



Ministry  
of Justice

**THE LORD CHANCELLOR**

And

**MANAGED AND APPROVED SERVICE PROVIDER**

**The Intermediary Group Limited  
T/A The Intermediary Cooperative**

**FRAMEWORK AGREEMENT**  
for the provision of  
**COURT APPOINTED INTERMEDIARY SERVICES**

Dated: [                      ]

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## Parties

- (1) **THE LORD CHANCELLOR** whose principal place of business is at 102 Petty France, London, SW1H 9AJ (**Authority**).
- (2) **The Intermediary Group Limited** incorporated and registered in England and Wales with company number 13333367 whose registered office is at Charter Buildings, 9 Ashton Lane, Sale, Greater Manchester, M33 6WT (**Service Provider**).

## Background

- (A) The Authority placed a notice 2021/S 000-019526 on 11<sup>th</sup> August 2021 in the Find a Tender Service seeking expressions of interest from potential service providers for the provision of services under a framework agreement.
- (B) The Authority invited potential service providers (including the Service Provider) on 11<sup>th</sup> August 2021 to tender for the provision of Managed and Approved Service Providers to provide Court Appointed Intermediary services and invited further tenders in accordance with the Framework Recurring Application Process run at intervals during the term of the Framework Agreement.
- (C) On the basis of the Service Provider's Tender, the Authority selected the Service Provider to enter a framework agreement to provide services as and when an Booking is placed in accordance with this Framework Agreement.
- (D) This Framework Agreement sets out the procedure for the recurring application process, booking Services, the main terms and conditions for the provision of the Services and the obligations of the Service Provider under this Framework Agreement.
- (E) It is the Parties' intention that the Authority will have no obligation to place Bookings with the Service Provider under this Framework Agreement.

## Agreed terms

### 1. DEFINITIONS AND INTERPRETATION

- 1.1 The definitions and rules of interpretation in this clause apply in this Framework Agreement.

**Approval:** means the prior written approval of the Authority.

**Approved Service Provider Framework Agreement:** means the Authority's framework agreement for the provision of court appointed intermediary services by approved service providers.

**Assessment Booking Form:** means the form sent by the Authority or a Commissioning Body to the Service Provider to request the services of a court appointed intermediary to carry out an Assessment of a Service User.

**Assessment Report:** has the meaning given in the Specification.

**Audit:** means an audit carried out pursuant to clause 11.

**Auditor:** means the Authority's internal and external auditors, including the Authority's statutory or regulatory auditors, the Comptroller and Auditor General, their staff or any appointed representatives of the National Audit Office, HM Treasury or the Cabinet Office, any party formally appointed by the Authority to carry out audit or similar review functions and the successors or assigns of any Auditor.

**Authorised Representative:** means the persons respectively designated as such by the Authority and the Service Provider.

**Booking** means a booking for Services sent to the Service Provider in accordance with the booking process in the Specification..

**Booking Change or Cancellation Form:** is the form sent by the Authority to the Service Provider in the event that the Authority requires a Cancellation or Curtailment to the Services.

**CAIS Guidance:** means the guidance produced by the Authority for Commissioning Bodies relating to the booking and provision of Services under this Framework Agreement and any Call-Off Contracts.

**Call-Off Contract:** means a legally binding agreement (made pursuant to the provisions of this Framework Agreement) for the provision of Services made between the Authority and the Service Provider comprising an Assessment Booking Form and/or an Hearing Booking Form, its appendices, and the Call-off Terms and Conditions.

**Cancellation:** means the cancellation of the Services by the Authority or Commissioning Body where those Services are no longer required.

**Change of Control:** means a change of control within the meaning of section 1124 of the Corporation Tax Act 2010.

**Commercially Sensitive Information:** means the information listed in Schedule 12 comprising the information of a commercially sensitive nature relating to the Service Provider's Tender and certain other documentation provided by the Service Provider to the Authority.

**Complaint:** means any formal complaint raised by the Authority, a Service User, Commissioning Body or any other third party in relation to the performance of the Service Provider under the Framework Agreement or any Call-Off Contract in accordance with clause 26.

**Commissioning Body:** has the meaning given in the Specification.

**Comparable Supply:** means the supply of Services to another customer of the Service Provider which are the same or similar to any of the Services.

**Confidential Information:** means any information of either Party, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and sub-contractors of the Parties, including Personal Data, Intellectual Property Rights, together with all information derived from the above, any information developed by the Parties in the course of carrying out this agreement and 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.

**Controller:** has the meaning given in GDPR;

**Curtailment:** is the reduction in the number of days or hours that the Services are required which is actioned after the Services Commencement Date.

**Default:** means any breach of the obligations of the relevant Party under the Framework Agreement or any Call-Off Contract (including fundamental breach or breach of a fundamental term) or any other default (including a Notifiable Default), act, omission, negligence or negligent statement of the relevant Party or the Staff in connection with or in relation to the subject matter of the Call-Off Contract and in respect of which such Party is liable to the other.

**Data Loss Event:** means any event which results, or may result, in unauthorised access to Personal Data held by the Service Provider under a Call-Off Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of the Call-Off Contract, including any Personal Data.

**Data Protection Impact Assessment (DPIA):** means an assessment by the Controller of the effect of the envisaged processing on the protection of Personal Data.

**Data Protection Legislation:** means the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications) and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.

**Data Subject:** shall have the same meaning as set out in the Data Protection Legislation.

**Data Subject Access Request** means 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.

**Dispute:** any claim, dispute or difference arises out of or in connection with the with the Framework Agreement and/or any Call-Off Contract.

**Enhanced Monitoring:** means any additional monitoring put into place by the Authority under clause 21

**EIRs:** mean the Environmental Information Regulations 2004 (SI 2004/3391) together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

**FOIA:** means 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.

**Framework Agreement:** means this agreement and all Schedules to this agreement as varied from time to time.

**Framework Agreement Variation Procedure:** means the procedure set out in clause 34 and Schedule 13.

**Framework Commencement Date:** means the date of the Authority signature and as included on the first page of this agreement.

**Framework Services Commencement Date:** means 1<sup>st</sup> April 2022.

**Framework Providers:** means the Service Provider and other Service Providers appointed as framework providers under this Framework Agreement.

**Framework Term:** is the period detailed in clause 2.1 as may be extended in accordance with clause 2.2 or terminated earlier in accordance with the terms of this Framework Agreement.

**GDPR:** means the General Data Protection Regulation ((EU) 2016/679).

**General Change in Law** means a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Service Provider) or which affects or relates to a Comparable Supply.

**Guidance:** means any guidance issued or updated by the UK government from time to time in relation to the Public Contracts Regulations 2015.

**Hearing Booking Form:** means the form attached at the Annex to Section 15.5 of the Specification.

**Key Sub-Contractors:** means the people named in Schedule 6 as key sub-contractors.

**Information:** has the meaning given under section 84 of the FOIA.

**Implementation Period:** is the period starting on the Framework Commencement Date and ending on the Framework Services Commencement Date.

**Key Performance Indicator(s) or KPI(s):** a key performance indicator as set out in Schedule 9.

**Key Personnel:** means the people named in Schedule 6 as key personnel, if any.

**KPI Failure:** a KPI Failure as detailed in Schedule 8.

**Law:** means any applicable Act of Parliament, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any Regulatory Body.

**Managed and Approved Service Providers:** means the providers of the Services under this Framework Agreement.

**Management Information:** means the management information specified in Schedule 10.

**Material Breach:** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the Authority would otherwise derive from:

- (a) a substantial portion of the Framework Agreement;
- (b) a substantial portion of any Call Off Contract; or
- (c) breach of any obligations contained in the Framework Agreement or any Call Off Contract which specifically states that such a breach will be considered to be a Material Breach.

**Month:** means a calendar month.

**Notifiable Default:** has the meaning given in clause 21.

**Open Book Data:** means complete and accurate financial and non-financial information which is sufficient to enable the Authority to verify the Price paid under any Call-Off Contracts already paid or payable and Call Off Contract charges forecast to be paid during the Framework Agreement including details and all assumptions relating to:

- (a) the Service Provider's costs and manpower resources broken down against each element of the Services, including:
  - (i) the cost to the Service Provider of engaging the Staff including base salary, tax and pension contributions and other contractual employment benefits;
  - (ii) operational costs which are not included within (i) above, to the extent that such costs are necessary and properly incurred by the Service Provider in the delivery of the Services;
  - (iii) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Services; and
  - (iv) the profit achieved over the Framework Term and on an annual basis.

**Party:** means the Authority and/or the Service Provider.

**Performance Measures:** are the Performance Measures detailed in Schedule 8.

**Personal Data:** shall have the same meaning as set out in the Data Protection Legislation.

**Price:** means the prices set by the Authority as detailed in and calculated in accordance with Schedule 5.

**Processor:** has the meaning given to it in the GDPR.



**Prohibited Act:** the following constitute Prohibited Acts:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:
  - (i) induce that person to perform improperly a relevant function or activity; or
  - (ii) reward that person for improper performance of a relevant function or activity;
- (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 this Framework Agreement;
- (c) committing any offence:
  - (i) under the Bribery Act 2010;
  - (ii) under legislation creating offences concerning fraudulent acts;
  - (iii) at common law concerning fraudulent acts relating to this Framework Agreement or any other Call-Off Contract with the Authority; or
- (d) defrauding, attempting to defraud or conspiring to defraud the Authority.

**Protective Measures:** means appropriate technical and organisational measures which may include: pseudonymising 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 measures adopted.

**Quotation:** means a quote provided by the Service Provider to a Commissioning Body including all details required in the Specification and calculated by the Service Provider in accordance with Schedule 5.

**Rectification Process:** is the process detailed at clause 21.

**Replacement Service Provider:** means any service provider who provides the Services to the Authority upon a retender of the Services.

**Requests for Information:** means a request for information or an apparent request under the FOIA or the Environmental Information Regulations.

**Returning Employees:** means those persons agreed by the Parties to be employed by the Service Provider (and/or any Sub-Call-Off Contractor) wholly or mainly in the supply of the Services immediately before the end of the Framework Term.

**Service Review Meeting:** the meetings held between the Authority and the Service Provider in accordance with Schedule 9.

**Services:** means any services provided by the Service Provider under any Call-Off Contract which shall be provided in accordance with the Specification.

**Specific Change in Law:** means a Change in Law that relates specifically to the business of the Authority and which would not affect a Comparable Supply.

**Specification:** means the description of the Services which will be required to be provided by the Service Providers under any Call-Off Contract as set out in Schedule 1.

**Staff:** means all persons employed by the Service Provider together with the Service Provider's servants, agents and Sub-Contractors used in the performance of its obligations under this Framework Agreement or Call-Off Contracts.

**Sub-Contract:** any Call-Off Contract between the Service Provider and a third party pursuant to which the Service Provider agrees to source the provision of any of the Services from that third party.

**Sub-Contractor:** the Contractors who enter into Sub-Contract with the Service Provider.

**Target Performance Level:** means the level of performance for a KPI which is required by the Authority, as set out against the relevant KPI in Table 1 of Schedule 8 – Performance.

**Tender:** means the tender submitted by the Service Provider to the Authority and attached at Schedule 2.

**Termination Date:** means the date of expiry or termination of the whole of this Framework Agreement.

**Travel and Subsistence Charges:** are the charges detailed in Table 4 of Schedule 5 which may be claimed by the Service Provider in accordance with Schedule 5.

**TUPE:** means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

**TUPE Information:** means the information set out in clause 31.1.

**UK Data Protection Legislation:** means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679), the Data Protection Act 2018, the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

**Valid Invoice:** has the meaning given in Schedule 5.

**Venue:** means the court or tribunal where the Services will be carried out.

**Welsh Language Scheme** means the Authority's Welsh language scheme as amended from time to time and available at:

**Working Days:** means 09:00-17:00 any day other than a Saturday, Sunday or public holiday in England and Wales.

**Year:** means a calendar year.

1.2 The interpretation and construction of this Framework Agreement and the Call-Off Contract shall all be subject to the following provisions:

- (a) words importing the singular meaning include where the context so admits the plural meaning and vice versa;
- (b) words importing the masculine include the feminine and the neuter;
- (c) references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
- (d) references to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;
- (e) unless the context otherwise requires, any reference to European Union law that is directly applicable or directly effective in the UK at any time is a reference to it as it applies in England and Wales from time to time including as retained, amended, extended, re-enacted or otherwise given effect on or after 11pm on 31 January 2020 OR in EU member states from time to time;
- (f) headings are included in this Framework Agreement for ease of reference only and shall not affect the interpretation or construction of this Framework Agreement.

## **PART ONE: FRAMEWORK ARRANGEMENTS AND AWARD PROCEDURE**

### **2. TERM OF FRAMEWORK AGREEMENT**

- 2.1 The Framework Agreement shall take effect on the Framework Commencement Date and (unless it is terminated in accordance with the terms of this Framework Agreement or is otherwise lawfully terminated) shall expire on the two (2) year anniversary of the Services Commencement Date.
- 2.2 The Authority may at its discretion extend the Framework Agreement on one or more occasions providing that the total extension period does not exceed two (2)

years and that the Authority gives the Service Provider three (3) months' notice in writing.

- 2.3 If the Authority wishes to vary any terms of the Framework Agreement or the Price upon extending the Framework Agreement then it shall do so in accordance with the Framework Agreement Variation Procedure.

### **3. SCOPE OF FRAMEWORK AGREEMENT**

- 3.1 This Framework Agreement governs the relationship between the Authority and the Service Provider in respect of the provision of the Services by the Service Provider to the Authority.
- 3.2 The Authority appoints the Service Provider as a Framework Provider of the Services and the Service Provider shall be eligible to receive Bookings for such Services during the Term.
- 3.3 The Authority may at its absolute discretion and from time to time to book Services from the Service Provider in accordance with the Booking procedure set out in the Specification during the Framework Term.
- 3.4 If and to the extent that any Services under this Framework Agreement are required, the Authority shall:
- (a) enter into a Call-Off Contract with the Service Provider for those Services materially in accordance with the terms of the Call-Off Contract; and
  - (b) comply with the booking procedure in the Specification.
- 3.5 The Service Provider acknowledges that, in entering this Framework Agreement, no form of exclusivity or volume guarantee has been provided for the Services and that the Authority is at all times entitled to enter into other Call-Off Contracts and arrangements with other Service Providers for the provision of any or all services which are the same as or similar to the Services.
- 3.6 The Authority may at any time during the Framework Term, add new Framework Providers or remove Framework Providers from this Framework Agreement in accordance with the Framework Agreement Recurring Application Process attached at Schedule 4 using the Selection and Award Criteria at Schedule 14.

### **4. BOOKING PROCEDURES**

#### **Bookings under the Framework Agreement**

- 4.1 If the Authority decides to source Services through the Framework Agreement, then it may satisfy its requirements for Services by awarding a Call-Off Contract in accordance with the terms laid down in this Framework Agreement without re-opening competition.
- 4.2 The Authority may source Services via a Commissioning Body. When sourcing Services under the Framework Agreement, the Authority and a Commissioning Body (on behalf of the Authority) shall carry out the process detailed in the Specification.
- 4.3 Notwithstanding the fact that the Authority or a Commissioning Body has followed the procedure set out in Schedule 2 and the Specification, the Authority or a Commissioning Body may cancel any Assignment Booking Form or Hearing Booking Form sent to the Service Provider without placing a Booking for Services or awarding a Call-Off Contract.
- 4.4 Nothing in this Framework Agreement shall oblige the Authority to place any Booking for Services.

#### **Form of Booking**

- 4.5 Subject to clause 4.1 to clause 4.4 above, the Commissioning Body may place a Booking with the Service Provider by serving an Assessment Booking Form or an Hearing Booking Form in writing in substantially the form set out in the Annex to the Specification or such similar or analogous form agreed with the Service Provider including systems of ordering involving e-mail or other online solutions.

#### **Accepting and Declining Bookings**

- 4.6 If the Authority (including where ordered by a judge) requires Services from the Service Provider it shall book them using the process in Section 5.7 – 5.10 of the Specification.
- 4.7 A Call-Off Contract is not entered into until the Authority has confirmed its acceptance in writing to the Service Provider that it accepts its Quotation in accordance with Section 5.9.4. The Authority shall not pay for any Services where a Quotation has not been approved by it.

#### **Cancellation or Curtailment of the Services**

- 4.8 In the event that the Authority or Commissioning Body requires a Cancellation or Curtailment to the Services it shall follow the process in Section 5.10 of the Specification.

## **5. CALL-OFF CONTRACT PERFORMANCE**

- 5.1 The Service Provider shall perform all Call-Off Contracts entered into with the Authority in accordance with:
- (a) the requirements of this Framework Agreement (including the Schedules); and
  - (b) the terms and conditions of the respective Call-Off Contracts (including the Schedules);
- 5.2 The Service Provider shall treat all requests for Services, regardless of the method of communication, in accordance with this clause 5, and undertakes not to provide Services to the Authority via any other terms or agreements
- 5.3 Without prejudice to any other rights and remedies the Authority may have, if during the Framework Term:
- (a) a Notifiable Default occurs, the Service Provider shall comply with the Rectification Process if notified to do so by the Authority; or
  - (b) the Authority may exercise its right to terminate the Framework Agreement under clause 21 where it considers the Notifiable Default to be Material Breach.
- 5.4 Subject to Clause 5.5 and not more than once in each calendar year of the Framework Period the Authority may, on giving the Service Provider at least three (3) Months' notice:
- (a) change the weighting that applies in respect of one or more specific Key Performance Indicators; and/or
  - (b) change the classification of one or more specific Key Performance Indicators.
- 5.5 Within ten (10) Working Days of the date that notice is served by the Authority under clause 5.4, the Parties shall meet to discuss the consequences of the proposed changes to the Key Performance Indicators, at which meeting the Service Provider shall be entitled to make representations to the Authority regarding the consequences of the proposed changes to the Key Performance Indicators.
- 5.6 Where the Parties (each acting reasonably) agree that the proposed changes to the Key Performance Indicators will have a material adverse impact on the risk profile of the Service Provider under the Framework Agreement, the proposed change shall be agreed by the Parties via the Framework Agreement Variation Procedure. For all other changes to the Key Performance Indicators, the Parties agree that such change shall be incorporated into this Framework Agreement

without the need to refer the matter to the Framework Agreement Variation Procedure and at no cost to the Authority.

- 5.7 In the event of the Authority's breach of the terms of this Framework Agreement (including payment of any Price properly due), the Service Provider shall not suspend the Services (or any part thereof) or terminate any part of this Framework Agreement but shall refer the matter to the Dispute Resolution Procedure under clause 27.

## **6. PRECEDENCE OF DOCUMENTS**

- 6.1 In the event of, and only to the extent of, any conflict or inconsistency between the terms and conditions of this Framework Agreement and the terms and conditions of a Call-Off Contract, such conflict or inconsistency shall be resolved according to the following order of priority:
- (a) the clauses of the Call-Off Contract;
  - (b) the terms of the Framework Agreement, the Schedules to the Framework Agreement (excluding the Service Provider's Tender);
  - (c) the Assessment Booking Form and/or the Hearing Booking Form (as may be amended by a Booking Change or Cancellation Form);
  - (d) any other document referred to in the clauses of the Call-Off Contract; and
  - (e) Schedule 2 (the Service Provider's Tender).

## **7. IMPLEMENTATION PERIOD**

- 7.1 The Service Provider shall be responsible for obtaining all licences, authorisations, consents or permits required by the Authority in relation to the performance of this Framework Agreement and any Call-Off Contract.
- 7.2 The Service Provider shall comply with any requirements placed upon it by the Authority as part of the Implementation Period.
- 7.3 During the Implementation Period (and if applicable after the Framework Services Commencement Date) the Service Provider shall treat any Bookings accepted prior to the Framework Commencement Date or during the Implementation Period as being bookings made under the terms of a Call-Off Contract and shall fulfil those services in accordance with the terms of a Call-Off Contract and this Framework Agreement and in particular Schedule 5 – Pricing and Payment.
- 7.4 The Authority may send Bookings in bulk to the Service Provider using a tabular format equivalent to the Assessment Booking Form and Hearing Booking Forms during the Implementation Period. The Service Provider shall be under no

obligation to accept such bulk Bookings, but will use reasonable endeavours to support the Authority during the Implementation Period and accept the bulk Bookings in the format provided where ever possible or offer a timely rejection if it is unable to fulfil the requirements of the Authority.

- 7.5 No charges shall be payable by the Authority to the Service Provider in respect of costs incurred during the Implementation Period. This shall also apply in the event that the Authority terminates the Framework Agreement (for whatever reason) during the Implementation Period.

## **8. PAYMENT AND PRICE**

- 8.1 In the event that the Authority wishes to request Services from the Service Provider it will request a Quotation using an Assessment Booking Form or Hearing Booking Form (as applicable) which it shall send to the Service Provider.
- 8.2 If a Commissioning Body wishes to request Services from the Service Provider it will request a Quotation using an Assessment Booking Form or Hearing Booking Form (as applicable) which it shall send to the Service Provider.
- 8.3 The Service Provider shall provide a Quotation which shall be calculated in accordance with Schedule 5 (Pricing and Payment). The Service Provider shall send the Quotation to the Authority where the Authority requests the Services and to the Commissioning Body and the Authority where a Commissioning Body requests the Services.
- 8.4 Where a Commissioning Body requests Services, the Authority shall send the Quotation to the Venue to authorise or reject the Quotation. If the Venue rejects the Quotation then the Authority will notify the Service Provider and the Commissioning Body.
- 8.5 In the event that the Authority accepts the Quotation and books Services from the Service Provider, it shall enter into a Call-Off Contract with the Service Provider and pay the Price for the Services once they have been completed in accordance with the Call-Off Contract and upon receipt of a Valid Invoice from the Service Provider.

## **SERVICE PROVIDER'S GENERAL FRAMEWORK OBLIGATIONS**

### **9. WARRANTIES AND REPRESENTATIONS**

- 9.1 The Service Provider warrants and represents to the Authority that:



- (a) it has full capacity and authority and all necessary consents to enter into and to perform its obligations under this Framework Agreement;
- (b) this Framework Agreement is executed by a duly authorised representative of the Service Provider;
- (c) in entering into this Framework Agreement or any Call-Off Contract it has not committed any Prohibited Act;
- (d) as at the Framework Commencement Date, all information, statements and representations contained in the Tender are true, accurate and not misleading save as may have been specifically disclosed in writing to the Authority before the execution of this Framework Agreement and it will promptly advise the Authority of any fact, matter or circumstance of which it may become aware during the Term that would render any such information, statement or representation to be false or misleading;
- (e) no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets that will or might affect its ability to perform its obligations under this Framework Agreement and any Call-Off Contract which may be entered into with the Authority;
- (f) it is not subject to any Call-Off Contractual obligation, compliance with which is likely to have an effect on its ability to perform its obligations under this Framework Agreement and any Call-Off Contract; and
- (g) no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Service Provider or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Service Provider's assets or revenue.

