

Review of bullying, harassment and discrimination in relation to disabled employees within the Cabinet Office

Agreement of work

Prepared by [REDACTED]
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September 2021

Definitions

THIS AGREEMENT is dated: 26th October 2021

The agreement outlines the activities that have been agreed and will be undertaken by Business Disability Forum as part of the Cabinet Office's Respect and Inclusion review. The work outlined in this document will be delivered as part of the Cabinet Office's Partnership.

PARTIES

Cabinet Office, 70 Whitehall, London SW1A 2AS ("you" or "the buyer").

Business Disability Forum of 60 Gainsford Street, SE1 2NY ("we" or "the provider").

The agreement is for delivery of services detailed in the Statement of Work contained within this document at the price stated in the Cost section of this document.

Intellectual Property Rights Means all present and future copyright, design rights and other intellectual property rights created pursuant to the provision of the Services but excludes any pre-existing intellectual property rights in the generic materials of the provider.

Materials Means any work or material developed, written or prepared by the provider (whether individually, collectively or jointly with the buyer and on whatever media) or delivered to the buyer which specifically relates to the Services including (without limitation) any documents, reports, studies, data, diagrams, charts, specifications or computer programs and related copies and working papers whether developed, written or prepared before or after the signing of this agreement.

Services Includes all services set out in the Statement of Work.

Agreement

1. Data Protection, Monitoring and Confidentiality

1.1. In this clause, the following words and expressions shall have the following meanings unless the context otherwise requires:

Confidential Information All information of a confidential nature, including but not limited to the Client Data, (however recorded or preserved) disclosed or made available, directly or indirectly, by the Disclosing Party or its employees, officers, representatives or advisers to the Recipient or its Representatives relating to the business, affairs, Clients, suppliers, plans, intentions, or market opportunities of the Disclosing Party or any member of the Disclosing Party's Group, and the operations, processes, product information, know-how, designs, trade secrets or software of the Disclosing Party or of the Disclosing Party's Group but not including any information that is or becomes generally available to the public (other than as a result of its disclosure by the Recipient or its Representatives in breach of this

agreement); or the Recipient can show was available to it on a non-confidential basis prior to disclosure by the Disclosing Party; or the parties agree in writing is not confidential, or is trivial, obvious or useless.

Client Data Means personal data of which the buyer is the data controller, which is provided to the provider by the buyer or any other personal data collected or created by the provider in performing the Services.

Data controller, data processor, data subject, personal data, processing Means such meaning as is given by the UK GDPR, Data Protection Act 2018, or successor Data Protection legislation.

Disclosing Party Means the buyer from which the provider receives or otherwise acquires Confidential Information during the performance of the Services.

- 1.2. The provider acknowledges that the buyer is the data controller and the supplier a data processor in respect of the buyer's confidential data.
- 1.3. The out the subject-matter of the processing is assessment of the buyer's bullying and harassment policies. The duration of the processing is for the length of the contract. The nature and purpose of the processing is the assessment of the policies, the discussion of those policies with staff, and case studies relating to those policies. The type of personal data is names, email addresses, job titles, and opinions and experiences relating to bullying and harassment. The categories of data subjects are staff members.
- 1.4. To the extent that any data or information processed by the provider under this agreement is Client data, the buyer undertakes and warrants that it shall, and shall procure that its employees and agents shall:
 - 1.4.1. process the Client Data only to the extent, and in such a manner, as is necessary for the purposes of providing the Services and in accordance with the buyer's instructions from time to time; process the Client Data in line with and assist the buyer in complying with the requirements of the UK GDPR and any successor legislation where required by that legislation; and shall not process the Client Data for any other purpose. The provider shall keep a record of any processing of the Client Data it carries out pursuant to the services;
 - 1.4.2. not transfer the Client Data outside the UK without the prior written approval of the buyer;
 - 1.4.3. not transfer the Client Data to any sub-contractors or processors without the prior written approval of the buyer; and before allowing any sub-processor to process any Personal Data related to this agreement, the processor must enter into a written agreement with the sub-processor which give effect to the terms set out in this data processing agreement such that they apply to the sub-processor; and provide the Controller with such information regarding the sub-processor as the Controller may reasonably require.

