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Contract for Board Effectiveness Review Service

Contract Reference: CQC PSO 094

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Terms and Conditions of Contract for Services

1 Interpretation

1.1 In these terms and conditions:

"Agreement"	means the contract consisting of these terms and conditions, any attached Schedules, the invitation to tender including Specification, the Tender Response and Award Letter between (i) the Care Quality Commission ("Customer") and (ii) [] ("Contractor");
"Approval"	means the written consent of the Customer;
"Award Letter"	means the letter from the Customer to the Contractor containing these terms and conditions;
"Central Government Body"	means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: (a) Government Department; (b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); (c) Non-Ministerial Department; or (d) Executive Agency;
"Charges"	means the charges for the Services as specified in the Schedule 2;
"Confidential Information"	means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
"Contractor"	means the person named as Contractor who was awarded this contract;
Contractor's Intellectual	means all works of authorship, know-how, software, system interfaces, templates, methodologies, ideas, concepts, techniques

Property	tools, processes, technologies, including web-based technologies and algorithms and any other intellectual property created prior to or independently of the performance of the Services or created as a tool for use in performing the Services, plus any modifications or enhancements thereto and derivative works based thereon.
"Customer"	means the Care Quality Commission;
"DPA"	means the Data Protection Act 1998;
"Expiry Date"	means the date for expiry of the Agreement as set out in the Award Letter;
"FOIA"	means the Freedom of Information Act 2000;
"Information"	has the meaning given under section 84 of the FOIA;
"Key Personnel"	means any persons specified as such in the Specification or Agreement otherwise notified as such by the Customer to the Contractor in writing;
"Party"	means the Contractor or the Customer (as appropriate) and "Parties" shall mean both of them;
"Personal Data"	means personal data (as defined in the DPA) which is processed by the Contractor or any Staff on behalf of the Customer pursuant to or in connection with this Agreement;
"Premises"	means the location where the Services are to be supplied, as set out in the Specification;
"Purchase Order Number"	means the Customer's unique number relating to the supply of the Services by the Contractor to the Customer in accordance with the terms of the Agreement;
"Request for Information"	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term "request" shall apply);
"Schedule"	means a schedule attached to, and forming part of, the Agreement;
"Services"	means the services to be supplied by the Contractor to the Customer under the Agreement;

- "Specification"** means the specification for the Services (including as to quantity, description and quality) as specified in the Award Letter and appended hereto in Schedule 1;
- "Staff"** means all directors, officers, employees, agents, consultants and contractors of the Contractor and/or of any sub-contractor of the Contractor engaged in the performance of the Contractor's obligations under the Agreement;
- "Staff Vetting Procedures"** means vetting procedures that accord with good industry practice or, where requested by the Customer, the Customer's procedures for the vetting of personnel as provided to the Contractor from time to time;
- "Term"** means the period from the start date of the Agreement set out in the Award Letter to the Expiry Date as such period may be extended in accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Agreement;
- "VAT"** means value added tax in accordance with the provisions of the Value Added Tax Act 1994; and
- "Working Day"** means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

1.2 In these terms and conditions, unless the context otherwise requires:

- 1.2.1 references to numbered clauses are references to the relevant clause in these terms and conditions;
- 1.2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 1.2.3 the headings to the clauses of these terms and conditions are for information only and do not affect the interpretation of the Agreement;
- 1.2.4 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment; and

- 1.2.5 the word 'including' shall be understood as meaning 'including without limitation'.

2 Priority of documents

- 2.1 In the event of, and only to the extent of, any conflict between the clauses of the Agreement, any document referred to in those clauses and the Schedules, the conflict shall be resolved in accordance with the following order of precedence:
- a) these terms and conditions
 - b) the Schedules
 - c) any other document referred to in these terms and conditions

3 Supply of Services

- 3.1 In consideration of the Customer's agreement to pay the Charges, the Contractor shall supply the Services to the Customer for the Term subject to and in accordance with the terms and conditions of the Agreement.
- 3.2 In supplying the Services, the Contractor shall:
- 3.2.1 co-operate with the Customer in all matters relating to the Services and comply with all the Customer's instructions;
 - 3.2.2 perform the Services with all reasonable care, skill and diligence in accordance with good industry practice in the Contractor's industry, profession or trade;
 - 3.2.3 use Staff who are suitably skilled, experienced and possess the required qualifications to perform tasks assigned to them, and in sufficient number to ensure that the Contractor's obligations are fulfilled in accordance with the Agreement;
 - 3.2.4 ensure that the Services shall conform with all descriptions and specifications set out in the Specification;
 - 3.2.5 comply with all applicable laws; and
 - 3.2.6 provide all equipment, tools and vehicles and other items as are required to provide the Services.
- 3.3 The Customer may by written notice to the Contractor at any time request a variation to the scope of the Services. If the Contractor agrees to any variation to the scope of the Services, the Charges shall

be subject to fair and reasonable adjustment to be agreed in writing between the Customer and the Contractor.

4 Term

- 4.1 The Agreement shall take effect on 14th November 2016 and shall expire on 31st March 2017, unless it is otherwise extended in accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Agreement.
- 4.2 The Customer may extend the Agreement for an appropriate period (to be determined by the Customer) by giving not less than 10 Working Days' notice in writing to the Contractor prior to the Expiry Date. The terms and conditions of the Agreement shall apply throughout any such extended period.

5 Charges, Payment and Recovery of Sums Due

- 5.1 The Charges for the Services shall be as set out in the Award Letter appended hereto in Schedule 2 and shall be the full and exclusive remuneration of the Contractor in respect of the supply of the Services. Unless otherwise agreed in writing by the Customer, the Charges shall include every cost and expense of the Contractor directly or indirectly incurred in connection with the performance of the Services.
- 5.2 The Contractor shall invoice the Customer as specified in the Agreement. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including the relevant Purchase Order Number and a breakdown of the Services supplied in the invoice period.
- 5.3 In consideration of the supply of the Services by the Contractor, the Customer shall pay the Contractor the invoiced amounts no later than 30 days after receipt of a valid invoice which includes a valid Purchase Order Number. The Customer may, without prejudice to any other rights and remedies under the Agreement, withhold or reduce payments in the event of unsatisfactory performance.
- 5.4 All amounts stated are exclusive of VAT which shall be charged at the prevailing rate. The Customer shall, following the receipt of a valid VAT invoice, pay to the Contractor a sum equal to the VAT chargeable in respect of the Services.
- 5.5 If there is a dispute between the Parties as to the amount invoiced, the Customer shall pay the undisputed amount. The Contractor shall not

suspend the supply of the Services unless the Contractor is entitled to terminate the Agreement for a failure to pay undisputed sums in accordance with clause 16.4. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 19.

- 5.6 If a payment of an undisputed amount is not made by the Customer by the due date, then the Customer shall pay the Contractor interest at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.7 If any sum of money is recoverable from or payable by the Contractor under the Agreement (including any sum which the Contractor is liable to pay to the Customer in respect of any breach of the Agreement), that sum may be deducted unilaterally by the Customer from any sum then due, or which may come due, to the Contractor under the Agreement or under any other agreement or contract with the Customer. The Contractor shall not be entitled to assert any credit, set-off or counterclaim against the Customer in order to justify withholding payment of any such amount in whole or in part.
- 5.8 Where the Contractor enters into a sub-contract, the Contractor shall include in that sub-contract:
 - 5.8.1 Provisions having the same effect as clauses 5.2 to 5.6 of the Agreement and
 - 5.8.2 Provisions requiring the counterparty to that subcontract to include in any sub-contract which it awards provisions having the same effect as clauses 5.2 to 5.6 of this Agreement
 - 5.8.3 In this clause 5.8 'sub-contract' means a contract between two or more suppliers, at any stage of remoteness from the Customer in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Agreement.

6 Premises and equipment

- 6.1 If necessary, the Customer shall provide the Contractor with reasonable access at reasonable times to its premises for the purpose of supplying the Services. All equipment, tools and vehicles brought onto the Customer's premises by the Contractor or the Staff shall be at the Contractor's risk.
- 6.2 If the Contractor supplies all or any of the Services at or from the Customer's premises, on completion of the Services or termination or

expiry of the Agreement (whichever is the earlier) the Contractor shall vacate the Customer's premises, remove the Contractor's plant, equipment and unused materials and all rubbish arising out of the provision of the Services and leave the Customer's premises in a clean, safe and tidy condition. The Contractor shall be solely responsible for making good any damage to the Customer's premises or any objects contained on the Customer's premises which is caused by the Contractor or any Staff, other than fair wear and tear.