## **SERVICE PROVIDER'S INFORMATION OBLIGATIONS**

### **10. MANAGEMENT INFORMATION**

- 10.1 The Service Provider shall submit Management Information and the Open Book Data to the Authority in the form and to the timescales set out in Schedule 10 throughout the Framework Agreement Term.
- 10.2 The Authority may make changes to the nature of the Management Information and Open Book Data that the Service Provider is required to supply and shall give the Service Provider at least one (1) Month's written notice of any changes.

### **11. RECORDS AND AUDIT ACCESS**

- 11.1 The Service Provider shall keep and maintain until six (6) Years after the date of termination or expiry (whichever is the earlier) of this Framework Agreement (or as

long a period as may be agreed between the Parties), full and accurate records and accounts of the operation of this Framework Agreement including the Services provided under it, the Call-Off Contracts entered into with Authority.

- 11.2 The Service Provider shall keep the records and accounts referred to in clause 11.1 above in accordance with good accountancy practice.
- 11.3 The Service Provider shall afford the Authority or the Auditor (or both) such access to such records and accounts as may be required from time to time.
- 11.4 The Service Provider shall provide such records and accounts (together with copies of the Service Provider's published accounts) during the Term and for a period of six (6) Years after expiry of the Term to the Authority (or relevant Authority) and the Auditor.
- 11.5 The Authority shall use reasonable endeavours to ensure that the conduct of each Audit does not unreasonably disrupt the Service Provider or delay the provision of the Services pursuant to the Call-Off Contracts, save insofar as the Service Provider accepts and acknowledges that control over the conduct of Audits carried out by the Auditor is outside of the control of the Authority.
- 11.6 Subject to the Authority's rights of confidentiality, the Service Provider shall on demand provide the Auditor with all reasonable co-operation and assistance in relation to each Audit, including:
  - (a) all information requested by the Auditor within the scope of the Audit;
  - (b) reasonable access to sites controlled by the Service Provider and to equipment used in the provision of the Services; and
  - (c) access to the Staff.
- 11.7 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause 11, unless the Audit reveals a Default by the Service Provider in which case the Service Provider shall reimburse the Authority for the Authority's reasonable costs incurred in relation to the Audit.

## 12. **CONFIDENTIALITY**

- 12.1 Subject to clause 12.2, the Parties shall keep confidential all matters (including the Commercially Sensitive Information) relating to this Framework Agreement and any Call-Off Contract and shall use all reasonable endeavours to prevent their representatives from making any disclosure to any person of any matters relating hereto.

12.2 Clause 12.1 shall not apply to any disclosure of information:

- (a) required by any applicable law or to any disclosures required under the FOIA or the Environmental Information Regulations;
- (b) that is reasonably required by persons engaged by a Party in the performance of that Party's obligations under this Framework Agreement or any Call-Off Contract;
- (c) where a Party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 12.1;
- (d) by the Authority of any document to which it is a party and which the Parties to this Framework Agreement have agreed contains no Confidential Information;
- (e) to enable a determination to be made under clause 26 or clause 27;
- (f) which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party, and the disclosing party is not under any obligation of confidence in respect of that information;
- (g) by the Authority to any other department, office or agency of the government, provided that the Authority informs the recipient of any duty of confidence owed in respect of the information; and
- (h) by the Authority relating to this Framework Agreement and in respect of which the Service Provider has given its prior written consent to disclosure.

### 13. **OFFICIAL SECRETS ACTS**

The Service Provider shall comply with and shall ensure that its Staff comply with, the provisions of:

- (a) the Official Secrets Acts 1911 to 1989; and
- (b) section 182 of the Finance Act 1989.

### 14. **DATA PROTECTION**

14.1 Both Parties will comply with all applicable requirements of the Data Protection Legislation. This clause 14 and Schedule 11 is in addition to, and does not relieve, remove or replace, a Party's obligations under the Data Protection Legislation.

14.2 When processing Personal Data under this Framework Agreement or in relation to any Call-Off Contract, the Parties shall process that Personal Data in accordance with the requirements of Schedule 11.

- 14.3 The provisions of this clause and Schedule 11 shall apply during the continuance of the agreement and indefinitely after its expiry or termination.

## **15. FREEDOM OF INFORMATION**

- 15.1 The Service Provider acknowledges that the Authority is subject to the requirements of the FOIA and the EIRs. The Service Provider shall:
- (a) 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;
  - (b) transfer to the Authority all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within two (2) Working Days of receipt;
  - (c) 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 Working Days (or such other period as the Authority may reasonably specify) of the Authority's request for such Information; and
  - (d) not respond directly to a Request for Information unless authorised in writing to do so by the Authority.
- 15.2 The Service Provider acknowledges that the Authority may be required under the FOIA and EIRs to disclose Information (including Confidential Information) without consulting or obtaining consent from the Service Provider. The Authority shall take reasonable steps to notify the Service Provider of a Request For Information (in accordance with the 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 Confidential Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

## **16. KEY PERSONNEL**

The Key Personnel are listed at Schedule 6. In the event that the Service Provider removes or adds any Key Personnel it shall inform the Authority prior to the Key Personnel providing any Services to the Authority under this Framework Agreement.

## **17. KEY SUB-CONTRACTORS**

- 17.1 The Service Provider shall ensure that any Key Sub-Contractor is also a Service Provider appointed to the Framework Agreement and ensure that it enters into a

contract with the Key Sub-Contractor which shall comply in all respects with the requirements of the Specification, this Framework Agreement and the Call-Off Contract.

17.2 The Service Provider shall ensure that any sub-contracts contain a provision which requires payment of all sums due to sub-contractors within thirty (3) days of receipt of a valid invoice.

17.3 The Key Sub-Contractors are listed at Schedule 6. In the event that the Service Provider removes or adds any Key Sub-Contractor it shall inform the Authority prior to the Key Sub-Contractor providing any Services to the Authority under any Call-Off Contract.

## 18. **GOVERNANCE**

The Authority and the Service Provider shall comply with the governance provisions contained within Schedule 9.

## 19. **PUBLICITY**

19.1 Unless otherwise directed by the Authority, the Service Provider shall not make any press announcements or publicise this Framework Agreement or any Call-Off Contract in any way without the Authority's prior written consent.

19.2 The Service Provider shall not use the Authority's or any of the Authority's agencies name, brand or logo in any publicity, promotion, marketing or announcement without prior written approval of the Authority.

19.3 The Authority shall be entitled to publicise this Framework Agreement or any Call-Off Contract in accordance with any legal obligation on the Authority, including any examination of this Framework Agreement by the Auditor or otherwise.

19.4 The Service Provider shall not do anything that may damage the reputation of the Authority or bring the Authority into disrepute.

## 20. **LIABILITY**

20.1 Neither Party limits its liability for:

- (a) death or personal injury caused by its negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) any breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;

- (d) any breach of:
  - (i) clause 12 (Confidential Information)
  - (ii) clause 14 and Schedules 12 (Data Protection); or
  - (iii) clause 29 (Prevention of Bribery)
- (e) any liability to the extent it cannot be limited or excluded by Law.

20.2 Subject to clauses 20.3, the Service Provider indemnifies the Authority fully against all claims, proceedings, demands, charges, actions, damages, costs, breach of statutory duty, expenses and any other liabilities which may arise in connection with the Framework Agreement or any Call-Off Contract.

20.3 Subject to clause 20.1 the Service Provider's aggregate liability in respect of the Framework Agreement and any Call-Off Contract does not exceed 125% of the aggregated Price payable to the Service Provider for any Call-Off Contracts awarded in the previous calendar year of the Framework Agreement except where the Service Provider's insurance policy covers such liability in which case, the liability cap in this clause 20.2 shall be in addition to any sums covered by the Service Provider's insurance.

20.4 Subject to clause 20.1 the Authority's aggregate liability in respect of the Framework Agreement does not exceed the aggregated Price payable to the Service Provider for any Call-Off Contracts awarded in the previous calendar year of the Framework Agreement.

## 21. RECTIFICATION PROCESS

21.1 In the event that:

- (a) there is a KPI Failure; or
- (b) the Service Provider commits a Default that, in the opinion of the Authority, is capable of remedy; or
- (c) the Authority is of the opinion that the Service Provider is failing to provide any one or more parts of the Services in accordance with the terms and conditions of the Framework Agreement and the Call-Off Contract

each a "**Notifiable Default**", the Service Provider shall notify the Authority of the Notifiable Default as soon as reasonably practicable but in any event not more than two (2) Working Days of becoming aware of the Notifiable Default detailing the actual or anticipated effect of the Notifiable Default.

21.2 Where the Authority is of the reasonable opinion that a Notifiable Default has occurred, then it can notify the Service Provider (setting out sufficient detail) that it considers a Notifiable Default has occurred.

- 21.3 When a Notifiable Default occurs under either clause 21.1 or clause 21.2 the Service Provider shall comply with the Rectification Process unless the Authority serves notice under clause 22 of the Framework Agreement to terminate the Framework Agreement or any Call-Off Contract to which the Notifiable Default relates.
- 21.4 The Rectification Process shall be as follows:
- (a) If the Authority is of the reasonable opinion that the Notifiable Default is capable of remedy via informal discussion with the Service Provider, then discussions shall be added to the agenda for the next scheduled Service Review Meeting and the Parties shall negotiate in good faith at the Service Review Meeting to rectify the Notifiable Default.
  - (b) Where the Notifiable Default is the failure by the Service Provider to provide any part of the Service in accordance with the terms and conditions of the Framework Agreement and any Call-Off Contract, but where the Service Provider is providing other parts of the Service to the satisfaction of the Authority, the Authority reserves the right to partially terminate the Framework Agreement to remove the Services from the Specification which the Service Provider is failing to provide whilst permitting the Service Provider to continue to provide other Services. If considered appropriate by the Authority, this may form part of a Rectification Plan drafted in accordance with clause 21(4)(d).
  - (c) If the Authority is not of the opinion that the Notifiable Default can be remedied as part of a Service Review Meeting or a Service Review Meeting has been held and the Parties have been unable to resolve the issue, the Authority shall require the Service Provider to submit a draft Rectification Plan for it to review as soon as possible and in any event within five (5) Working Days (or such other period as may be agreed between the Parties) after the Service Provider has been informed that it should submit a Rectification Plan. The Service Provider shall submit a draft Rectification Plan even if the Service Provider disputes that it is responsible for the Notifiable Default.
  - (d) The draft Rectification Plan shall set out:
    - (i) full details of the Notifiable Default that has occurred, including a root cause analysis;
    - (ii) the actual or anticipated effect of the Notifiable Default (including the actual or anticipated effect on the performance of its obligations under the Framework Agreement); and
    - (iii) the steps which the Service Provider proposes to take to rectify the Notifiable Default (if applicable) and to prevent such Notifiable Default from recurring, including timescales for such steps and for the rectification of the Notifiable Default (where applicable) and such steps may include Enhanced Monitoring;

- 21.5 The Service Provider shall promptly, and in any event within two (2) Working Days, provide to the Authority any further documentation that the Authority reasonably requires to assess the Service Provider's root cause analysis. If the Parties do not agree on the root cause set out in the draft Rectification Plan, either the matter will be referred to the Parties' Senior Managers or the Authority may require that the Service Provider is subject to Enhanced Monitoring.
- 21.6 The Authority shall notify the Service Provider whether it consents to the draft Rectification Plan as soon as reasonably practicable. If the Authority rejects the draft Rectification Plan, the Authority shall give reasons for its decision and the Service Provider shall take the reasons into account in the preparation of a revised Rectification Plan. The Service Provider shall submit the revised draft of the Rectification Plan to the Authority for review within five (5) Working Days (or such other period as agreed between the Parties) of the Authority's notice rejecting the first draft.
- 21.7 If the Authority consents to the Rectification Plan:
- (a) the Service Provider shall immediately start work on the actions set out in the Rectification Plan; and
  - (b) the Authority may no longer terminate this Framework Agreement or any Call-Off Contract in whole or in part on the grounds of the relevant Notifiable Default unless the Service Provider fails to comply with the Rectification Plan.
- 21.8 The Authority may reject the draft or revised Rectification Plan submitted to it by notice to the Service Provider if, acting reasonably, it considers that the draft Rectification Plan is inadequate, for such reasons including:
- (a) it is insufficiently detailed to be capable of proper evaluation;
  - (b) it will take too long to complete;
  - (c) it will not prevent reoccurrence of the Notifiable Default; and/or
  - (d) it will rectify the Notifiable Default but in a manner which is unacceptable to the Authority.
- 21.9 Where a Rectification Plan is put into place, the Authority may require the Service Provider to be subject to Enhanced Monitoring and shall specify the requirements of the Enhanced Monitoring and the period of time that it expects this requirement to be in place.
- 21.10 Where Enhanced Monitoring is required by the Authority under clause 21 of this Framework Agreement, it may include:



- (a) the Authority increasing its level of monitoring of the Service Provider: and/or
- (b) requiring the Service Provider to increase its own level of monitoring and reporting of its own performance of its obligations under the Framework Agreement and any Call-Off Contracts to which the Notifiable Default relates; and/or
- (c) adding new reporting and/or monitoring requirements; and/or
- (d) the provision of Open Book Data.

21.11 The Enhanced Monitoring shall remain in place until such time as the Authority is of the reasonable opinion that the circumstances giving rise to the Notifiable Default no longer apply.

21.12 If the Parties fail to agree on a draft Rectification Plan then that matter shall be referred to the SRO or SBO of the Authority and the Managing Director or CEO of the Service Provider who shall attempt in good faith to resolve it.

## 22. **INSURANCE**

22.1 Unless otherwise specified by the Authority, the Service Provider shall, with effect from the Framework Agreement Commencement Date for such period as necessary to enable the Service Provider to comply with its obligations herein, take out and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Supplier, arising out of the Supplier's performance of its obligations under the Contract including:

- (a) professional indemnity insurance in the sum of not less than £1,000,000 (one million pounds) for any Services provided by the Service Provider to the Authority;
- (b) public liability insurance cover in the sum of not less than £1,000,000 (one million pounds); and
- (c) employer's liability insurance to a minimum of £5,000,000 in respect of Staff.

22.2 Such insurance policies shall be maintained for the duration of the Term and for a minimum of six (6) years following the end of the Term.

22.3 The terms of any insurance or the amount of cover shall not relieve the Service Provider of any liabilities arising under this Framework Agreement.

## **TERMINATION AND SUSPENSION OF THE FRAMEWORK AGREEMENT AND/OR CALL-OFF CONTRACTS**

## 23. **TERMINATION**

### **Termination on Default**

23.1 The Authority may terminate the Framework Agreement in its entirety or any part thereof and/or any Call-Off Contract with immediate effect by notice if the Service Provider commits a Default and:

- (a) the Default is a Notifiable Default which has not been remedied by the Service Provider in accordance with the Rectification Process: or
- (b) the Default is not, in the opinion of the Authority, capable of remedy;
- (c) under section 2.3 of the Specification where the Service Provider has been removed from the Witness Intermediary Scheme due to breach of contract or breach of the intermediary code of ethics and practice; or
- (d) the Default is a Material Breach.

### **Termination on Insolvency and Change of Control**

23.2 Without affecting any other right or remedy available to it, the Authority may terminate this Framework Agreement and any Call-Off Contracts with immediate effect and without compensation to the Service Provider by giving written notice to the Service Provider if:

- (a) the Service Provider 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 (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 **OR** (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 **OR** (being a partnership) has any partner to whom any of the foregoing apply;
- (b) the Service Provider commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of the Service Provider with one or more other companies or the solvent reconstruction of the Service Provider;
- (c) 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 the Service Provider (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Service Provider with one or more other companies or the solvent reconstruction of the Service Provider;
- (d) 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 the Service Provider (being a company, partnership or limited liability partnership);

- (e) the holder of a qualifying floating charge over the assets of the Service Provider (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;
- (f) a person becomes entitled to appoint a receiver over the assets of the Service Provider or a receiver is appointed over the assets of the Service Provider;
- (g) the Service Provider (being an individual) is the subject of a bankruptcy petition or order;
- (h) a creditor or encumbrancer of the Service Provider attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Service Provider's assets and such attachment or process is not discharged within 14 days;
- (i) any event occurs, or proceeding is taken, with respect to the Service Provider in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 23.2(a) to clause 23.2(h) (inclusive); or
- (j) the Service Provider suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

23.3 The Service Provider shall notify the Authority immediately if the Service Provider undergoes a Change of Control. The Authority may terminate the Framework Agreement by giving notice in writing to the Service Provider with immediate effect within three (3) Months of:

- (a) being notified that a Change of Control has occurred; or
- (b) where no notification has been made, the date that the Authority becomes aware of the Change of Control;

but shall not be permitted to terminate where an Approval was granted before the Change of Control.

#### **Termination by Authority for Convenience**

23.4 The Authority shall have the right to terminate this Framework Agreement, or to terminate the provision of any part of the Framework Agreement at any time by giving three (3) Months' written notice to the Service Provider.

23.5 In the event that the Service Provider is appointed to the Approved Service Provider Framework Agreement, this Framework Agreement shall be automatically terminated. The Service Provider shall continue to provide Services under any Call-

Off Contract in existence at the time that it is appointed to the Approved Service Provider Framework Agreement until such date that the Call-Off Contract expires unless otherwise directed by the Authority.

**24. SUSPENSION OF SERVICE PROVIDER'S APPOINTMENT**

24.1 Without prejudice to the Authority's rights to terminate the Framework Agreement and any Call-Off Contract in clause 23 above, if a right to terminate this Framework Agreement arises in accordance with clause 21.3, the Authority may suspend the Service Provider's right to receive Bookings by giving notice in writing to the Service Provider.

24.2 If the Authority provides notice to the Service Provider in accordance with this clause 24, the Service Provider's appointment shall be suspended for the period set out in the notice or such other period notified to the Service Provider by the Authority in writing from time to time.

**25. CONSEQUENCES OF TERMINATION AND EXPIRY**

25.1 Notwithstanding the service of a notice to terminate the Framework Agreement, the Service Provider shall continue to fulfil its obligations under the Framework Agreement until the date of expiry or termination of the Framework Agreement or such other date as required under this clause 25.

25.2 Unless expressly stated to the contrary, the service of a notice to terminate the Framework Agreement shall not operate as a notice to terminate any Call-Off Contract made under the Framework Agreement. Termination or expiry of the Framework Agreement shall not cause any Call-Off Contracts to terminate automatically. For the avoidance of doubt, all Call-Off Contracts shall remain in force unless and until they are terminated or expire in accordance with their own terms.

25.3 Within thirty (30) Working Days of the date of termination or expiry of the Framework Agreement, the Service Provider shall return or destroy at the request of the Authority any data, personal information relating to the Authority or its personnel or Confidential Information belonging to the Authority in the Service Provider's possession, power or control, either in its then current format or in a format nominated by the Authority (in which event the Authority will reimburse the Service Provider's reasonable data conversion expenses), together with all training manuals and other related documentation, and any other information and all copies thereof owned by the Authority, save that it may keep one copy of any such data or information for a period of up to twelve (12) Months to comply with its obligations under the Framework Agreement, or such period as is necessary for such compliance.

- 25.4 Termination or expiry of this Framework Agreement shall be without prejudice to any rights, remedies or obligations of either Party accrued under this Framework Agreement before termination or expiry.
- 25.5 The provisions of clause 8 (Payment and Price), clause 9 (Warranties and Representations), clause 12 (Records and Audit Access), clause 12 (Confidentiality), clause 15 (Data Protection), clause 15 (Freedom of Information), clause 20 (Liability), clause 22 (Insurance), clause 32 (Prevention of Bribery), Schedule 11 (Data Protection) shall survive the termination or expiry of the Framework Agreement, together with any other provision which is either expressed to or by implication is intended to survive termination.

## **FRAMEWORK AGREEMENT COMPLAINTS HANDLING AND DISPUTES**

### **26. COMPLAINTS HANDLING AND RESOLUTION**

In the event of any Complaint, the Service Provider and/or the Authority (as appropriate) shall initiate the process detailed in the Specification and deal with the Complaint in accordance with the process detailed within the Specification.

### **27. DISPUTE RESOLUTION**

- 27.1 If a Dispute arises out of or in connection with this Framework Agreement or any Call-Off Contract or the performance, validity or enforceability of it ("**Dispute**"), then except as expressly provided in this agreement, the Parties shall follow the procedure set out below:
- (a) the Dispute shall be referred to the SRO of the Authority or the Managing Director or CEO the Service Provider who shall attempt in good faith to resolve it; and
  - (b) if the SRO or SBO of the Authority and Managing Director or CEO of the Service Provider are for any reason unable to resolve the Dispute within thirty (30) days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a Party must serve notice in writing (ADR notice) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation will start not later than twenty eight (28) days after the date of the ADR notice.
- 27.2 The commencement of mediation shall not prevent the Parties commencing or continuing court or arbitration proceedings in relation to the Dispute under clause 27 which clause shall apply at all times.

## **FRAMEWORK AGREEMENT EXIT**

### **28. RETENDERING AND HANDOVER**

- 28.1 Within twenty (20) Working Days of being requested by the Authority, the Service Provider shall provide, and thereafter keep updated, in a fully indexed and catalogued format, all the information necessary to enable the Authority to issue tender documents for the future provision of the Services.
- 28.2 The Authority shall take all necessary precautions to ensure that the information referred to in clause 28.1 is given only to potential providers who have qualified to tender for the future provision of the Services.
- 28.3 The Authority shall require that all potential providers treat the information in confidence; that they do not communicate it except to such persons within their organisation and to such extent as may be necessary for the purpose of preparing a response to an invitation to tender issued by the Authority; and that they shall not use it for any other purpose.
- 28.4 The Service Provider indemnifies the Authority against any claim made against the Authority at any time by any person in respect of any liability incurred by the Authority arising from any deficiency or inaccuracy in information which the Service Provider is required to provide under clause 28.1.
- 28.5 The Service Provider shall co-operate fully with the Authority during any handover at the end of the Call-Off Contract. This co-operation includes allowing full access to, and providing copies of, all documents, reports, summaries and any other information necessary in order to achieve an effective transition without disruption to routine operational requirements.
- 28.6 Within ten (10) Working Days of being requested by the Authority, the Service Provider shall transfer to the Authority, or any person designated by the Authority, free of charge, all computerised filing, recording, documentation, planning and drawing held on software and utilised in the provision of the Services. The transfer shall be made in a fully indexed and catalogued disk format, to operate on a proprietary software package identical to that used by the Authority.

### **29. EXIT MANAGEMENT**

- 29.1 At a date agreed with the Authority (which shall be prior to the expiry of the Framework Agreement) the Service Provider will return upon request (in a tabular data format reflecting the content of the Assessment Booking Forms and Hearing

Booking Forms) any Bookings with a Service Commencement Date more than three (3) months from the expiry of the Framework Agreement.

