;
- (f) on the dates agreed; and
- (g) that comply with Law.

##### **3.1.2 The Supplier must provide Deliverables with a warranty of at least 90 days from Delivery against all obvious defects.**

### **3.2 Goods clauses**

##### **3.2.1 All Goods delivered must be new, or as new if recycled, unused and of recent origin.**

##### **3.2.2 All manufacturer warranties covering the Goods must be assignable to the Buyer on request and for free.**

##### **3.2.3 The Supplier transfers ownership of the Goods on Delivery or payment for those Goods, whichever is earlier.**

##### **3.2.4 Risk in the Goods transfers to the Buyer on Delivery of the Goods, but remains with the Supplier if the Buyer notices damage following Delivery and lets the Supplier know within 3 Working Days of Delivery.**

##### **3.2.5 The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.**

##### **3.2.6 The Supplier must deliver the Goods on the date and to the specified location during the Buyer's working hours.**

##### **3.2.7 The Supplier must provide sufficient packaging for the Goods to reach the point of Delivery safely and undamaged.**

##### **3.2.8 All deliveries must have a delivery note attached that specifies the order**

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number, type and quantity of Goods.

3.2.9 The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.

3.2.10 The Supplier must indemnify the Buyer against the costs of any Recall of the Goods and give notice of actual or anticipated action about the Recall of the Goods.

3.2.11 The Buyer can cancel any order or part order of Goods which has not been Delivered. If the Buyer gives less than 14 days notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier takes all reasonable steps to minimise these costs.

3.2.12 The Supplier must at its own cost repair, replace, refund or substitute (at the Buyer's option and request) any Goods that the Buyer rejects because they do not conform with Clause 3. If the Supplier does not do this it will pay the Buyer's costs including repair or re-supply by a third party.

### **3.3 Services clauses**

3.3.1 Late Delivery of the Services will be a Default of a Call-Off Contract.

3.3.2 The Supplier must cooperate with the Buyer and third party suppliers on all aspects connected with the Delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions.

3.3.3 The Supplier must at its own risk and expense provide all Supplier Equipment required to Deliver the Services.

3.3.4 The Supplier must allocate sufficient resources and appropriate expertise to each Contract.

3.3.5 The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.

3.3.6 The Supplier must ensure all Services, and anything used to Deliver the Services, are of good quality and free from defects.

3.3.7 The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under the Contract.

## **4. Pricing and payments**

4.1 In exchange for the Deliverables, the Supplier must invoice the Buyer for the Charges in the Order Form.

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- 4.2 CCS must invoice the Supplier for the Management Charge and the Supplier must pay it using the process in Framework Schedule 5 (Management Charges and Information).
- 4.3 All Charges and the Management Charge:
- (a) exclude VAT, which is payable on provision of a valid VAT invoice; and
  - (b) include all costs connected with the Supply of Deliverables.
- 4.4 The Buyer must pay the Supplier the Charges within 30 days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds using the payment method and details stated in the Order Form.
- 4.5 A Supplier invoice is only valid if it:
- (a) includes all appropriate references including the Contract reference number and other details reasonably requested by the Buyer;
  - (b) includes a detailed breakdown of Delivered Deliverables and Milestone(s) (if any); and
  - (c) does not include any Management Charge (the Supplier must not charge the Buyer in any way for the Management Charge).
- 4.6 The Buyer must accept and process for payment an undisputed Electronic Invoice received from the Supplier.
- 4.7 The Buyer may retain or set-off payment of any amount owed to it by the Supplier if notice and reasons are provided.
- 4.8 The Supplier must ensure that all Subcontractors are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this does not happen, CCS or the Buyer can publish the details of the late payment or non-payment.
- 4.9 If CCS or the Buyer can get more favourable commercial terms for the supply at cost of any materials, goods or services used by the Supplier to provide the Deliverables, then CCS or the Buyer may require the Supplier to replace its existing commercial terms with the more favourable terms offered for the relevant items.
- 4.10 If CCS or the Buyer uses Clause 4.9 then the Framework Prices (and where applicable, the Charges) must be reduced by an agreed amount by using the Variation Procedure.
- 4.11 The Supplier has no right of set-off, counterclaim, discount or abatement unless they are ordered to do so by a court.

## **5. The buyer's obligations to the supplier**

- 5.1 If Supplier Non-Performance arises from an Authority Cause:
- (a) neither CCS or the Buyer can terminate a Contract under Clause 10.4.1;
  - (b) the Supplier is entitled to reasonable and proven additional expenses and

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- to relief from liability and Deduction under this Contract;
- (c) the Supplier is entitled to additional time needed to make the Delivery; and
- (d) the Supplier cannot suspend the ongoing supply of Deliverables.