- 6.3 If the Contractor supplies all or any of the Services at or from its premises or the premises of a third party, the Customer may, during normal business hours and on reasonable notice, inspect and examine the manner in which the relevant Services are supplied at or from the relevant premises.
- 6.4 The Customer shall be responsible for maintaining the security of its premises in accordance with its standard security requirements. While on the Customer's premises the Contractor shall, and shall procure that all Staff shall, comply with all the Customer's security requirements.
- 6.5 Where all or any of the Services are supplied from the Contractor's premises, the Contractor shall, at its own cost, comply with all security requirements specified by the Customer in writing.
- 6.6 Without prejudice to clause 3.2.6, any equipment provided by the Customer for the purposes of the Agreement shall remain the property of the Customer and shall be used by the Contractor and the Staff only for the purpose of carrying out the Agreement. Such equipment shall be returned promptly to the Customer on expiry or termination of the Agreement.
- 6.7 The Contractor shall reimburse the Customer for any loss or damage to the equipment (other than deterioration resulting from normal and proper use) caused by the Contractor or any Staff. Equipment supplied by the Customer shall be deemed to be in a good condition when received by the Contractor or relevant Staff unless the Customer is notified otherwise in writing within 5 Working Days.
- 6.8 Any Premises/land made available from time to time to the Contractor by the Customer in connection with the contract, shall be made available to the contractor on a non-exclusive licence basis free of charge and shall be used by the contractor solely for the purpose of performing its obligations under the contract. The Contractor shall have the use of such Premises/land as licensee and shall vacate the same on completion, termination or abandonment of the Contract.

- 6.9 The Parties agree that there is no intention on the part of the Customer to create a tenancy of any nature whatsoever in favour of the Contractor or its Staff and that no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to the Contract, the Customer retains the right at any time to use any premises owned or occupied by it in any manner it sees fit.
- 6.10 Should the Contractor require modifications to the Premises, such modifications shall be subject to prior Approval and shall be carried out by the Customer at the Contractor's expense. The Customer shall undertake approved modification work without undue delay. Ownership of such modifications shall rest with the Customer.
- 6.11 All the Contractor's equipment shall remain at the sole risk and responsibility of the Contractor, except that the Customer shall be liable for loss of or damage to any of the Contractor's property located on Customers Premises which is due to the negligent act or omission of the Customer.

7 Staff and Key Personnel

- 7.1 If the Customer reasonably believes that any of the Staff are unsuitable to undertake work in respect of the Agreement, it may, by giving written notice to the Contractor:
- 7.1.1 refuse admission to the relevant person(s) to the Customer's premises;
- 7.1.2 direct the Contractor to end the involvement in the provision of the Services of the relevant person(s); and/or
- 7.1.3 require that the Contractor replace any person removed under this clause with another suitably qualified person and procure that any security pass issued by the Customer to the person removed is surrendered,

and the Contractor shall comply with any such notice.

7.2 The Contractor shall:

- 7.2.1 ensure that all Staff are vetted in accordance with the Staff Vetting Procedures; and if requested, comply with the Customer's Staff Vetting Procedures as supplied from time to time;
- 7.2.2 if requested, provide the Customer with a list of the names and addresses (and any other relevant information) of all persons who

may require admission to the Customer's premises in connection with the Agreement; and

- 7.2.3 procure that all Staff comply with any rules, regulations and requirements reasonably specified by the Customer.
- 7.3 Any Key Personnel shall not be released from supplying the Services without the agreement of the Customer, except by reason of long-term sickness, maternity leave, paternity leave, termination of employment or other extenuating circumstances.
- 7.4 Any replacements to the Key Personnel shall be subject to the prior written agreement of the Customer (not to be unreasonably withheld). Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.
- 7.5 At the Customer's written request, the Contractor shall provide a list of names and addresses of all persons who may require admission in connection with the Contract to the Premises, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Customer may reasonably request.
- 7.6 The Contractor's Staff, engaged within the boundaries of the Premises shall comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for the conduct of personnel when at or outside the Premises.
- 7.7 The Customer may require the Contractor to ensure that any person employed in the provision of the Services has undertaken a Criminal Records Bureau check as per the Staff Vetting Procedures.

8 Assignment and sub-contracting

- 8.1 The Contractor shall not without the written consent of the Customer assign, sub-contract, novate or in any way dispose of the benefit and/or the burden of the Agreement or any part of the Agreement. The Customer may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal. The Contractor shall be responsible for the acts and omissions of its sub-contractors as though those acts and omissions were its own.
- 8.2 If the Contractor enters into a sub-contract for the purpose of performing its obligations under the Agreement, it shall ensure that a

provision is included in such sub-contract which requires payment to be made of all sums due by the Contractor to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice.

- 8.3 If the Customer has consented to the placing of sub-contracts, the Contractor shall, at the request of the Customer, send copies of each sub-contract, to the Customer as soon as is reasonably practicable.
- 8.4 The Customer may assign, novate, or otherwise dispose of its rights and obligations under the Agreement without the consent of the Contractor provided that such assignment, novation or disposal shall not increase the burden of the Contractor's obligations under the Agreement.

9 Intellectual Property Rights

- 9.1.1 The Customer agrees and acknowledges that the Contractor shall retain any right, title or interest in any of the Contractor's Intellectual Property used in the course of performing the Services.
- 9.1.2 All intellectual property rights in any materials provided by the Customer to the Contractor for the purposes of this Agreement shall remain the property of the Customer but the Customer hereby grants the Contractor a royalty-free, non-exclusive and non-transferable licence to use such materials as required until termination or expiry of the Agreement for the sole purpose of enabling the Contractor to perform its obligations under the Agreement.
- 9.2 Subject to clause 9.1.1, all intellectual property rights in any materials created or developed by the Contractor pursuant to the Agreement shall vest in the Customer. If, and to the extent, that any intellectual property rights in such materials vest in the Contractor by operation of law, the Contractor hereby assigns to the Customer by way of a present assignment of future rights that shall take place immediately on the coming into existence of any such intellectual property rights all its intellectual property rights in such materials (with full title guarantee and free from all third party rights).
- 9.3 The Contractor hereby grants the Customer:
 - 9.3.1 a perpetual, royalty-free, irrevocable, non-exclusive licence (with a right to sub-licence) to use all intellectual property rights in the materials created or developed pursuant to the Agreement and any intellectual property rights arising as a result of the provision of the Services; and

Comment [SDM(-L1): To make consistent with changes to clauses 9.1.1 and 9.1.2

9.3.2 a perpetual, royalty-free, irrevocable and non-exclusive licence (with a right to sub-license) to use:

a) any intellectual property rights vested in or licensed to the Contractor on the date of the Agreement; and

b) any intellectual property rights created during the Term but which are neither created or developed pursuant to the Agreement nor arise as a result of the provision of the Services,

including any modifications to or derivative versions of any such intellectual property rights, which the Customer reasonably requires in order to exercise its rights and take the benefit of the Agreement including the Services provided.

9.4 The Contractor shall indemnify, and keep indemnified, the Customer in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by the Customer as a result of or in connection with any claim made against the Customer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Services, to the extent that the claim is attributable to the acts or omission of the Contractor its Staff, agents or sub-contractors.

9.5 The Customer shall promptly notify the Contractor of any infringement claim made against it relating to any Services and, subject to any statutory obligation requiring the Customer to respond, shall permit the Contractor to have the right, at its sole discretion to assume, defend, settle or otherwise dispose of such claim. The Customer shall give the Contractor such assistance as it may reasonably require to dispose of the claim and shall not make any statement which might be prejudicial to the settlement or defence of the claim.

10 Governance and Records

10.1 The Contractor shall:

10.1.1 attend progress meetings with the Customer at the frequency and times specified by the Customer and shall ensure that its representatives are suitably qualified to attend such meetings; and

10.1.2 submit progress reports to the Customer at the times and in the format specified by the Customer.

10.2 The Contractor shall keep and maintain until 6 years after the end of the Agreement, or as long a period as may be agreed between the

Parties, full and accurate records of the Agreement including the Services supplied under it and all payments made by the Customer. The Contractor shall on request afford the Customer or the Customer's representatives such access to those records as may be reasonably requested by the Customer in connection with the Agreement.

11 Confidentiality, Transparency and Publicity

- 11.1 Subject to clause 11.2, each Party shall:
 - 11.1.1 treat all Confidential Information it receives as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the disclosing Party; and
 - 11.1.2 not use or exploit the disclosing Party's Confidential Information in any way except for the purposes anticipated under the Agreement.
- 11.2 Notwithstanding clause 11.1, a Party may disclose Confidential Information which it receives from the other Party:
 - 11.2.1 where disclosure is required by applicable law or by a court of competent jurisdiction;
 - 11.2.2 to its auditors or for the purposes of regulatory requirements;
 - 11.2.3 on a confidential basis, to its professional advisers;
 - 11.2.4 to the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;
 - 11.2.5 where the receiving Party is the Contractor, to the Staff on a need to know basis to enable performance of the Contractor's obligations under the Agreement provided that the Contractor shall procure that any Staff to whom it discloses Confidential Information pursuant to this clause 11.2.5 shall observe the Contractor's confidentiality obligations under the Agreement; and
 - 11.2.6 where the receiving Party is the Customer:
 - a) on a confidential basis to the employees, agents, consultants and contractors of the Customer;
 - b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company to which the Customer transfers or proposes to transfer all or any part of its business;

c) to the extent that the Customer (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions; or

d) in accordance with clause 12.

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Customer under this clause 11.

