

Dated

May 2023

NHS Business Services Authority

and

Amy Swinnerton

Consultancy Agreement

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This Agreement is made on 21 May 2023

Between:

- (1) **NHS Business Services Authority** whose registered address is at [REDACTED] ("Authority");
- (2) **Amy Swinnerton** whose registered address is at [REDACTED] ("Consultant").

1. Definitions

- 1.1. In this Agreement the following terms shall have the following meanings unless the context otherwise requires:

"the Assignment"	is as specified in Annex 1 (Assignment);
"Commercially Sensitive Information"	information of a commercially sensitive nature relating to the Consultant, its intellectual property rights or its business or which the Consultant has indicated to the Authority that, if disclosed by the Authority, would cause the Consultant significant commercial disadvantage or material financial loss;
"Commencement Date"	21 May 2023
"Day"	a day consisting of eight (8) hours;
"EIRs"	the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations;
"End Date"	31 March 2024, unless extended by the Authority for a further period;
"Fixed Fee"	[REDACTED] [REDACTED]
"FOIA"	the Freedom of Information Act 2000, and any subordinate legislation made under the 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;
"Information"	has the meaning given under section 84 of FOIA;
"Location"	[REDACTED]
"Normal Business Hours of the Authority"	08:00 to 17:00;
"Notice Period"	3 months

“Request for Information”

a request for information or an apparent request under the FOIA or the EIRs.

2. **Engagement**

- 2.1. The Consultant represents that they have the expertise, qualifications and necessary ability (including as detailed in Annex 1 (Expertise)) to undertake the work required to be carried out under the Assignment.
- 2.2. The Consultant warrants that they are not prevented by any obligations owed to a third party or otherwise in any way from carrying out the Assignment.
- 2.3. Subject to clauses 2.1 and 2.2 above, the Authority hereby engages, and the Consultant hereby accepts such engagement to serve the Authority as a consultant.

3. **Term**

- 3.1. The Consultant shall start (or be deemed to have started) the Assignment on the Commencement Date and shall continue thereafter (notwithstanding earlier completion of the Assignment) until the End Date unless this Agreement is terminated by either party giving prior written notice to the other of not less than the Notice Period
- 3.2. The Authority may extend the Term by up to a period of a further six months by giving the Consultant 1 months' notice in writing. The extension shall be based on the costs outline in Annex 1.

4. **Duties of the consultant**

- 4.1. The Consultant shall, unless prevented by ill health, devote the required time, attention and abilities to the Assignment at the Location (save to the extent expressly agreed by the Authority in writing) to undertake Assignment until the End Date.
- 4.2. The Consultant agrees to comply with all local or internal policies and regulations operated by or affecting the Authority as appropriate to the Assignment.

5. **Fees and expenses**

- 5.1. In consideration of the services rendered by the Consultant under this Agreement the Authority shall pay to the Consultant a Fixed Fee (plus VAT to the extent applicable) for undertaking the Assignment.
- 5.2. The Consultant is responsible for accounting to HM Revenue & Customs and all other authorities for all taxes, insurance contributions and other liabilities, charges and dues for which the Consultant is liable.
- 5.3. The Authority has agreed with the Consultant to reimburse accommodation and travelling expenses for the duration of the assignment in accordance with the Authority's Travel and Subsistence Policy as the same may be varied by the Authority from time to time, and payable in accordance with clause 6 below (for the avoidance of doubt, apartment rental costs shall be treated as hotel accommodation). The Authority shall also reimburse such ad-hoc expenses as are properly incurred by the Consultant from time to time in the performance of his duties under this Agreement.

6. **Payment**

The Authority shall pay the Consultant their fees each calendar month in arrears within 30 (thirty) days of receipt by the Authority of the Consultant's invoice for work done and

reimbursement of expenses is payable by the Authority within 30 (thirty) days of receipt by the Authority of the Consultant's note of expenses accompanied by supporting vouchers.