- 29.2 For the avoidance of doubt, any Bookings returned to the Authority under clause 29.1 will be considered as a Cancellation and in such event the Authority shall not be liable for any cancellation charges.
- 29.3 Any Assessment Reports and/or Hearing Reports produced by the Service Provider or other relevant information relating to those Bookings will be made available to the Authority within ten (10) Working Days of the last day of the Framework Agreement.
- 29.4 The Service Provider will retain and fulfil Bookings where Services are delivered within the three (3) month period following the expiry of the Framework Agreement and the Service Provider shall provide to the Authority copies of any Assessment Reports and Hearing Reports and other relevant information as soon as reasonable possible upon completion of the Services. In the six (6) months prior to the expiry of the Framework Agreement, the Service Provider shall render reasonable assistance to the Authority to the extent necessary to effect an orderly assumption by a Replacement Service Provider.
- 29.5 The following commercial approach shall apply to the transfer of the Services if the Service Provider:
- (a) does not have to use resources in addition to those normally used to deliver the Services prior to termination or expiry, there shall be no change to the Price; or
  - (b) reasonably incurs additional costs, the Parties shall agree a change to the Price based on the Service Provider's rates either set out in Schedule 5 or forming the basis for the Price.

### 30. **KNOWLEDGE RETENTION**

- 29.1 The Service Provider shall co-operate fully with the Authority in order to enable an efficient and detailed knowledge transfer from the Service Provider to the Authority on the completion or earlier termination of the Call-Off Contract and in addition, to minimise any disruption to routine operational requirements. To facilitate this transfer, the Service Provider shall provide the Authority free of charge with full access to its Staff, and in addition, copies of all documents, reports, summaries and any other information requested by the Authority. The Service Provider shall comply with the Authority's request for information no later than fifteen (15) Working Days from the date that that request was made.

### 31. SERVICE PROVIDER STAFF

- 31.1 In the event that the Authority decides that TUPE applies, the Service Provider shall fully and accurately disclose to the Authority all information the Authority may reasonably request in relation to the Staff, no later than six (6) Months prior to the end of the Framework Term, including the following:
- (a) the total number of Staff whose employment/engagement terminates at the end of the Term, save for any operation of Law;
  - (b) the age, gender, salary or other remuneration, future pay settlements and redundancy and pensions entitlement of the Staff referred to in clause 31.1(a);
  - (c) the terms and conditions of employment/engagement of the Staff referred to in clause 31.1(a), their job titles and qualifications;
  - (d) their immigration status;
  - (e) details of any current disciplinary or grievance proceedings ongoing or circumstances likely to give rise to such proceedings and details of any claims current or threatened; and
  - (f) details of all collective agreements with a brief summary of the current state of negotiations with any such bodies and with details of any current industrial disputes and claims for recognition by any trade union.
- 31.2 At intervals determined by the Authority (which shall not be more frequent than once every thirty (30) days) the Service Provider shall give the Authority updated TUPE Information.
- 31.3 Each time the Service Provider supplies TUPE Information to the Authority it warrants its completeness and accuracy and the Authority may assign the benefit of this warranty to any Replacement Service Provider.
- 31.4 The Authority may use TUPE Information it receives from the Service Provider for the purposes of TUPE and/or any retendering process in order to ensure an effective handover of all work in progress at the end of the Term. The Service Provider shall provide the Replacement Service Provider with such assistance as it shall reasonably request.
- 31.5 If TUPE applies to the transfer of the Services on termination of the Framework Agreement, the Service Provider indemnifies and keeps indemnified the Authority, the Crown and any Replacement Service Provider against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Authority or the Crown or any Replacement Service Provider may suffer or incur as a result of or in connection with:
- (a) the provision of TUPE Information;



- (b) any claim or demand by any Returning Employee (whether in Call-Off Contract, tort, under statute, pursuant to EU Law or otherwise) in each case arising directly or indirectly from any act, fault or omission of the Service Provider or any Sub-Call-Off Contractor in respect of any Returning Employee on or before the end of the Term;
- (c) any failure by the Service Provider or any Sub-Call-Off Contractor to comply with its obligations under regulations 13 or 14 of TUPE or any award of compensation under regulation 15 of TUPE save where such failure arises from the failure of the Authority or a Replacement Service Provider to comply with its duties under regulation 13 of TUPE;
- (d) any claim (including any individual employee entitlement under or consequent on such a claim) by any trade union or other body or person representing any Returning Employees arising from or connected with any failure by the Service Provider or any Sub-Call-Off Contractor to comply with any legal obligation to such trade union, body or person; and
- (e) any claim by any person who is transferred by the Service Provider to the Authority and/or a Replacement Service Provider whose name is not included in the list of Returning Employees.

31.6 If the Service Provider is aware that TUPE Information has become inaccurate or misleading, it shall notify the Authority and provide the Authority with up to date and accurate TUPE Information.

31.7 This clause 31 applies during the Framework Term and indefinitely thereafter.

31.8 The Service Provider undertakes to the Authority that, during the twelve (12) Months prior to the end of the Term the Service Provider shall not (and shall procure that any Sub-Call-Off Contractor shall not) without Approval (such Approval not to be unreasonably withheld or delayed):

- (a) amend or vary (or purport to amend or vary) the terms and conditions of employment or engagement (including, for the avoidance of doubt, pay) of any Staff (other than where such amendment or variation has previously been agreed between the Service Provider and the Staff in the normal course of business and where any such amendment or variation is not in any way related to the transfer of the Services);
- (b) terminate or give notice to terminate the employment or engagement of any Staff (other than in circumstances in which the termination is for reasons of misconduct or lack of capability);
- (c) transfer away, remove, reduce or vary the involvement of any other Staff from or in the provision of the Services (other than where such transfer or removal: (i) was planned as part of the individual's career development; (ii) takes place in the normal course of business; and (iii) will not have any

adverse impact upon the delivery of the Services by the Service Provider, (provided that any such transfer, removal, reduction or variation is not in any way related to the transfer of the Services); or

- (d) recruit or bring in any new or additional individuals to provide the Services who were not already involved in providing the Services prior to the relevant period.

## **GENERAL PROVISIONS**

### **32. PREVENTION OF BRIBERY**

#### **32.1 The Service Provider:**

- (a) shall not, and shall procure that the Staff, Sub-Contractors and all personnel shall not, in connection with this Framework Agreement and any Call-Off Contract made under it commit a Prohibited Act; and
- (b) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Authority, or that an agreement has been reached to that effect, in connection with the execution of this Framework Agreement, excluding any arrangement of which full details have been disclosed in writing to the Authority before execution of this Framework Agreement.

#### **32.2 The Service Provider shall:**

- (a) if requested, provide the Authority with any reasonable assistance, at the Authority's reasonable cost, to enable the Authority to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act 2010; and
- (b) within thirty (30) Working Days of the Framework Commencement Date, and annually thereafter, certify to the Authority in writing (such certification to be signed by an officer of the Service Provider) compliance with this clause 32 by the Service Provider and all persons associated with it or other persons who are supplying goods or services in connection with this Framework Agreement. The Service Provider shall provide such supporting evidence of compliance as the Authority may reasonably request.

#### **32.3 The Service Provider shall have an anti-bribery policy (which shall be disclosed to the Authority) to prevent any Staff or Sub-Call-Off Contractors from committing a Prohibited Act and shall enforce it where appropriate.**

#### **32.4 If any breach of clause 32.132.1 is suspected or known, the Service Provider must notify the Authority immediately.**

- 32.5 If the Service Provider notifies the Authority that it suspects or knows that there may be a breach of clause 32, the Service Provider must respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit books, records and any other relevant documents. This obligation shall continue for six (6) years following the expiry or termination of this Framework Agreement.
- 32.6 The Authority may terminate this Framework Agreement by written notice with immediate effect if the Service Provider, its Staff or Sub-Call-Off Contractors (in all cases whether or not acting with the Service Provider's knowledge) breaches clause 32.1. In determining whether to exercise the right of termination under this clause 32.6, the Authority shall give all due consideration, where appropriate, to action other than termination of this Framework Agreement unless the Prohibited Act is committed by the Service Provider or a senior officer of the Service Provider or by an employee, Sub-Call-Off Contractor or Service Provider not acting independently of the Service Provider. The expression "not acting independently of" (when used in relation to the Service Provider or a Sub-Call-Off Contractor) means and shall be construed as acting:
- (a) with the authority or with the actual knowledge of any one or more of the directors of the Service Provider or the Sub-Call-Off Contractor (as the case may be); or
  - (b) in circumstances where any one or more of the directors of the Service Provider ought reasonably to have had such knowledge.
- 32.7 Any notice of termination under clause 32.6 must specify:
- (a) the nature of the Prohibited Act;
  - (b) the identity of the party whom the Authority believes has committed the Prohibited Act; and
  - (c) the date on which this Framework Agreement will terminate.
- 32.8 Despite clause 27, any dispute relating to:
- (a) the interpretation of this clause 32; or
  - (b) the amount or value of any gift, consideration or commission,
- shall be determined by the Authority and its decision shall be final and conclusive.
- 32.9 Any termination under this clause 32 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Authority.

### **33. SUB-CONTRACTING AND ASSIGNMENT**

- 33.1 Subject to clause 17, 33.233.2 and clause 33.3, neither party shall be entitled to assign, novate, sub-contract or otherwise dispose of any or all of its rights and obligations under this Framework Agreement without the prior written consent of the other party, neither may the Service Provider sub-contract the whole or any part of its obligations under this Framework Agreement except with the express prior written consent of the Authority, such consent not to be unreasonably withheld.
- 33.2 The Authority shall be entitled to novate the Framework Agreement to any other body which substantially performs any of the functions that previously had been performed by the Authority.
- 33.3 Provided that the Authority has given prior written consent, the Service Provider shall be entitled to novate the Framework Agreement where:
- (a) the specific change in sub-contractor was provided for in the procurement process for the award of this Framework Agreement;
  - (b) there has been a universal or partial succession into the position of the Service Provider, following a corporate restructuring, including takeover, merger, acquisition or insolvency, by another economic operator that meets the criteria for qualitative selection applied in the procurement process for the award of this agreement.

### **34. VARIATIONS TO FRAMEWORK AGREEMENT**

Any variations to the Framework Agreement must be made only in accordance with the Framework Agreement Variation Procedure set out in Schedule 13.

### **35. WELSH LANGUAGE REQUIREMENTS**

The Service Provider shall comply with the Welsh Language Act 1993 and the Welsh Language Scheme as if it were the Authority to the extent that the same relate to the provision of the Services.

### **36. THIRD PARTY RIGHTS**

A person who is not a Party to this Framework Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Framework Agreement.

**37. SEVERANCE**

- 37.1 If any provision or part-provision of this Framework Agreement or any Call-Off Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.
- 37.2 If one Party gives notice to the other of the possibility that any provision or part-provision of this agreement is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

**38. RIGHTS AND REMEDIES**

Except as expressly provided in this Framework Agreement or any Call-Off Contract, the rights and remedies provided under this Framework Agreement or any Call-Off Contract are in addition to, and not exclusive of, any rights or remedies provided by law.

**39. WAIVER**

No failure or delay by a party to exercise any right or remedy provided under this Framework Agreement or any Call-Off Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

**40. ENTIRE AGREEMENT**

- 40.1 This Framework Agreement, the schedules and the documents annexed to it, including the Call-Off Contract and any other documents otherwise referred to in it contain the whole agreement between the Parties relating to the subject matter hereof and supersedes all prior agreements, arrangements and understandings between the Parties relating to that subject matter, provided that nothing in this clause 40 shall operate to exclude any liability for fraud.
- 40.2 Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Framework Agreement. Each Party agrees that it shall

have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Framework Agreement.

#### 41. **NOTICES**

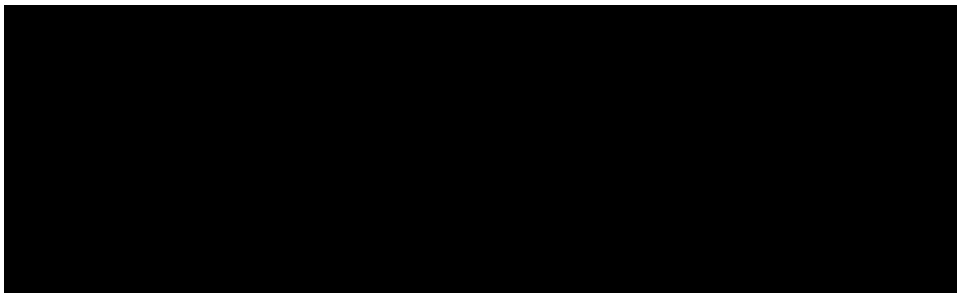
41.1 Subject to clause 41.3, where the Framework Agreement states that a notice or communication between the Parties must be “written” or “in writing” it is not valid unless it is made by letter (sent by hand, first class post, recorded delivery or special delivery) or by email or communication via Jaggaer.

41.2 If it is not returned as undelivered a notice served by:

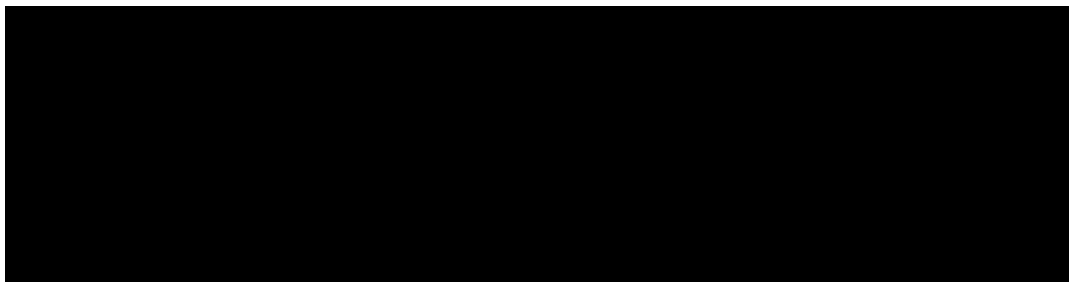
- (a) a letter is deemed to have been received two (2) Working Days after the day it was sent; and
- (b) an email or communication by Jaggaer is deemed to have been received four (4) hours after the time it was sent provided it was sent on a Working Day
- (c) or when the other Party acknowledges receipt, whichever is the earlier.

41.3 Notices shall be sent to the addresses set out below or at such other address as the relevant Party may give notice to the other Party for the purpose of service of notices under the Call-Off Contract:

- (a) For the Authority:



- (b) For the Service Provider:



41.4 Either Party may change its address for service by serving a notice in accordance with this clause.

## **42. CHANGE IN LAW**

42.1 The Service Provider is neither relieved of its obligations under the Framework Agreement or its obligation to supply the Services under any Call-Off Contract nor entitled to an increase in the Price as the result of:

- (a) a General Change in Law; or
- (b) a Specific Change in Law where the effect of that Specific Change in Law on the Services is reasonably foreseeable at the Framework Commencement Date.

42.2 If a Specific Change in Law occurs or will occur during the Framework Term or the term of any Call-Off Contract the Service Provider shall:

- (a) notify the Authority as soon as reasonably practicable of the likely effects of that change, including whether any:
  - (i) Change is required to the Services, the Price or the Call-Off Contract; and
  - (ii) relief from compliance with the Service Provider's obligations is required; and
  - (iii) provide the Authority with evidence that the Service Provider has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Sub- Contractors as to how the Specific Change in Law has affected the cost of providing the Services.

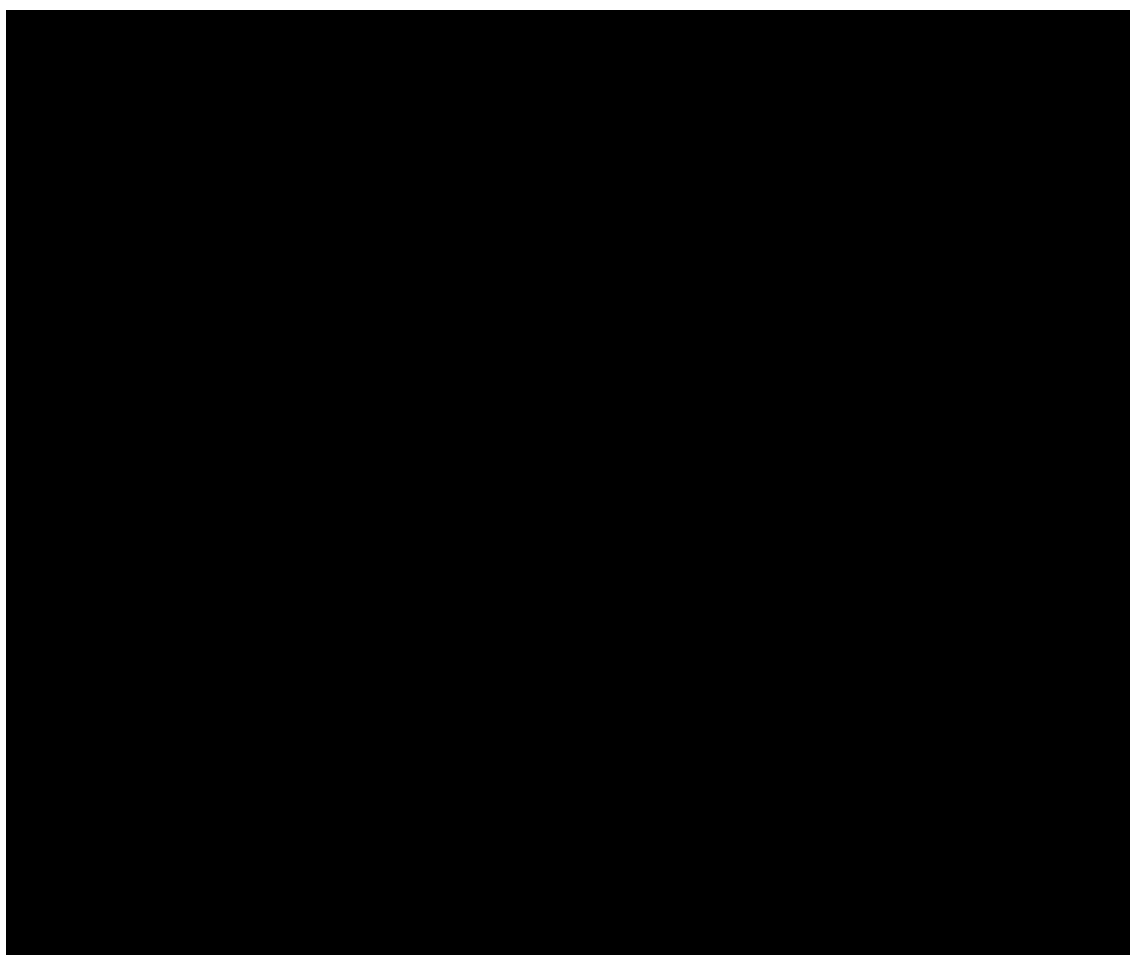
42.3 Any Variation in the Price or relief from the Service Provider's obligations resulting from a Specific Change in Law shall be implemented in accordance with Framework Agreement Variation Process.

## **43. GOVERNING LAW AND JURISDICTION**

43.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-Contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

43.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Framework Agreement or its subject matter or formation (including non-Contractual disputes or claims).

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





## **SCHEDULE 1 - Service Specification**

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## 1. GLOSSARY OF TERMS

Term	Definition
<b>Assessment</b>	An assessment of the Service User who needs Intermediary support, in line with the requirements of this Specification and as defined in section 6.
<b>Commissioning Body</b>	The person/organisation responsible for booking the Intermediary.
<b>CAI</b>	Court Appointed Intermediary. The terms “Intermediary” and “Intermediaries” are used throughout this document and refers to Court Appointed Intermediaries.
<b>CAIS</b>	Court Appointed Intermediary Services. An Intermediary service for vulnerable Service Users who are not covered under the Witness Intermediary Scheme.
<b>Hearing</b>	Court or tribunal proceedings which the Service User is required to attend.
<b>HMCTS</b>	HM Courts and Tribunals Service. An agency of the Ministry of Justice. The Authority of this contract is the MoJ, and through it HMCTS, the requester of the service and sometimes the Commissioning Body.
<b>Intermediary</b>	The terms “Intermediary” and “Intermediaries” are used throughout this document and refers to Court Appointed Intermediaries.
<b>LAA</b>	Legal Aid Agency. An executive agency of the Ministry of Justice. It provides civil and criminal legal aid and advice in England and Wales.
<b>Legal Representative</b>	The Service User’s legal representation for the Hearing, e.g. a solicitor or a barrister. Can be the Commissioning Body of the Service.
<b>MASP</b>	Managed and Approved Service Provider.
<b>MoJ</b>	Ministry of Justice. The government department that HMCTS belongs to and the Authority of this contract.
<b>QAB</b>	Quality Assurance Board. The body responsible for quality assurance, regulation and monitoring of the professional standards of Intermediaries for the Witness Intermediary Scheme and CAIS.
<b>Service Provider</b>	Supplier of the Court Appointed Intermediary Services. Also known as the Managed and Approved Service Provider (MASP).
<b>Service User</b>	The vulnerable person/party who requires the services of an Intermediary at a court/tribunal Hearing.
<b>The Authority</b>	The Authority of this contract is the MoJ, and through it HMCTS.
<b>Unfulfilled Booking</b>	An unfulfilled booking is when a Service Provider has accepted a Booking and then subsequently returns the Booking to the Authority, Refers the order to another Service Provider or fails to provide the Services.
<b>Venue</b>	A court or tribunal.

<b>WIS</b>	The MoJ's Witness Intermediary Scheme provides Registered Intermediaries to vulnerable witnesses, complainants and defence witnesses in the criminal justice system.
<b>Working day</b>	Means 09:00-17:00 any day other than a Saturday, Sunday or public holiday in England and Wales.

## 2. ROLE OF INTERMEDIARY

### Context

2.1 Court Appointed Intermediary Services (CAIS) supports a service that facilitates impartial communication to enable complete, coherent and accurate communication between vulnerable people, known as Service Users, and the courts and tribunals, also referred to as Venues. This helps to ensure Service Users have access to a fair hearing.

2.2 There are two types of Intermediary Services in existence in the justice system:

#### 2.2.1 Court Appointed Intermediaries

Court Appointed Intermediaries provide Services for vulnerable defendants in the criminal jurisdiction and vulnerable parties and witnesses in the civil, family and tribunal jurisdictions.

2.2.2 This is the service referred to throughout the Specification, and any reference to 'Intermediary' and 'Intermediaries', is a reference to Court Appointed Intermediaries.

#### 2.2.3 Registered Intermediaries

Registered intermediaries are selected, trained, accredited and regulated by the Ministry of Justice (MoJ) in England and Wales, or the Department of Justice in Northern Ireland. They operate under the Witness Intermediary Scheme (WIS) and provide services for victims and witnesses in the criminal jurisdiction.

2.2.4 This Specification does not relate to Registered Intermediaries.

2.3 Entering into a Framework Agreement to provide Court Appointed Intermediary Services does not preclude the Service Provider from providing Services through the WIS, Legal Aid Agency (LAA) and other public and private organisations. However, the Authority retains the right to terminate Intermediaries if they are removed from the WIS due to a breach of contract and/or a breach of the Intermediary Codes of Ethics and Practice (section 12).

### 2.4 Role of Intermediaries

2.4.1 Intermediaries fulfil the function of facilitating communication between the Service User and the Venue.

2.4.2 Intermediaries are impartial communication specialists whose primary responsibilities are:

- a. Enabling complete, coherent and accurate communication with Service Users in the justice system.
- b. Improving the quality of evidence and ensuring the Service User's understanding of and participation in proceedings.
- c. Making an Assessment and reporting, orally or in writing, about the communication abilities and needs of the Service User and the steps that should be taken to meet those needs at a Hearing. This includes a

recommendation determining if an intermediary is necessary to support communication. If an Assessment Report is produced orally as a result of an emergency assessment, a written report must be provided as directed by the Authority.

