

Dated

- (1) NATIONAL CENTRE FOR SOCIAL RESEARCH**
- (2) THE SECRETARY OF STATE FOR WORK AND PENSIONS**
(the “Authority”) acting as part of the Crown

CONTRACT
relating to British Social Attitudes Survey 2019-21

THIS AGREEMENT is dated May 2019

Parties

- (1) **NATIONAL CENTRE FOR SOCIAL RESEARCH**, a company registered in England and Wales (company registration number: 04392418) whose registered office is at 35 Northampton Square, London EC1V 0AX ("**NatCen**").
- (2) **THE SECRETARY OF STATE FOR WORK AND PENSIONS** (the "Authority") acting as part of the Crown, of Caxton House, Tothill Street, London SW1H 9DA. (DWP).

Background

- (A) DWP wishes to contract NatCen to undertake a project titled British Social Attitudes Survey 2019-21: Welfare module (the "**Main Contract**").

Agreed terms

1. Interpretation

- 1.1 The following definitions and rules of interpretation in this clause apply in this agreement.

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Commencement Date: February 2019

Contract Price: the sums due to be paid by £524,200 to NatCen in consideration of the provision of the Services, as set out in Appendix 2.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Main Contract: has the meaning given in Recital (A).

Services: the services to be provided by NatCen to DWP as described in Appendix 1.

- 1.2 Clause, appendix and paragraph headings shall not affect the interpretation of this agreement.

- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The appendices form part of this agreement and shall have effect as if set out in full in the body of this agreement and any reference to this agreement includes the appendices.
- 1.5 References to clauses and appendices are to the clauses and appendices of this agreement; references to paragraphs are to paragraphs of the relevant appendix.

2. The Services

- 2.1 NatCen shall from the Commencement Date and for the duration of this agreement provide the Services to DWP in accordance with the terms of this agreement.
- 2.2 In providing the Services, NatCen shall:
 - 2.2.1 co-operate with and comply with all reasonable instructions of DWP;
 - 2.2.2 perform the Services with care, skill and diligence in accordance with best practice in NatCen's industry, profession or trade;
 - 2.2.3 use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number, to ensure that the NatCen's obligations are fulfilled in accordance with this agreement;
 - 2.2.4 at its cost, promptly provide such information to DWP relating to the provision of the Services that DWP may request at any time;
 - 2.2.5 ensure that the Services will conform with all descriptions and specifications set out in Appendix 1; and
 - 2.2.6 obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations.

3. Data protection

NatCen is the sole Data Controller for the British Social Attitudes survey. NatCen shall comply with the Data Controller obligations specified in Data Protection Legislation and shall implement appropriate technical and organisational measures to ensure and be able to demonstrate that processing is performed in accordance with the GDPR.

4. DWP's obligations

- 4.1 DWP shall provide such information to NatCen as NatCen may reasonably request and NatCen considers reasonably necessary for the purpose of providing the Services.

5. Intellectual property rights

The Copyright and intellectual property rights on the British Social Attitudes data will rest with NatCen. However, NatCen will licence DWP (and other funders) to use the data free of charge, subject to the following conditions.

In the period between dataset delivery and the publication of the annual British Social Attitudes Report, data from the survey may be used internally by DWP without restriction (both for their funded questions and for those funded by other module owners or the core funding). In this period, DWP may also use the data from DWP's module publicly on the following conditions:

- Each funder must seek the consent of NatCen if they intend to quote publicly data from their module. Permission will normally be granted providing that:
 - Publication and any accompanying press releases or public outreach does not occur in the calendar month leading up to the publication of the British Social Attitudes Annual Report (the approximate date of which will be confirmed to funders a minimum of 2 months in advance)
 - NatCen is consulted regarding any accompanying press releases or public dissemination surrounding publication
 - Any publication by DWP in the period between dataset delivery and the publication of the annual British Social Attitudes Report will be subject to the payment of an additional admin fee. The additional fee will be agreed at the point of consent being granted by NatCen, dependant on work required to facilitate DWP's publication.
- NatCen must seek the consent of DWP if they intend to quote publicly data from their module.
- Note that DWP may not release publicly data from modules other than the DWP's module during this period without the prior permission of NatCen, who in turn will need to seek permission from the funder of that module.
- All uses of the data must be credited as coming from 'NatCen Social Research's British Social Attitudes survey'.

In the period after the BSA Report publication and before depositing data at the UK Data Archive, the following conditions apply:

- DWP and NatCen may use data from the DWP's module publicly without restriction.
- DWP may not release publicly data from modules other than the DWP's module during this period without the prior permission of NatCen, who in turn will need to seek permission from the funder of that module.