7. **Intellectual property rights**

- 7.1. All intellectual property rights (including patents, registered designs, unregistered designs, copyrights, technical information or know-how and similar rights both in the UK and abroad) arising in the course of or as a consequence of the Consultant undertaking the Assignment or other work undertaken by the Consultant for the Authority under this Agreement shall belong to the Authority (save for Consultant systems and processes that form an integral part of the Consultant existing intellectual property).
- 7.2. Intellectual property arising under clause 7.1 shall be free of claims of ownership by any third party and all work undertaken by the Consultant in which intellectual property rights might arise shall be the Consultant's own original work and shall not in any way rely on, utilise or incorporate any work written or created by any third party or undertaken at any time by the Consultant for any third party (save for Consultant systems and processes that form an integral part of the Consultant existing intellectual property).
- 7.3. The Consultant shall forthwith communicate to the Authority any designs, discoveries, inventions or other matters potentially the subject of such intellectual property rights and shall at the request of the Authority deliver to it all documents, drawings, models, samples, prototypes and the like prepared by or for the Authority and which relate to such rights.
- 7.4. The Consultant hereby assigns to the Authority by way of future assignment all copyrights or other intellectual property rights arising under clause 7.1 (and waives any equivalent moral rights) immediately on their coming into existence. Further, to the extent that full legal title to any intellectual property right so arising shall fail automatically to belong to the Authority by virtue of the above provisions, the Consultant shall hold such right on trust for the Authority absolutely, and shall (notwithstanding the prior termination of this Agreement for any reason) forthwith at the request of the Authority execute any document or do anything required by the Authority to vest in it (or as it shall direct) the full legal title to such intellectual property right and to enable it (or its nominee) to enjoy the benefit of such right.

8. **Confidentiality**

- 8.1. The Consultant shall not, other than with the prior written consent of the Authority, during or after the termination of this Agreement disclose directly or indirectly to any person, firm, company or third party and shall only use for the purposes of this Agreement:
 - 8.1.1. any information relating to the Assignment or any other work which the Authority has requested that he undertake for it;
 - 8.1.2. any technical information confidential to the Authority (including without limitation the work carried out by the Consultant in pursuance of the Assignment or any other work which the Authority has requested that he undertake for it); and
 - 8.1.3. any other information of whatever nature including without limitation information relating to its business, trade secrets, customers, suppliers

which the Authority or its customers may deem to be confidential and which the Consultant either has already or shall in the future become possessed;

save to the extent the same may become published otherwise than by the wrongful act of the Consultant.

9. **Freedom of information**

9.1. The Consultant acknowledges that the Authority is subject to the requirements of the FOIA and the EIRs. The Consultant shall:

9.1.1. provide all necessary assistance and cooperation as reasonably requested by the Authority to enable the Authority to comply with its obligations under the FOIA and EIRs;

9.1.2. transfer to the Authority all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 (two) working days of receipt;

9.1.3. provide the Authority with a copy of all Information belonging to the Authority requested in the Request for Information which is in its possession or control in the form that the Authority requires within 5 (five) working days (or such other period as the Authority may reasonably specify) of the Authority's request for such Information; and

9.1.4. not respond directly to a Request for Information unless authorised in writing to do so by the Authority.

9.2. The Consultant acknowledges that the Authority may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Consultant. The Authority shall take reasonable steps to notify the Supplier of a Request for Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Agreement) the Authority shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

10. **Data protection**

10.1. The parties agree to comply with the provisions contained in Annex 3 (Data Protection).

11. **Liability and insurance**

11.1. The Consultant is engaged for their ability and expertise in the subject-matter of the Assignment upon which the Authority will rely. In the event that the Authority suffers any loss or damage during or after the termination of this Agreement arising from the negligence of the Consultant, the Consultant shall be liable for such loss or damage in full.

11.2. Accordingly, the Consultant undertakes to take out and maintain adequate insurance cover with a reputable insurance company approved by the Authority, against such liability. The Consultant shall exhibit to the Authority forthwith upon demand, the policy of such insurance, the premium receipt and insurance certificate.

- 11.3. In addition, where any private vehicle is used for travelling, the Consultant shall ensure that such vehicle has third party liability insurance cover extended to include 'business use'.

12. **Default**

If the Consultant shall be guilty of any serious misconduct or any serious breach or non-observance of any of the conditions of this Agreement or shall neglect or fail or refuse to carry out the duties assigned to him under this Agreement, the Authority shall be entitled summarily to terminate his engagement under this Agreement without notice and without any payment in lieu of notice and without prejudice to any rights or claims the Authority may have against the Consultant arising out of such default.