2.4.3 Intermediaries are not investigators and their role in a court or tribunal is not the same as an appropriate adult, supporter or Expert Witness. Their first duty is to the court or tribunal and justice system. They must remain impartial and follow the Intermediary Codes of Practice and Ethics (section 16).

2.4.4 Additionally, to the points in 2.4.2, Intermediaries carry out a range of functions to assist courts, tribunals and justice practitioners, including:

- a. Providing advice, guidance and information on how to communicate most effectively with the Service User and how proceedings can be adapted to accommodate this.
- b. Attending Hearings and ensuring Service Users present their case well, giving best evidence as applicable.
- c. Directly assisting in the questioning process by asking justice practitioners to rephrase questions the Service User does not understand, rephrase questions themselves if necessary (without changing their substantive meaning) and communicating their subsequent answers.

## 2.5 Specialisms

2.5.1 Service Providers are required to assist Service Users with additional needs which may require specialist professional skills and/or experience. An appointed Intermediary should be able to evidence that their skills and experience could, if necessary, be justified at a court or tribunal, before assigning them to a case.

2.5.2 Specialist functions include, but are not limited to:

- a. Deaf Service Users (see section 2.6)
- b. Children and young people
- c. Specific vulnerabilities (see Annex 1 for a list of examples).

2.5.3 Further details regarding qualifications and experience can be found in section 11.

## 2.6 Working with deaf Service Users

2.6.1 Where a deaf Service User requires Intermediary Services and can communicate using a non-spoken language (e.g. British Sign Language), a deaf Intermediary can be instructed. Alternatively, a hearing Intermediary who has had deaf awareness training can be appointed with a non-spoken interpreter as required. The appointment of interpreters is outlined below in 2.7.

## 2.7 Working with Interpreters

2.7.1 In circumstances where a Service User requires the support of an interpreter (spoken or non-spoken) for Assessment and Hearing Services, a MoJ contracted interpreter must be instructed.

2.7.2 When the Service User's Legal Representative is the Commissioning Body, they will make the request in the following ways:

- a. For Assessments in the Crime jurisdiction - The Legal Representative will request the services of an interpreter via the Legal Aid Agency's Prior Authority route.
- b. For Assessments in the Family, Civil and Tribunal jurisdictions - The Legal Representative will request the services of an interpreter via the Venue where the Service User's Hearing will take place.
- c. For Hearings in all jurisdictions - The request will be processed via the Venue.

2.7.3 When HMCTS is the Commissioning Body, the booking of the interpreter will be appointed by the Venue in all cases.

## Requirements

2.8 The Service Provider must be able to provide an Intermediary to attend Hearings on the dates and times specified by the Venue and/or Commissioning Body.

2.9 The Service Provider must provide a suitable Intermediary to deliver the following key Services:

- a. An initial written "**Assessment Report**" in the timeframe set by the Venue, detailing what additional communication needs a Service User has, how these needs will impact on participation, what steps are recommended to address these needs and specifying if an Intermediary is required to assist in meeting the needs.
- b. Providing advice, guidance and information on how to communicate most effectively with the Service User and how proceedings can be adapted to accommodate this to ensure the Service user is able to fully participate, instruct and give the best evidence possible.
- c. Attendance at Ground Rules, Directions, Case Management and other preliminary hearings as directed.
- d. Intermediary support at court and tribunal Hearings. This includes directly assisting in the questioning process by asking justice practitioners to rephrase questions the Service User does not understand, rephrase questions themselves if necessary (without changing their substantive meaning) and communicating their subsequent answers

- e. Intermediary support outside of hearings as directed by the court/tribunal.
- f. Intermediary support for conferences with Legal Representatives as approved by Legal Aid Agency (outlined in section 5.5).
- g. Ensuring Service Users who are not legally represented can communicate and present their case to the best of their ability.

2.10 Facilitating the Service User's participation by enabling them to:

- a. understand and follow proceedings
- b. manage their ability to participate and give their best evidence as applicable
- c. give instructions to their representatives
- d. understand the outcome of proceedings.

2.11 The Service Provider will ensure continuity of the Intermediary supporting the Service User throughout the case where appropriate or as directed by the judge.

2.12 The Service Provider must have an effective quality management process in place to ensure the monitoring of quality output.

### 3. JURISDICTIONS

#### Context

3.1 Court Appointed Intermediary Services are used by courts and tribunals in England and Wales, and tribunals in Scotland.

3.2 It is the duty of the Venue and of all parties to the case to identify Service Users who are vulnerable at the earliest possible stage of proceedings. Consideration should be given to the Service User's ability to:

- a. Understand the nature of the court or tribunal proceedings.
- b. Understand their role and ability to participate in proceedings.
- c. Put their views to the court or tribunal.
- d. Instruct their representative before, during and after the hearing.
- e. Attend the hearing without significant distress.

#### 3.3 The Family Court

3.3.1 The single Family Court is a national court for all family proceedings in England and Wales. Cases, which prior to 2014 were being heard by the County Court or the Family Proceedings Court, are now heard by the Family Court.

3.3.2 The Family Court can sit at any Venue nationally as directed, and usually sits at the County Courts and specialist Magistrates' Courts. Family work may also be heard in the Family Division of the High Court.

3.3.3 In Family Court Hearings, Intermediaries may be appointed in public law proceedings. These proceedings are mostly brought by local authorities if a child is not receiving reasonable parental care. There is a statutory time limit of 26 weeks for public law family cases.

3.3.4 Intermediaries may also be engaged for private law family proceedings on behalf of the child following the parent's separation, Family Law Act injunction proceedings and applications for other protective orders (e.g. forced marriage, FGM Protection Orders), adoption and divorce/financial remedy. For example:

- a. Fact finding hearings
- b. Dispute resolution appointment
- c. Final hearings
- d. Family Law Act injunction proceedings.

#### 3.4 The Civil Court



3.4.1 Civil justice in England and Wales is mainly dealt with in the County Courts and, in the case of more substantial or complex cases, the High Court. The jurisdiction covers a very wide range of cases, from quite small or simple claims like damaged goods or recovery of debt, to large claims between multinational companies.

3.4.2 Civil cases involve Hearings in open court which the public may attend, hearings in the judge's private room from which the public are excluded, and matters decided by the judge in private based on the papers alone.

3.4.3 In Civil Court hearings, Intermediaries could be appointed in any case type.

3.4.4 Currently, Intermediaries are rarely used in the Civil Court. However, ongoing work with the Civil Justice Council into identifying and increasing accessibility for vulnerable Service Users may lead to an increased use in the future.

### **3.5 The Criminal Courts**

3.5.1 All criminal cases start in a Magistrates' Court. Cases are heard by either two or three magistrates (with advice on matters of law, practice and procedure provided by a Legal Adviser) or by one district judge. There is no jury in a Magistrates' Court. Magistrates' Courts pass the most serious crimes to the Crown Court for sentencing or for a full trial with a judge and jury.

3.5.2 A Youth Court is a special type of Magistrates' Court for defendants aged between 10 and 17. A Youth Court has either three magistrates or a district judge. There is no jury in a Youth Court.

3.5.3 The Witness Intermediary Scheme (WIS) provides Intermediary Services for complainants, defence and prosecution witnesses in criminal courts. Defendants do not fall under the WIS so an Intermediary will be appointed under CAIS if communication support is ordered by the judge.

### **3.6 Tribunals**

3.6.1 There are many Tribunals, covering a wide range of areas affecting day-to-day life. Tribunals often sit as a panel, incorporating a legally qualified tribunal judge, as well as panel members with specific areas of expertise. They hear evidence from witnesses but decide the cases themselves.

3.6.2 Some tribunals are administered through local authorities (for example School Exclusion Panels), some by government departments (e.g. Valuation Tribunals) and others through HMCTS. HMCTS administers a two-tier tribunal system: a First-tier Tribunal and an Upper Tribunal, both of which are split into chambers. Each chamber comprises similar jurisdictions or brings together similar types of experts to hear appeals.

3.6.3 Intermediaries are rarely used in tribunal hearings currently but can be appointed in any case type as directed by a judge.

## **Requirements**

- 3.7 Intermediaries must have a working knowledge of the different jurisdictions and types of courts and tribunals for which they accept Bookings.
- 3.8 Intermediaries must be available to support Hearings in all courts and tribunal types where they accept Bookings.

## 4. WELSH LANGUAGE

### Context

#### 4.1 Welsh Language Scheme requirements

4.1.1 The HMCTS Welsh Language Scheme sets out how, in the conduct of public business and the administration of justice in Wales, the English and Welsh languages will be treated on a basis of equality. More information on the Welsh Language Scheme and the Welsh Language Act 1993 can be found here:

- a. [HMCTS Welsh Language Scheme](#)
- b. [Welsh Language Act 1993 \(legislation.gov.uk\)](#)

### Requirements

- 4.2 Where Services are provided within the jurisdiction of Wales, the Service Provider must facilitate compliance with Laws relating to the use of the Welsh Language including the Welsh Language Measure 2016 and Welsh Language Act 1993.
- 4.3 The end-to-end booking service must facilitate compliance with Laws relating to the use of the Welsh Language including the Welsh Language Measure 2016.

## **5. SERVICE: BOOKING**

### **Context**

#### **5.1 Process map**

5.1.1 Annex 6 includes process maps which illustrate the Booking processes for the following scenarios:

- a. Assessment Bookings where:
  - i. The Legal Representative is the Commissioning Body for Family, Civil and Tribunal cases;
  - ii. The Legal Representative is the Commissioning Body for Crime cases;
  - iii. HMCTS is the Commissioning Body for all cases.
- b. Hearing Bookings where:
  - i. The Legal Representative is the Commissioning Body for Family, Civil and Tribunal cases;
  - ii. The Legal Representative is the Commissioning Body for Crime cases;
  - iii. HMCTS is the Commissioning Body for all cases.

#### **5.2 Booking volumes**

5.2.1 The Authority does not guarantee volumes of Bookings. Indicative volumes provided are historic and subject to fluctuation, future policy change and budgetary constraints.

#### **5.3 Unfulfilled Bookings**

5.3.1 Unfulfilled Bookings will be monitored by the Authority and form part of the Service Review Meetings as set out in Schedule 9 - Governance.

#### **5.4 Commissioning Body**

5.4.1 In most cases the Commissioning Body will be the Service User's Legal Representative. In circumstances when the Service User is unrepresented, the Venue where the Service User's Hearing will take place will be the Commissioning Body.

#### **5.5 Funding, Invoicing and Management Information**

5.5.1 For Family, Civil and Tribunal cases, CAIS Assessments and support at Hearings are funded by HMCTS by order of a judge or magistrate.

5.5.2 For Crime cases, Legal Representatives can apply to the Legal Aid Agency (LAA) for Prior Authority funding to conduct CAIS Assessments and Hearings. For Very High Costs Cases (VHCCs) managed by the LAA's Criminal Cases Unit, Legal Representatives can apply to their Case Manager for funding. For Assessments and Hearings where LAA funding is not available, HMCTS can fund the Services by order of a judge or magistrate.

5.5.3 All work carried out for the LAA will be paid in accordance with the **RATES AND LIMITATIONS** in Schedule 5 – Pricing and Payment.

**5.5.4 SERVICES COMMISSIONED FOR CAIS BOOKINGS THROUGH LEGAL AID AGENCY (LAA) PRIOR AUTHORITY ROUTE WILL BE PAID THROUGH HMCTS IN ACCORDANCE WITH SCHEDULE 5 – PRICING AND PAYMENT.**

5.5.5 Unless directed by a judge, conferences and support outside of Assessments and Hearings are not funded by HMCTS under the CAIS Framework. In criminal cases, conferences with Legal Representatives are funded by the LAA following Prior Authority or Case Manager approval and will follow the usual LAA payment process.

5.5.6 Service Providers must submit invoices and Management Information in accordance with Schedule 5 – Pricing and Payment and Schedule 10 – Management Information

5.5.7 The following table summarises funding for Services by Jurisdictional case-type:

	Service Type	Funded By
Crime Cases	Assessments and Hearings	<ul style="list-style-type: none"> <li>• <b>LAA Prior Authority</b> or <b>LAA Criminal Cases Unit</b> for Very High Costs Cases (VHCC).</li> <li>• If the application for legal aid funding is refused, <b>HMCTS</b> can fund by order of a judge.</li> </ul>
	Conferences and support outside of Assessments and Hearings.	<ul style="list-style-type: none"> <li>• <b>LAA Prior Authority</b> or <b>LAA Criminal Cases Unit</b> for Very High Costs Cases (VHCC).</li> <li>• If the application for legal aid funding is refused, <b>HMCTS</b> can fund by order of a judge.</li> </ul>
Family, Civil and Tribunals Cases	Assessments and Hearings	<ul style="list-style-type: none"> <li>• <b>HMCTS</b> by order of a judge.</li> </ul>
	Conferences and support outside of Assessments and Hearings.	<ul style="list-style-type: none"> <li>• <b>HMCTS</b> by order of a judge.</li> </ul>

## Requirements

### 5.6 Resourcing

5.6.1 The Service Provider is expected to manage the caseload capacity of Intermediaries to make sure they can meet the requirements of accepted Bookings, delivering the standards set out in section 12.

5.6.2 The Service Provider is responsible for ensuring the matching of appropriately skilled Intermediaries against the needs of the Service Users.

5.6.3 The Service Provider is responsible for the training and supervision of Intermediaries undertaking work on their behalf.

### 5.7 Booking information

5.7.1 The Commissioning Body will contact the Service Provider to commission the Services of an Intermediary. Assessment Booking Forms and Hearing Booking Forms (jointly referred to as “the Booking Forms”) will be sent to the Service Provider in an electronic format set out by the Authority.

5.7.2 The Service Provider will be required to adopt any necessary changes to the format of the Booking process during the lifetime of the contract.

5.7.3 For cases where an Intermediary has been commissioned to support more than one Service User, separate Booking Forms will be required for each Service User.

5.7.4 Service Providers must use the Authority’s Booking Forms as contained in the following annexes or as agreed with the Authority:

- a. Annex 2 – CAIS Assessment Booking Form
- b. Annex 3 – CAIS Hearing Booking Form
- c. Annex 4 – CAIS Booking Change and Cancellation Form.

5.7.5 The information provided in the Booking Forms must include:

- a. Service Provider’s Reference number
- b. Service User’s Name
- c. Case reference number
- d. Case jurisdiction (Crime, Family, Civil or Tribunal)
- e. Venue name and address
- f. Commissioning Body contact details (name, email address, telephone number).

- g. Representation Order number and Means Assessment Admin Tool (MAAT) reference (for LAA-funded Services only)
- h. Preliminary observations (a note for the Commissioning Body to provide any known details of the Service User's vulnerabilities) and any previous expert reports/conclusions, if known at the time of commission.
- i. Special requirements as directed by the Authority, e.g. gender specific, criminal record check, CV required.
- j. Service Provider contact details (name, company name, address, email address and telephone number). This can include a generic email address and phone number. The contact should be able to answer queries from Legal Representatives and Venues related to Bookings, Quotations and invoices.
- k. Quotation (included within the form or sent as a separate document attached with the Booking Form).
- l. Expected dates and times the Intermediary is needed (for Hearings)
- m. Estimated total hours of Intermediary attendance required (for Hearings)
- n. The date of requesting the Quotation.

## **5.8 Confirmation of Bookings**

5.8.1 The Service Provider must confirm receipt of the Booking Form to the Commissioning Body within one (1) Working Day.

5.8.2 If the Service Provider is unable to accept a Booking, they must notify the Commissioning Body immediately, but in any event no later than two (2) Working Days of receipt of the Booking Form.

5.8.3 If the Service Provider is accepting a Booking, they must provide the Commissioning Body with a Quotation no later than two (2) Working Days of receipt of the Booking Form.

5.8.4 Once the Venue has authorised the Quotation they will electronically sign and send the Booking Form to the Service Provider and Commissioning Body (where it is the Service User's Legal Representative) to formally accept the Booking. Where the Commissioning Body is the HMCTS Venue where the Hearing will take place, they will send the form to the Service Provider only.

5.8.5 The completed Booking Form must contain the information listed in section 5.7.5. The name of the Intermediary assigned will be provided if known at the time of completing the Booking Form. If not known at this time, the Service Provider must notify the Venue no later than noon the Working Day before the Hearing is scheduled to start.

5.8.6 If the Commissioning Body requests a Cancellation or Curtailment of a Booking, the Service Provider will follow the requirements as set out in Schedule 5 – Pricing and Payment.

## **5.9 Quotation**

5.9.1 The Service Provider must submit a Quotation for Services to be provided in accordance with the agreed rates within Schedule 5 – Pricing and Payment.

5.9.2 The Authority may source Services via a Commissioning Body. When sourcing Services under the Framework Agreement, the Authority and a Commissioning Body (on behalf of the Authority) shall carry out the process detailed in this Specification.

5.9.3 Where the Commissioning Body is not the Authority, for example the Service User's Legal Representative, they will send the Quotation to the relevant Venue to authorise the Quotation and formally accept the Booking.

5.9.4 A Call-Off Contract, as defined in the Framework Agreement, is not entered into until the Authority has confirmed its acceptance in writing to the Service Provider that it accepts its Quotation in accordance with Schedule 5 – Pricing and Payment. The Authority shall not pay for any Services where a Quotation has not been approved by it.

5.9.5 Where operational demands result in fewer than three (3) Working Days' notice of its requirement for Services ("Short Notice Booking") the Service Provider accepting the Short Notice Booking must confirm receipt, provide a Quotation and confirmation of the Booking as a priority. The Quotation and invoice must document the date and time of receipt of the Booking request.

5.9.6 In exceptional circumstances, and within two (2) Working Days of receipt of the Booking Form, the Service Provider may request an extension to submit a Quotation for Services. The reason(s) for the request must be submitted electronically to the Venue where the Hearing will take place. Where approval is granted this must be kept for governance and assurance purposes.

5.9.7 The Quotation must include a full breakdown of costs as outlined in Schedule 5 – Pricing and Payment, including, but not limited to:

- a. travel and subsistence
- b. reading and preparation
- c. Intermediary service.

## **5.10 Changes to Bookings**

5.10.1 In case of a Change or a Cancellation of a Booking, the Commissioning Body will contact the Service Provider. The Service Provider will complete and submit the CAIS Booking Change or Cancellation Form (see Annex 4) to the Commissioning Body and Venue. This form will serve as an audit trail for all parties.



5.10.2 The format of the Change or Cancellation Form must be developed and agreed with the Authority during the Implementation Period prior to the Services Commencement Date and, as a minimum, must include:

- a. Whether the Change/Cancellation is being made by the Commissioning Body or the Service Provider.
- b. Whether the Change/Cancellation is in relation to an Assessment, Hearing or both.
- c. The original booking reference number.
- d. Case details (including name of Service User, case number and Venue address).
- e. Contact details of the requestor.
- f. Whether the request is for a Change or a Cancellation.
- g. If a Change is requested, details of the Change.
- h. If a Cancellation is requested, reasons for the Cancellation.

5.10.3 The Service Provider will use the same Intermediary for the Assessment and support during a Hearing. In exceptional circumstances where it cannot be avoided (for example sickness or Hearings which have over-run) we expect the Service Provider to arrange another Intermediary to deliver the Services and manage continuity as outlined in.

5.10.4 If the assigned Intermediary is unable to attend the Hearing, the Service Provider will need to notify the Venue and Commissioning Body as soon as the Service Provider is aware and, in any event, no later than noon one (1) Working Day before the Hearing. Changes will need to be communicated using the CAIS Booking Change/Cancellation Form (Annex 4).

5.10.5 If a Service Provider has been made aware by the Commissioning Body that the Hearing has been adjourned, Cancelled or Curtailed, they must confirm with the Venue within one (1) Working Day to verify the Change is correct.

## **5.11 Rejections & Referrals**

5.11.1 Where a Service Provider is unable to fulfil a request for Services, the Assessment Booking Form or Hearing Booking Form (as appropriate), as described in 5.7, will be rejected and returned to the Commissioning Body within two (2) Working Days from the receipt of the Booking Form.

5.11.2 In instances where a Service Provider accepts and agrees to a Booking, but subsequently cannot fulfil their obligation, e.g. overrunning hearings or change in circumstances, they will immediately inform the Commissioning Body and support the Commissioning Body by making a referral to another Service Provider.

5.11.3 Further information detailing the Service Provider's obligations when handing over a referral is outlined in section 7.8.

5.11.4 As soon as the Service Provider is made aware that a Booking cannot be fulfilled by another Service Provider, they must return the Booking to the Commissioning Body with detailed reasons as to why the Booking has been unfulfilled.

## 6. SERVICE: ASSESSMENT

### Requirements

- 6.1 The Intermediary must carry out an Assessment of the Service User who needs Intermediary support, in line with the requirements of this Specification (“**Assessment**”). This Assessment will be organised in conjunction with the Commissioning Body. They must take place in suitable premises which allow for private and confidential conversations to take place safely and under supervision.
- 6.2 In circumstances where the Intermediary and the Service User are alone during the assessment, this should not be for longer than is necessary.
- 6.3 Suitable premises can include, but are not limited to:
  - a. solicitors’ offices
  - b. local authority offices
  - c. court or tribunal premises (when deemed necessary by the Venue).
- 6.4 Examples of unsuitable premises include, but are not limited to:
  - a. Intermediary’s home
  - b. Service User’s home
  - c. public spaces, e.g. cafés, restaurants.
- 6.5 In circumstances where face-to-face contact between the Intermediary and Service User is not possible, the Commissioning Body may require that the Assessment takes place using remote video-calling technology. In this case, the Service Provider must agree the technology channel with the Commissioning Body and Venue before the Assessment takes place.
- 6.6 This Assessment must take in to account the language and communication capabilities of the Service User and their background. This will determine what support they may need to achieve successful two-way communication so they can participate in the Hearing(s).
- 6.7 A judge will use the recommendations from the Assessment to decide on the type of support that should be provided to the Service User at the Hearing(s).
- 6.8 Following the Assessment, unless otherwise directed by the Venue (for example an urgent short notice Hearing requiring an Assessment on the day), the Intermediary must provide a written Assessment Report detailing their findings from the Assessment to the Venue and to the Commissioning Body in ten (10) Working Days of the Assessment taking place.
- 6.9 Timelines can be shortened in exceptional circumstances or extended following agreement from the Authority. In these instances, delivery expectations will be discussed with the Service Provider and the Venue.

- 6.10 Electronic documents should be provided in PDF format or as directed by the Authority.
- 6.11 The Assessment Report must include the minimum criteria set out below. A template of the Assessment Report including the relevant headings can be found in Annex 5.

6.11.1 Background, instructions and chronology

- a. Details of the Intermediary's qualifications, relevant experience and any accreditation.
- b. The name of the Service User, their date of birth and the date of the Booking, the date or dates on which the Intermediary met the Service User, the location of the Assessment and the channel (face-to-face, video, audio), for the purpose of preparing the Assessment Report.
- c. Who commissioned the report, a summary of the Intermediary's instructions and what the report seeks to address.