5.2 Clause 5.1 only applies if the Supplier:

- (a) gives notice to the Party responsible for the Authority Cause within 10 Working Days of becoming aware;
- (b) demonstrates that the Supplier Non-Performance would not have occurred but for the Authority Cause; and
- (c) mitigated the impact of the Authority Cause.

## **6. Record keeping and reporting**

6.1 The Supplier must:

- (a) attend Progress Meetings with the Buyer and provide Progress Reports when specified in the Order Form; and
- (b) where the Order Form states that Financial Transparency Objectives apply, cooperate with the Buyer to achieve the Financial Transparency Objectives and, to this end, will provide a Financial Report to the Buyer:
  - (i) on or before the Start Date;
  - (ii) at the end of each Contract Year; and
  - (iii) within 6 Months of the end of the Contract Period,

and the Supplier must meet with the Buyer if required within 10 Working Days of the Buyer receiving a Financial Report.

6.2 The Supplier must keep and maintain full and accurate records and accounts, including the maintenance of Open Book Data, in accordance with Good Industry Practice and the Law on everything to do with the Contract:

- (a) during the Contract Period;
- (b) for 7 years after the End Date or such other date as agreed between the Parties; and
- (c) in accordance with GDPR,

including but not limited to the records and accounts stated in the definition of Audit in Joint Schedule 1 and the Supplier shall make available its Financial Representative at reasonable times and on reasonable notice, during the Contract Period and up to 18 Months after the End Date, to answer questions that the Relevant Authority or an Auditor may have on those records and accounts, any Financial Report or Open Book Data.

6.3 The Relevant Authority or an Auditor can Audit the Supplier during the relevant Contract Period and for up to 18 Months from the End Date of the Contract and, in the case of CCS, for up to 18 Months from the latest End Date to occur under

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any Call-Off Contract.

6.4 During an Audit, the Supplier must:

- (a) allow the Relevant Authority or any Auditor access to:
  - (i) any Sites, equipment and Supplier's System used in the performance of the Contract to verify all contract accounts and records of everything to do with the Contract and provide copies for an Audit; and
  - (ii) Supplier Staff; and
- (b) provide information within the permitted scope of the Audit to the Relevant Authority or to the Auditor and reasonable cooperation at their request.

6.5 Where the Audit of the Supplier is carried out by an Auditor, the Auditor shall be entitled to share any information obtained during the Audit with the Relevant Authority and the Relevant Authority shall use reasonable endeavours to ensure that its Auditor does not unreasonably disrupt the Supplier or its provision of the Deliverables, save insofar as the Supplier accepts and acknowledges that Audits carried out by Auditors are outside the control of the Relevant Authority.

6.6 If the Supplier:

- (a) is not providing any of the Deliverables, or is unable to provide them, it must immediately:
  - (i) tell the Relevant Authority and give reasons;
  - (ii) propose corrective action; and
  - (iii) provide a deadline for completing the corrective action; and
- (b) becomes aware of an event that has occurred or is likely to occur in the future which will have a material effect on the:
  - (i) Supplier's currently incurred or forecast future Costs; and
  - (ii) forecast Charges for the remainder of the Contract;

then the Supplier must notify the Buyer in writing as soon as practicable setting out the actual or anticipated effect of the event.

6.7 The Supplier must provide CCS with a Self Audit Certificate supported by an audit report at the end of each Contract Year. The report must contain:

- (a) the methodology of the review;
- (b) the sampling techniques applied;
- (c) details of any issues; and
- (d) any remedial action taken.

6.8 The Self Audit Certificate must be completed and signed by an auditor or senior member of the Supplier's management team that is qualified in either a relevant

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audit or financial discipline e.g. Head of Internal Audit/ Finance Director/  
External Audit firm.

6.9 Each Self Audit Certificate should be based on tests completed against a representative sample of 10% of Orders carries out during the period being audited or 100 Orders (whichever is less) and should provide assurance that:

- (a) Orders are clearly identified as such in the order processing and invoicing systems and, where required, Orders are correctly reported in the MI Reports;
- (b) all related invoices are completely and accurately included in the MI Reports;
- (c) all Charges to Buyers comply with any requirements under a Contract or as otherwise agreed in writing with the Government on maximum mark-up, discounts, charge rates, fixed quotes (as applicable); and
- (d) an additional sample of 5 public sector Orders identified from the Supplier's order processing and invoicing systems as orders not placed under the Contract have been correctly identified as such and that an appropriate and legitimately tendered procurement route has been used to place those orders, and those orders should not otherwise have been routed via centralised mandated procurement processes executed by CCS.

6.10 The Supplier must comply with Buyer's reasonable instructions following an Audit, including:

- (a) correct any identified Default;
- (b) rectify any error identified in a Financial Report; and
- (c) repaying any Charges that the Relevant Authority has overpaid.