13. **Termination**

- 13.1. Upon the termination of this Agreement, the Consultant (or their personal representative as the case may be), shall immediately deliver up to the Authority all correspondence, reports, documents, specifications, papers, information (on whatever media) and property belonging to the Authority and work (including any report documentation or information on any media written or prepared by the Consultant in carrying out the Assignment or any other work which the Authority has requested that they undertake for it) which may be in their possession or under their control.
- 13.2. The termination of this Agreement, whatever the cause, shall not constitute unfair dismissal nor shall the Consultant be entitled to the payment of any compensation, redundancy payments or otherwise upon the occurrence of the same upon any termination of this Agreement following notice.
- 13.3. Either party may terminate the Agreement by giving thirty (30) days' notice in writing at any time after 2 calendar months from the Commencement Date.

14. **Undertakings by the Consultant**

- 14.1. The Consultant undertakes that they shall not, without the Authority's prior written consent, whether directly or indirectly either for themselves or for any other person firm or company:
- 14.1.1. while this Agreement is in force or for a period of 6 (six) months after completion of the Assignment or later termination of this Agreement, engage, employ or otherwise solicit for employment any person who, during the relevant period, was an employee of the Authority or of any customer of the Authority on whose matters the Consultant was engaged;
- 14.1.2. while this Agreement is in force or for a period of 6 (six) months after completion of the Assignment or later termination of this Agreement, solicit the business of any person, firm, company or otherwise who is or was a customer or supplier of the Authority at any time while this Agreement was in force.

15. **General**

15.1. **Transfer**

The Consultant shall not transfer, assign or delegate the whole or any part of his obligations under this Agreement.

15.2. Headings and Expressions

The headings in this Agreement are for the convenience of reference only and shall not affect its construction.

15.3. Severability

In the event that any term of this Agreement is determined to be invalid or unenforceable to any extent, such term shall be severed from the body of this Agreement which shall continue to be valid and enforceable to the fullest extent permitted by the laws of England.

15.4. Scope

This Agreement shall take effect in substitution for all previous agreements and arrangements, whether written, oral or implied, between the Authority and the Consultant relating to the services of the Consultant and all such agreements and arrangements shall be deemed to have been terminated by mutual consent with effect from the date of this Agreement.

15.5. Notices

Any notice required under this Agreement shall be given in writing and served at the address above of the party to be notified.

15.6. Variations, Amendments

All variations or modifications in this Agreement shall only be binding if recorded in writing and signed by the Consultant and a duly authorised officer of the Authority.

15.7. Governing Law

This Agreement and its provisions shall be construed in accordance with the laws of England.

15.8. Right of Substitution

The Consultant shall provide the services using a suitability qualified person of their own choosing. The Consultant reserves the right to substitute any personnel, provided to the Authority, provided the Authority is satisfied that any proposed substitute has the necessary skills, experience and qualifications for the satisfactory completion of the services. The Consultant will remain liable for the services completed by any substitute and will bear any costs in relation to the substitution.

In witness of the above the parties agree to have signed this Agreement.

For and on behalf of the Customer:

Signature:

Name:

Title:

Date

For and on behalf of the Supplier:

Signature:

Name:

Title:

Date:

Annex 1: Assignment

The Consultant is appointed to work with beneficiaries of the England Infected Blood Support Scheme (EIBSS) team on a case-by-case basis. The Consultant shall manage their own time and choose the most effective location to deliver the following requirements.

The advice that the consultant provides, is independent of the EIBSS, they will provide quality advice to achieve the best outcome for the client.

REQUIREMENT OVERVIEW

- Undertake an initial assessment of the applicant's needs to determine whether these are within the scope of this agreement. The consultant reserves the right to reject an applicant's client's application for assistance, where there is good reason to do so. A full explanation of this rejection will be provided to the applicant, where applicable. To carry out appropriate duties which will maximise the benefit income of individuals who are affected by a long-term health condition and who are being supported by the EIBSS
- To provide specialist welfare benefit advice service to maximise the benefit income of people who are supported by the EIBSS. This will include complex casework including appeals representation, training, advice and support.
- Critical to the success and the effectiveness of the role will be the ability to build, create and maintain strong networks with key professionals and external organisations such as the Department for Work and Pensions, Local Authorities and key health professionals involved in beneficiaries care.
- Act independently, providing and developing a specialist welfare advice and support service to those supported by the EIBSS.
- Interpret national legislation and adjust advice and information to beneficiaries accordingly.
- Acting as a Key worker to assist and advocate on the clients behalf on matters that impact on the well-being of the client of EIBSS