The dataset of the survey will be deposited with the UK Data Archive at the University of Essex in the months after the publication of the Annual Report. Since the data will then be in the public sphere, they may be freely used without restriction by non-commercial organisations. NatCen reserves the right to charge commercial organisations for using the data in any way.

6. Payment terms

- 6.1 NatCen shall invoice DWP on the dates set out in Appendix 2 and DWP shall pay such amounts to NatCen within 30 days of the date of receipt by DWP of a valid invoice.
- 6.2 The Contract Price plus any applicable VAT at the prevailing rate shall be payable by DWP to NatCen on the dates set out in Appendix 2 and in the manner set out in this clause 5.
- 6.3 DWP shall pay all invoices by bank transfer to such account as NatCen shall nominate in writing.
- 6.4 NatCen shall maintain complete and accurate records of the time spent, costs incurred and materials used in providing the Services, and shall allow DWP to inspect and take copies of such records at all reasonable times on request.

7. Insurance

- 7.1 For the duration of this agreement and for a reasonable period thereafter, NatCen shall at its own expense arrange with a reputable insurer professional indemnity insurance cover with an indemnity limit of not less than £2 million.
- 7.2 NatCen shall, at the request of DWP, promptly produce full details of its insurance cover.
- 7.3 This clause 6 shall survive termination of this agreement.

8. Limitation of liability

- 8.1 Nothing in the Contract shall limit or exclude NatCen's liability for:
 - (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - (b) fraud or fraudulent misrepresentation; or
 - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.
- 8.2 Subject to clause 7.1, NatCen shall not be liable to DWP, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:
 - (a) loss of profits;
 - (b) loss of sales or business;
 - (c) loss of agreements or contracts;
 - (d) loss of anticipated savings;

- (e) loss of use or corruption of software, data or information;
 - (f) loss of damage to goodwill; and
 - (g) any indirect or consequential loss.
- 8.3 Subject to clause 7.1 and 7.2, NatCen's total liability to DWP, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract shall be limited to the total Charges paid under the Contract.
- 8.4 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 8.5 This clause 7 shall survive termination of the Contract.
- 9. Termination**
- 9.1 Without prejudice to any other termination rights that it may have, DWP may terminate this agreement by serving not less than one months notice in writing on NatCen.
- 9.2 DWP may terminate this agreement immediately by giving notice in writing to NatCen in the event that:
- 9.2.1 NatCen breaches any term of this agreement and, if remediable, fails to remedy the breach within such reasonable time as may be specified by DWP;
 - 9.2.2 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of NatCen;
 - 9.2.3 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 given or if an administrator is appointed, over NatCen;
 - 9.2.4 the holder of a qualifying floating charge over the assets of NatCen has become entitled to appoint or has appointed an administrative receiver;
 - 9.2.5 a person becomes entitled to appoint a receiver over the assets of NatCen or a receiver is appointed over its assets;
 - 9.2.6 NatCen suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
 - 9.2.7 NatCen enters into any proceedings analogous with those in clauses 7.3.2 to 7.3.6, including any analogous proceedings for individuals, if NatCen is an individual.
- 9.3 Any termination of this agreement shall be without prejudice to any rights or remedies that may have accrued to either party.

10. DWP's remedies

10.1 In the event of any material breach of contract by NatCen (which, if remediable, is not remedied by NatCen within such reasonable time as may be agreed in writing between NatCen and DWP), DWP reserves the right, without limiting its other rights or remedies, to one or more of the following:

10.1.1 to terminate this agreement with immediate effect by giving written notice to NatCen;

10.1.2 to refuse to accept any subsequent performance of the Services which NatCen attempts to make;

10.1.3 to recover from NatCen any costs incurred by DWP in obtaining substitute services from a third party;

10.1.4 to recover from NatCen any losses in relation to any breach by DWP of the Main Contract which are in any way attributable to NatCen's failure to meet such dates or standards;

10.1.5 where DWP has paid in advance for Services that have not been provided by NatCen, to have such sums refunded by NatCen; or

10.1.6 to claim damages for any additional costs, loss or expenses incurred by DWP which are in any way attributable to NatCen's failure to meet such dates or standard.

10.2 These rights:

10.2.1 shall extend to any substituted or remedial services provided by NatCen; and

10.2.2 are in addition to its rights and remedies under general law.

11. Further assurance

11.1 At all times after the date of this agreement the parties shall, at their own expense, execute all such documents and do all such acts and things as may reasonably be required for the purpose of giving full effect to this agreement.

12. Assignment and subcontracting

12.1 NatCen shall not assign, transfer, mortgage, charge, subcontract or deal in any other manner with any or all of its rights and obligations under this agreement without the prior written consent of DWP.