- 11.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of the Agreement is not Confidential Information and the Contractor hereby gives its consent for the Customer to publish this Agreement in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA redacted) including any changes to the Agreement agreed from time to time. The Customer may consult with the Contractor to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of the FOIA.
- 11.4 The Contractor shall not, and shall take reasonable steps to ensure that the Staff shall not, make any press announcement or publicise the Agreement or any part of the Agreement in any way, except with the prior written consent of the Customer.

12 Freedom of Information

- 12.1 The Contractor acknowledges that the Customer is subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and shall and procure that any sub-contractor shall:
- 12.1.1 provide all necessary assistance and cooperation as reasonably requested by the Customer to enable the Customer to comply with its obligations under the FOIA and the Environmental Information Regulations 2004;
- 12.1.2 transfer to the Customer all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;
- 12.1.3 provide the Customer with a copy of all Information belonging to the Customer requested in the Request for Information which is in its possession or control in the form that the Customer requires within

5 Working Days (or such other period as the Customer may reasonably specify) of the Customer's request for such Information; and

- 12.1.4 not respond directly to a Request for Information unless authorised in writing to do so by the Customer.
- 12.2 The Contractor acknowledges that the Customer may be required under the FOIA and the Environmental Information Regulations 2004 to disclose Information concerning the Contractor or the Services without consulting or obtaining consent from the Contractor. In these circumstances the Customer shall, in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give the Contractor advance notice, or failing that, to draw the disclosure to the Contractor's attention after any such disclosure. The Customer acknowledges that, from the Supplier's Tender Response, only the method statement is disclosable under FOIA. Other aspects of the Tender Response, including pricing information, personnel details and other commercially sensitive information will not be disclosed.
- 12.3 Notwithstanding any other provision in the Agreement, the Customer shall be responsible for determining in its absolute discretion whether any Information relating to the Contractor or the Services is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations 2004.

13 Protection of Personal Data and Security of Data

- 13.1 The Contractor shall, and shall procure that all Staff shall, comply with any notification requirements under the DPA and both Parties shall duly observe all their obligations under the DPA which arise in connection with the Agreement.
- 13.2 Notwithstanding the general obligation in clause 13.1, where the Contractor is processing Personal Data for the Customer as a data processor (as defined by the DPA) the Contractor shall:
 - 13.2.1 process the Personal Data only in accordance with instructions from the Customer (which may be specific instructions or instructions of a general nature) as set out in this Contract or as otherwise notified by the Customer;
 - 13.2.2 comply with all applicable laws;

- 13.2.3 take reasonable steps to ensure the reliability of its staff and agents who may have access to the Personal Data;
- 13.2.4 obtain prior written consent from the Customer in order to transfer the Personal Data to any sub-contractor for the provision of the Services;
- 13.2.5 not cause or permit the Personal Data to be transferred outside of the European Economic Area without the prior consent of the Customer;
- 13.2.6 not disclose Personal Data to any third parties in any circumstances other than with the written consent of the Customer or in compliance with a legal obligation imposed upon the Customer;
- 13.2.7 ensure that it has in place appropriate technical and organisational measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the DPA;
- 13.2.8 provide the Customer with such information as the Customer may reasonably request to satisfy itself that the Contractor is complying with its obligations under the DPA;
- 13.2.9 promptly notify the Customer of:
 - a) any breach of the security requirements of the Customer as referred to in clause 13.3; and
 - b) any complaint or request for personal data; and
- 13.2.10 ensure that it does not knowingly or negligently do or omit to do anything which places the Customer in breach of the Customer's obligations under the DPA.
- 13.3 When handling Customer data (whether or not Personal Data), the Contractor shall ensure the security of the data is maintained in line with the security requirements of the Customer as notified to the Contractor from time to time.
- 13.4 The Contractor shall fully indemnify the Customer against the costs of dealing with any claims made in respect of any information subject to the DPA, which claims would not have arisen but for some act, omission or negligence on the part of the Contractor, its sub-contractors, agent or Staff.

- 13.5 The Contractor shall be liable for, and shall indemnify the Customer against all actions, suits, claims, demands, losses, charges, costs and expenses suffered or incurred by the Customer and/or any third party arising from and/or in connection with any Breach of Security or attempted Breach of Security (to the extent that such actions, suits, claims, demands, losses, charges, costs and expenses were not caused by any act or omission by the Customer).
- 13.6 The provisions of this clause shall apply during the term of the agreement and indefinitely after its expiry or termination.

14 Liability and Insurance

- 14.1 The Contractor shall not be responsible for any injury, loss, damage, cost or expense suffered by the Customer if and to the extent that it is caused by the negligence or wilful misconduct of the Customer or by breach by the Customer of its obligations under the Agreement.
- 14.2 Subject always to clauses 14.3 and 14.4:
- 14.2.1 the aggregate liability of the Contractor in respect of all defaults, claims, losses or damages howsoever caused, whether arising from breach of the Agreement, the supply or failure to supply of the Services, misrepresentation (whether tortious or statutory), tort (including negligence), breach of statutory duty or otherwise shall in no event exceed a sum equal to 125% of the Charges paid or payable to the Contractor; and
- 14.2.2 except in the case of claims arising under clauses 9.4 and 18.4, in no event shall the Contractor be liable to the Customer for any:
- a) loss of profits;
 - b) loss of business;
 - c) loss of revenue;
 - d) loss of or damage to goodwill;
 - e) loss of savings (whether anticipated or otherwise); and/or
 - f) any indirect, special or consequential loss or damage.
- 14.3 Nothing in the Agreement shall be construed to limit or exclude either Party's liability for:
- 14.3.1 death or personal injury caused by its negligence or that of its Staff;

14.3.2 fraud or fraudulent misrepresentation by it or that of its Staff; or

14.3.3 any other matter which, by law, may not be excluded or limited.

14.4 The Contractor's liability under the indemnity in clause 9.4 and 18.4 shall be unlimited.

14.5 The Contractor shall hold:

- a) Employer's liability insurance providing an adequate level of cover in respect of all risks which may be incurred by the Contractor;
- b) Public liability with the minimum cover per claim of one million pounds (£1,000,000);
- c) Professional indemnity with the minimum cover per claim of one million pounds (£1,000,000);

or any sum as required by Law unless otherwise agreed with the Customer in writing. Such insurance shall be maintained for the duration of the Term and for a minimum of six (6) years following the expiration or earlier termination of the Agreement.

15 Force Majeure

15.1 Neither Party shall have any liability under or be deemed to be in breach of the Agreement for any delays or failures in performance of the Agreement which result from circumstances beyond the reasonable control of the Contractor. Each Party shall promptly notify the other Party in writing, using the most expeditious method of delivery, when such circumstances cause a delay or failure in performance, an estimate of the length of time delay or failure shall continue and when such circumstances cease to cause delay or failure in performance. If such circumstances continue for a continuous period of more than 30 days, either Party may terminate the Agreement by written notice to the other Party.

15.2 Any failure by the Contractor in performing its obligations under the Agreement which results from any failure or delay by an agent, sub-contractor or supplier shall be regarded as due to Force Majeure only if that agent, sub-contractor or supplier is itself impeded by Force Majeure from complying with an obligation to the Contractor.

16 Termination

16.1 The Customer may terminate the Agreement at any time by notice in writing to the Contractor to take effect on any date falling at least 1

month (or, if the Agreement is less than 3 months in duration, at least 10 Working Days) later than the date of service of the relevant notice.

- 16.2 Without prejudice to any other right or remedy it might have, the Customer may terminate the Agreement by written notice to the Contractor with immediate effect if the Contractor:
- 16.2.1 (without prejudice to clause 16.2.5), is in material breach of any obligation under the Agreement which is not capable of remedy;
 - 16.2.2 repeatedly breaches any of the terms and conditions of the 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 and conditions of the Agreement;
 - 16.2.3 is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Contractor receiving notice specifying the breach and requiring it to be remedied;
 - 16.2.4 undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988;
 - 16.2.5 breaches any of the provisions of clauses 7.2, 11, 12, 13 and 17; or
 - 16.2.6 becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Contractor (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Contractor's assets or business, or if the Contractor makes any composition with its creditors or takes or suffers any similar or analogous action (to any of the actions detailed in this clause 16.2.6) in consequence of debt in any jurisdiction.
- 16.3 The Contractor shall notify the Customer as soon as practicable of any change of control as referred to in clause 16.2.4 or any potential such change of control.
- 16.4 The Contractor may terminate the Agreement by written notice to the Customer if the Customer has not paid any undisputed amounts within 90 days of them falling due.
- 16.5 Termination or expiry of the Agreement shall be without prejudice to the rights of either Party accrued prior to termination or expiry and shall not affect the continuing rights of the Parties under this clause and clauses 2, 3.2, 6.1, 6.2, 6.6, 6.7, 7, 9, 10.2, 11, 12, 13, 14, 16.6,

17.4, 18.4, 19 and 20.8 or any other provision of the Agreement that either expressly or by implication has effect after termination.