SERVICE REQUIREMENTS

1. Communication and Relationship Skills

- To give high quality information and benefit advice by those supported by EIBSS. To provide this support in the most efficient and effective way.
- To carry out casework according to the requirements of the Advice Quality Standard (AQS)
- To deliver this service by telephone, email, face to face in health, social services and voluntary sector settings.
- To represent clients at appeals up to the Upper Tribunal level.
- To signpost clients to appropriate organisations who deal with financial matters e.g. debt, energy efficiency, grants where this is identified as a need.
- Deal with a range of very sensitive information regarding client's financial information and legal information. Explaining to the patient the intricacies of benefit opportunities and legal services.
- To maintain and produce up-to-date, concise and relevant information which may support those supported by the EIBSS access additional support.
- To keep up to date with developments in benefits by reading journals and other publications, also attending courses and networks of welfare rights advisers as

appropriate. It is important to keep skills and knowledge up to date, as benefits regulations can be complex and change frequently.

- To undertake such other duties and responsibilities as may be required from time to time having regard to the nature of the post.

2. Knowledge, Training and Experience

- Specialist knowledge of client and public issues regarding welfare rights, social care, diversity, bereavement and mental health. The specialist knowledge should be acquired through degree or equivalent plus further experience and training.
- In depth knowledge of legislation regarding welfare rights, patients benefits etc.

Proven track record as a Welfare Rights Advocate with extensive experience of delivering welfare rights advice and social advocacy in community and outreach settings with minimal direct supervision.

3. Analytical and Judgemental Skills

- To Carry out casework, including recording of advice provision and form completion, according to the requirements of the Advice Quality Standard (AQS)
- Assess and analyse patients and relatives issues.
- Make decisions on very complex situations taking into account all the various issues around patients and relatives individual circumstances.
- Interpret complex legislation
- Interpret national legislation and adjust advice and information to beneficiaries accordingly.

4. Physical Skills

- The post holder would be expected to travel to meetings both locally and further afield as required for the delivery of the service.
- Lone working with little day to day supervision, able to work on own initiative

5. Responsibility for Client Care

- Responsible for a caseload of clients who require specialist advice and advocacy on a wide range of subjects, including benefits, social care, and healthcare related queries.
- Responsible for specialist advice to clients, regarding Welfare Rights.
- Act as patient advocate to organisations as appropriate on the client's behalf regarding welfare benefits.
- To keep case notes, files up to date ensuring these are well maintained to ensure that files can be audited by EIBSS (if required) in line with quality assurance checks. As required by the Advice Quality Standard
- To provide advocacy and representation for clients at appeals for welfare benefits issues at both First Tier and Upper Tribunals.

6. Responsibility for Financial and Physical Resources

- To maintain and produce up to date, concise and relevant information relating to people supported by the EIBSS
- Participate in the production of a range of easy-to-understand information material (if required)

- Responsible for financial advice given to clients and those supported by EIBBS
- Responsible for recording clear and detailed records of advice provided for quality assurance

7. Responsibility for Information Resources

- Create reports and spreadsheets pertaining to the welfare service provided for EIBSS managers.
- To report on KPIs to EIBSS management

8. Responsibility for Research and Development

- To regularly audit work to ensure it meets legislative requirements

9. Freedom to Act

- Act independently, providing a specialist welfare advice and support service to those supported by the EIBBS.
- Interpret national legislation and adjust advice and information to beneficiaries accordingly.
- Lone working, with little day to day supervision the role requires a self-starter delivering an outreach service in the community.

10. Physical Effort

- Travel by appropriate means to attend Face to face meetings (if required), use digital and/or telephone services where possible.
- Overnight stays (where required)
- Home working and/or Office conditions.

11. Mental Effort

- Concentration needed for meetings with Clients. Prolonged concentration needed when representing beneficiaries at hearings.

12. Emotional Effort

- There will be a frequent requirement for emotional effort when dealing with distressed and upset clients
- Imparts bad news to beneficiaries e.g. benefit not funded etc.