6.11 The Parties will bear their own costs when an Audit is undertaken unless the Audit identifies a material Default by the Supplier, in which case the Supplier will repay the Relevant Authority's reasonable costs in connection with the Audit.

## **7. Supplier staff**

7.1 The Supplier Staff involved in the performance of each Contract must:

- (a) be appropriately trained and qualified;
- (b) be vetted using Good Industry Practice and the Security Policy; and
- (c) comply with all conduct requirements when on the Buyer's Premises.

7.2 Where a Buyer decides one of the Supplier's Staff is not suitable to work on a contract, the Supplier must replace them with a suitably qualified alternative.

7.3 If requested, the Supplier must replace any person whose acts or omissions have caused the Supplier to breach Clause 27.

7.4 The Supplier must provide a list of Supplier Staff needing to access the Buyer's



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Premises and say why access is required.

- 7.5 The Supplier indemnifies CCS and the Buyer against all claims brought by any person employed by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.

## **8. Rights and protection**

8.1 The Supplier warrants and represents that:

- (a) it has full capacity and authority to enter into and to perform each Contract;
- (b) each Contract is executed by its authorised representative;
- (c) it is a legally valid and existing organisation incorporated in the place it was formed;
- (d) there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its Affiliates that might affect its ability to perform each Contract;
- (e) it maintains all necessary rights, authorisations, licences and consents to perform its obligations under each Contract;
- (f) it does not have any contractual obligations which are likely to have a material adverse effect on its ability to perform each Contract;
- (g) it is not impacted by an Insolvency Event; and
- (h) it will comply with each Call-Off Contract.

8.2 The warranties and representations in Clauses 2.10 and 8.1 are repeated each time the Supplier provides Deliverables under the Contract.

8.3 The Supplier indemnifies both CCS and every Buyer against each of the following:

- (a) wilful misconduct of the Supplier, Subcontractor and Supplier Staff that impacts the Contract; and
- (b) non-payment by the Supplier of any Tax or National Insurance.

8.4 All claims indemnified under this Contract must use Clause 26.

8.5 The description of any provision of this Contract as a warranty does not prevent CCS or a Buyer from exercising any termination right that it may have for breach of that clause by the Supplier.

8.6 If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify CCS and every Buyer.

8.7 All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier.

## **9. Intellectual Property Rights (IPRs)**



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- 9.1 Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Buyer a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier's Existing IPR to enable it to both:
  - (a) receive and use the Deliverables; and
  - (b) make use of the deliverables provided by a Replacement Supplier.
- 9.2 Any New IPR created under a Contract is owned by the Buyer. The Buyer gives the Supplier a licence to use any Existing IPRs and New IPRs for the purpose of fulfilling its obligations during the Contract Period.
- 9.3 Where a Party acquires ownership of IPRs incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.
- 9.4 Neither Party has the right to use the other Party's IPRs, including any use of the other Party's names, logos or trademarks, except as provided in Clause 9 or otherwise agreed in writing.
- 9.5 If there is an IPR Claim, the Supplier indemnifies CCS and each Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result.
- 9.6 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:
  - (a) obtain for CCS and the Buyer the rights in Clause 9.1 and 9.2 without infringing any third party IPR; or
  - (b) replace or modify the relevant item with substitutes that do not infringe IPR without adversely affecting the functionality or performance of the Deliverables.
- 9.7 In spite of any other provisions of a Contract and for the avoidance of doubt, award of a Contract by the Buyer and placement of any contract task under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949. The Supplier acknowledges that any authorisation by the Buyer under its statutory powers must be expressly provided in writing, with reference to the acts authorised and the specific IPR involved.

## **10. Ending the contract or any subcontract**

### **10.1 Contract Period**

- 10.1.1 The Contract takes effect on the Start Date and ends on the End Date or earlier if required by Law.
- 10.1.2 The Relevant Authority can extend the Contract for the Extension Period by giving the Supplier no less than 3 Months' written notice before the Contract

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expires.

## 10.2 Ending the contract without a reason

10.2.1 CCS has the right to terminate the Framework Contract at any time without reason by giving the Supplier at least 30 days' written notice.

10.2.2 Each Buyer has the right to terminate their Call-Off Contract at any time without reason by giving the Supplier not less than 90 days' written notice.

## 10.3 Rectification plan process

10.3.1 If there is a Default, the Relevant Authority may, without limiting its other rights, request that the Supplier provide a Rectification Plan.

10.3.2 When the Relevant Authority receives a requested Rectification Plan it can either:

- (a) reject the Rectification Plan or revised Rectification Plan, giving reasons; or
- (b) accept the Rectification Plan or revised Rectification Plan (without limiting its rights) and the Supplier must immediately start work on the actions in the Rectification Plan at its own cost, unless agreed otherwise by the Parties.