12.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

13. Confidentiality

- 13.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, research, surveys, projects, customers, clients or suppliers (including details of any work undertaken by NatCen under this agreement) of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 11.2.
- 13.2 Each party may disclose the other party's confidential information:
- 13.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause; and
- 13.2.2 as may be required by law, court order or any governmental or regulatory authority.
- 13.3 No party shall use any other party's confidential information for any purpose other than to perform its obligations under this agreement.

14. Whole agreement

- 14.1 This agreement constituted the whole agreement between the parties and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter it covers.
- 14.2 Each party acknowledges that, in entering into this agreement, it does not rely on, and shall have no remedy in respect of, any statement, representation, assurance or warranty (whether of fact or of law and whether made innocently or negligently) of any person other than as expressly set out in this agreement.
- 14.3 Nothing in this clause 12 operates to limit or exclude any liability for fraud.

15. Variation and waiver

- 15.1 Any variation of this agreement, save for a variation in accordance with clause 2.3, shall be in writing and signed by or on behalf of each party.
- 15.2 Any waiver of any right under this agreement is only effective if it is in writing and signed by the waiving or consenting party and it applies only in the circumstances for which it is given, and shall not prevent the party who has given the waiver from subsequently relying on the provision it has waived.
- 15.3 Except as expressly stated, no failure to exercise or delay in exercising any right or remedy provided under this agreement or by law constitutes a waiver of such right or remedy or shall prevent any future exercise in whole or in part thereof.

15.4 No single or partial exercise of any right or remedy under this agreement shall preclude or restrict the further exercise of any such right or remedy.

15.5 Unless specifically provided otherwise, rights arising under this agreement are cumulative and do not exclude rights provided by law.

16. Costs

16.1 Each party shall bear its own legal, accountancy and other costs, charges and expenses connected with the negotiation, preparation and implementation of this agreement and any other agreement incidental to or referred to in this agreement.

17. Notice

17.1 A notice given under this agreement:

17.1.1 shall be sent for the attention of the person, and to the address given in this clause 15 (or such other address or person as the relevant party may notify to the other party); and

17.1.2 shall be:

- (a) delivered personally; or
- (b) sent by pre-paid first-class post or recorded delivery; or
- (c) (if the notice is to be served by post outside the country from which it is sent) sent by airmail; or
- (d) sent by email;

17.2 The addresses for service of notice are as set out at the head of this agreement. In the case of email, the e-mail address shall be such address as either of the parties may notify to the other from time to time.

17.3 A notice is deemed to have been received:

17.3.1 if delivered personally, at the time of delivery; or

17.3.2 in the case of pre-paid first class post or recorded delivery, 48 hours from the date of posting; or

17.3.3 in the case of airmail, five days from the date of posting; or

17.3.4 in the case of email, at the time of successful transmission; or

17.3.5 if deemed receipt under the previous paragraphs of this clause 17.3 is not within business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a Business Day), when business next starts in the place of receipt.

17.4 To prove service, it is sufficient to prove that the envelope containing the notice was properly addressed and posted or, in the case of email, that the notice was transmitted to a valid email address and was not returned as undelivered.

17.5 If a notice is sent by email, a hard copy of such notice shall be posted as soon as practicable after the initial transmission of the notice by email. The failure by either party to comply with this clause shall not, however, render any notice invalid or ineffective.

18. Severance

18.1 If any provision of this agreement (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

18.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

19. Third party rights

19.1 No term of this agreement shall be enforceable by a third party (being any person other than the parties).

20. No partnership or agency

20.1 NatCen agrees that its status is that of an independent contractor and nothing in this agreement shall render NatCen the employee, worker, agent or partner of the DWP and NatCen shall not hold itself out as such.

20.2 Nothing in this agreement shall be deemed to constitute a partnership between the parties or constitute any party the agent of the other party for any purpose or entitle either party to commit or bind the other party.

21. Counterparts

21.1 This agreement may be executed in any number of counterparts, each of which is an original and which together have the same effect as if each party had signed the same document.

22. Governing law and jurisdiction

22.1 This agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the laws of England.

22.2 The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

23. Precedence of Proposal

The Proposal (a copy of which is contained in Appendix 1) shall be deemed to apply to this agreement and be fully incorporated into it. In the event of any conflict between the provisions of this agreement and the proposal the latter shall prevail.

This agreement has been entered into on the date stated at the beginning of it.

Signed by
(signature)
Name (print)
Job title
Date
.....

for and on behalf of
**National Centre for Social
Research**

Signed by
(signature)
Name (print)
Job title
Date
.....

for and on behalf of
DWP

Appendix 1

The Services

REDACTED

Appendix 2

Contract Price and Invoice Schedule

REDACTED

Invoice schedules for 2020 and 2021 are to be confirmed.