16.6 Upon termination or expiry of the Agreement, the Contractor shall:

16.6.1 give all reasonable assistance to the Customer and any incoming Contractor of the Services; and

16.6.2 return all requested documents, information and data to the Customer as soon as reasonably practicable.

17 Compliance

17.1 The Contractor shall promptly notify the Customer of any health and safety hazards which may arise in connection with the performance of its obligations under the Agreement. The Customer shall promptly notify the Contractor of any health and safety hazards which may exist or arise at the Customer's premises and which may affect the Contractor in the performance of its obligations under the Agreement.

17.2 The Contractor shall:

17.2.1 comply with all the Customer's health and safety measures while on the Customer's premises; and

17.2.2 notify the Customer immediately of any incident occurring in the performance of its obligations under the Agreement on the Customer's premises where that incident causes any personal injury or damage to property which could give rise to personal injury.

17.3 The Contractor shall:

17.3.1 perform its obligations under the Agreement in accordance with all applicable equality Law and the Customer's equality and diversity policy as provided to the Contractor from time to time; and

17.3.2 take all reasonable steps to secure the observance of clause 17.3.1 by all Staff.

17.4 The Contractor shall supply the Services in accordance with the Customer's environmental policy as provided to the Contractor from time to time.

17.5 The Contractor shall comply with, and shall ensure that its Staff shall comply with, the provisions of:

17.5.1 the Official Secrets Acts 1911 to 1989; and

17.5.2 section 182 of the Finance Act 1989.

18 Prevention of Fraud, Corruption and Bribery

- 18.1 The Contractor represents and warrants that neither it, nor to the best of its knowledge any Staff, have at any time prior to the Commencement Date:
- 18.1.1 Committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act and/or
 - 18.1.2 Been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.
- 18.2 The Contractor shall not during the Term:
- 18.2.1 commit a Prohibited Act; and/or
 - 18.2.2 do or suffer anything to be done which would cause the Customer or any of its employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.
- 18.3 The Contractor shall, during the Term establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act; and shall notify the Customer immediately if it has reason to suspect that any breach of clauses 18.1 and/or 18.2 has occurred or is occurring or is likely to occur.
- 18.4 If the Contractor or the Staff engages in conduct prohibited by clause 18.1 or commits fraud in relation to the Agreement or any other contract with the Crown (including the Customer) the Customer may:
- 18.4.1 terminate the Agreement and recover from the Contractor the amount of any loss suffered by the Customer resulting from the termination, including the cost reasonably incurred by the Customer of making other arrangements for the supply of the Services and any additional expenditure incurred by the Customer throughout the remainder of the Agreement; or
 - 18.4.2 recover in full from the Contractor any other loss sustained by the Customer in consequence of any breach of this clause.

19 Dispute Resolution

- 19.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Agreement within 20 Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.
- 19.2 If the dispute cannot be resolved by the Parties within one month of being escalated as referred to in clause 19.1, the dispute may by agreement between the Parties be referred to a neutral adviser or mediator (the "Mediator") chosen by agreement between the Parties. All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the Parties in any further proceedings.
- 19.3 If the Parties fail to appoint a Mediator within one month 20 Working Days of the agreement to refer to a Mediator, either Party shall apply to the Centre for Effective Dispute Resolution to appoint a Mediator.
- 19.4 If the Parties fail to enter into a written agreement resolving the dispute within one month of the Mediator being appointed, or such longer period as may be agreed by the Parties, either Party may refer the dispute to Court.
- 19.5 The commencement of mediation shall not prevent the parties commencing or continuing court or arbitration proceedings in relation to the dispute.

20 General

- 20.1 Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licences and permissions to enter into and perform its obligations under the Agreement, and that the Agreement is executed by its duly authorised representative.
- 20.2 A person who is not a party to the Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties. This clause does not affect any right or remedy of any person which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999 and does not apply to the Crown.
- 20.3 The Agreement cannot be varied except in writing signed by a duly authorised representative of both the Parties.

- 20.4 In the event that the Contractor is unable to accept the variation to the Specification or where the Parties are unable to agree a change to the Contract Price, the Customer may:
- 20.4.1 allow the Contractor to fulfil its obligations under the Agreement without the variation to the Specification;
 - 20.4.2 terminate the Contract with immediate effect, except where the Contractor has already provided all or part of the Services or where the Contractor can show evidence of substantial work being carried out to fulfil the requirement of the Specification, and in such case the Parties shall attempt to agree upon a resolution to the matter. Where a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution procedure detailed at clause 19.
- 20.5 The Agreement contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly incorporated into the Agreement. Nothing in this clause shall exclude liability for fraud or fraudulent misrepresentation.
- 20.6 Any waiver or relaxation either partly, or wholly of any of the terms and conditions of the Agreement shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Agreement.
- 20.7 The Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.
- 20.8 Except as otherwise expressly provided by the Agreement, all remedies available to either Party for breach of the Agreement (whether under the Agreement, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 20.9 If any provision of the Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the

extent required, be severed from the Agreement and rendered ineffective as far as possible without modifying the remaining provisions of the Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of the Agreement.

- 20.10 The Contractor shall take appropriate steps to ensure that neither the Contractor nor any Staff is placed in a position where, in the reasonable opinion of the Customer, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor and the duties owed to the Customer under the provisions of the Agreement. The Contractor will disclose to the Customer full particulars of any such conflict of interest which may arise.
- 20.11 The Customer reserves the right to terminate the Agreement immediately by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of the Customer, there is or may be an actual conflict, or potential conflict between the pecuniary or personal interest of the Contractor and the duties owed to the Customer pursuant to this clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Customer.
- 20.12 The Agreement constitutes the entire contract between the Parties in respect of the matters dealt with therein. The Agreement supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, except that this clause shall not exclude liability in respect of any Fraud or fraudulent misrepresentation.

21 Notices

- 21.1 Except as otherwise expressly provided in the Agreement, no notice or other communication from one Party to the other shall have any validity under the Agreement unless made in writing by or on behalf of the Party concerned.
- 21.2 Any notice or other communication which is to be given by either Party to the other shall be given by letter (sent by hand, first class post, recorded delivery or special delivery), or by facsimile transmission or electronic mail (confirmed in either case by letter). Such letters shall be addressed to the other Party in the manner referred to in clause 21.3. Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given 2 Working Days after the day on which the letter was posted, or 4 hours, in the case of electronic mail or facsimile

transmission or sooner where the other Party acknowledges receipt of such letters, facsimile transmission or item of electronic mail.

21.3 For the purposes of clause 21.2, the address of each Party shall be:

21.3.1 For the Customer:

Care Quality Commission

151 Buckingham Palace Road

London

SW1W 9SZ

For the attention of:

[REDACTED]

Tel: [REDACTED]

Email: [REDACTED]

21.3.2 For the Contractor:

Deloitte LLP

1 City Square

Leeds

LS1 2AL

For the attention of:

[REDACTED]

Tel: [REDACTED]

Email: [REDACTED]

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

21.5 Notices under clauses 15 (Force Majeure) and 16 (Termination) may be served by email only if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in clause 21.1.

22 Governing Law and Jurisdiction

- 22.1 The validity, construction and performance of the Agreement, and all contractual and non-contractual matters arising out of it, shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties submit.

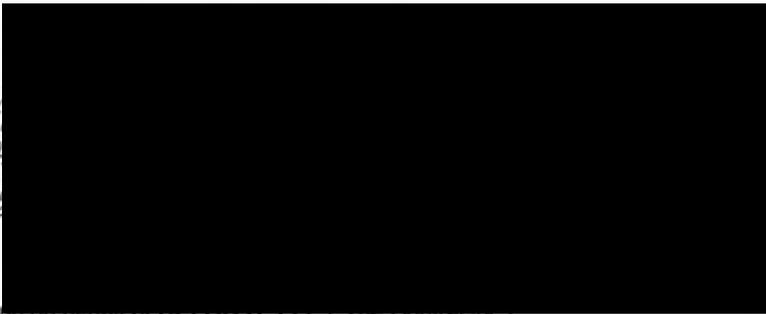
23 TUPE

[Not applicable]

IN WITNESS of which this Contract has been duly executed by the parties.