13. Working Conditions

- Uses VDU equipment every day
- Significant amount of driving is possible (dependent on travel preference) to attend face to face meetings. Beneficiaries are located across England and further afield, as service needs require.
- Occasional verbal aggression

Annex 2: Expertise

Knowledge & Experience:

Knowledge, Training and Experience

- Specialist knowledge of client and public issues regarding welfare rights, social care, diversity, bereavement and mental health.
- The specialist knowledge should be acquired through degree or equivalent plus further experience and training.
- In depth knowledge of legislation regarding welfare rights, patients benefits etc.
- Proven track record as a Welfare Rights Advocate with extensive experience of delivering welfare rights advice and social advocacy in community and outreach settings with minimal direct supervision.

Qualifications:

Qualifications for this role include but are not limited to;

A qualification or a degree in a relevant subject such as;

- Community Development
- Social Policy
- Counselling
- Social Work
- Legal Work
- Advice and Guidance; or

City & Guilds NVQ Level 2/3 in Advice and Guidance Support; or

NVQ in Legal Advice at Levels 2, 3 or 4.

Annex 3: Costs

[REDACTED]

[REDACTED]

[REDACTED]

■ [REDACTED]

■ [REDACTED]

[REDACTED]

■ [REDACTED]

Annex 4: Data Protection

The following terms shall have the meanings ascribed to them for the purposes of this Annex 3:

“Controller”	has the meaning given in Data Protection Legislation and "Joint Controllers" has the meaning given in Article 26 GDPR;
“Data Protection Legislation”	the Data Protection Act 2018, GDPR and any other applicable laws relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the European Data Protection Board, the Information Commissioner or a relevant Central Government Body in relation to such laws;
“Data Subject”	has the meaning given in Data Protection Legislation;
“Data Subject Rights Request”	a request made by a Data Subject in accordance with rights granted pursuant to Data Protection Legislation to access his or her Personal Data;
“European Law”	European Union or European Member State law (as referred to in Data Protection Legislation) or such other law as may be designated in its place when England (whether with Scotland, Wales and/or North Ireland or not), leaves the European Union;
"GDPR"	the General Data Protection Regulation (Regulation (EU) 2016/679 of the European Parliament and of the Council);
“Personal Data”	has the meaning given in Data Protection Legislation;
“Personal Data Breach”	has the meaning given in Data Protection Legislation;
“Process”	has the meaning given in Data Protection Legislation and “Processed” and “Processing” shall be construed accordingly;
“Processor”	has the meaning given in Data Protection Legislation;
“Restricted Country”	any third country or international organisation as described in the GDPR (but excluding any of England, Scotland, Wales and Northern Ireland, if they leave the European Union);

1 PROTECTION OF PERSONAL DATA

- 1.1 Where any Personal Data is Processed in connection with the exercise of the parties' rights and obligations under this Agreement, the parties acknowledge that the Authority is a Controller, and that the Consultant is Controller.
- 1.2 The Authority and the Consultant shall set out details of their Processing under this Agreement in the template at Part 1 of the schedule (Details of Data Processing) to this Annex 3. The Authority and the Consultant shall record details of their responsibilities for Processing in the template at Part 2 of the schedule (Details of Data Processing) to this Annex 3. The parties agree to update their completed template as

necessary during the term of this Agreement to reflect any changes in Processing. Each completed template (as updated from time to time) shall form part of this Agreement.

1.3 The Consultant shall:

- (a) Process the Personal Data in accordance with documented instructions from the Authority. Those instructions include to perform its obligations under this Agreement, including with regard to transfers of Personal Data to a Restricted Country, unless required to do so by European Law to which the Consultant is subject; in such a case, the Consultant shall inform the Authority of that legal requirement before Processing, unless that European Law prohibits such information on important grounds of public interest;
- (b) ensure that persons authorised to process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
- (c) take all measures required pursuant to Article 32 GDPR and ensure that, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, it shall implement and at all times keep in place appropriate technical and organisational measures to guard against unauthorised or unlawful processing of the Personal Data and/or accidental loss, accidental or unlawful destruction, alteration, unauthorised disclosure of, access to or damage to the Personal Data and to ensure a level of security appropriate to the risk and as appropriate:
 - (i) the pseudonymisation and encryption of Personal Data;
 - (ii) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
 - (iii) the ability to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident; and
 - (iv) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the Processing;
- (d) Sub processing is not permitted. However, another Consult contracted to the NHSBSA for these purposes can be used as detailed in Annex 1. to the Authority for the performance of that Sub-Processor's obligations;
- (e) taking into account the nature of the Processing, assist the Authority by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Authority's obligation to respond to requests for exercising the Data Subject's rights laid down in Chapter III of Data Protection Legislation;
- (f) assist the Authority in ensuring compliance with the obligations pursuant to Articles 32 to 36 GDPR taking into account the nature of Processing and the information available to the Consultant;