6.11.2 Summary

- a. A summary of the conclusions and recommendations.
- b. Details of anyone who has contributed to the report or information leading to the conclusions in the report.
- c. A list of the documents received or inspected by the Intermediary in relation to the Assessment, provision of Intermediary Services and an indication of their content.
- d. A description of the nature and duration of the Assessment.
- e. An explanation of why or why not an Intermediary Service is required using examples taken from the Assessment.
- f. An evaluation of:
  - i. The impact of any condition or conditions which, whether in isolation or together, may adversely affect the Service User's ability to communicate.
  - ii. The extent, if any, to which that impact may be exacerbated by the Hearing.
  - iii. If the Intermediary is not able to reach a definitive evaluation of the Service User, the reasons for this must be stated in the summary.
  - iv. The views of the Service User on receiving the assistance of an Intermediary.

6.11.3 Conclusions and recommendations

- a. Any recommendation, with reasons for:
  - i. The approval or appointment of an Intermediary.
  - ii. The manner and duration of any questioning of the Service User.
  - iii. Arrangements for the way in which the Intermediary, if approved or appointed, should participate.
  - iv. Detailed recommendations to the Legal Representatives and the judge on how best to communicate with the Service User. These should be illustrated with practical examples, tips and strategies, and should be as specific as possible.
  - v. An opinion of the extent to which any measures or arrangements besides the appointment of an Intermediary will facilitate the Service User's effective participation in proceedings.
  - vi. The duration and purpose of any appointment of an Intermediary.
  - vii. Other measures or arrangements to help the Service User to participate effectively at the Hearing.

6.11.4 Further points that should be covered in the report include:

- a. The Service User's use of language, especially if idiosyncratic.
- b. Indicators of the Service User becoming confused.
- c. How the Intermediary will indicate if they need to intervene or if there needs to be a break in questioning (e.g. raising a red card).
- d. If any communication aids are to be used.
- e. Advice to the questioner about their mode of delivery, such as tone of voice or indications that they are going to change topic.
- f. Any recommendation for the Intermediary to review questions prior to the Hearing.

6.11.5 Declaration

- a. The Intermediary Declaration should be set out in full to confirm that the Intermediary:
  - i. Understands their duty to the court or tribunal.
  - ii. Will comply with that duty if approved or appointed.
  - iii. The declaration should read:

'I solemnly, sincerely and truly declare that I will faithfully communicate questions and answers and make true explanations of all matters and things as shall be required of me according to the best of my skill and understanding'.

#### 6.11.6 Annexes

- a. Appendices should be used for relevant reference material that is too detailed for the main body of the report, such as:
  - i. Details about communication aids.
  - ii. Feedback forms.
- b. In some cases, a judge may also request the Intermediary's CV and a description of role.

## 7. SERVICE: HEARING

### Context

#### 7.1 Ground Rules, Directions and Case Management Hearings

7.1.1 Ground Rules, Directions and Case Management Hearings consider how subsequent Hearings should be conducted. They allow the judge and Legal Representatives to plan any adaptations to questioning and/or the conduct of the Hearing that may be necessary to facilitate communication between the Venue and the Service User.

7.1.2 The Ground Rules, Directions and Case Management Hearing will use the Assessment Report as the basis for planning how best to enable full participation in proceedings. It will consider the following in the context of the Intermediary's Assessment Report:

- a. How those involved should alter their communication and questioning to enable the Service User to understand and to participate effectively.
- b. How and when the Intermediary should intervene if there is a communication issue.
- c. What safeguards need to be built into proceedings to ensure that agreed strategies are working.
- d. How to introduce and use communication aids.
- e. Strategies to keep the Service User calm and engaged.
- f. Any breaks required by the Service User.
- g. The role of the Intermediary.
- h. Any relevant materials from The Advocates Gateway.
- i. When the Service User will practice with the video link (if used).
- j. When the judge and Legal Representatives will meet the Service User.

#### 7.2 Remote hearings

7.2.1 The decision to hold a Hearing remotely could be for several reasons and is made by a judge. The Venue will contact the Service Provider if this is happening and will confirm what platform will be used. 7.10.2 confirms that the Service Provider must have the capability to connect to MoJ digital platforms.

### Requirements

### **7.3 Intermediary support not recommended**

7.3.1 If, following the Assessment, the Intermediary recommends that support is not required, this must be evidenced and recorded in the Assessment Report in line with Section 6.

### **7.4 Intermediary support recommended**

7.4.1 If the Intermediary recommends the Service User needs Intermediary support at a Hearing, this must be evidenced and recorded in the Assessment Report in line with Section 6.

### **7.5 Intermediary support at Ground Rules, Directions and Case Management Hearings**

7.5.1 If an Intermediary is Booked to attend a Hearing, they must also attend any supporting Ground Rules, Directions, Case Management and other preliminary Hearings as directed by the judge. The Booking process outlined in section 5 will be followed.

7.5.2 The Intermediary must be prepared to communicate the findings of the Assessment Report to the court or tribunal, and to advise and inform discussion of the points in 7.1.2.

7.5.3 The Service User's attendance at Ground Rules, Directions and Case Management Hearings will be directed by the judge. There may be occasions when the Service User is not required to attend these Hearings. In these instances, the Intermediary will need to attend and support the court or tribunal to prepare the main Hearing.

### **7.6 Intermediary support at further Hearings**

7.6.1 Intermediaries must attend any Hearings as instructed by a judge. The Intermediary will ensure good two-way communication between the Service User and the court or tribunal throughout a Hearing.

7.6.2 As directed by a judge, an Intermediary may attend for the whole Hearing, part of a Hearing, or for evidence giving only.

7.6.3 The Intermediary must attend the Venue before the Hearing start time if ordered to do so by the judge. This will be reflected on the Booking Form.

7.6.4 The Intermediary is expected to undertake any necessary reading and preparation related to the case.

### **7.7 Intermediary support outside of a Hearing**

7.7.1 On the day of the Hearing, Intermediary Services may be provided for conferences, but only when directed by a judge and if relevant to matters for the Hearing.



7.7.2 In criminal cases, Intermediary Services during pre-arranged conferences between Legal Representatives and the Service User will need Prior Authority from the LAA. Further information is outlined in section 5.5.

7.7.3 The Intermediary and the Service User should not be left alone for longer than necessary in these circumstances

## **7.8 Working alongside other organisations that provide Intermediaries**

7.8.1 Service Providers are expected to work with other Service Providers as instructed by the court or tribunal to support the administration of justice.

7.8.2 In exceptional circumstances one Service Provider may need to provide the Assessment, and another provide Intermediary Services at a Hearing. In these instances, Service Providers will cooperate to provide a handover of the Assessment Report following the minimum requirements outlined below:

- a. Handover of the Assessment Report so that the new Service Provider continuing the case is fully informed and understands the rationale for the Assessment findings.
- b. The previous Service Provider must provide the incoming Service Provider with all documents related to the case at the earliest opportunity and, in any event, within no less than five (5) Working Days before the Intermediary is required at the Hearing, unless the Hearing is sooner.
- c. There must be at least one meeting between the two Intermediaries to review the Assessment and its findings. Both parties are responsible for ensuring that the incoming Service Provider is left with a full understanding to enable them to provide effective support to the Service User.
- d. The outgoing Service Provider shall be responsible for documenting this process to ensure an auditable record of handovers is being processed correctly.
- e. The CAIS Change and Cancellation Form should be completed to notify the Venue and Commissioning Body of the Change.

7.8.3 The outgoing Service Provider will not be able to claim this handover time and the new Service Provider can charge this handover time as part of the case preparation time allowance. Further information is included in Schedule 5 - Pricing and Payment.

## **7.9 Working In conjunction with interpreters**

7.9.1 Service Providers are required to work with interpreters arranged by the Authority or Commissioning Body as instructed (see 2.7).

## **7.10 Remote working**

7.10.1 Service Providers must be able to provide Services for:

- a. Remote Assessments
- b. Telephone Hearings
- c. Video Hearings
- d. Hybrid Hearings (where there is a mix of people attending in person and remotely).

7.10.2 Service Providers must ensure their electronic equipment and systems are able to connect to the digital technologies used by the Authority. Currently, this is Microsoft Teams, Cloud Video Platform (CVP) and HMCTS Video Hearings Service. Costs incurred by the Service Provider to attend remote hearings are not chargeable.

7.10.3 Service Providers must ensure all electronic devices comply with HMCTS's Bring Your Own Device (BYOD) Policy (see Annex 8) and the requirements of the Contract, including Schedule 11 - Data Protection and Information Assurance.

7.10.4 The Service Provider must comply and keep their processes up to date with Authority published guidance on Remote Hearings.

- a. Information and guidance on Remote Hearings, including details of the applications mentioned above, can be found by accessing the following link:

<https://www.gov.uk/guidance/what-to-expect-when-joining-a-telephone-or-video-hearing>

7.10.5 Service Providers must be prepared to adapt to changes in digital technologies and platforms used by the Authority during the lifetime of the Contract.

7.10.6 The Service Provider must be prepared to work with the Authority to evaluate remote Intermediary Services and make plans for improving remote working.

## 8. HANDLING OF INFORMATION

### Context

#### 8.1 Relevant links

8.1.1 The Data Protection Act 2018:

<https://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>

8.1.2 Cyber Essentials - Provides a set of basic technical controls to help organisations protect themselves against common online security threats.

<https://www.ncsc.gov.uk/cyberessentials/overview>

### Requirements

#### 8.2 Management Information

8.2.1 The Service Provider is responsible for providing a range of timely and accurate management information at local, regional and national levels as described in Schedule 10 – Management Information.

#### 8.3 Ad-hoc urgent requests

8.3.1 The Service Provider must respond to all ad hoc and urgent information requests in relation to Freedom of Information requests, Ministerial Questions and Parliamentary Questions within two (2) Working Days of receipt of the request, unless directed otherwise by The Authority.

#### 8.4 Data Protection, Information Assurance, IT and Cyber Security

8.4.1 Further details on the Service Provider's requirements for handling information is outlined in Schedule 11 – Data Protection and Information Assurance.

#### 8.5 Device Policy

8.5.1 The Service Provider's Staff and contractors, consultants or agency staff used by the Service Provider must use computers and electronic devices that comply with HMCTS's Bring Your Own Device (BYOD) policy (see Annex 8) and the requirements of the contract.

8.5.2 If a Service Provider uses personal devices to undertake work for the Authority, then it is the Service Provider's responsibility to:

- a. Ensure that all systems handling HMCTS data have up-to-date anti-virus software and security patches;
- b. Securely dispose, in line with HMCTS policies, of any data held on your personal device which is no longer required;
- c. Address any computer support and maintenance issues on a regular basis;

- d. Ensure that the Authority is not brought into disrepute by failing to meet any legal requirements;
- e. Prevent unauthorised access to official information from other members of the household and guard against accidental access by visitors by keeping it secure in a safe place, and out of sight;
- f. Unless access to the working area can be strictly controlled then the equivalent of a clear desk and clear screen policy must be exercised when you leave the room; and
- g. Report any loss of data to the Authority as soon as the loss is discovered.

## **9. SECURITY CLEARANCE AND VETTING**

### **Requirements**

#### **9.1 Baseline Personnel Security Standard, Disclosure and Barring Service checks**

9.1.1 Service Providers are required to satisfy the relevant level of (Disclosure and Barring Service) DBS check in line with legislation set out in the Rehabilitation of Offenders Act 1974.

9.1.2 The Authority may change the required level of security clearance during the lifetime of the Contract. The Service Provider must ensure adherence to any changes within agreed timescales. Any costs incurred will not be chargeable to the Authority.

9.1.3 The Service Provider will ensure all its personnel shall be security cleared to BPSS (Baseline Personnel Security Standard) as a minimum.

#### **9.2 Personnel security requirements**

9.2.1 The name of the Intermediary must be provided to the Venue and the Commissioning Body in advance of the Hearing no later than noon one (1) Working Day before the Hearing is scheduled to start.

9.2.2 Minimum identification (ID) requirements upon attending a Booking as an Intermediary are for a clear official photographic ID, which can include but is not limited to:

- a. UK Driver's licence
- b. Passport
- c. An employee identity card from the Service Provider that evidences the name of the intermediary. The ID will have the name of the Service Provider on it. This ID will be checked by security staff when the Intermediary enters the Venue.

#### **9.3 Attending HMCTS Venues**

9.3.1 When attending HMCTS Venues, the Intermediary must declare themselves to a member of HMCTS staff as follows:

- a. For an Assessment, the Intermediary must declare themselves to the Venue staff on arrival.
- b. For a Hearing, the Intermediary must present Photo ID to Venue staff who will present them to the Clerk or relevant member of staff for the Hearing. The member of staff will record their attendance. This attendance record is vital so that the Authority can confirm invoices.

#### **9.4 Fitness to practise**

9.4.1 Intermediaries who have been removed from the MoJ Witness Intermediary Scheme's (WIS) register as a result of an upheld Complaint or fitness to practice concern are not allowed to practise as a Court Appointed Intermediary.

9.4.2 In instances where an Intermediary is not allowed to practise as a Court Appointed Intermediary but has outstanding accepted Booking(s), the Service Provider will immediately inform the Commissioning Body and the Authority. The Service Provider will find a replacement Intermediary or make a Referral to another Service Provider as described in 7.8.2.

9.4.3 The Service Provider is responsible for ensuring that their Staff are fit to practise and must have processes in place for their Intermediaries to notify them if they have been removed from the WIS register.

9.4.4 Once the Service Provider becomes aware that an Intermediary has been removed from the WIS register, they must notify the Authority within one (1) Working Day.

## **10. SERVICE: CUSTOMER SERVICE, COMPLAINTS AND FEEDBACK**

### **Context**

#### **10.1 Quality Assurance Board**

10.1.1 For Complaints that require expert input, the Authority will refer cases as required to the Witness Intermediary Scheme's Quality Assurance Board (QAB) for final resolution.

#### **10.2 Suspended and barred intermediaries**

10.2.1 The Authority will hold and maintain a list of suspended and barred Intermediaries which will be shared with the Witness Intermediary Scheme.

### **Requirements**

#### **10.3 Customer Service Requirement**

10.3.1 All customer service queries, Complaints and feedback should be acknowledged within at least one (1) Working Day.

10.3.2 The Service Provider will respond to Complaints as soon as possible and within ten (10) Working Days as described in 10.5.3.

10.3.3 The Service Provider must record all customer service queries, Complaints and feedback as outlined in Schedule 10 - Management Information.

#### **10.4 Complaints Procedures**

10.4.1 The Service Providers shall maintain excellent levels of customer service to the Service Users, Commissioning Bodies and Venues throughout the duration of the Contract, responding promptly to queries and Complaints and putting right mistakes as soon as possible.

10.4.2 The Service Provider is required to receive, log and remedy feedback and Complaints from Service Users, the judiciary, Commissioning Bodies and the Authority, through several different channels including:

- a. Telephone
- b. Email
- c. Letter
- d. Online through a web portal or form.

10.4.3 The Service Provider will:

- a. Have an effective policy and procedure in place for dealing with customer dissatisfaction which will be approved by the Authority.

- b. Advertise their Complaints policy on their website and signpost to it on all correspondence as appropriate.
- c. Ensure all Complaints are managed centrally and dealt with fairly, confidentially and impartially.
- d. Have an effective internal escalation process in place to deal with Complaints before seeking resolution from the Authority as outlined in 10.9.
- e. Ensure that the Complaints process allows for the identification and tracking of Complaints from reporting to resolution. Details of such Complaints and proposed and/or completed corrective action will be reviewed at Service Review Meetings with the Authority.
- f. Learn lessons and make changes to their Service as appropriate.

## **10.5 Complaints Procedure**

10.5.1 Complaints should be acknowledged and responded to by email or letter within the required timescales in 10.3.

10.5.2 In accordance with the Schedule 10 - Management Information, reports must be provided to the Authority on Complaints, investigations and outcomes for review at Service Review Meetings or as requested.

10.5.3 Following an initial investigation, and within ten (10) working days, the Service Provider will determine if:

- a. The Complaint needs further investigation; or
- b. The Complaint can be resolved; or
- c. The Complaint does not fall within the remit of the Service Provider.

10.5.4 The Service Provider's response will:

- a. Provide a resolution to the Complaint; or
- b. Inform the complainant if further investigation is required, and how long it is expected to take; or
- c. Inform the complainant that the Complaint will not be taken any further and provide details of how to appeal this decision.

10.5.5 A Complaint is resolved and can be formally closed when the complainant is satisfied with the outcome of the Service Provider's response or if an Appeal is not lodged within (10) Working days of receipt of the outcome.

10.5.6 If a complainant is not satisfied with the response, the Service Provider will follow the escalation procedure in 10.9.

## **10.6 Initial Investigation**



10.6.1 The investigation will seek to establish the views of the parties and gather any other relevant information to fully investigate the Complaint.

10.6.2 The Service Provider will send an interim response when they are not able to investigate in the timeframe outlined in 10.3, giving reasons for the delay and the likely timeframe for resolution. The Service Provider will be required to report this information to the Authority.

10.6.3 The investigation will produce a report that provides a recommendation as to whether the Complaint should be upheld wholly, partially or not at all. The Service Provider will outline what action, if any, is required to address identified issues.

10.6.4 The outcome of any investigation must be given to the complainant in ten (10) Working Days, giving appropriate details of Appeal/escalation routes available.

10.6.5 The Service Provider must consider where appropriate the fitness to practise and immediate safety implications of the Complaint and decide whether:

- a. The Intermediary can continue working; or
- b. The Intermediary can continue with existing cases but may not take new ones; or
- c. The Intermediary must be suspended from work.

10.6.6 Where there are safeguarding risks or fitness to practise implications, the Service Provider must provide an immediate response to the complainant and notify the Service User's Legal Representatives and the Authority immediately.

## **10.7 Upheld Complaints**

10.7.1 The Service Provider must take appropriate action and/or make appropriate changes to their policy and procedures where needed. The Service Provider must respond to the complainant with a full account of decisions and any corrective actions where applicable.

10.7.2 The Service Provider must log, review and implement where relevant any:

- a. lessons learned
- b. recommendations
- c. findings.

## **10.8 Not upheld Complaints**

10.8.1 If the Complaint is not upheld the Service Provider must provide full reasons why to the complainant and the Authority as outlined in the Schedule 10 - Management Information.

## **10.9 Escalating the Complaint**

10.9.1 If the Complaint cannot be resolved in the first instance, the Service Provider will escalate and investigate the Complaint internally.

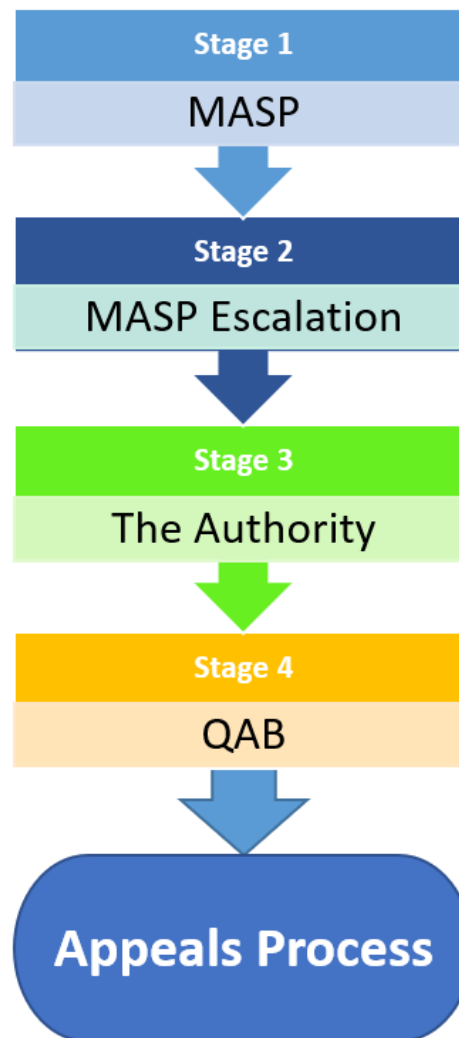
10.9.2 Following internal escalation, if the Complaint cannot be resolved by the Service Provider, they will refer the Complaint to the Authority for investigation/resolution.

10.9.3 As described in 10.1 the Authority may refer cases as required to the Witness Intermediary Scheme's Quality Assurance Board (QAB) for investigation/resolution.

10.9.4 If the complainant or the Service Provider is not satisfied with the response from The Authority, they are able to Appeal within ten (10) Days of receiving the outcome of the Complaint.

10.9.5 The Service Provider must have an effective Appeals process in place.

10.9.6 The following diagram demonstrates the escalation stages of the Complaint:



## 10.10 Suspended and barred Intermediaries

10.10.1 If there is a Complaint about conduct or quality of service, the Service Provider must decide if it is appropriate to suspend Intermediaries from undertaking Bookings pending the outcome of the investigation. The Service Provider must clearly document the rationale for this decision.

10.10.2 If the Complaint is upheld the Service Provider will decide if the Intermediary is to be sanctioned, suspended or barred from undertaking CAIS Bookings.

10.10.3 The rationale for decisions and appropriate steps taken by the Service Provider must be clearly documented and notified to the Authority.

10.10.4 The Authority reserves the right to override any decision made by the Service Provider and to suspend and bar Intermediaries from undertaking CAIS Bookings.

## **11. MINIMUM QUALIFICATIONS AND TRAINING**

### **Requirement**

- 11.1 The Authority has no explicit requirements for accredited qualifications that should be held by the Service Provider's Intermediary Staff. However, the Service Provider must be able to evidence their ability to provide Intermediaries who can facilitate complete, coherent and accurate communication with Service Users as outlined in this Specification, and as per their tender submission.
- 11.2 The Service Provider must ensure Intermediaries are able to effectively meet the jurisdictional requirements of all accepted Bookings as outlined in section 3.
- 11.3 The Service Provider will ensure development plans for Intermediaries and Staff is established and reviewed periodically. This could be developed through complementary academic or professional qualifications, professional experience, and/or Intermediary-specific training and continuing professional development (CPD).

## 12. QUALITY ASSURANCE

### Context

#### 12.1 Breaches of the Code of Ethics and Code of Practice

12.1.1 Following a breach under the Code of Ethics and Code of Practice, the Authority retains the right to exclude Intermediaries from working under the CAIS Framework at their discretion. This exclusion may apply to an individual Booking, a specific jurisdiction or to the entire Framework Agreement.

#### 12.2 Poor performance

12.2.1 The Authority reserves the right to require that Service Providers do not deploy an Intermediary with poor performance records, and the Service Provider shall ensure that the Intermediary is not used for further Bookings.