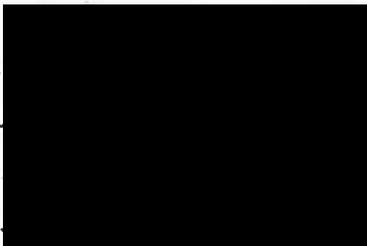
SIGNED for and on behalf of CARE QUALITY COMMISSION

Signature
Name
Position
Date



SIGNED for and on behalf of BEECHVALE LLP (The Contractor)

Signature
Name
Position
Date



Schedule 1 – Tender Response

CQC PSO 094 – Tender for Board Effectiveness Review Service



CQC reference: CQC PSO 094

**TENDER FOR BOARD EFFECTIVENESS
REVIEW SERVICE**

**TENDERER RESPONSE FORM (TECHNICAL
SUBMISSION) (Part B)**

**THIS DOCUMENT IS TO BE COMPLETED
BY THE TENDERER
AND SUBMITTED TO THE CARE QUALITY
COMMISSION VIA THE DELTA
eSOURCING PORTAL**

Closing date for clarification questions:

Wednesday 5th October 2016 [12:00 noon]

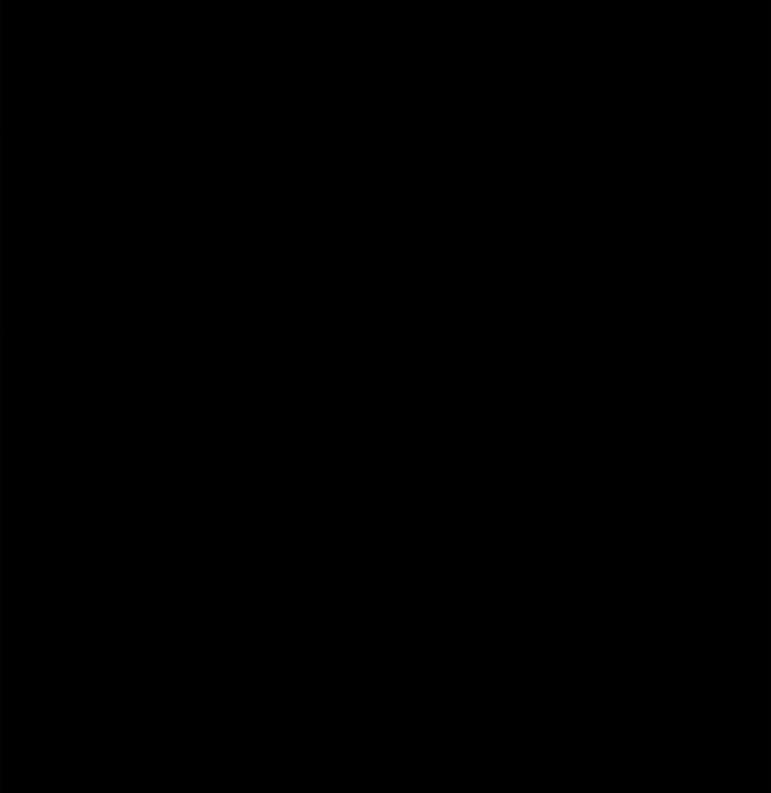
Closing date for submission of tender:

Friday 14th October 2016 [12:00 noon]

NAME OF TENDERER:

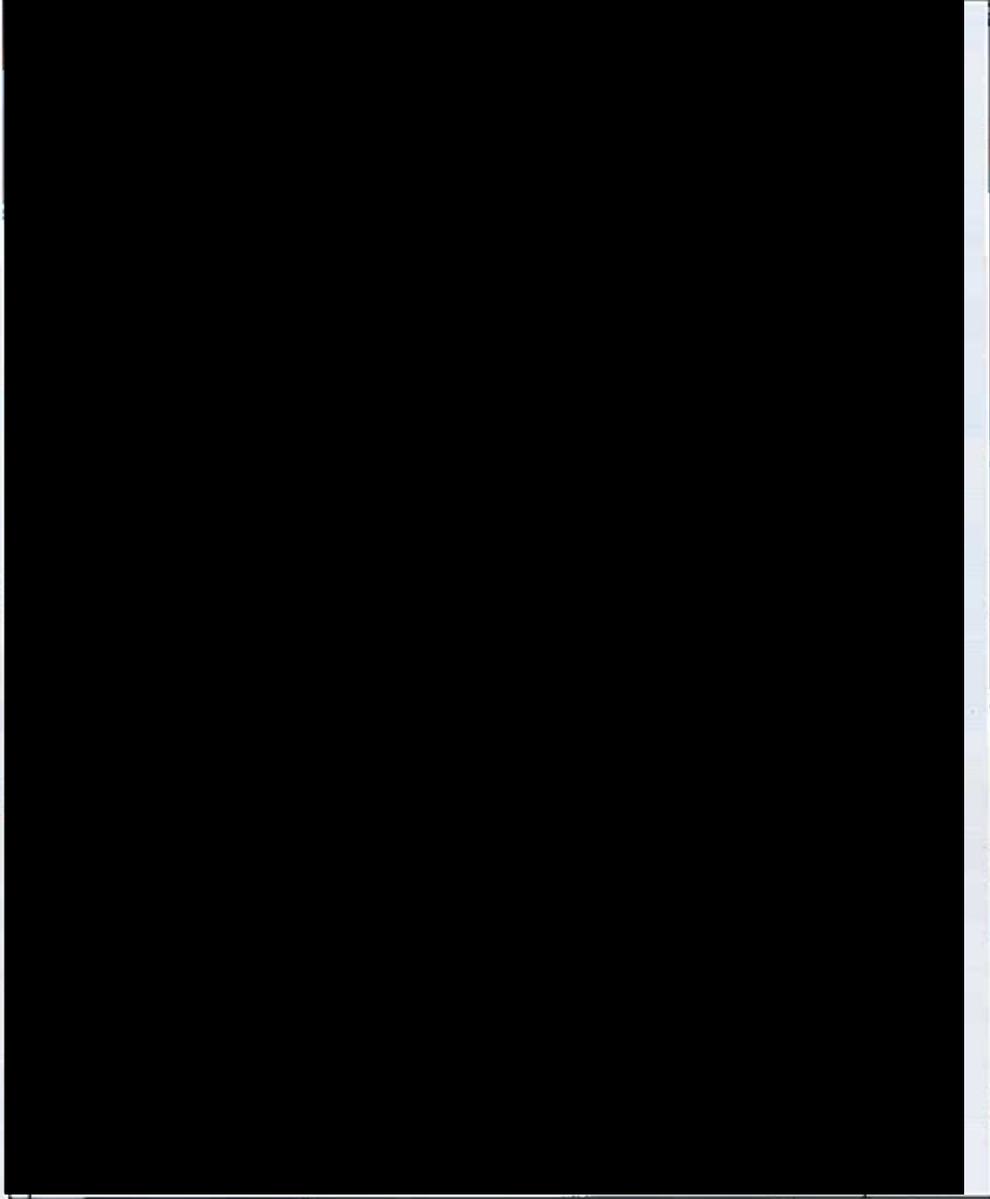
Deloitte LLP

Initial Technical Evaluation Questions

Overview	Question Weighting
<p>Tenderers should provide a concise summary highlighting the key aspects of the proposal and telling us why they want to be considered against this specification.</p> <p><u>Please note</u>. Tenderers may outline (as additional information to their response to this requirement statement) their expertise and capabilities in developing and implementing Board development programmes, which may include providing examples of similar work completed for other clients.</p> <p>In line with the intention of this Question, any such information provided will <u>not</u> form part of the evaluation assessment, and is strictly for information purposes only. As such, Tenderers are <u>not</u> required to provide detailed proposals or costings for such a programme</p>	
<p>Response:</p>	
	<p>ase note that response is evaluated and id be used to textualise the tenderer's response.</p>

Overview	Question Weighting

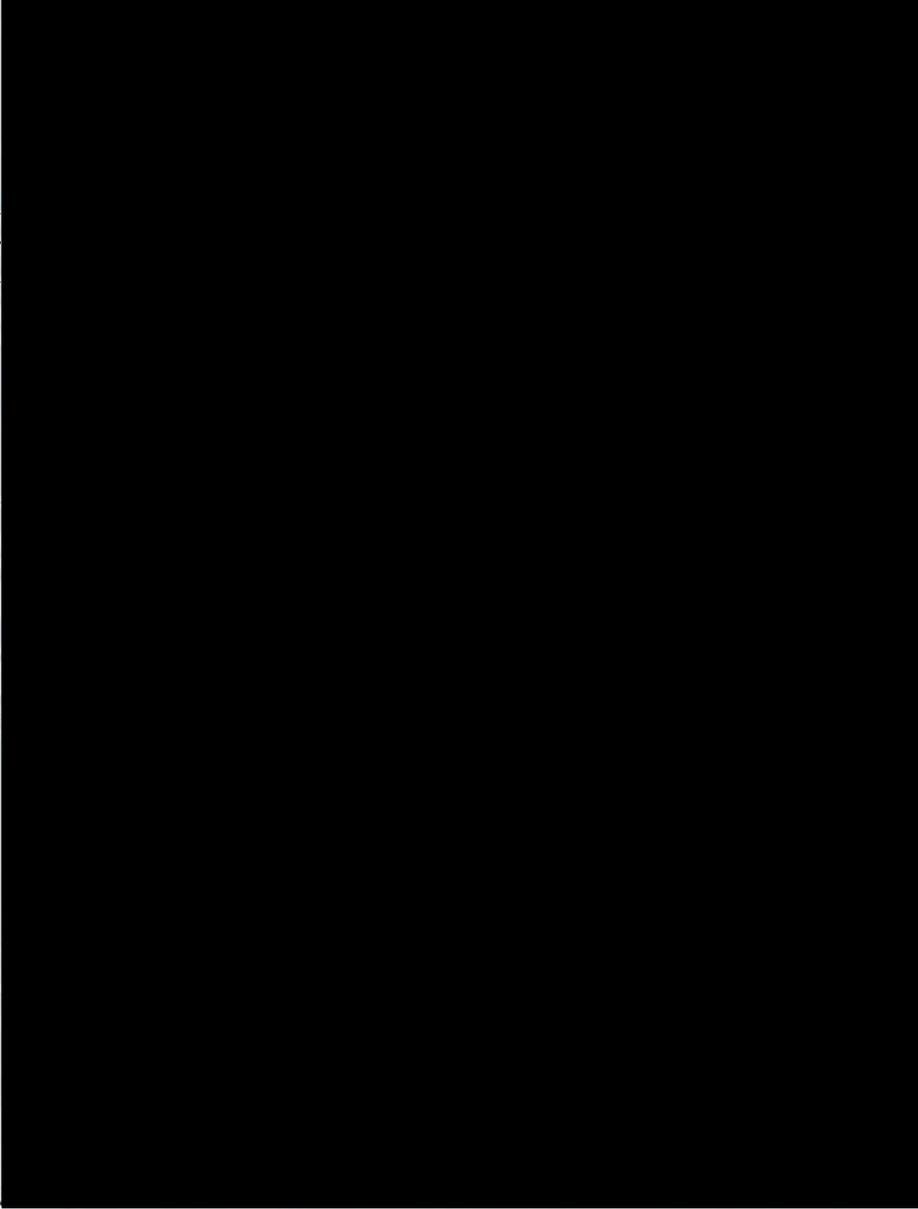
Capability and Expertise	Question Weighting
<p>Please set out the experience of the individuals who would carry out the required services as outlined in the specification.</p> <p><u>Evaluation Intention:</u></p> <p>Your response should include, but not be limited to, the following:</p> <ul style="list-style-type: none"> • Confirmation of professional accreditations and background of the individuals who would manage and undertake the work • An outline of your experience of conducting Board effectiveness reviews and Board development work with bodies like the CQC • The provision of three references for related work of similar scope either in the Public Sector or similar related experience 	
<p>Response:</p> <div style="background-color: black; height: 300px; width: 100%;"></div>	<p>Weighting = 15%</p>