10.3.3 Where the Rectification Plan or revised Rectification Plan is rejected, the Relevant Authority:

- (a) must give reasonable grounds for its decision; and
- (b) may request that the Supplier provides a revised Rectification Plan within 5 Working Days.

10.3.4 If the Relevant Authority rejects any Rectification Plan, including any revised Rectification Plan, the Relevant Authority does not have to request a revised Rectification Plan before exercising its right to terminate its Contract under Clause 10.4.3(a).

## 10.4 When CCS or the buyer can end a contract

10.4.1 If any of the following events happen, the Relevant Authority has the right to immediately terminate its Contract by issuing a Termination Notice to the Supplier:

- (a) there is a Supplier Insolvency Event;
- (b) there is a Default that is not corrected in line with an accepted Rectification Plan;
- (c) the Supplier does not provide a Rectification Plan within 10 days of the request;
- (d) there is any material Default of the Contract;
- (e) there is any material Default of any Joint Controller Agreement relating to any Contract;
- (f) there is a Default of Clauses 2.10, 6, 9, 14, 15, 27, 32 or Framework Schedule 9 (Cyber Essentials) (where applicable) relating to any Contract;

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- (g) there is a consistent repeated failure to meet the Performance Indicators in Framework Schedule 4 (Framework Management);
- (h) there is a Change of Control of the Supplier which is not pre-approved by the Relevant Authority in writing;
- (i) if the Relevant Authority discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time the Contract was awarded; or
- (j) the Supplier or its Affiliates embarrass or bring CCS or the Buyer into disrepute or diminish the public trust in them.

10.4.2 CCS may terminate the Framework Contract if a Buyer terminates a Call-Off Contract for any of the reasons listed in Clause 10.4.1.

10.4.3 If any of the following non-fault based events happen, the Relevant Authority has the right to immediately terminate its Contract by issuing a Termination Notice to the Supplier:

- (a) the Relevant Authority rejects a Rectification Plan;
- (b) there is a Variation which cannot be agreed using Clause 24 (Changing the contract) or resolved using Clause 34 (Resolving disputes);
- (c) if there is a declaration of ineffectiveness in respect of any Variation; or
- (d) any of the events in 73 (1) (a) or (c) of the Regulations happen.

#### 10.5 When the supplier can end the contract

The Supplier can issue a Reminder Notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate a Call-Off Contract if the Buyer fails to pay an undisputed invoiced sum due and worth over 10% of the annual Contract Value within 30 days of the date of the Reminder Notice.

#### 10.6 What happens if the contract ends

10.6.1 Where a Party terminates a Contract under any of Clauses 10.2.1, 10.2.2, 10.4.1, 10.4.2, 10.4.3, 10.5 or 20.2 or a Contract expires all of the following apply:

- (a) The Buyer's payment obligations under the terminated Contract stop immediately.
- (b) Accumulated rights of the Parties are not affected.
- (c) The Supplier must promptly repay to the Buyer any and all Charges the Buyer has paid in advance in respect of Deliverables not provided by the Supplier as at the End Date.
- (d) The Supplier must promptly delete or return the Government Data except where required to retain copies by Law.
- (e) The Supplier must promptly return any of CCS or the Buyer's property provided under the terminated Contract.
- (f) The Supplier must, at no cost to CCS or the Buyer, co-operate fully in the handover and re-procurement (including to a Replacement Supplier).

10.6.2 In addition to the consequences of termination listed in Clause 10.6.1, where the Relevant Authority terminates a Contract under Clause 10.4.1 the Supplier

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is also responsible for the Relevant Authority's reasonable costs of procuring Replacement Deliverables for the rest of the Contract Period.

10.6.3 In addition to the consequences of termination listed in Clause 10.6.1, if either the Relevant Authority terminates a Contract under Clause 10.2.1 or 10.2.2 or a Supplier terminates a Call-Off Contract under Clause 10.5:

- (a) the Buyer must promptly pay all outstanding Charges incurred to the Supplier; and
- (b) the Buyer must pay the Supplier reasonable committed and unavoidable Losses as long as the Supplier provides a fully itemised and cost schedule with evidence - the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated.

10.6.4 In addition to the consequences of termination listed in Clause 10.6.1, where a Party terminates under Clause 20.2 each Party must cover its own Losses.

10.6.5 The following Clauses survive the termination or expiry of each Contract: 3.2.10, 4.2, 6, 7.5, 9, 11, 12.2, 14, 15, 16, 17, 18, 31.3, 34, 35 and any Clauses and Schedules which are expressly or by implication intended to continue.

#### **10.7 Partially ending and suspending the contract**

10.7.1 Where CCS has the right to terminate the Framework Contract it can suspend the Supplier's ability to accept Orders (for any period) and the Supplier cannot enter into any new Call-Off Contracts during this period. If this happens, the Supplier must still meet its obligations under any existing Call-Off Contracts that have already been signed.