- (g) at the choice of the Authority, delete or transfer all the Personal Data to the new Consultancy provider after the end of the provision of services relating to Processing, and delete existing copies unless European Law requires storage of the Personal Data;
- (h) make available to the Authority all information necessary to demonstrate compliance with the obligations laid down in Article 28 GDPR and allow for and contribute to audits, including inspections, conducted by the Authority or another auditor mandated by the Authority, and shall immediately inform the Authority if, in its opinion, an instruction infringes Data Protection Legislation, other Data Protection Legislation or other data protection provisions in European Law;
- (i) procure that any person acting under the authority of the Consultant who has access to Personal Data, shall not Process the Personal Data except on instructions from the Authority, unless required to do so by European Law;
- (j) not disclose or transfer the Personal Data to any third party or Consultant personnel unless necessary for the provision of the services under this Agreement and, for any disclosure or transfer of Personal Data to any third party, obtain the prior written consent of the Authority (save where such disclosure or transfer is specifically authorised under this Agreement);
- (k) take all reasonable steps to ensure the reliability and integrity of any Consultant personnel who have access to the Personal Data and ensure that the Consultant personnel:
 - (i) are aware of and comply with the Consultant's duties under this Annex 3;
 - (ii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Authority or as otherwise permitted by this Agreement; and
 - (iii) have undergone adequate training in the use, care, protection and handling of Personal Data;
- (l) notify the Authority:
 - (i) as soon as possible and in any event within 2 working days if it receives from a Data Subject (or third party on their behalf):
 - (A) a Data Subject Rights Request (or purported Data Subject Rights Request);
 - (B) a request to rectify, restrict or erase any Personal Data; or
 - (C) any other request, complaint or communication relating to the Authority's obligations under Data Protection Legislation;
 - (ii) as soon as possible and in any event within 2 working days if it receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data;

- (iii) as soon as possible and in any event within 2 working days if it receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - (iv) promptly and without undue delay, and in any event within 24 hours, upon becoming aware of any Personal Data Breach or circumstances that are likely to give rise to a Personal Data Breach.
- (m) provide the Authority with full cooperation and assistance within 10 working days (or such other period as may be agreed) in relation to any complaint, communication or request made as referred to in paragraph 1.3(l) to this Annex 3, including by promptly providing:
 - (i) the Authority with full details and copies of the complaint, communication or request;
 - (ii) where applicable, such assistance as is reasonably requested by the Authority to enable the Authority to comply with the Data Subject Rights Request within the relevant timescales set out in Data Protection Legislation; and
 - (iii) the Authority, on request by the Authority, with any Personal Data the Consultant holds in relation to a Data Subject;
- (n) if requested by the Authority, provide a written description of the measures that it has taken and technical and organisational security measures in place, for the purpose of compliance with its obligations pursuant to this paragraph 1 to this Annex 3 and provide to the Authority copies of all documentation relevant to such compliance including, protocols, procedures, guidance, training and manuals; and
- (o) comply with its obligations as Processor under Data Protection Legislation.

1.4 The Consultant shall not Process or otherwise transfer any Personal Data in or to any Restricted Country. If, after the Effective Date, the Consultant or any Sub-contractor wishes to Process and/or transfer any Personal Data in or to any Restricted Country, the following provisions shall apply:

- (a) the Consultant shall submit a request to vary the Agreement to the Authority which the Authority may, at its discretion, choose to accept or reject;
- (b) the Consultant shall set out in its request to vary the Agreement details of the following:
 - (i) the Personal Data which will be transferred to and/or Processed in any Restricted Country;
 - (ii) the Restricted Country or Countries which the Personal Data will be transferred to and/or Processed in;
 - (iii) any Sub-contractors or other third parties who will be Processing and/or receiving Personal Data in Restricted Countries; and