Capability and Expertise	Question Weighting
	

Capability and Expertise	Question Weighting

Capability and Expertise

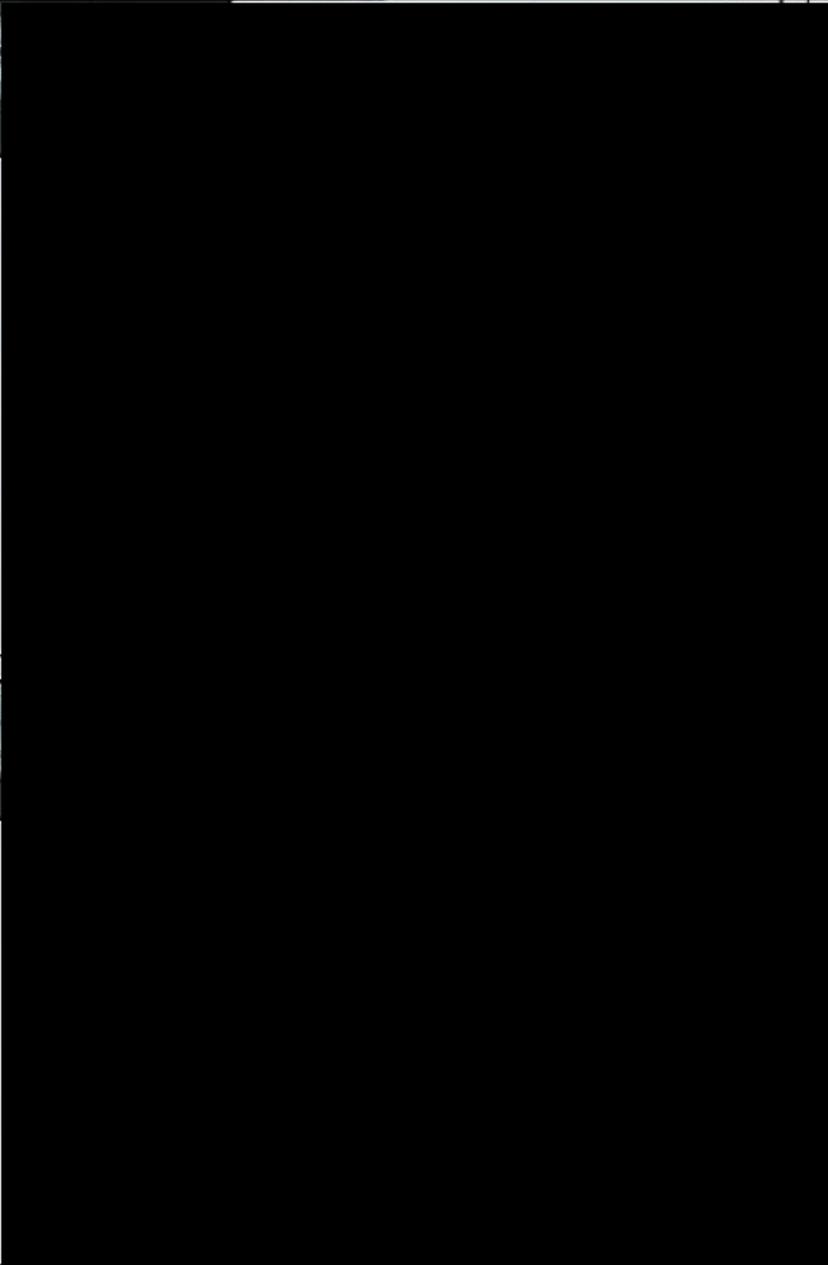
**Question
Weighting**



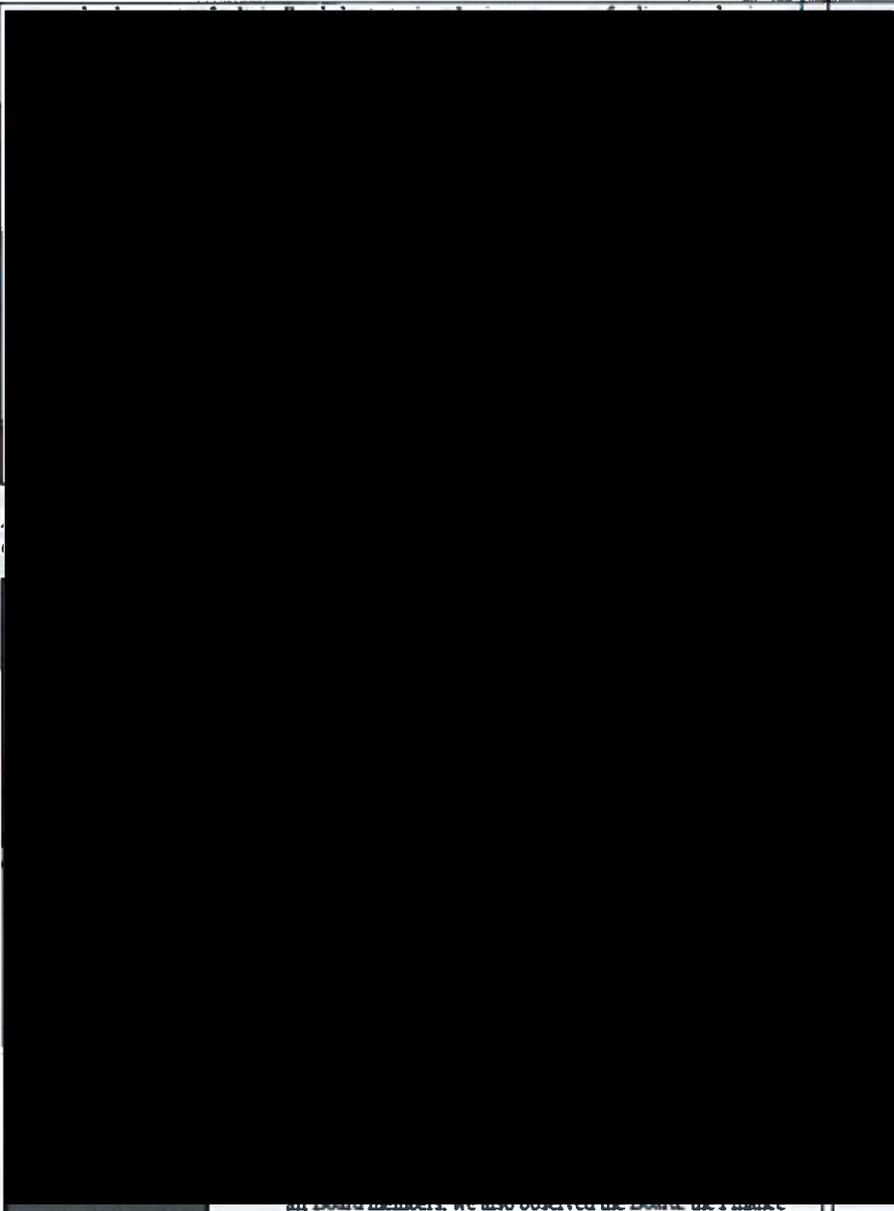
Capability and Expertise	Question Weighting
	