10.7.2 Where CCS has the right to terminate a Framework Contract it is entitled to terminate all or part of it.

10.7.3 Where the Buyer has the right to terminate a Call-Off Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends a Contract it can provide the Deliverables itself or buy them from a third party.

10.7.4 The Relevant Authority can only partially terminate or suspend a Contract if the remaining parts of that Contract can still be used to effectively deliver the intended purpose.

10.7.5 The Parties must agree any necessary Variation required by Clause 10.7 using the Variation Procedure, but the Supplier may not either:

- (a) reject the Variation; or
- (b) increase the Charges, except where the right to partial termination is under Clause 10.2.

10.7.6 The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under Clause 10.7.

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## 10.8 When subcontracts can be ended

At the Buyer's request, the Supplier must terminate any Subcontracts in any of the following events:

- (a) there is a Change of Control of a Subcontractor which is not pre-approved by the Relevant Authority in writing;
- (b) the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 10.4; or
- (c) a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Relevant Authority.

## 11. How much you can be held responsible for

11.1 Each Party's total aggregate liability in each Contract Year under this Framework Contract (whether in tort, contract or otherwise) is no more than £1,000,000.

11.2 Each Party's total aggregate liability in each Contract Year under each Call-Off Contract (whether in tort, contract or otherwise) is a sum equal to one hundred and twenty five percent (125%) of the Estimated Yearly Charges unless specified in the Call-Off Order Form.

11.3 No Party is liable to the other for:

- (a) any indirect Losses; or
- (b) Loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

11.4 In spite of Clause 11.1 and 11.2, neither Party limits or excludes any of the following:

- (a) its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors;
- (b) its liability for bribery or fraud or fraudulent misrepresentation by it or its employees;
- (c) any liability that cannot be excluded or limited by Law;
- (d) its obligation to pay the required Management Charge or Default Management Charge.

11.5 In spite of Clauses 11.1 and 11.2, the Supplier does not limit or exclude its liability for any indemnity given under Clauses 7.5, 8.3(b), 9.5, 31.3 or Call-Off Schedule 2 (Staff Transfer) of a Contract.

11.6 In spite of Clauses 11.1, 11.2 but subject to Clauses 11.3 and 11.4, the Supplier's aggregate liability in each and any Contract Year under each Contract under Clause 14.8 shall in no event exceed the Data Protection Liability Cap.

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11.7 Each Party must use all reasonable endeavours to mitigate any Loss or damage which it suffers under or in connection with each Contract, including any indemnities.

11.8 When calculating the Supplier's liability under Clause 11.1 or 11.2 the following items will not be taken into consideration:

- (a) Deductions; and
- (b) any items specified in Clauses 11.5 or 11.6.

11.9 If more than one Supplier is party to a Contract, each Supplier Party is jointly and severally liable for their obligations under that Contract.

## **12. Obeying the law**

12.1 The Supplier must use reasonable endeavours to comply with the provisions of Joint Schedule 5 (Corporate Social Responsibility).

12.2 To the extent that it arises as a result of a Default by the Supplier, the Supplier indemnifies the Relevant Authority against any fine or penalty incurred by the Relevant Authority pursuant to Law and any costs incurred by the Relevant Authority in defending any proceedings which result in such fine or penalty.

12.3 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 12.1 and Clauses 27 to 32.

## **13. Insurance**

The Supplier must, at its own cost, obtain and maintain the Required Insurances in Joint Schedule 3 (Insurance Requirements) and any Additional Insurances in the Order Form.

## **14. Data protection**

14.1 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with Joint Schedule 11 (Processing Data).

14.2 The Supplier must not remove any ownership or security notices in or relating to the Government Data.

14.3 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies every 6 Months.

14.4 The Supplier must ensure that any Supplier system holding any Government Data, including back-up data, is a secure system that complies with the Security Policy and any applicable Security Management Plan.

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- 14.5 If at any time the Supplier suspects or has reason to believe that the Government Data provided under a Contract is corrupted, lost or sufficiently degraded, then the Supplier must notify the Relevant Authority and immediately suggest remedial action.
- 14.6 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Relevant Authority may either or both:
- (a) tell the Supplier to restore or get restored Government Data as soon as practical but no later than 5 Working Days from the date that the Relevant Authority receives notice, or the Supplier finds out about the issue, whichever is earlier; and/or
  - (b) restore the Government Data itself or using a third party.
- 14.7 The Supplier must pay each Party's reasonable costs of complying with Clause 14.6 unless CCS or the Buyer is at fault.
- 14.8 The Supplier:
- (a) must provide the Relevant Authority with all Government Data in an agreed open format within 10 Working Days of a written request;
  - (b) must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;
  - (c) must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice;
  - (d) securely erase all Government Data and any copies it holds when asked to do so by CCS or the Buyer unless required by Law to retain it; and
  - (e) indemnifies CCS and each Buyer against any and all Losses incurred if the Supplier breaches Clause 14 and any Data Protection Legislation.