### Requirement

#### 12.3 Code of Ethics

12.3.1 Service Providers and Intermediaries must always uphold the following Code of Ethics:

1. Professionalism – Service Providers and Intermediaries shall conduct themselves with a high degree of professionalism in all circumstances. At all times act with integrity, maintain high standards and conduct themselves in an ethical and professional manner. They must:
  - 1.1 Disclose to the Authority any allegations of an Intermediary's misconduct or departure from this Code of Ethics and Code of Practice.
  - 1.2 Disclose to the Authority an Intermediary's criminal record or other information which may make them unsuitable for bookings. At the discretion of the Authority, individuals with a criminal record may be precluded from receiving Bookings.
  - 1.3 Immediately notify the Commissioning Body and Authority of any prior relationship with any party to proceedings in a Booking.
  - 1.4 Not accept any gift or reward that could be construed as an incentive to act against their professional obligations.
2. Propriety - Intermediaries must not use information or knowledge gained through the course of their work to benefit themselves or their associates.
3. Respect - Intermediaries shall:
  - 3.1 Demonstrate respect for all those that they encounter during their professional duties and will respect the practices of other professions.
  - 3.2 Not discriminate between parties (to their advantage or disadvantage) either directly or indirectly

- 3.3 Act impartially at all times.
- 3.4 Not act in any way that might result in prejudice or preference on grounds of religion, belief, race, politics, gender, gender reassignment, age, sexual orientation or disability other than as obliged to in order to faithfully translate, interpret or otherwise transfer meaning.
- 4. Resilience - Intermediaries will seek to overcome any unforeseen difficulties.
- 5. Impartiality - Intermediaries will:
  - 5.1 Remain strictly impartial and uphold their duty to the justice system.
  - 5.2 Carry out Bookings impartially and disclose any personal interest, such as financial or business related, in order that the Authority can assess if this constitutes a potential conflict of interest. If the Authority considers the conflict to be unacceptable the Intermediary shall be asked to withdraw from the booking;
- 6. Confidentiality - Intermediaries shall strictly uphold confidentiality requirements:
  - i. Treat all material provided during a Booking as confidential and, unless disclosure is required by law, ensure no information is communicated to any third party without approval;
  - ii. Ensure that material is used only for the purpose of conducting the Services required under the Framework Agreement;
  - iii. Ensure that all material is returned to the Commissioning Body and/or Authority at the conclusion of a Booking;
  - iv. Comply with all relevant Data Protection Legislation;
  - v. Not use any of the information obtained during a Booking for any purpose other than that as authorised; and
  - vi. Ensure all data and documents are handled and processed securely as described in section 8 and Schedule 11- Data Protection and Information Assurance.

## 12.4 Code of Practice

12.4.1 All Service Providers and Intermediaries should adhere to the following Code of Practice:

- a. Intermediaries should only accept instructions in which they have the relevant expertise.
- b. The primary responsibility of the Intermediary is to enable complete, coherent and accurate communication to take place between the Service User and the court or tribunal.
- c. The Intermediary should identify the sources of information required in order to gain a clear understanding of the needs of the Service User.

- d. The Intermediary must comply with all obligations under data protection law and any relevant policies and procedures.
- e. The Intermediary will be thorough in assessing a Service User's needs, including using background information and meetings with relatives, carers and professionals involved to give as complete an account as possible.
- f. The Intermediary should not enter into discussion, give advice, or express opinions concerning any aspect of the case including the evidence that the Service User is to present.
- g. Intermediaries should keep the Authority informed of any difficulties, including recording and communicating any dissatisfaction expressed by the Service User with either the Intermediary or the procedure.
- h. The Intermediary should explain their role to the Service User and ensure that the Service User is satisfied with participating in the Assessment and consent obtained.
- i. The Intermediary should not change the content or attempt to improve or elaborate on what is said by the Service User in a court or tribunal hearing. Any actions that may improve understanding without changing meaning must be taken only with the explicit consent of the court or tribunal.
- j. The Intermediary should only intervene in a court or tribunal hearing if it is necessary to draw attention to the Service User. For example, if they are distressed, require a break, unable to understand proceedings, need to answer a question or express non-verbal communication.
- k. The Intermediary must disclose to the court or tribunal any difficulties encountered, such as limitations in their professional experience and training, and seek the court or tribunal's guidance about action that may be taken to achieve best evidence.
- l. Judgment of the court and tribunal must always be respected.
- m. At all times the Intermediary's duty to the court and tribunal remains paramount and they must respect obligations relating to disclosure between all parties concerned in the case.
- n. Service Providers must notify the Authority immediately of any criminal investigation or proceedings against them or their Staff, or any other Complaint or investigation into their conduct or competence.
- o. The Intermediary must not do anything which may bring the Authority into disrepute.

- p. In accepting a Booking, the Service Provider is obliged to ensure that an appropriately qualified Intermediary undertakes the Booking. If, at a later stage, an Intermediary identifies they can't meet these requirements, they must return the Booking or take such steps necessary to meet the requisite standard.

## 12.5 Declaration

12.5.1 At the Hearing, the Intermediary must agree to take the Intermediary Declaration. The court or tribunal will make the Intermediary aware of the legal consequences of perjury and contempt. The Intermediary can choose to make this declaration as either an oath or affirmation, both are equal in legal terms.

12.5.2 The Intermediary's oath is:

*'I solemnly, sincerely and truly declare [or I swear by Almighty God] that I will well and faithfully communicate questions and answers and make true explanation of all matters and things as shall be required of me according to the best of my skill and understanding.'*

12.5.3 The Intermediary's affirmation is:

*'I solemnly, sincerely and truly declare and affirm that I will well and faithfully communicate questions and answers and make true explanation of all matters and things as shall be required of me according to the best of my skill and understanding.'*

## 12.6 Breaches of the Code of Ethics and Code of Practice

12.6.1 Service Providers must report any breaches of the Code of Ethics and Code of Practice to the Authority's Contracted Services Division within one (1) Working Day.

12.6.2 Service Providers must investigate and respond effectively to all breaches. Details of which must be shared with the Authority and discussed at Service Review meetings.

## 12.7 Safeguarding

12.7.1 Service Providers are required to produce and maintain a safeguarding policy and ensure all those involved in the delivery of the Services are aware of, and comply with, that policy.

12.7.2 The Service Provider's safeguarding policy should, as a minimum, comply with HMCTS's Safeguarding Policy guidance. See Annex 7.

12.7.3 There may be occasions when an Intermediary is required to share concerns about a person because they believe that the person may be at risk of harm. If an Intermediary believes that a child or vulnerable adult is at risk of harm, then they must act in line with HMCTS's guidance and the relevant statutes, including:



- a. Children Act 1989
- b. Children Act 2004
- c. Adoption and Children Act 2002
- d. General Data Protection Regulation
- e. Data Protection Act 2018
- f. 'Working together to safeguard children', guidance. Department for Education, July 2018.
- g. 'Information sharing: advice for practitioners providing safeguarding services to children, young people, parents and carers', guidance (2018).
- h. Care Act 2014
- i. Mental Capacity Act 2005
- j. Modern Day Slavery Act 2015.

12.7.4 The Intermediary should keep a clear digital record of any actions and their reasons for them. Information subsequently provided by the agency/agencies alerted should also be recorded and shared with the Authority if requested.

## **12.8 Conflict of interest**

12.8.1 Intermediaries must carry out Bookings in an impartial manner and disclose any personal interest, such as financial or business, in order that the Authority or Commissioning Body can assess if this constitutes a potential conflict of interest as soon as they become aware of it.

12.8.2 If the Authority or Commissioning Body considers the conflict to be unacceptable the Intermediary shall be asked to withdraw from the Booking. All instances of conflicts of interest will be recorded and monitored by the Service Provider and shared with the Authority. This will form part of Service Review Meetings that will be undertaken periodically by the Authority as described in Schedule 9 - Governance.

## **12.9 Performance management of personnel**

12.9.1 The Service Provider shall have in place and operate a procedure to address poor performance issues for Intermediaries, including but not limited to:

- a. Failure to deliver the level of service required.
- b. Inappropriate behaviour.
- c. Failure to adhere to the Code of Ethics and Practice.

### 13. EQUALITY, DIVERSITY AND INCLUSION COMMITMENT

#### Requirement

- 13.1 The Service Provider shall comply with the Equality Act 2010 and all applicable amendments, regulations and codes of practice or any future or other legislation which concerns discrimination in employment and service delivery (the Equalities Provisions).
- 13.2 The Service Provider shall take all reasonable steps to ensure the observance of the Equalities Provisions by their Staff and Intermediaries working on the Contract.
- 13.3 The Service Provider shall provide such information as the Authority may reasonably require for the purpose of assessing the Service Provider's compliance with the Equality Act.
- 13.4 The Service Provider shall notify the Authority immediately in writing upon becoming aware of any investigation or legal proceedings brought against the Service Provider, Intermediaries and/or its Staff under the Equalities Provisions.
- 13.5 In the event of any finding of unlawful discrimination being made against the Service Provider, Intermediaries and/or its Staff under the Equalities Provisions, whether such event happened before the Framework Agreement Commencement Date or during the Framework Term, the Service Provider shall immediately inform the Authority of this finding. The Service Provider shall (but, in the event of an Appeal, only after the final and unsuccessful outcome of the appellate process) take appropriate steps to the reasonable satisfaction of the Authority to prevent repetition of the unlawful discrimination.
- 13.6 In line with clause 23 of the Framework Agreement, in the event of repeated findings of unlawful discrimination against the Service Provider during the Framework Term (whether arising from the same or different acts or omissions, and regardless of any steps) the Authority shall without prejudice to its other rights and remedies be entitled to terminate the Framework Agreement and any Call-Off Contracts by serving notice in writing on the Service Provider with effect from the date specified in that notice.
- 13.7 If requested to do so by the Authority, the Service Provider must, at its own expense, fully co-operate with any investigation, legal proceedings, ombudsman inquiries or arbitration in which the authority may become involved arising from any breach of under the Equalities Provisions due to the alleged acts or omissions of the Service Provider, Intermediary and/or its Staff.

## 14. SOCIAL VALUE

### Requirement

14.1 The Service Provider shall collaborate with the Authority to achieve social value outcomes and benefits in line with the Public Services (Social Value) Act 2012 which address economic, environmental and social value:

14.1.1 Social: Examples may include community engagement projects, volunteering opportunities, supporting social groups, and inclusion and wellbeing of staff and sub-contractors.

14.1.2 Economic: Examples may include support for employment, apprenticeships and training and skills initiatives for staff and Intermediaries. Additionally, these opportunities may relate to the justice sector such as apprenticeships, employment or skills, training and development initiatives for ex-offenders.

14.1.3 Environmental: Examples may include energy saving schemes, carbon footprint/emissions schemes, use of environmentally friendly products and management of waste.

14.2 The Service Provider is responsible for ensuring the delivery of the proposals for improving Social Value contained within Schedule 2 – Service Provider Solution, and reporting upon these measures in accordance with the reporting requirement MI10 of Schedule 10 – Management Information and Reporting.

## **15. ANNEX 1 – VULNERABILITY CATEGORIES**

15.1.1 The following list provides some examples of what may constitute a vulnerable Service User. The Commissioning Body may refer to this list to set out any vulnerability that has already been identified at the time of the booking to assist the Service Provider in providing a suitable intermediary. It is not exhaustive and may be adapted throughout the lifetime of the contract:

### **15.2 Learning Disability**

- a. Attention deficit hyperactivity disorder (ADHD)
- b. Autistic spectrum disorder (including Asperger's Syndrome)
- c. Dysarthria / Dyspraxia (unclear speech)
- d. Language delay / disorder
- e. Mild / moderate learning disabilities
- f. Selective / elective mutism disorder
- g. Severe learning disabilities

### **15.3 Mental Health**

- a. Anxiety
- b. Bi-polar affective disorder
- c. Dementia
- d. Depression
- e. Mental Health Issues
- f. Obsessive Compulsive Disorder
- g. Personality disorder
- h. Schizophrenia

### **15.4 Physical Disability**

- a. Brain or Head injury (including stroke)
- b. Cerebral Palsy
- c. Deafness / hearing impairment

- d. Dementia (including Alzheimer's disease)
- e. Dysarthria/Dyspraxia (unclear speech)
- f. Fluency (stammering/stuttering)
- g. Neurological and progressive disorders (including motor neurone disease and Parkinson's disease)
- h. Voice Disorders (including laryngectomy & tracheotomy)



HM Courts &  
Tribunals Service

## Court Appointed Intermediary Service

### Assessment Booking Form

This booking form is used for:

- **A Commissioning Body** to request the services of a Court Appointed Intermediary (CAI) to carry out an initial assessment of a Service User.
- **A CAIS Service Provider** to include an assessment booking reference number, to confirm or reject the booking and to provide a quotation.
- **HMCTS Venues** to approve or reject the Service Provider's quotation.

For help completing the form, please refer to the relevant supporting Court Appointed Intermediary Service (CAIS) guidance:

CAIS Commissioning  
Body Guidance

CAIS Service  
Provider Guidance

CAIS HMCTS Staff  
Guidance

#### Assessment booking reference number

Click or tap here to enter text.

#### Name of attending intermediary

*To be provided no later than midday the working day before the assessment.*

Click or tap here to enter text.

## A. Commissioning Body to complete

### 1. Case details

Service User's name	Click or tap here to enter text.
HMCTS case number	Click or tap here to enter text.
Jurisdiction	Click or tap here to enter text.
Court/Tribunal name and address	Click or tap here to enter text.
Click or tap here to enter text.	
Court/Tribunal email address	Click or tap here to enter text.

### 2. Commissioning Body details

Your full name	Click or tap here to enter text.
Role	Click or tap here to enter text.
Email address	Click or tap here to enter text.
Telephone number	Click or tap here to enter text.

### 3. For LAA-funded assessments

Proceed to 4 if the assessment is not being funded by the Legal Aid Agency (LAA)

Representation Order number	Click or tap here to enter text.
MAAT reference number	Click or tap here to enter text.

### 4. Preliminary observations

Provide details of the Service User's vulnerabilities if known.

Learning Disability			
Attention deficit hyperactivity disorder (ADHD)	<input type="checkbox"/>	Mild / moderate learning disabilities	<input type="checkbox"/>
Autistic spectrum disorder (including Asperger's Syndrome),	<input type="checkbox"/>	Selective / elective mutism disorder	<input type="checkbox"/>
Dysarthria / Dyspraxia (unclear speech)	<input type="checkbox"/>	Severe learning disabilities.	<input type="checkbox"/>
Language delay / disorder	<input type="checkbox"/>	Other	<input type="checkbox"/>
If other, please specify	Click or tap here to enter text.		

Mental Health			
Anxiety	<input type="checkbox"/>	Mental Health Issues	<input type="checkbox"/>
Bi-polar affective disorder	<input type="checkbox"/>	Obsessive Compulsive Disorder	<input type="checkbox"/>
Dementia	<input type="checkbox"/>	Personality disorder	<input type="checkbox"/>
Depression	<input type="checkbox"/>	Schizophrenia	<input type="checkbox"/>
Other	<input type="checkbox"/>		
If other, please specify	Click or tap here to enter text.		

Physical Disability			
Brain or Head injury (including stroke)	<input type="checkbox"/>	Dysarthria/Dyspraxia (unclear speech)	<input type="checkbox"/>
Cerebral Palsy	<input type="checkbox"/>	Fluency (stammering/stuttering)	<input type="checkbox"/>
Deafness / hearing impairment	<input type="checkbox"/>	Neurological and progressive disorders (including motor neurone disease and Parkinson's disease),	<input type="checkbox"/>
Dementia (including Alzheimer's disease)	<input type="checkbox"/>	Voice Disorders (including laryngectomy & tracheotomy)	<input type="checkbox"/>
Other	<input type="checkbox"/>		
If other, please specify	Click or tap here to enter text.		

## 5. Special requirements for the assessment

Provide details of any known special requirements. <i>E.g. Specific gender request, inability to travel, interpreter needed etc</i>
Click or tap here to enter text.

## 6. Submit

<b>Next steps</b> <ul style="list-style-type: none"> <li>Save the form and email as an attachment to the Service Provider.</li> </ul>
---------------------------------------------------------------------------------------------------------------------------------------



- If previous intermediary or psychological assessments have been conducted, attach any relevant documentation to the email.

## B. Service Provider to complete

*Include an assessment booking reference number in the booking reference field at the top of the form.*

### 1. Booking confirmation

Are you able to fulfil this booking?	<input type="checkbox"/> <b>Yes</b> Go to 3	<input type="checkbox"/> <b>No</b> Go to 2
--------------------------------------	---------------------------------------------------	--------------------------------------------------

### 2. Reason for rejection

If you are rejecting the booking, please provide an explanation and return to the Commissioning Body.
Click or tap here to enter text.

### 3. Contact details

*Contact name, email address and telephone number can be an individual or team details.*

Your name	Click or tap here to enter text.
Company name	Click or tap here to enter text.
Company address	Click or tap here to enter text.
Click or tap here to enter text.	
Email address	Click or tap here to enter text.
Telephone number	Click or tap here to enter text.

### 4. Quotation

*To be completed below or attached with the booking form.*

Is the quotation attached separately?	<input type="checkbox"/> <b>Yes</b> Go to 5	<input type="checkbox"/> <b>No</b> Complete the table below
---------------------------------------	---------------------------------------------------	-------------------------------------------------------------------

Description	Qty (Est no. of hours)	Unit Price	Total
Reading and preparation	Enter text.	Enter text.	Enter text.
Assessment service	Enter text.	Enter text.	Enter text.

Report Writing	Enter text.	Enter text.	Enter text.
Travel and subsistence	Enter text.	Enter text.	Enter text.
Other costs Click or tap here to enter description.	Enter text.	Enter text.	Enter text.
<b>Total</b> (incl. VAT)	Enter text.		

## 5. Declaration and return

<p><i>The quotation is provided in accordance with the CAIS Price and Payment Schedule. This is a provisional estimate of costs for this booking and once the service is complete an invoice will be submitted with an explanation of any changes.</i></p>		<input type="checkbox"/> Mark to confirm
Name	Enter text.	Date
		Enter text.

### Next steps

- Provide a booking reference number at the top of the form.
- Save the form and email as an attachment to the Commissioning Body.
- Attach the quote if provided separately.

## C. Commissioning Body to complete

*If HMCTS is the Commissioning Body, go to section D.*

### 1. Funding

Select the funding organisation for the assessment	<input type="checkbox"/> <b>HMCTS</b>	<input type="checkbox"/> <b>LAA</b>
----------------------------------------------------	------------------------------------------	----------------------------------------

<b>HMCTS Funding</b>	Email the form to the Venue where the hearing will take place to approve funding.
<b>LAA Funding</b>	Do not email this form to the LAA. Submit a request for Prior Authority. Once funding has been obtained, send this form to the Venue.

## D. HMCTS to Complete

### 1. Quotation acceptance

Refer to section C above. If LAA is funding the assessment, go to 3.

Do you accept this quotation?	<input type="checkbox"/> <b>Yes</b> Go to 3	<input type="checkbox"/> <b>No</b> Go to 2
-------------------------------	---------------------------------------------------	--------------------------------------------------

### 2. Reason for rejection

Please provide an explanation for rejecting the quotation and return to the Service Provider, copying the Commissioning Body.

Click or tap here to enter text.

### 3. Blanket purchase order (BPO)/Purchase order (PO) number

Click or tap here to enter text.

### 4. Contact details

Name	Click or tap here to enter text.
Role	Click or tap here to enter text.
Email address	Click or tap here to enter text.
Telephone number	Click or tap here to enter text.

### 5. Declaration and return

<i>The Venue will fund the estimated quotation for the court appointed intermediary service assessment.</i>		<input type="checkbox"/> <i>Mark to confirm</i>	
Name	Enter text.	Date	Enter text.
<b>Next steps</b> <ul style="list-style-type: none"><li>Save the form and email as an attachment to the Service Provider, copying in the Commissioning Body (in section A).</li></ul>			

## **E. Service Provider instructions**

- Confirm the name of the assigned intermediary by completing the relevant field at the top of the form and emailing the completed form to the Commissioning Body and the Venue. If these details are not available currently, please inform the Commissioning Body and the Venue no later than midday the working day before the assessment.
- Please retain a copy of this form for your records.



HM Courts &  
Tribunals Service

## Court Appointed Intermediary Service Hearing Booking Form

The booking form must only be completed following an initial assessment of a Service User where intermediary support at a hearing has been directed by the court/tribunal.

**This booking form is used for:**

- **A Commissioning Body** to request the services of a Court Appointed Intermediary (CAI) to support a Service User at court/tribunal hearings.
- **A CAIS Service Provider** to include a booking reference number, to confirm or reject the booking and to provide a quotation.
- **HMCTS Venues** to approve or reject the Service Provider's quotation.

For help completing the form, please refer to the relevant supporting Court Appointed Intermediary Service (CAIS) guidance:

CAIS Commissioning  
Body Guidance

CAIS Service  
Provider Guidance

CAIS HMCTS Staff  
Guidance

### Service Provider to complete

#### Service Provider Assessment booking reference number

Click or tap here to enter text.

#### Service Provider Hearing booking reference number

Click or tap here to enter text.

#### Name of attending intermediary

*To be provided no later than midday the working day before the hearing.*

Click or tap here to enter text.

## A. Commissioning Body to complete

If known, please include the assessment booking reference number in the field above.

### 1. Case details

Service User's name	Click or tap here to enter text.
HMCTS case number	Click or tap here to enter text.
Jurisdiction	Click or tap here to enter text.
Court/Tribunal name and address	Click or tap here to enter text.
Click or tap here to enter text.	
Court/Tribunal email address	Click or tap here to enter text.

### 2. Hearing details

Hearing Type (e.g. Directions, Ground Rules, Trial, Hearings)	Date of hearing (or first date of hearing if multiple days)	Duration of hearing (half / full days)	Start time

### 3. Commissioning Body contact details

Your full name	Click or tap here to enter text.
Role	Click or tap here to enter text.
Email address	Click or tap here to enter text.
Telephone number	Click or tap here to enter text.

### 4. For LAA-funded hearings

Proceed to 5 if the hearing is not being funded by the Legal Aid Agency (LAA)

Representation Order number	Click or tap here to enter text.
MAAT reference number	Click or tap here to enter text.

### 5. Special requirements & notes

Provide details of any special requirements or notes relevant to the case. <i>E.g. Specific gender request, inability to travel etc</i>
--------------------------------------------------------------------------------------------------------------------------------------------



Click or tap here to enter text.

## 5. Submit

### Next steps

- Save the form and email as an attachment to the Service Provider.

## B. Service Provider to complete

Please include a booking reference number in the booking reference field at the top of the form.

### 1. Booking confirmation

Are you able to fulfil this booking?	<input type="checkbox"/> <b>Yes</b> Go to 3	<input type="checkbox"/> <b>No</b> Go to 2
--------------------------------------	---------------------------------------------------	--------------------------------------------------

### 2. Reason for rejection

If you are rejecting the booking, please provide an explanation and return to the Commissioning Body, copying in HMCTS.
Click or tap here to enter text.

### 3. Contact details

Contact name, email address and telephone number can be an individual or team details.

Your name	Click or tap here to enter text.
Company name	Click or tap here to enter text.
Company address	Click or tap here to enter text.
Click or tap here to enter text.	
Email address	Click or tap here to enter text.
Telephone number	Click or tap here to enter text.

### 4. Quotation

To be completed below or attached with the booking form.