Capability and Expertise

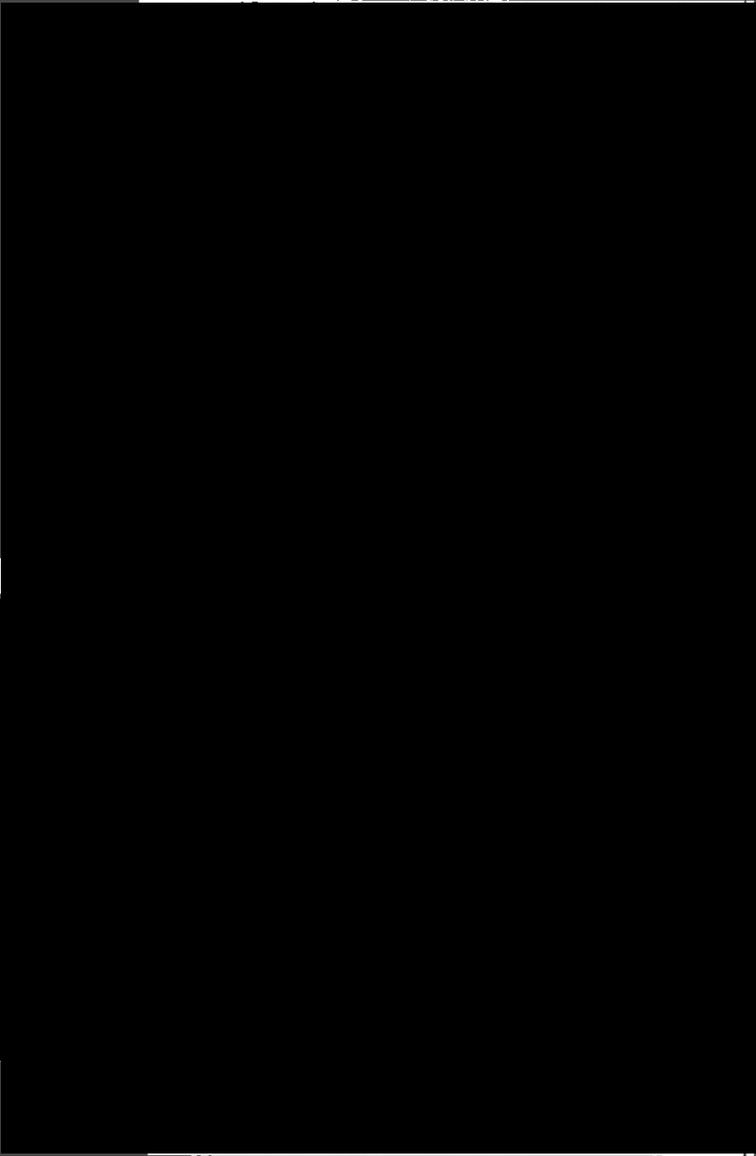
Question
Weighting

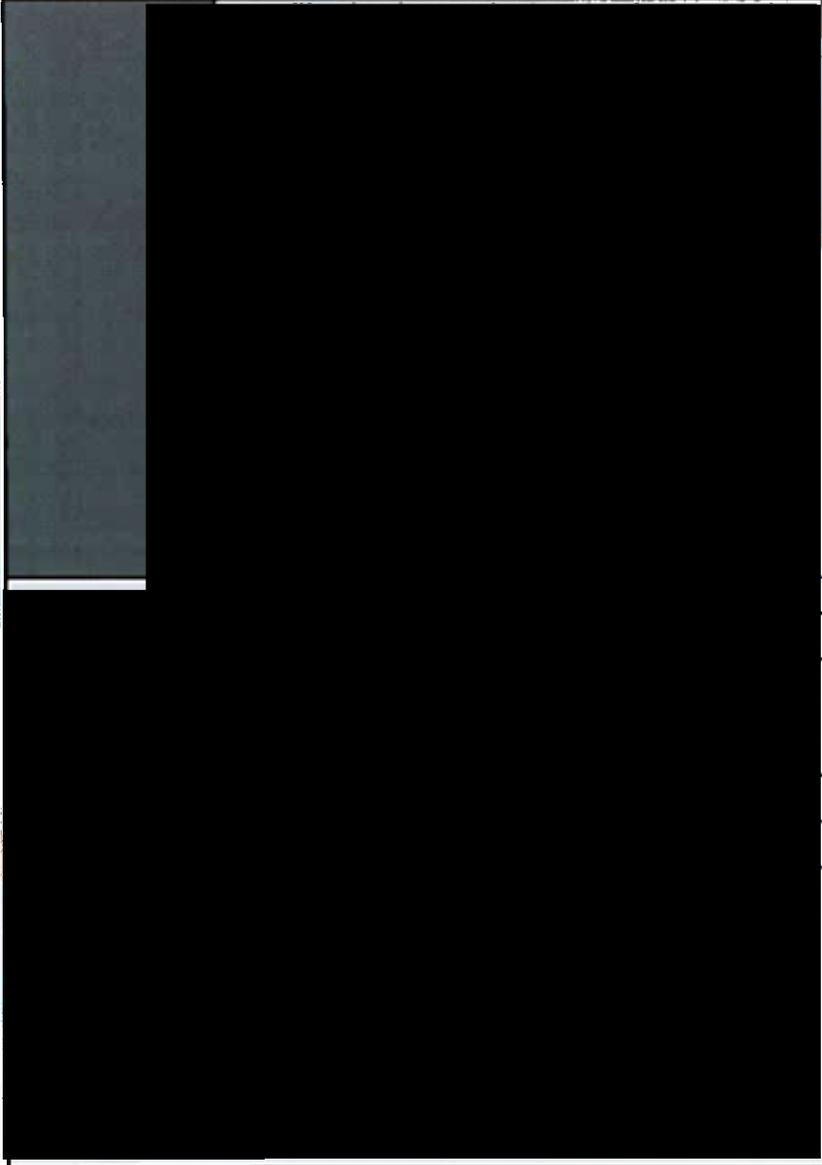


Capability and Expertise	Question Weighting

Capability and Expertise	Question Weighting
	

ALL BOARD MEMBERS. WE ALSO OBSERVED THE BOARD OF DIRECTORS

Capability and Expertise	Question Weighting
	

Capability and Expertise	Question Weighting
	

Capability and Expertise	Question Weighting
<p>The ou</p> <ul style="list-style-type: none"> • • • 	

Method Statement	Question Weighting
<p>Please describe (with specific reference to the requirement and the outcomes expected) how it is intended to deliver the services required</p> <p><u>Evaluation Intention:</u></p> <p>Please provide specific proposals that include (but are not limited to):</p> <ul style="list-style-type: none"> • how you will monitor the quality of the work; • deliver the work within an achievable timeline; • how you will manage any delivery risks; • how you will monitor, measure and assures quality outcomes; • method of delivery for each of the requirements listed within the requirement 	<p>Weighting = 15%</p>
<p>Response:</p> <p>Our approach to undertaking reviews of Board effectiveness is based upon our proven methodology, which we have utilised extensively across the public and private sectors. We understand the importance of tailoring the approach to your specific requirements, and would spend time at the start of the review working with your project lead (including the Chairman and CEO as required) to ensure that the review is appropriately focussed to deliver the outcomes you require.</p> <p>As outlined within the tender specification, we understand that your review of Board effectiveness should consider a number of elements of Board effectiveness, including a focus on the Board's purpose; competence; ways of working; relationships; performance; and reporting. We have outlined below how we deliver these requirements, within your specified timescales.</p> <p><i>How we will monitor the quality of the work</i></p> <p>We pride ourselves on the quality of our work which leaves lasting impact and will put a number of controls in place to ensure that we deliver this, namely:</p> <ul style="list-style-type: none"> • We have put together a senior and highly experienced team to deliver your Review. As outlined in the capability and expertise section above, our team collectively bring combined years of experience in undertaking similar reviews across health, and the wider public and private sectors; • We will invest significant time at the start of the review in a robust planning process to ensure that all of our activities will be appropriately tailored to meet your needs as outlined in your tender specification; • All of our projects are partner led. This means that Jay Bevington will take a key delivery role in the onsite activities, including Board Member interviews and the feedback activities. He will ensure regular and open dialogue with the Chairman and CEO to discuss the review, providing an update on progress and enabling discussion on the quality of the review. Jay will also quality assure all formal deliverables. 	