## **15. What you must keep confidential**

15.1 Each Party must:

- (a) keep all Confidential Information it receives confidential and secure;
- (b) except as expressly set out in the Contract at Clauses 15.2 to 15.4 or elsewhere in the Contract, not disclose, use or exploit the Disclosing Party's Confidential Information without the Disclosing Party's prior written consent; and
- (c) immediately notify the Disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.

15.2 In spite of Clause 15.1, a Party may disclose Confidential Information which it receives from the Disclosing Party in any of the following instances:

- (a) where disclosure is required by applicable Law or by a court with the



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relevant jurisdiction if, to the extent not prohibited by Law, the Recipient Party notifies the Disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;

- (b) if the Recipient Party already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party;
- (c) if the information was given to it by a third party without obligation of confidentiality;
- (d) if the information was in the public domain at the time of the disclosure;
- (e) if the information was independently developed without access to the Disclosing Party's Confidential Information;
- (f) on a confidential basis, to its auditors;
- (g) on a confidential basis, to its professional advisers on a need-to-know basis; or
- (h) to the Serious Fraud Office where the Recipient Party has reasonable grounds to believe that the Disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.

15.3 In spite of Clause 15.1, the Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under the Contract. The Supplier Staff must enter into a direct confidentiality agreement with the Relevant Authority at its request.

15.4 In spite of Clause 15.1, CCS or the Buyer may disclose Confidential Information in any of the following cases:

- (a) on a confidential basis to the employees, agents, consultants and contractors of CCS or the Buyer;
- (b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company that CCS or the Buyer transfers or proposes to transfer all or any part of its business to;
- (c) if CCS or the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
- (d) where requested by Parliament; or
- (e) under Clauses 4.7 and 16.

15.5 For the purposes of Clauses 15.2 to 15.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in Clause 15.

15.6 Transparency Information is not Confidential Information.

15.7 The Supplier must not make any press announcement or publicise the Contracts or any part of them in any way, without the prior written consent of the Relevant Authority and must take all reasonable steps to ensure that Supplier Staff do not either.



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## **16. When you can share information**

16.1 The Supplier must tell the Relevant Authority within 48 hours if it receives a Request For Information.

16.2 Within five (5) Working Days of the Buyer's request the Supplier must give CCS and each Buyer full co-operation and information needed so the Buyer can:

- (a) publish the Transparency Information;
- (b) comply with any Freedom of Information Act (FOIA) request; and/or
- (c) comply with any Environmental Information Regulations (EIR) request.

16.3 The Relevant Authority may talk to the Supplier to help it decide whether to publish information under Clause 16. However, the extent, content and format of the disclosure is the Relevant Authority's decision in its absolute discretion.

## **17. Invalid parts of the contract**

If any part of a Contract is prohibited by Law or judged by a court to be unlawful, void or unenforceable, it must be read as if it was removed from that Contract as much as required and rendered ineffective as far as possible without affecting the rest of the Contract, whether it is valid or enforceable.

## **18. No other terms apply**

The provisions incorporated into each Contract are the entire agreement between the Parties. The Contract replaces all previous statements, agreements and any course of dealings made between the Parties, whether written or oral, in relation to its subject matter. No other provisions apply.

## **19. Other people's rights in a contract**

No third parties may use the Contracts (Rights of Third Parties) Act 1999 (CRTPA) to enforce any term of the Contract unless stated (referring to CRTPA) in the Contract. This does not affect third party rights and remedies that exist independently from CRTPA.

## **20. Circumstances beyond your control**

20.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under a Contract while the inability to perform continues, if it both:

- (a) provides a Force Majeure Notice to the other Party; and
- (b) uses all reasonable measures practical to reduce the impact of the Force Majeure Event.

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20.2 Either Party can partially or fully terminate the affected Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for 90 days continuously.

## **21. Relationships created by the contract**

No Contract creates a partnership, joint venture or employment relationship. The Supplier must represent themselves accordingly and ensure others do so.

## **22. Giving up contract rights**

A partial or full waiver or relaxation of the terms of a Contract is only valid if it is stated to be a waiver in writing to the other Party.

## **23. Transferring responsibilities**

23.1 The Supplier cannot assign, novate or transfer a Contract or any part of a Contract without the Relevant Authority's written consent.

23.2 The Relevant Authority can assign, novate or transfer its Contract or any part of it to any Central Government Body, public or private sector body which performs the functions of the Relevant Authority.