- 1.4.4. The provider shall remain fully liable for all acts or omissions of any of its sub-processors.
- 1.4.5. implement technical and organisational measures appropriate to the risk to protect the Client Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure.
- 1.5. The provider acknowledges that during the course of providing the services the provider may have access to, gain knowledge of or be entrusted with medical and/or personal information concerning individuals. This information may include matters of a highly sensitive and/or personal nature including access to an individual's medical records or other confidential information. Any such information shall be treated as sensitive personal data for the purpose of this clause.
- 1.6. The provider shall keep each Disclosing Party's Confidential Information confidential and, except with the prior written consent of the relevant Disclosing Party:
- 1.7. The provider may disclose the Disclosing Party's Confidential Information to those of its employees and staff who need to know this Confidential Information for the Purpose, provided that:
 - 1.7.1. it informs its Representatives of the confidential nature of the Confidential Information before disclosure;
 - 1.7.2. it procures that its Representatives shall, in relation to any Confidential Information disclosed to them, comply with this agreement as if they were the provider [and, if the Disclosing Party so requests, procure that any relevant Representative enters into a confidentiality agreement with the Disclosing Party on terms equivalent to those contained in this agreement];
 - 1.7.3. it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the provider's duties under this clause;
 - (B) are subject to appropriate confidentiality undertakings with the provider or any sub-processor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Agreement; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and
 - 1.7.4. it keeps a written record of these Representatives

- 1.8. The provider may disclose Confidential Information only to the extent required by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the Disclosing Party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause, it takes into account the reasonable requests of the Disclosing Party in relation to the content of such disclosure.
- 1.9. Taking into account the nature of the processing, the provider shall provide the buyer with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made including by promptly providing:
 - 1.9.1. the buyer with full details and copies of the complaint, communication or request;
 - 1.9.2. such assistance as is reasonably requested by the buyer to enable the buyer to comply with a Data Subject request within the relevant timescales set out in the Data Protection Legislation;
 - 1.9.3. the buyer, at its request, with any Personal Data it holds in relation to a Data Subject;
 - 1.9.4. assistance as requested by the buyer following any data loss event;
 - 1.9.5. assistance as requested by the buyer with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
- 1.10. The Processor shall allow for audits of its data processing activity by the buyer or the buyer's designated auditor.
- 1.11. At the request of the Disclosing Party, at any time, the provider shall promptly:
 - 1.11.1. securely destroy or return to the Disclosing Party all documents and materials (and any copies) containing, reflecting, incorporating, or based on the Disclosing Party's Confidential Information;
 - 1.11.2. erase all the Disclosing Party's Confidential Information from its computer systems to the extent possible; and
 - 1.11.3. certify in writing to the Disclosing Party that it has complied with the requirements of this clause, provided that the provider may retain documents and materials containing, reflecting, incorporating, or based on the Disclosing Party's Confidential Information to the extent required by law or any applicable governmental or regulatory authority, and to the extent reasonable to permit the provider to keep evidence that it has performed its obligations under this agreement. The provisions of this agreement shall continue to apply to any documents and materials retained by the provider.

- 1.12. Upon the termination of this agreement in whole or part for whatever reason, unless notified otherwise by the buyer or as required by law, the provider will immediately cease using all Confidential Information (or where termination is in part only, cease using such Confidential Information in so far as the Confidential Information relates to the terminated Services) and, as requested by the buyer, securely destroy or return to the buyer (as directed) all copies of the Confidential Information held in whatever form.
- 1.13. The provider shall not make any statement to the press pertaining in any way to the buyer or its services for the buyer without obtaining the advance approval of the buyer.
 - 1.13.1. The provider is a membership organisation disseminating best practice advice to its membership and beyond. Sharing good practice and case studies is part of its mission. The buyer will not unreasonably withhold permission to disseminate information about good practice or operational improvements resulting from delivery of the services.

2. Intellectual Property and proprietary rights

- 2.1. all Intellectual Property in any new Materials created shall vest in the provider upon creation.
 - 2.1.1. The provider shall grant to the buyer, an irrevocable, worldwide, royalty free, fully transferable licence to use the provider's existing Intellectual Property rights to the extent required to enable the buyer to make use of the Materials and services.
- 2.2. No Intellectual property rights in pre-existing materials shall pass from the provider to the buyer or from the buyer to the provider as a result of delivering the services.
- 2.3. The provider warrants and represents that all of the Materials, work product, findings and recommendations disclosed to the buyer during provision of the services may lawfully be disclosed by the provider and are not subject to any patent, licence agreement, confidentiality agreement, trade secret law or any other restriction on use by or disclosure to the buyer.

3. Payment

- 3.1. Payment for services will be in advance unless otherwise agreed;
 - 3.1.1. Where payment is not in advance the buyer will provide a purchase order for the total value of the services before the services are delivered;
 - 3.1.2. Services delivered will then be invoiced in arrears monthly.
- 3.2. Standard payment terms are 30 days net.
- 3.3. Invoices will be raised in GB Sterling and payment in full will be made in GB Sterling.

4. Delivery dates and cancellation

- 4.1. The buyer and the provider will agree mutually convenient dates for delivery of workshops, audits, training sessions, reviews and other deliverables which require a representative from the seller to reserve time for specific attention to service the buyer.
- 4.2. Where the buyer cancels or postpones these sessions the provider will charge cancellation fees as per the schedule below:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5. Insurance and liability

- 5.1. The provider carries the following insurances

5.1.1. [REDACTED]

5.1.2. [REDACTED]

5.1.3. [REDACTED]

- 5.2. Nothing in this agreement shall limit or exclude the liability of either party for:

5.2.1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);

5.2.2. fraud or fraudulent misrepresentation or wilful default by it or its employees, agents or subcontractors;

5.2.3. a 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 ; or

5.2.4. any matter for which it would be unlawful to exclude or restrict liability.