- (iv) how the Consultant will ensure an adequate level of protection and adequate safeguards in respect of the Personal Data that will be Processed in and/or transferred to Restricted Countries so as to ensure the Authority's and Consultant's compliance with Data Protection Legislation;
- (c) in providing and evaluating the request to vary the Agreement, the parties shall ensure that they have regard to and comply with then-current Authority, Central Government Bodies, European Data Protection Board and Information Commissioner's Office policies, procedures, guidance and codes of practice on, and any approvals processes in connection with, the Processing in and/or transfers of Personal Data to any Restricted Country; and
- (d) the Consultant shall comply with such other instructions and shall carry out such other actions as the Authority may notify in writing, including:
 - (i) incorporating standard contractual clauses (which are approved by the European Commission as offering adequate safeguards under Data Protection Legislation) into this Agreement or a separate data processing agreement between the parties; and
 - (ii) procuring that any Sub-contractor or other third party who will be Processing and/or receiving or accessing the Personal Data in any Restricted Country either enters into:
 - (A) a direct data processing agreement with the Authority on such terms as may be required by the Authority; or
 - (B) a data processing agreement with the Consultant on terms which are equivalent to those agreed between the Authority and the Sub-contractor relating to the relevant Personal Data transfer,

and in each case which the Consultant acknowledges may include the incorporation of standard contractual clauses (which are approved by the European Commission as offering adequate safeguards under Data Protection Legislation) and technical and organisation measures which the Authority deems necessary for the purpose of protecting Personal Data.

1.5 The Consultant shall assist the Authority to comply with any obligations under Data Protection Legislation and shall not perform its obligations under this Agreement in such a way as to cause the Authority to breach any of its obligations under Data Protection Legislation to the extent the Consultant is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations.

1.6 The Consultant shall co-operate fully with the Authority in respect of compliance with Data Protection Legislation, including:

- (a) entering into standard contractual clauses for Processors with the Authority if requested by the Authority; and
- (b) complying with the Authority's data protection policies and procedures as made available to the Consultant from time to time.

- 1.7 In the event that there is a change in applicable Data Protection Legislation in England during the Term, and/or, if applicable, there is a change during the Term in the available mechanisms used to transfer Personal Data to a Restricted Country, the parties agree to take such reasonable and appropriate steps and to negotiate in good faith such variation to this paragraph 1 to this Annex 3 and corresponding definitions and any other affected provisions during the Term if variation is required to ensure the parties' ongoing compliance with applicable Data Protection Legislation.
- 1.8 Notwithstanding the acknowledgement at paragraph 1.1 to this Annex 3 that the Consultant is a Controller, if and to the extent that the parties are Joint Controllers under this Agreement, they shall act in a transparent manner to determine their respective responsibilities for compliance with the obligations under Data Protection Legislation, in particular as regards the exercise of the rights of the Data Subject and their respective duties to provide the information as referred to in Articles 13 and 14 GDPR, by means of an arrangement between them unless, and insofar as, the respective responsibilities of Joint Controllers are determined by European Law to which they are subject. The parties shall record the Joint Controller arrangement between them in the template at Part 3 of the schedule (Details of Data Processing) to this Annex 3, which arrangement may designate a contact point for Data Subjects and shall duly reflect the respective roles and relationships of the parties (with or without the Additional Body) as Joint Controllers vis-à-vis the Data Subjects. The parties agree to update their completed template as necessary during the term of the Agreement to reflect any changes in the arrangement. The completed template (as updated from time to time) shall form part of this Agreement. The essence of the arrangement shall be made available to the Data Subject. The parties acknowledge that irrespective of the terms of the arrangement set out in the completed template at Part 3 of the schedule (Details of Data Processing) to this Annex 3, the Data Subject may exercise his or her rights under Data Protection Legislation in respect of and against each of the Joint Controllers.

SCHEDULE

DETAILS OF DATA PROCESSING

Part 1: Personal Data Processed

Requirement in Article 28(3) GDPR for processors	Details for this Agreement
The subject matter of the Processing	Consultancy service to Data Subjects
The duration of the Processing	Until services invoiced to the Authority or transferred to new Consultancy provider, whichever is the sooner
The nature and purpose of the Processing	Providing benefits advise to beneficiaries of the England Infected Blood Scheme (EIBSS)
The type of Personal Data	Health related and financial
The categories of Data Subjects	<i>EIBSS Beneficiaries</i>

Part 2: Responsibilities

Responsibilities under Article 82	Details for this Agreement
Authority responsibilities for Processing	Controller
Consultant responsibilities for Processing	Controller as acts independently of the Authority in the advice it provides to Data Subjects