23.3 When CCS or the Buyer uses its rights under Clause 23.2 the Supplier must enter into a novation agreement in the form that CCS or the Buyer specifies.

23.4 The Supplier can terminate a Contract novated under Clause 23.2 to a private sector body that is experiencing an Insolvency Event.

23.5 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.

23.6 If CCS or the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:

- (a) their name;
- (b) the scope of their appointment; and
- (c) the duration of their appointment.

## **24. Changing the contract**

24.1 Either Party can request a Variation which is only effective if agreed in writing and signed by both Parties.

24.2 The Supplier must provide an Impact Assessment either:

- (a) with the Variation Form, where the Supplier requests the Variation; or
- (b) within the time limits included in a Variation Form requested by CCS or the

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24.3 If the Variation cannot be agreed or resolved by the Parties, CCS or the Buyer can either:

- (a) agree that the Contract continues without the Variation; or
- (b) terminate the affected Contract, unless in the case of a Call-Off Contract, the Supplier has already provided part or all of the provision of the Deliverables, or where the Supplier can show evidence of substantial work being carried out to provide them; or
- (c) refer the Dispute to be resolved using Clause 34 (Resolving Disputes).

24.4 CCS and the Buyer are not required to accept a Variation request made by the Supplier.

24.5 If there is a General Change in Law, the Supplier must bear the risk of the change and is not entitled to ask for an increase to the Framework Prices or the Charges.

24.6 If there is a Specific Change in Law or one is likely to happen during the Contract Period the Supplier must give CCS and the Buyer notice of the likely effects of the changes as soon as reasonably practicable. They must also say if they think any Variation is needed either to the Deliverables, Framework Prices or a Contract and provide evidence:

- (a) that the Supplier has kept costs as low as possible, including in Subcontractor costs; and
- (b) of how it has affected the Supplier's costs.

24.7 Any change in the Framework Prices or relief from the Supplier's obligations because of a Specific Change in Law must be implemented using Clauses 24.1 to 24.4.

24.8 For 101(5) of the Regulations, if the Court declares any Variation ineffective, the Parties agree that their mutual rights and obligations will be regulated by the terms of the Contract as they existed immediately prior to that Variation and as if the Parties had never entered into that Variation.

## **25. How to communicate about the contract**

25.1 All notices under the Contract must be in writing and are considered effective on the Working Day of delivery as long as they are delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective at 9:00am on the first Working Day after sending unless an error message is received.

25.2 Notices to CCS must be sent to the CCS Authorised Representative's address or email address in the Framework Award Form.

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25.3 Notices to the Buyer must be sent to the Buyer Authorised Representative's address or email address in the Order Form.

25.4 This Clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

## **26. Dealing with claims**

26.1 If a Beneficiary is notified of a Claim then it must notify the Indemnifier as soon as reasonably practical and no later than 10 Working Days.

26.2 At the Indemnifier's cost the Beneficiary must both:

- (a) allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim; and
- (b) give the Indemnifier reasonable assistance with the claim if requested.

26.3 The Beneficiary must not make admissions about the Claim without the prior written consent of the Indemnifier which can not be unreasonably withheld or delayed.

26.4 The Indemnifier must consider and defend the Claim diligently using competent legal advisors and in a way that does not damage the Beneficiary's reputation.

26.5 The Indemnifier must not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.

26.6 Each Beneficiary must take all reasonable steps to minimise and mitigate any losses that it suffers because of the Claim.

26.7 If the Indemnifier pays the Beneficiary money under an indemnity and the Beneficiary later recovers money which is directly related to the Claim, the Beneficiary must immediately repay the Indemnifier the lesser of either:

- (a) the sum recovered minus any legitimate amount spent by the Beneficiary when recovering this money; or
- (b) the amount the Indemnifier paid the Beneficiary for the Claim.

## **27. Preventing fraud, bribery and corruption**

27.1 The Supplier must not during any Contract Period:

- (a) commit a Prohibited Act or any other criminal offence in the Regulations 57(1) and 57(2); or
- (b) do or allow anything which would cause CCS or the Buyer, including any of their employees, consultants, contractors, Subcontractors or agents to breach any of the Relevant Requirements or incur any liability under them.

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## 27.2 The Supplier must during the Contract Period:

- (a) create, maintain and enforce adequate policies and procedures to ensure it complies with the Relevant Requirements to prevent a Prohibited Act and require its Subcontractors to do the same;
- (b) keep full records to show it has complied with its obligations under Clause 27 and give copies to CCS or the Buyer on request; and
- (c) if required by the Relevant Authority, within 20 Working Days of the Start Date of the relevant Contract, and then annually, certify in writing to the Relevant Authority, that they have complied with Clause 27, including compliance of Supplier Staff, and provide reasonable supporting evidence of this on request, including its policies and procedures.