- 5.3. Subject to clause 5.2,

The parties shall not under any circumstances whatever be liable to the other, whether in contract, tort (including negligence), equity (including restitution), breach of statutory duty, or otherwise, for:

- 5.3.1. any loss of profit, loss of revenue, loss of use, loss of goodwill, loss of data, loss due to interruption of business, or loss of anticipated savings, whether direct or indirect, and even if the provider has been advised of the possibility of such losses or damages;

5.3.2. any indirect or consequential loss arising under or in connection with this Agreement; or

5.3.3. any ex gratia payment or sum paid in settlement of a claim paid by one party without the prior written approval of the other.

5.4. the total liability of the provider in respect of all loss or damage arising under or in connection with this agreement, whether in contract, tort (including negligence), equity (including restitution), breach of statutory duty, indemnity or otherwise, shall in no circumstances exceed in the aggregate, the fees paid by the buyer during the period through which the services were delivered.

6. Term and Termination

6.1. This agreement shall be effective from the date on page three of this agreement and shall continue in force until the parties have discharged all their obligations under it unless this agreement is terminated by one of the parties under this clause 6.

6.2. The buyer and the provider shall have the right to terminate this agreement for convenience upon [REDACTED] calendar days' notice to each other. Deliverables agreed to be completed during the termination period will continue to be delivered and payment for those services will be made.

6.3. Without prejudice to any rights that have accrued under this agreement or any of its rights or remedies, the buyer and the provider may at any time terminate this agreement with immediate effect by giving written notice to the other party if:

6.3.1. The buyer or the provider breaches this agreement. The party in breach of the agreement shall have [REDACTED] business days to such remedy specified in a termination notice from the other party, which remedy period shall commence at the time specified in the notice or such longer time as may be agreed to by that party in writing;

6.3.2. The buyer or the provider violates any law or regulation or fails to obtain or maintain a required qualification or certification;

6.3.3. an employee, assigned to perform the Services is disqualified or suspended from acting in his or her professional capacity or is convicted of a criminal offence (other than a motoring offence);

6.3.4. The buyer or the provider repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;

6.3.5. an Insolvency Event occurs; the buyer or the provider suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or

6.3.6. there is a change of control of the buyer or the provider (within the meaning of section 1124 of the Corporation Tax Act 2010).

6.4. The buyer shall pay the provider for work satisfactorily performed and accepted by the buyer up to the effective date of the termination less any amounts that are the subject of a good faith dispute.

6.5. On termination of this agreement, howsoever caused, clauses which expressly or by implication have effect after termination shall continue in full force and effect.

7. Non-solicitation

7.1. The parties agree that, during the term of this agreement and for a period of two (2) years from the termination of this agreement, neither party will solicit for employment or otherwise attempt to recruit any employees of the other party or its affiliates who were involved in the performance or direct oversight of this agreement without the prior written consent of such party. However, nothing herein shall prohibit either party or any of its affiliates from employing an employee of the other party pursuant to a public employment advertisement or who otherwise applies for employment directly, without solicitation or inducement by the hiring party or its affiliates.

Statement of Work

The agreed schedule of work is structured around different components of BDF support aligned to the outline methodology that the Cabinet Office intend to utilise for this work.

It is agreed that the delivery of this work will be undertaken using

[REDACTED]

| [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
|--|------------|--|---|
| [REDACTED] [REDACTED] | [REDACTED] | [REDACTED] [REDACTED] [REDACTED] [REDACTED] | [REDACTED] |
| [REDACTED] [REDACTED] | [REDACTED] | [REDACTED] [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] [REDACTED] [REDACTED] [REDACTED] | [REDACTED] |
| [REDACTED] [REDACTED] | [REDACTED] | [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] | [REDACTED] [REDACTED] [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] [REDACTED] [REDACTED] | [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] [REDACTED] [REDACTED] [REDACTED] | [REDACTED] [REDACTED] [REDACTED] |
| [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] | [REDACTED] | [REDACTED] [REDACTED] [REDACTED] | [REDACTED] [REDACTED] [REDACTED] |
| [REDACTED] [REDACTED] | [REDACTED] | [REDACTED] [REDACTED] [REDACTED] [REDACTED] | [REDACTED] [REDACTED] [REDACTED] |

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Agreed by

For: Business Disability Forum

Name

██████████████████

██████████████████

 Title Head of Business Partnerships
 Date 26th October 2021

For: Cabinet Office

Name

██████████

 Title

Head of Commercial

 Date 26 October 2021

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