Is the quotation attached separately?	<input type="checkbox"/> <b>Yes</b> Go to 5	<input type="checkbox"/> <b>No</b> Complete the table below
---------------------------------------	---------------------------------------------------	-------------------------------------------------------------------

Description	Qty (est no. of hours)	Unit Price	Total
Reading and preparation	Enter text.	Enter text.	Enter text.

Attendance court/tribunal	at	Enter text.	Enter text.	Enter text.
Travel and subsistence		Enter text.	Enter text.	Enter text.
Other costs Click or tap here to enter description.		Enter text.	Enter text.	Enter text.
<b>Total</b> (incl. VAT)		Enter text.		

## 5. Declaration and return

<i>The quotation is provided in accordance with the CAIS Pricing and Payment Schedule. This is a provisional estimate of costs for this booking and once the service is complete an invoice will be submitted with an explanation of any changes.</i>		<div style="text-align: center;"> <input type="checkbox"/>  Mark to confirm </div>	
Name	Enter text.	Date	Enter text.
<b>Next steps</b> <ul style="list-style-type: none"> <li>• Provide a Hearing Booking reference at the top of the form.</li> <li>• Save the form and email as an attachment to the Commissioning Body.</li> <li>• Attach the quote if provided separately.</li> </ul>			

## C. Commissioning Body to complete

*If HMCTS is the Commissioning Body, go to section D.*

### 1. Funding

Select the funding organisation for the assessment	<input type="checkbox"/> <b>HMCTS</b>	<input type="checkbox"/> <b>LAA</b>
----------------------------------------------------	------------------------------------------	----------------------------------------

<b>HMCTS Funding</b>	Email the form to the Venue where the hearing will take place to approve funding.
<b>LAA Funding</b>	Do not email this form to the LAA. Submit a request for Prior Authority. Once funding has been obtained, send this form to the Venue.

## D. HMCTS to complete

### 1. Quotation acceptance

Refer to section C above. If LAA is funding the assessment, go to 3.

Do you accept this quotation?	<input type="checkbox"/> <b>Yes</b> Go to 3	<input type="checkbox"/> <b>No</b> Go to 2
-------------------------------	---------------------------------------------------	--------------------------------------------------

### 2. Reason for rejection

Please provide an explanation for rejecting the quotation and return to the Service Provider.

Click or tap here to enter text.

### 3. Blanket purchase order (BPO)/Purchase order (PO) number

Click or tap here to enter text.

### 4. Contact details

Name	Click or tap here to enter text.
Role	Click or tap here to enter text.
Email address	Click or tap here to enter text.
Telephone number	Click or tap here to enter text.

### 5. Declaration and return

*The Venue will fund the estimated quotation for the court appointed intermediary service. Any changes to the booking will be communicated to the service provider at the earliest opportunity.*

☐

Mark to confirm

Name Enter text.

Date

Enter text.

#### Next steps

- Save the form and email as an attachment to the Service Provider copying in the Commissioning Body.

## D. Service Provider instructions

- Confirm the name of the assigned intermediary by completing the relevant field at the top of the form and emailing the completed form to the Commissioning Body and the Venue. If this is not available, please inform the Commissioning Body and Venue no later than midday the working day before the assessment.
- If you need to make any changes or cancel the booking, please submit the **CAIS Booking Change & Cancellation Form** to the Venue, copying the Commissioning Body.
- Please retain a copy of this form for your records.



HM Courts &  
Tribunals Service

## Court Appointed Intermediary Service Booking Change & Cancellation Form

This form is used for:

- **HMCTS** to notify a Court Appointed Intermediary Service Provider of a change or cancellation to a booking.
- **A Service Provider** to notify the HMCTS Venue of a change or cancellation to a booking.

### 1. HMCTS or Service Provider

This change/cancellation form is submitted by:	<input type="checkbox"/> <b>HMCTS</b>	<input type="checkbox"/> <b>Service Provider</b>
------------------------------------------------	------------------------------------------	-----------------------------------------------------

### 2. Assessment or Hearing

Is this change/cancellation for an assessment or hearing booking?	<input type="checkbox"/> <b>Assessment</b>	<input type="checkbox"/> <b>Hearing</b>
-------------------------------------------------------------------	-----------------------------------------------	--------------------------------------------

### 3. Booking reference number

*As specified in the booking form*

Click or tap here to enter text.
----------------------------------

### 4. Case details

Service User's name	Click or tap here to enter text.
Court/Tribunal case number	Click or tap here to enter text.
Court/Tribunal address	Click or tap here to enter text.
Click or tap here to enter text.	

## 5. Contact details

Contact name, email address and telephone number can be individual or team details.

Your name	Click or tap here to enter text.
Company name For Service Providers only	Click or tap here to enter text.
Email address	Click or tap here to enter text.
Telephone number	Click or tap here to enter text.

## 6. Booking Change or Cancellation

<input type="checkbox"/> <b>Change</b> Go to 7	<input type="checkbox"/> <b>Cancellation</b> Go to 8
------------------------------------------------------	------------------------------------------------------------

## 7. Specify Changes

Please provide details of booking changes. <i>E.g. Dates of hearing, number of hearing days.</i>
Click or tap here to enter text.

## 8. Reason for Cancellation

Please provide details for cancelling the service <i>E.g. Hearing adjourned.</i>
Click or tap here to enter text.

## 9. Declaration and Return

Changes and cancellations are in-line with CAIS contract terms.		<input type="checkbox"/> Mark to confirm	
Name	Enter text.	Date	Enter text.



**Save the form and email as an attachment with the linked assessment or hearing booking form to the Service Provider/HMCTS Venue.**

# Court Appointed Intermediary Service

## Assessment Report Template

### Reference numbers:

Assessment booking reference	Click or tap here to enter text.
Court/Tribunal Case number	Click or tap here to enter text.

### In respect of:

Name	Click or tap here to enter text.
Date of birth	Click or tap here to enter text.

### Report prepared at the request of:

Commissioning Body	Click or tap here to enter text.
--------------------	----------------------------------

### Written by:

Name of Intermediary	Click or tap here to enter text.
Organisation	Click or tap here to enter text.

### Assessment details:

Date of Assessment	Click or tap here to enter text.
Assessment location	Click or tap here to enter text.
Date of report:	Click or tap here to enter text.

### CONFIDENTIAL

This report is confidential and is intended only for the parties and the court in this case. It should not be disclosed outside these proceedings without the permission of the court.  
This report is for advice only and is not evidence in the case.

## **1. Background, instructions and chronology**

1.1 This assessment report must include the following:

- d. Details of the intermediary's qualifications, relevant experience and any accreditation.
- e. The name of the Service User, their date of birth and the date of the referral, the date or dates on which the intermediary met the Service User, and the channel (face to face, video, audio), for the purpose of preparing the report.
- f. Who commissioned the report, a summary of the intermediary's instructions and what the report seeks to address.

## **2. Summary**

2.1.1 To include:

- g. A summary of the conclusions and recommendations.
- h. Details of anyone who has contributed to the report or information leading to the conclusions in the report.
- i. A list of the documents received or inspected by the intermediary in relation to the assessment and provision of intermediary services and an indication of their content.
- j. A description of the nature and duration of the assessment.
- k. An explanation of why or why not an intermediary service is required using examples taken from the assessment.
- l. An evaluation of:
  - v. The impact of any condition or conditions which, whether in isolation or together, may adversely affect the Service User's ability to communicate.
  - vi. The extent, if any, to which that impact may be exacerbated by the trial.
  - vii. If the intermediary is not able to reach a definitive evaluation of the Service User, the reasons for this must be stated in the summary.
  - viii. The views of the Service User on receiving the assistance of an intermediary.

## **3. Conclusions and Recommendations**

- b. Any recommendation, with reasons for:

- viii. The approval or appointment of an intermediary.
- ix. The manner and duration of any questioning of the Service User.
- x. Arrangements for the way in which the intermediary, if approved or appointed, should participate.
- xi. Detailed recommendations to the legal representatives and the magistrate/judge on how best to communicate with the Service User. These should be illustrated with practical examples, tips and strategies, and should be as specific as possible.
- xii. An opinion of the extent to which any measures or arrangements beside the appointment of an intermediary will facilitate the Service User's effective participation in proceedings.
- xiii. The duration and purpose of any appointment of an intermediary.
- xiv. Other measures or arrangements to help the Service User to participate effectively in the trial.

3.1.1 Further points that should be covered in the report include:

- g. The Service User's use of language, especially if idiosyncratic.
- h. Indicators of the Service User becoming confused.
- i. How the intermediary will indicate if they need to intervene or if there needs to be a break in questioning (e.g. raising a red card).
- j. If any communication aids are to be used.
- k. Advice to the questioner about their mode of delivery, such as tone of voice or indications that they are going to change topic.
- l. Any recommendation for the intermediary to review questions prior to the hearing.

## 4. Declaration

4.1.1 The intermediary declaration should be set out in full to confirm that the intermediary:

- a. Understands their duty to the court or tribunal.
- b. Will comply with that duty if approved or appointed.
- c. The declaration should read: 'I solemnly, sincerely and truly declare that I will faithfully communicate questions and answers and make true

explanations of all matters and things as shall be required of me according to the best of my skill and understanding’.

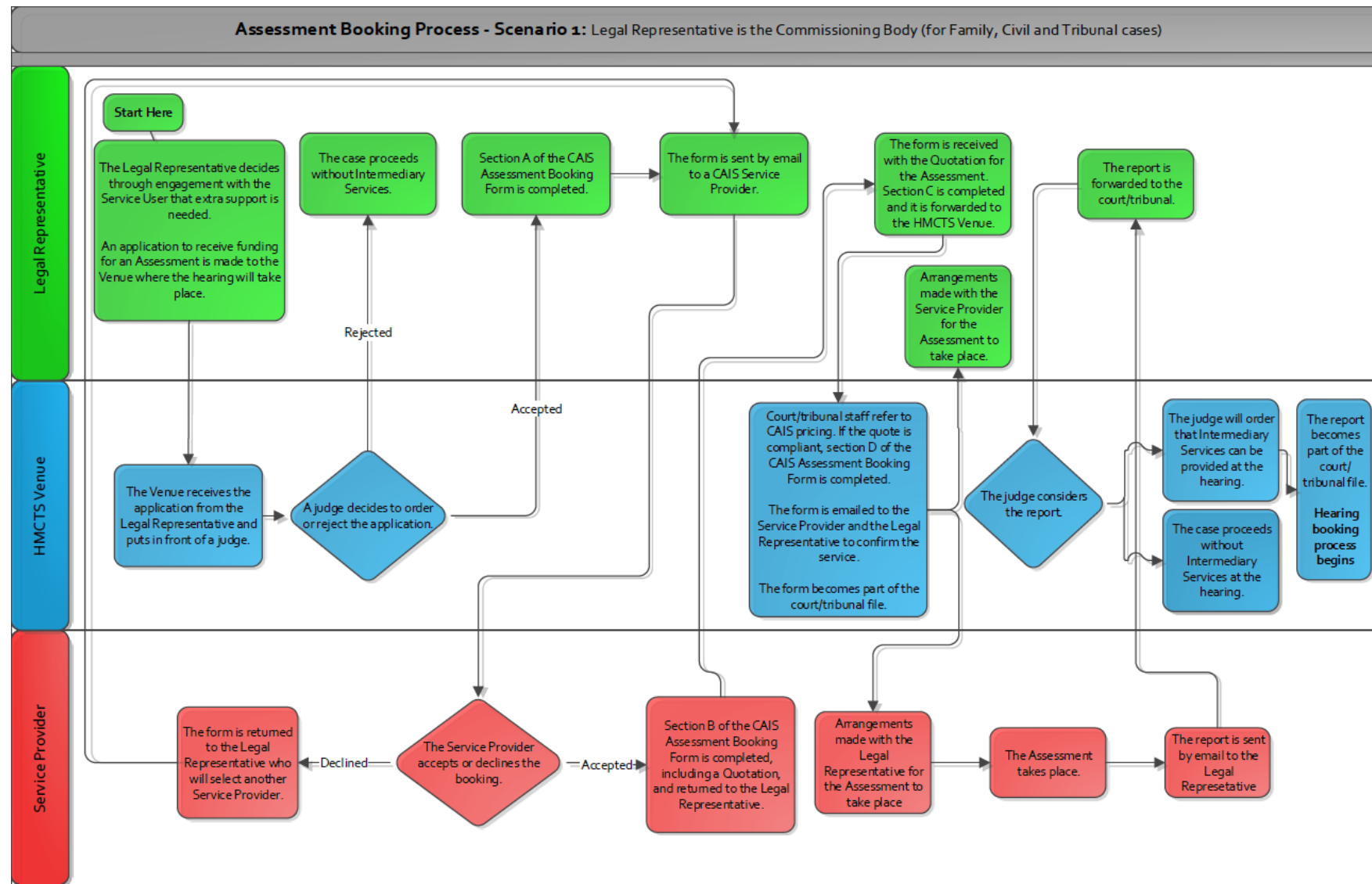
## **5. Annexes**

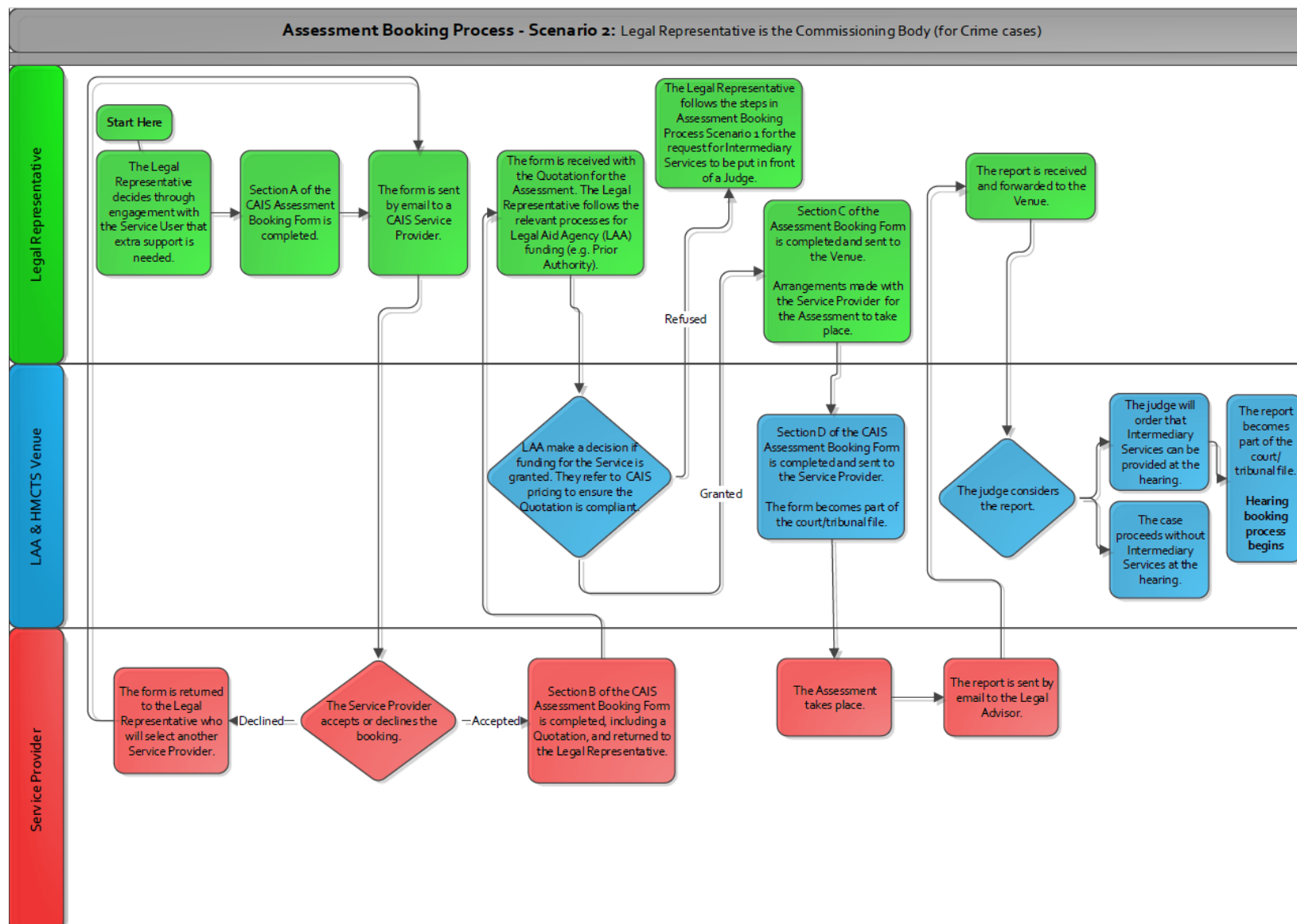
5.1.1 Appendices should be used for relevant reference material that is too detailed for the main body of the report, such as:

- a. Details about communication aids.
- b. Feedback forms.

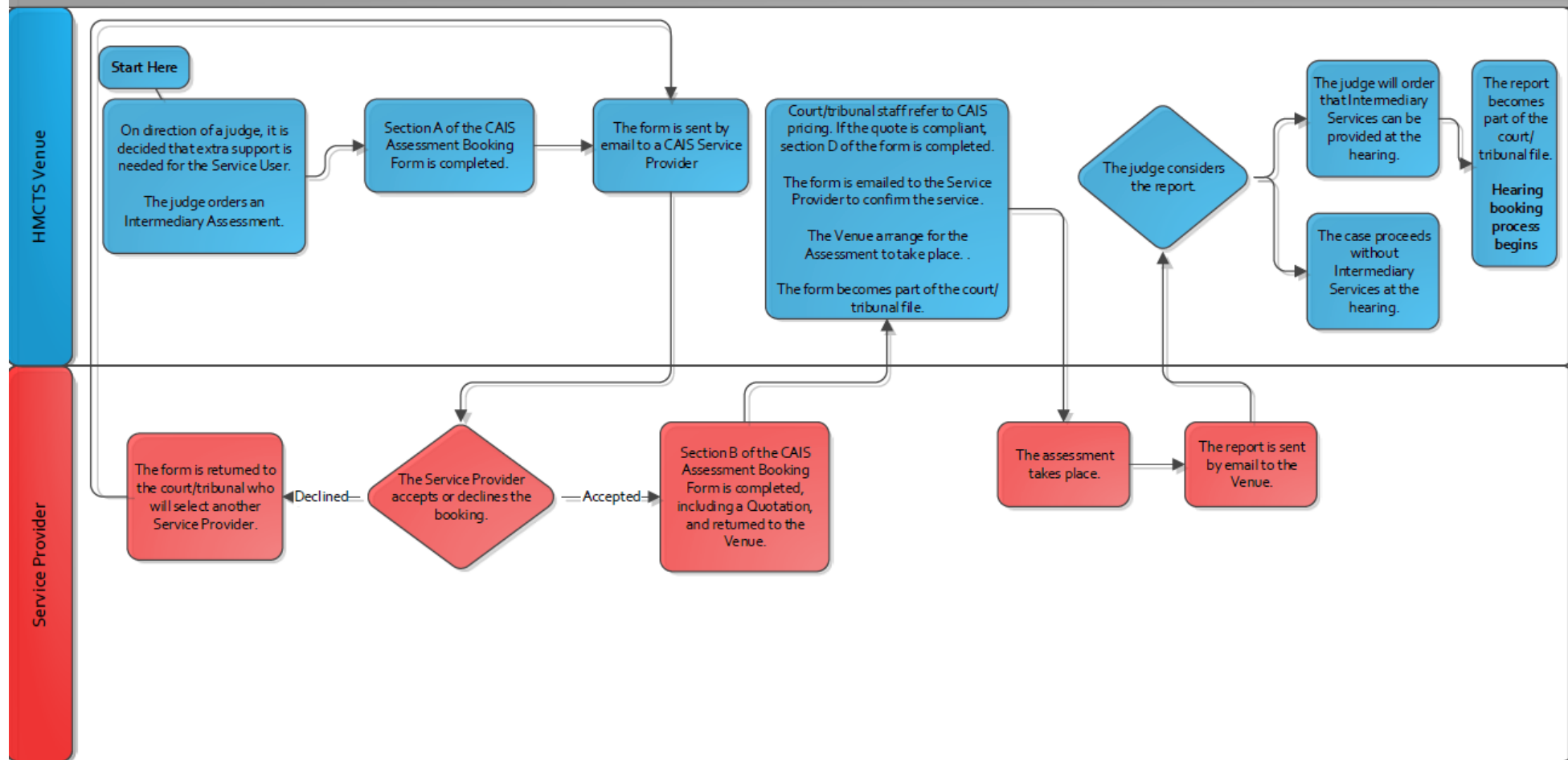
5.1.2 In some cases, a judge may also request the intermediary’s CV and a description of role.

## ANNEX 6 – BOOKING PROCESS MAPS





### Assessment Booking Process Scenario 3: HMCTS Venue is the Commissioning Body (for all case-types)





## ANNEX 7 – SAFEGUARDING REQUIREMENTS

### CAIS Safeguarding Requirements

#### 1. Service Provider Obligations

- 1.1 Service Providers are required to produce and maintain a safeguarding policy and ensure all those involved in the delivery of the services are aware of, and comply with, that policy.
- 1.2 The Service Provider's Safeguarding Policy should, as a minimum, comply with HMCTS' safeguarding policy guidance.
- 1.3 The Service Provider is required to report on its safeguarding policy, training and incidents at the Service Review meetings described in Schedule 9 – Governance.

#### 2. HMCTS Safeguarding Policy Guidance

##### 2.1 Definitions

**Staff** – In the context of this policy 'staff' means any employee or sub-contractor of the Service Provider, either directly employed or otherwise, involved in the delivery of the services. For the avoidance of doubt this includes non-operational roles such as administration and includes officers, consultants, contractors, casual workers, volunteers and agency staff.

**Child** - For the purposes of this policy, a child is someone who has not yet reached their 18th birthday. Once they turn 18, they are legally an adult.

**Vulnerable adult** - For the purposes of this policy, a vulnerable adult is someone aged 18 or over, who may be in need of the intermediary service, or support as an employee, by reason of mental or other disability, age or illness; and who is or may be unable to take care of themselves, or unable to protect themselves against significant harm or exploitation.

##### 2.2 Policy Statement

The Civil Service is committed to high standards of conduct in every aspect of its work. For civil servants these standards are upheld through the Civil Service Code, and in the Ministry of Justice, through our policies and Values.

We expect service providers to uphold equivalent standards of conduct throughout their organisation and supply chains, including sub-contractors.

In delivering the services, providers staff may come across something that deviates from these standards: finding fundamental wrongs, illegal activity or activity which endangers others in and beyond the Department. This policy focuses specifically on concerns relating

to a child or vulnerable adult being at harm or at risk of harm, detailing the need for employees to speak up.

Staff may come across information suggesting harm or risk to a child or vulnerable adult through, for example:

- The assessment of a vulnerable service user
- Witnessing behaviours by a service user during the delivery of the service
- Conversations with colleagues, customers, service users or others
- Witnessing inappropriate behaviour
- Complaints
- Raising a Concern – Whistleblowing disclosures

Where the concern is away from work staff may wish to use external sources outlined in 2.4 to assist in raising a concern.