## 27.3 The Supplier must immediately notify CCS and the Buyer if it becomes aware of any breach of Clauses 27.1 or 27.2 or has any reason to think that it, or any of the Supplier Staff, has either:

- (a) been investigated or prosecuted for an alleged Prohibited Act;
- (b) been debarred, suspended, proposed for suspension or debarment, or is otherwise ineligible to take part in procurement programmes or contracts because of a Prohibited Act by any government department or agency;
- (c) received a request or demand for any undue financial or other advantage of any kind related to a Contract; or
- (d) suspected that any person or Party directly or indirectly related to a Contract has committed or attempted to commit a Prohibited Act.

## 27.4 If the Supplier notifies CCS or the Buyer as required by Clause 27.3, the Supplier must respond promptly to their further enquiries, co-operate with any investigation and allow the Audit of any books, records and relevant documentation in accordance with Clause 6.

## 27.5 In any notice the Supplier gives under Clause 27.3 it must specify the:

- (a) Prohibited Act;
- (b) identity of the Party who it thinks has committed the Prohibited Act; and
- (c) action it has decided to take.

# 28. Equality, diversity and human rights

## 28.1 The Supplier must follow all applicable equality Law when they perform their obligations under the Contract, including:

- (a) protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise; and
- (b) any other requirements and instructions which CCS or the Buyer reasonably imposes related to equality Law.

## 28.2 The Supplier must take all necessary steps, and inform CCS or the Buyer of

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the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on a Contract.

## **29. Health and safety**

29.1 The Supplier must perform its obligations meeting the requirements of:

- (a) all applicable Law regarding health and safety; and
- (b) the Buyer's current health and safety policy while at the Buyer's Premises, as provided to the Supplier.

29.2 The Supplier and the Buyer must as soon as possible notify the other of any health and safety incidents or material hazards they are aware of at the Buyer Premises that relate to the performance of a Contract.

## **30. Environment**

30.1 When working on Site the Supplier must perform its obligations under the Buyer's current Environmental Policy, which the Buyer must provide.

30.2 The Supplier must ensure that Supplier Staff are aware of the Buyer's Environmental Policy.

## **31. Tax**

31.1 The Supplier must not breach any Tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. CCS and the Buyer cannot terminate a Contract where the Supplier has not paid a minor Tax or social security contribution.

31.2 Where the Charges payable under a Contract with the Buyer are or are likely to exceed £5 million at any point during the relevant Contract Period, and an Occasion of Tax Non-Compliance occurs, the Supplier must notify CCS and the Buyer of it within 5 Working Days including:

- (a) the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and any mitigating factors that it considers relevant; and
- (b) other information relating to the Occasion of Tax Non-Compliance that CCS and the Buyer may reasonably need.

31.3 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under a Call-Off Contract, the Supplier must both:

- (a) comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National

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- Insurance contributions; and
- (b) indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.

31.4 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:

- (a) the Buyer may, at any time during the Contract Period, request that the Worker provides information which demonstrates they comply with Clause 31.3, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;
- (b) the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;
- (c) the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers is not good enough to demonstrate how it complies with Clause 31.3 or confirms that the Worker is not complying with those requirements; and
- (d) the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

## **32. Conflict of interest**

32.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual or potential Conflict of Interest.

32.2 The Supplier must promptly notify and provide details to CCS and each Buyer if a Conflict of Interest happens or is expected to happen.

32.3 CCS and each Buyer can terminate its Contract immediately by giving notice in writing to the Supplier or take any steps it thinks are necessary where there is or may be an actual or potential Conflict of Interest.

## **33. Reporting a breach of the contract**

33.1 As soon as it is aware of it the Supplier and Supplier Staff must report to CCS or the Buyer any actual or suspected breach of:

- (a) Law;
- (b) Clause 12.1; or
- (c) Clauses 27 to 32.

33.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach listed in Clause 33.1 to the Buyer or a Prescribed Person.



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## **34. Resolving disputes**

- 34.1 If there is a Dispute, the senior representatives of the Parties who have authority to settle the Dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the Dispute.
- 34.2 If the Dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure currently at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 34.3 to 34.5.
- 34.3 Unless the Relevant Authority refers the Dispute to arbitration using Clause 34.4, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:
- (a) determine the Dispute;
  - (b) grant interim remedies; and/or
  - (c) grant any other provisional or protective relief.
- 34.4 The Supplier agrees that the Relevant Authority has the exclusive right to refer any Dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules currently at the time of the Dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.
- 34.5 The Relevant Authority has the right to refer a Dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under Clause 34.3, unless the Relevant Authority has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under Clause 34.4.
- 34.6 The Supplier cannot suspend the performance of a Contract during any Dispute.

## **35. Which law applies**

This Contract and any Disputes arising out of, or connected to it, are governed by English law.