1. The Controllers shall record details of their responsibilities for Processing in the table below.

<i>Responsibilities under Article 82 Compensations & Liability</i>	<i>Details for this Agreement</i>
<i>Authority responsibilities for Processing</i>	<i>Arrange transfer of Data Subjects from previous Consultancy provider Signpost EIBSS Beneficiaries to the Consultancy, validate data subjects entitlement before the consultancy provides services to them Pay invoices relating to services provided Ensure Consultancies aware of the other contracted consultancies</i>

<i>Consultancy responsibilities for Processing</i>	<i>Receive transferred Data Subjects</i> <i>When appropriate, Transfer Data Subjects to another Consultancy contracted with the Authority</i> <i>Enter an agreement with each Data subject</i> <i>Share EIBSS reference number, first and last name security with the Authority to Validate Data subjects</i> <i>Process only the Data Subjects personal data necessary to deliver the service</i> <i>Accurately and promptly provide Data Subjects Personal data to confirm services provided Invoice the authority when services are completed</i> <i>Delete the Data subject's data once invoice is authorised for payment</i> <i>Consultancy to securely Transfer any retained Data Subjects to the new consultancy service provider</i>
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2. If and to the extent that the Parties are Joint Controllers under this Agreement, they shall act in a transparent manner to determine their respective responsibilities for compliance with the obligations under the GDPR, in particular as regards the exercise of the rights of the Data Subject and their respective duties to provide the information as referred to in Articles 13 and 14 GDPR, by means of an arrangement between them unless, and insofar as, the respective responsibilities of Joint Controllers are determined by European Law to which they are subject. The Parties shall record the Joint Controller arrangement between them, by populating all the tables within this Schedule 3, and may designate a contact point for Data Subjects and shall duly reflect the respective roles and relationships of the Parties as Joint Controllers vis-à-vis the Data Subjects.

<i>Transparency Requirement in Article 26 GDPR for Joint Controllers</i>	<i>Details for this Agreement</i>
<i>Exercise of Data Subject rights (Article 15 to Article 22 - these refer to information rights of the individual)</i>	<i>The Authority will action these rights for the information it holds and pass on the request to the Supplier as detailed in paragraph 1.3(I) to this schedule.</i> <i>The consultancy will action these rights for the information it holds and pass on the request to the Authority as detailed in paragraph 1.3(I) to this schedule.</i>

<i>Duties to provide information under Article 13 and Article 14 (Privacy Notice)</i>	<i>The consultancy will provide this in the agreement signed with the Data Subject The Authority will provide this when signposting the data subjects to the Consultancy</i>
<i>Obligations, relevant to the arrangement – each in a separate row of the table – this should also cover the responsibilities of each Party for the purpose of Article 34 and Article 82 GDPR</i>	<i>The relevant Partners Data Protection Officer/ Data Protection lead will be the person responsible for informing the Data Subjects and the ICO if appropriate.</i>
<i>Data Subjects right to compensation and liability</i>	<i>Nothing within the MoU relieves either Partner of their own direct responsibilities and liabilities under GDPR</i>
<i>Contact point for Data Subjects (optional)</i>	<i>The Data Protection Officer/ Data Protection lead of either party will be the contact points</i>

3. The Parties agree to update their completed tables as necessary during the Term to reflect any changes in the arrangement. The completed tables (as updated from time to time) shall form part of this Agreement. The essence of the arrangement shall be made available to the Data Subject. The Parties acknowledge that irrespective of the terms of the arrangement set out in this Schedule 3, the Data Subject may exercise his or her rights under the GDPR in respect of and against each of the Joint Controllers.

Annex 5: Travel and Subsistence

The following policies apply to the travel and subsistence undertaken, as part of the requirements detailed in annex 1.

Travel and subsistence



Travel, Subsistence
and Expenses Guidan

Please note:

These policies are NHSBSA internal policies and should be adhered to as closely as possible. Example: NHSBSA use an internally accessible travel booking system, which will not accessible under this agreement.

The policies should be used as a guide when making and claiming for associated expenses, these should be claimed through the monthly invoice process clause 6.

If the consultant has any questions relating to these policies, they should contact:

Email: nhsbsa.eibss@nhs.net

Phone: 0300 330 1294 (Monday to Friday from 9am to 5pm)