### **2.3 Raising A Concern**

It may be a difficult and upsetting situation, but it is essential that staff act swiftly and speak up, avoiding the assumption that someone else will come forward to raise a concern. Staff should escalate the matter appropriately so that the right authority is informed and can lead the response – they should not try to investigate the matter themselves.

Sometimes staff may not be so sure: where this is the case, they still have a responsibility to speak up and must not be punished if they make a mistake. Staff may also wish to seek advice and support if what they have witnessed has been distressing. Service Providers should provide appropriate signposting to staff to facilitate this support, which may include internal wellbeing or employee support initiatives, staff networks and/or staff associations and unions.

If staff have safeguarding concerns, there are a variety of routes they can use to speak up:

**External Agencies** - Where a child or vulnerable adult is at risk they should speak to the local police or local child/adult social care, who will lead on the response to protect the child or vulnerable adult.

**Raising with a Manager** - This might be the staff members line manager or another manager they feel comfortable talking to. The manager should be able to either help staff identify the most appropriate route for raising the concern or arrange for them to speak to someone who can help.

**Raising an Internal Concern** - If staff are concerned that they've been asked to do something, or are aware of the actions of other members of staff, which they consider to be in breach of the Service Provider's policies, fundamentally wrong, illegal or have the potential to endanger others, they should be provided with a mechanism to be able to raise a concern internally without fear of reprisal or breach of confidentiality.

**Grievance/Dispute Resolution** - If staff have concerns about another staff members treatment at work, these should be raised in accordance with the Service Provider's internal HR Policies.

## **2.4 Additional Support**

All staff should be made aware of the additional support available:

**In an emergency, call 999.**

- To report a non-emergency call 101 or contact your local Police Station at:  
<https://www.police.uk/pu/contact-the-police/report-a-crime-incident/>.
- For child social care services, you can find your local contacts at:  
<https://www.gov.uk/report-child-abuse-to-local-council>
- For adult social care services, you can find your local contacts at:  
<https://www.nhs.uk/service-search/other-services/Local-Authority-Adult-Social-Care/LocationSearch/1918>

### **Other Contacts:**

**NSPCC** - Telephone 0808 800 5000.

<https://www.nspcc.org.uk/what-you-can-do/report-abuse/>

Independent Charity Organisation that works to protect and prevent the abuse of children. They can listen to your concerns, offer advice and support and can take action on your behalf if a child is in danger.

**Action on Elder Abuse (AEA)** - Telephone 0808 808 8141.

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

Works to protect and prevent the abuse of vulnerable older adults. Their helpline is confidential and provides information and emotional support.

**Citizens Advice** - Telephone 0344 411 1444.

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

National network of advice centres offering free, confidential, independent advice, face to face or by telephone.

**Age UK Advice** - Telephone 0800 169 65 65.

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

Age UK provides advice and information for people in later life through their Age UK Advice line, publications and online.

**Care Quality Commission** - Telephone 0300 0616 161.

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

Independent regulator of adult health and social care services in England, covering NHS, local authorities, private companies or voluntary organisations and people detained under the Mental Health Act.

**Action Fraud** - Telephone 0300 123 2040.

<https://www.actionfraud.police.uk/>

National fraud reporting centre, providing advice and information about fraud and scams.



HM Courts &  
Tribunals Service

ANNEX 8 – HMCTS BYOD POLICY

# Bring Your Own Device Policy

Information Security - HMCTS

Version 1.1 – 17 December 2019

OFFICIAL

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# 1 Document Management

## 1.1 Authorisation

1. Version	2. Name	3. 17	4. Approval Date
1.1	Michael Hanley	HMCTS Deputy SIRO	17/12/2019

## 1.2 Distribution & Review

Name	Role
Michael Hanley	HMCTS Deputy SIRO
Mark Puk	Information Assurance Manager
Mufassir Mohammed	Head of Operational Services – Common Platform
Amrit Dhanoa	DACS Information Assurance

## 1.3 Revision History

Version	Date	Author	Reason for issue
0.1	08/07/2019	F. Macfarlane & L. Taggart	Initial draft policy
0.2	24/07/2019	F. Macfarlane	Incorporate suggestions from Mark Puk
0.3	30/07/2019	A. Sidhu	Inputs into procedures section
0.4	31/07/2019	F. Macfarlane	Merging policy and procedures documents. Adding Sy Ops procedures from CFT
0.5	09/08/2019	F. Macfarlane	Further review
0.6	21/11/2019	V. Nikolva	Updates on VPN use
0.7	25/11/2019	S. Yerramshetty	Additional BYOD policy and updates to joiners/leavers
1.0	11/12/2019	A. Dhanoa	Major annual re-format and update. Consolidation into new policy format and movement of content to Annexes where appropriate
1.1	16/12/2019	N. Copeland	Reviewed and minor corrections

## 2 Introduction

This Policy details the responsibilities and obligations placed upon HMCTS staff, contractors, and managed service providers when using their **personal end user computing devices to access**, store and process HMCTS information and applications. The use of personal devices in this context is referred to a “**Bring Your Own Device**” (BYOD) approach.

## 3 Purpose

This document defines requirements governing the use of BYOD in order to prevent the unauthorised use, loss, theft or disclosure of HMCTS information.

**All BYODs must be configured and operated in accordance with this policy. The use of a BYOD is not permitted until the end-user (herein referred to as “user”) has read and acknowledged acceptance of this policy.**

By accepting the terms of this policy, you agree to comply with the requirements, standards, and restrictions defined within it.

**Please note that access to HMCTS information and information systems may be revoked if users fail to sign this policy or at any time thereafter following an update or review.**

## 4 Scope

Applies to users employing any type of BYOD (e.g. laptop, smartphone, tablet, etc.) when accessing HMCTS data, information or systems.<sup>1</sup>

## 5 Roles and Responsibilities

**Users** are responsible for securing and operating their BYODs in accordance with this policy.

**HMCTS Security staff** are responsible for the continual monitoring and enforcement of this policy

## 6 Policy Statements

### 6.1 General Requirements of use

- The BYOD MUST be used for **work purposes only** and be the primary 'tools of trade', i.e. separated from personal computing facilities.
- Devices MUST not be shared with other individuals. They are solely for the use of the authorised user.

It is recommended that users employ a DEDICATED non-administrator device **user account** for the sole purpose of accessing HMCTS data and information systems.

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<sup>1</sup> Test devices used by multiple users for the purpose of evaluation or test are excluded from this policy.





- Users **MUST** remain alert and be aware of their surroundings when operating their BYOD to prevent eavesdropping and/or shoulder surfing.
- When not in use, devices **MUST** be stored securely e.g. in a secure locker  
A screen lock **MUST** be configured on devices to lock the display screen if it is left unattended for more than 5 minutes.
- Devices **MUST** be fully switched off when in transit. Do not put them into hibernate mode or other similar power-saving options.
- Users are permitted to use their BYOD to access, store and process data at the HMG OFFICIAL classification level. BYODs are permitted to access **non-production information systems** only.
- Users are **NOT** permitted to store PERSONAL SENSITIVE HMCTS information on their BYODs – this includes OFFICIAL information classified on a “*need-to-know*” basis (i.e. OFFICIAL-SENSITIVE). Any business requirement to store such information must be approved by your local HMCTS security team.
- Users **CANNOT** access any LIVE systems/data from a BYOD. If there is a requirement to access LIVE systems, a request must be made to the local Security team through your Line Manager.
- Users **MUST** securely delete HMCTS data from their BYODs and any storage media upon departure from HMCTS or at any time, if requested to do so. This must be in line with NCSC Secure Sanitisation guidance – <https://www.ncsc.gov.uk/guidance/secure-sanitisation-storage-media>. Assurances will be sought to ensure this has been completed.
- You are reminded to remain vigilant of any suspicious or suspected spear-phishing emails received when working on BYODs.
- HMCTS reserves the right to query and request access to BYODs for the purpose of verifying configuration, forensic examination and compliance with this policy. Users are expected to arrange a mutually convenient time for such examination which will be conducted in their presence. Every effort will be made to protect your personal and non-HMCTS information stored on the device. *Users have the right to be present during any audit or regular inspection of their device to ensure compliance with this policy.*

## 6.2 Authentication

### 6.2.1 User to Device

- BYODs **MUST** enforce authentication, requiring the supply of a username (unique identifier) and a strong complex password. Generic accounts or the sharing of credentials, tokens and/or logon sessions is not permitted.
- Strong complex passwords **MUST** be enforced with BYODs, meeting the following requirements in compliance with the HMCTS Password policy.
  - At least 12 characters long
  - No more than 128 characters long
  - Not obvious
  - Not a dictionary word. A combination of dictionary words might be suitable, such as ‘*CorrectHorseBatteryStaple*’
  - Unique for each account or service

### 6.2.2 Device to Service

- Devices connections FROM outside the UK are **not** permitted
- BYODs are permitted to connect to HMCTS services from APPROVED networks only. These are limited to one of the following only:
  - Approved Wi-Fi network (Gov Wi-Fi, local HMCTS building Wi-Fi services)
  - Approved VPN access points routing through the UK (i.e. F5 VPN client)
- Certificates or other authentication methods MUST be enforced to ensure “approved” BYODs are able to access HMCTS information and applications.

### 6.2.3 User to Service

Users MUST supply HMCTS provided user credentials before accessing HMCTS information and applications.

## 6.3 Device Configuration<sup>2</sup>

### 6.3.1 Patch management and software updates

- BYODs MUST be maintained by users to ensure the latest approved vendor software and security updates are applied.
- Users MUST ensure BYODs are configured to automatically install patches and updates from the vendor. Only currently vendor supported Operating Systems (OSes) versions are permitted.
- The device MUST be maintained to a patch level of **n or n-1** (dependant on the criticality of the update), where n represents the latest vendor supported operating system software and firmware patches.
- Devices not meeting the above requirements are NOT permitted to access HMCTS information or applications.

### 6.3.2 Data at Rest

- Devices MUST ensure the protection of data at rest using NCSC certified software solutions providing full disk encryption of a hard disk including any removeable storage media.
- Storage media, containing HMCTS data MUST not be removed from the device.
- A remote wipe facility if available at reasonable cost, can help to ensure lost or stolen devices can be remotely wiped to prevent unauthorised access or disclosure of information.

### 6.3.3 Malicious Software Protection

Anti-malware (including Anti-spyware) protection MUST be in place and from a reputable vendor:

- Files MUST be scanned upon access
- Weekly and daily scans MUST be configured on all storage drives.
- Software MUST be configured to update definition files on a daily basis.

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<sup>2</sup> BYODs must be configured securely in accordance with prevailing best practice as detailed in Annex A of this policy  
Bring Your Own Device Policy



### 6.3.4 Firewalls

A personal firewall **MUST** be enabled on the device to block unsolicited outbound and inbound connections.

## 6.4 Overseas Travel

- Devices **SHALL NOT** be taken overseas for any purpose without permission from the **HMCTS SIRO or Deputy SIRO** ([michael.hanley@Justice.gov.uk](mailto:michael.hanley@Justice.gov.uk)) and **HMCTS Security Operations**, [security.operations@hmcts.net](mailto:security.operations@hmcts.net), (for [HMCTS.net](https://hmcts.net) user accounts).
- HMCTS.net account users are required to follow the Geo-blocking Exceptions Procedure in order to be granted access to HMCTS systems from any country outside of the UK. Failure to comply with this procedure will be deemed a Policy Breach or Unauthorised Access and may result in disciplinary action.
- VPN access is prohibited but can be requested via the above procedure

## 6.5 Internet access

- Internet access is attributable to the UK Government. You must not do anything which could damage the reputation of the Department or the UK Government.
- Users **MUST** ensure that any personal use of Department internet does not damage the Department's reputation and does not impact business operations or the individuals' ability to carry out their duties.
- During work hours, using a BYOD to browse content in categories that could constitute a security incident is not allowed e.g. violent, pornographic or obscene text, sound or images. Accessing any of these will result in a security incident and further investigation. This may result in disciplinary action. For more information please see the MoJ Acceptable Use of IT Policy, which users are bound by.
- You must not sign up for any service where the intent is to use that service for business use unless that service has been approved (if in doubt, initial requests can be submitted via [security.operations@hmcts.net](mailto:security.operations@hmcts.net) ).

## 6.6 Personal data

HMCTS is not responsible for any loss or other damage to personally owned data or applications resident on a BYOD.

## 6.7 Off-boarding

All HMCTS data on your personal device must be removed from the device upon at the point a user leaves HMCTS.

## 6.8 Incident Response

**If the device is lost or stolen, please inform the police and DCD-ITServiceDesk-Security@hmcts.net immediately.**

- Users **MUST** report any incident; loss, theft or compromise of device to [hmctsdataincidents@justice.gov.uk](mailto:hmctsdataincidents@justice.gov.uk) without delay.

- Users MUST report evidence of actual or perceived device compromise, misuse, loss or theft to the [DCD-ITServiceDesk-Security@hmcts.net](mailto:DCD-ITServiceDesk-Security@hmcts.net) immediately.
- All accounts allowing access to any HMCTS information and data will be revoked, in the event of a loss or theft of your BYODs.

If you are suspicious of a received email requesting you to follow hyperlinks or open attachments, or have inadvertently opened what you believe to be a malicious attachment, you are to take the following actions:

- Do not open attachments or click on links
- Add the suspicious email as an attachment to a new email message and send it to [DCD-ITServiceDesk-Security@hmcts.net](mailto:DCD-ITServiceDesk-Security@hmcts.net), who will raise a Cyber Security incident and investigate
- On detection of an attempt to compromise the systems, the user must disconnect all connectivity.

Misuse of Department systems or data will be escalated as a security incident for investigation and may result in disciplinary action. You must comply with the Department Conduct and Behaviour Policy at all times.

## 6.9 Right to audit

HMCTS reserves the right to inspect BYODs to ensure the presence of effective minimum-security controls and the continual protection of HMCTS data and information systems from unauthorised access, loss, theft or other event(s) compromising the Confidentiality, Integrity or Availability of information.

## 7 Enforcement

To verify compliance against this policy, approved HMCTS staff may perform manual checks on a leaver's BYOD device to delete data and information owned by HMCTS. To facilitate such checks, the device owner may have to provide appropriate administrator/root access, so that the checks can be performed by security personnel. If any HMCTS code, information or documents have been found upon inspection, these will be deleted immediately by your local Security team. Device inspections will be performed in the presence of the device owner or a nominated deputy.

Violations may result in disciplinary action, which may include suspension, restriction of access, or more severe penalties up to and including termination of employment. Where illegal activities or theft of company property (physical or intellectual) are suspected, HMCTS may report such activities to the applicable authorities.

## 8 Review and Maintenance

Policies are subject to annual review with approval and authorisation from the HMCTS deputy SIRO. HMCTS Security and Information Assurance teams are responsible for on-going policy maintenance.



## 9 Definitions

Term	Explanation
<b>MoJ</b>	The Ministry of Justice is a major government department, at the heart of the justice system. MoJ works to protect and advance the principles of justice. Its vision is to deliver a world-class justice system that works for everyone in society. More here <a href="https://www.gov.uk/government/organisations/ministry-of-justice/about">https://www.gov.uk/government/organisations/ministry-of-justice/about</a>
<b>HMCTS</b>	HM Courts & Tribunals Service is responsible for the administration of criminal, civil and family courts and tribunals in England and Wales. HMCTS is an executive agency, sponsored by the Ministry of Justice
<b>BYOD</b>	Bring Your Own Device (BYOD). Electronic devices used to access any HMCTS IT systems that have not been issued by HMCTS. This includes laptops and mobile phones belonging to individuals or issued by organisations working on an HMCTS programme.
<b>Code</b>	All the source code and the associated documents (including design documents) that have been written for CPP, including, but not limited to, Java code, DevOps scripts and playbooks (e.g. Ansible, Terraform, Jenkins and all other supporting services).
<b>Users</b>	For the purposes of this document, this includes HMCTS staff, contractors, suppliers and managed service providers.
<b>Need-to-know</b>	A principle ensuring data or information is only accessible or shared with those who have a genuine business need to view or access it and have the required levels of security approval.

## 10 Links and Dependencies

1. MoJ Password Policy
2. [Geo-Blocking Exceptions Procedure](#)

# 11 Annex A – Secure Configuration Standards

The following table is in accordance with NCSC recommendations for the secure configuration of end user platforms using Windows Operating System and Mac OS. For further guidance, please see: <https://www.ncsc.gov.uk/collection/end-user-device-security/platform-specific-guidance>

Requirement	Windows	Mac OS	Ubuntu
<b>Configuration Management - Your device must use a legitimate operating system that meets the defined minimum standards (i.e. you may not use a 'jail broken' device).</b>	Windows 10 (1809) N.B. This is relevant in August 2019.	Mac OS 10.13/10.14 N.B. This is relevant in August 2019.	Ubuntu 18.04 LTS N.B. This is relevant in August 2019.
<b>Assured data-in-transit protection – Data must be sufficiently protected as it traverses between end user device and enterprise.</b>	All data must be routed over a secure enterprise VPN to ensure the confidentiality and integrity of the traffic. Use Windows10 Built-in VPN configured in accordance with the customisation guidance.	All data must be routed over a secure enterprise VPN to ensure the confidentiality and integrity of the traffic, and to benefit from enterprise protective monitoring solutions. Use a Foundation Grade IPsec VPN client configured as per that product's security procedures.	All data must be routed over a secure enterprise VPN - use a Prime or Foundation Grade IPsec VPN client configured in accordance with that product's security procedures.
<b>Assured data-at-rest protection – Data stored on the device should be satisfactorily encrypted when the device is in its "rest" state.</b>	To provide full volume protection, use either: <ul style="list-style-type: none"> <li>- BitLocker with a TPM and PIN configured in alignment with the <a href="#">BitLocker configuration</a> settings.</li> <li>- An independently assured CPA Foundation Grade, Data at Rest encryption product that supports UEFI and Windows Secure Boot, configured in alignment with the security procedures for that product.</li> </ul>	Use FileVault 2 to provide full-volume encryption. As the disk encryption password is not tied to hardware, it needs to be strong enough to resist an offline brute-force attack. See HMCTS Password Guidance for explanation of required strength of password.	Use LUKS/dm-crypt to provide full volume encryption.
<b>Authentication</b>	The user should implicitly authenticate to the device by entering the <a href="#">BitLocker PIN</a> at boot time. The user should then have a secondary credential to use when authenticating to the platform after boot and when unlocking the device.	Either: <ul style="list-style-type: none"> <li>- Users have two passwords – one for FileVault 2, and one to login and unlock their device (see Provisioning Steps for how to achieve this)</li> </ul>	The user should have a separate password to authenticate themselves to the device from the one they are using as their decryption password. Alternatively, the user can implicitly authenticate to the

		<ul style="list-style-type: none"> <li>- Or, users have one password which fulfils both requirements.</li> </ul>	device by decrypting the disk at boot time with their LUKS/dm-crypt password. This password unlocks a key which encrypts certificates and other credentials, giving access to enterprise services.
<b>Malicious code detection and prevention</b>	<p>Windows 10 includes <a href="#">Windows Defender Antivirus</a> and <a href="#">Windows Defender SmartScreen</a> that attempt to detect malicious code for the platform.</p> <p>If using a third-party product, those that implement the <a href="#">Anti-Malware Scan Interface (AMSI)</a> should be preferred to improve compatibility with future Feature Updates.</p> <p><a href="#">Windows Defender Exploit Guard</a> can be used to help prevent vulnerabilities in older software from being successfully exploited.</p>	<p>XProtect is built into macOS. It has a limited signature set which is maintained by Apple to detect widespread malware. XProtect will also restrict vulnerable plugin versions (such as Java) to limit exposure.</p> <p>Several third-party anti-malware products also exist, which attempt to detect malicious code for this platform.</p>	<p>The platform implicitly provides some protection against malicious code being able to run when configured as recommended. Several third-party anti-malware products exist which attempt to detect malicious code for this platform.</p>
<b>Device updates</b>	<p>The device must use current vendor recommended system and security updates.</p> <p>Windows Update can automatically download and install updates. If the Microsoft Store is enabled, it should be configured to automatically update Microsoft Store apps.</p>	<p>The device must use current vendor recommended system and security updates.</p>	<p>Operating system security updates can be configured to be automatically applied.</p> <p>Using the recommended software update settings, application updates are installed automatically when the device is switched on and fully booted.</p>



## 12 Annex B – Manual Inspect Audits

### 12.1 On-boarding Audits

The local Security Team are permitted and authorised to perform random inspection audits on the devices of new users (i.e. “joiners”) to the programme. The devices or BYODs in scope for inspection include those used to access HMCTS information (including Environment access, data and code). The purpose of the audit is to ensure the device meets the requirements of this policy.

### 12.2 Random Spot-checks

Continual assurance over the security of BYODs will be sought through audits and spots checks on devices of existing approved BYOD users. Again, the aim of the audit is to ensure compliance with policy. The device owner may be asked to provide appropriate administrator/root access so that these checks can be undertaken.

### 12.3 Audit Checklist

Device security configuration including but not limited to Patch, Anti-malware, Firewall and secure build configuration.

Software installed to ensure there is no software considered to be classed as a “hacking tool”. Examples of these hacking tools being Metasploit, Netcat, Nessus, but can also include other software which can -

- Perform scanning and reconnaissance of the network, devices or application,
- Pilfer data out of the HMCTS network, e.g. TOR
- Crack/break passwords,
- Crack Wi-Fi, or decrypt packets of traffic.
- Share files, e.g. P2P File sharing software, like Torrent, Edonkey.

**If you require use of a software that has the above characteristics and could be classed as a “hacking tool”, please request permission from your local Security Team. Failure to do so may result in suspension and revocation of access to HMCTS data and information systems.**

### 12.4 Off-boarding Leavers Checks

Upon leaving the programme, users must ensure that all HMCTS data and documents held on their personal device(s), are securely deleted. This includes all HMCTS information, keys, certificates, data and code. *The leaver may be asked to prove that all HMCTS related code, information and documents have been deleted. As noted in the policy, the use of a separate dedicated BYOD account for HMCTS data and applications is recommended to prevent deletion of non-HMCTS data upon off boarding.*

**Device inspections will be performed in the presence of the device owner or a nominated deputy.**



## 13Annex C Audit Register

Full name	
Team	
Manager	
BYOD Owner (Self/ agency / supplier)	
Device manufacturer	
Operating System Name and version	
Date	

### 13.1 On-boarding / Regular Spot Check

Check	Comments / Results
OS version and patches	
HDD encryption	
Strong password (min 12 characters)	
Firewall (local)	
AV solution	
AV version (version must be current, no older than 3 months) & Definitions	
Installed software	
Separate HMCTS programme standard user account (not Administrator)	

### 13.2 Off-boarding / leavers' checks

Check	Comments / Results
Delete User account (if a separate account exists on device for HMCTS)	
Delete outlook account and/or .pst files	
Check documents and download folders for programme code, data, etc.	
Delete HMCTS VPN configuration (if applicable)	
Delete Programme data from backups (if any)	
Empty the recycle bin	