Method Statement	Question Weighting
<p>Response:</p> <p>All of our work is subject to a series of rigorous internal independent reviews, including:</p> <ul style="list-style-type: none"> ○ A peer review process to provide a degree of SME independent scrutiny; ○ An internal quality assurance process to ensure consistently high standards and that our deliverables meet your initial specification, and ○ A second partner review to ensure the quality of our deliverable to you where appropriate. We would propose that this review is conducted by Paul Thomson, your previous external audit partner, who also has significant experience of undertaking reviews of Board effectiveness. ○ In addition, your client relationship partner Rebecca George, will be on hand to provide a further layer of internal scrutiny and challenge around our findings and outputs. <ul style="list-style-type: none"> • More broadly, Deloitte also runs project risk and quality reviews. These are conducted by independent assessors at partner or director level. They are used to highlight actual or potential issues or areas of non-compliance in our work, enabling appropriate action to be taken at senior level • As outlined below, we will ensure that our project lead Jane Taylor also undertakes weekly project calls with your project lead. These will be used to discuss progress to date, to identify and mitigate any slippage which may arise, and to seek feedback on progress being made • We pride ourselves on the feedback we receive on the quality of our work. A sample of recent client comments in this area is included below. <div style="border: 1px solid black; background-color: #f0f0f0; padding: 5px; margin: 10px 0;"> <p><i>The team worked very closely with us, challenging and supporting in equal measure, but always within a productive partnership.</i></p> </div> <div style="border: 1px solid black; background-color: #f0f0f0; padding: 5px; margin: 10px 0;"> <p><i>The Board is enormously grateful for your high calibre advice and for what I would say is a unique ability to achieve results in the most challenging and difficult of circumstances. Yours has been without doubt the most effective consultancy engagement I have experienced in my career to date.</i></p> </div> <div style="border: 1px solid black; background-color: #f0f0f0; padding: 5px; margin: 10px 0;"> <p><i>Deloitte as a company have established significant status as the 'go to' team for external support on the vital areas of governance and board effectiveness, at a time when these issues have never been more critical in the public sector.</i></p> </div>	

Method Statement

Question Weighting

Response:

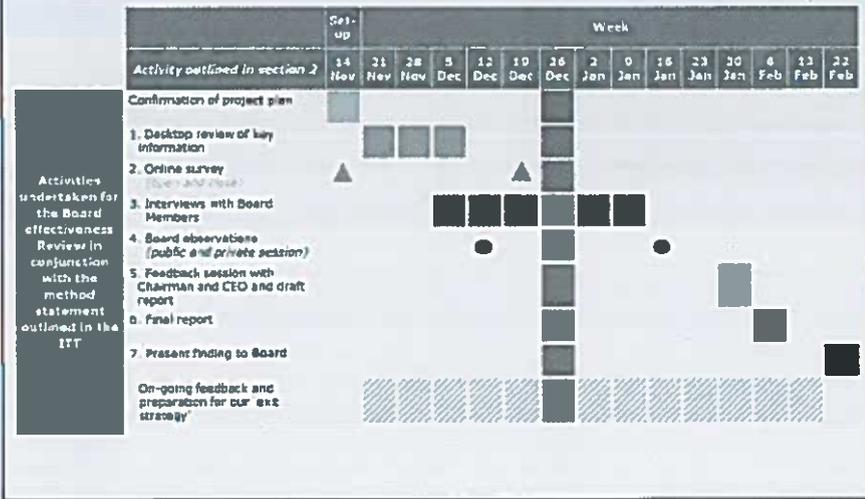
How we will deliver the work within an achievable timeline

As requested, we have set out an indicative timeline below outlining all key milestones. This is in line with your requirements and also our experience in delivering Board effectiveness reviews with organisations of a similar nature and complexity. This plan will be flexed according to your particular needs, and will be agreed with you in full at the project planning meeting.

We can provide assurance that we can deliver to your required timescale of November 2016 to February 2017 for the following reasons:

- Our broad experience in delivering similar projects means that we are well-versed in the time and resource commitment required from a Board effectiveness review;
- We will work closely with you at the outset to ensure that high-impact activities, such as Board member interviews are confirmed in diaries as soon as possible. We recognise that these will need to be as flexible as possible, and in the past we have sought to meet Board Members at differing locations in order to best match diaries;
- As indicated in your specification, we will also seek to use existing data and information sources as much as possible to reduce duplication, including for example your recent internal audit report in relation to corporate governance;
- We will also work effectively with our own project team to leverage our existing knowledge of your organisation. For example, Paul Thomson's former position as your external audit partner means we are particularly well placed to 'hit the ground running' with a strong knowledge of your systems and processes; and
- We will use our regular weekly project calls effectively to ensure that any risks to timely delivery are mitigated as soon as possible.

Set out below is a suggested time line for the review, which is based upon both our experience of delivering similar reviews and your requirements as set out within the tender specification.



Method Statement	Question Weighting
<p><i>How we will manage any delivery risks</i></p> <p>As referenced above, the weekly calls with the CQC project lead will be an important mechanism for ensuring open and regular dialogue with you. We will use these calls to escalate any project risks in the first instance. Any critical risks which may arise in relation to themes arising from our work will be escalated immediately if required to the Chairman and CEO by Jay Bevington.</p> <p>Potential risks to delivery which may arise during this project include</p> <ul style="list-style-type: none"> • Failure to meet project milestones – We will agree a detailed project plan with you upon appointment, ensuring that sufficient time is given to the scheduling of activities. In particular we would focus on setting up Board Member interviews given their busy diaries. As well as the discussion on the progress calls, weekly written updates will be provided outlining any potential risks and we will agree mitigating actions with you. • Lack of understanding of the context in which CQC operates – The team we have proposed specialise in undertaking reviews of Board effectiveness within the NHS and broader public and private sectors. They will be supported by Rebecca George, who leads our work in public sector nationally, and Paul Thomson who until recently was your external audit partner. Paul and Rebecca's input will be key in ensuring an internal check and balance in the evolution of our findings. • Report is not suitable for publication within CQC board papers – We will operate a 'no surprises' approach, ensuring that feedback is provided on the weekly progress calls and that significant issues are escalated to the Chairman and/or CEO as appropriate. We will share drafts of our report with you, enabling time to discuss the content and wording should this be required. In addition, we can if required agree the format of the report with you at the start of the review. All of our work undergoes stringent internal review as outline above to ensure the quality of our work. <p>Should we be appointed, we would spend time up front agreeing the delivery risks with you. Our approach is to manage risks on an ongoing basis via our weekly project updates, updating the sponsor on the progress of the review and discuss emerging themes. This ensures both a 'no surprises' approach and provides an opportunity for clarification and sharing of best practice.</p>	

Method Statement	Question Weighting
<p><i>How we will monitor, measure and assure quality outcomes</i></p>	
<p>Your specification clearly outlines the KPIs expected from your review, and we confirm that, should we be appointed, we would be fully committed to delivering against these.</p>	
<p>Your KPI</p>	<p>How we propose to address and monitor this</p>
<p>1) The timeliness of deliverables against key milestones</p>	<p>We have set out an indicative timeline for the review above which we would agree with you upon appointment. As part of this process, we will be happy to schedule an in-depth set up meeting with the Project lead and the Chairman and CEO if required.</p>
<p>2) Weekly progress reporting.</p>	<p>We typically hold weekly progress meetings as part of each review we undertake and we confirm that this would be the case for this Review. This would usually take the form of a telephone call between our project lead (Jane Taylor) and your project lead. These discussions will be supported by a written progress report which we will send out in advance of the meeting. Within this we will include a calendar of activities supported by a summary of progress (for example % of interviews and surveys completed). We will also summarise progress against the potential delivery risks for the review, demonstrating how these are being mitigated appropriately.</p>
<p>3) Good team working with the CQC and effective use of internal resources; and</p>	<p>We pride ourselves on the quality of our relationships with clients, as evidenced through our client feedback. We understand the importance of ensuring that the Review is undertaken in an effective and efficient manner. Where possible we will seek to rely on work that has already been undertaken, such as the recent internal audit review, along with any other reviews of Board and Committee effectiveness. As outlined within the exit strategy section, we would be happy to share our survey questions, and observation templates with you to ensure a smooth transition to your team at the end of the process.</p>
<p>4) Chairman's satisfaction with the quality of advice and deliverables provided.</p>	<p>Jay will ensure regular communication with the Chairman throughout the review, enabling prompt discussion of any matters arising. We will also ensure that we share key themes and proposed course of actions with you in advance of the workshop and report to ensure sufficient time for debate and tailoring if needed. We see the board workshop as a key part of the review, to confirm key themes and actions. We typically find that this enhances the level of Board members' buy in and engagement in any final recommendations which will be implemented. At the end of the review we will seek more formal feedback from you, ensuring that actions are taken in response to any matters raised.</p>
<p>We will also apply our rigorous internal review processes as referenced above to ensure that your deliverables are of high quality, meet your requirements and will be of lasting value to your Board.</p>	

Method Statement	Question Weighting
<p><i>Method of delivery for each of the requirements listed within the requirement</i></p> <p>Board effectiveness is much more than structures and processes. It is about the behaviours of the individuals that comprise the Board, their collective dynamics and ultimately, the value they add to the organisation. Our framework illustrates the key components of an effective Board which underpins our model for assessment.</p> <p>This framework will be a key focus in outlining the methodology in our review, although it will be tailored to your particular needs, including for example greater focus on the aspects you have outlined in your tender specification (as outlined in the table below), and less focus on governance structures due to your recent audit focus in this area.</p> <div data-bbox="363 817 762 1243" data-label="Diagram"> </div>	

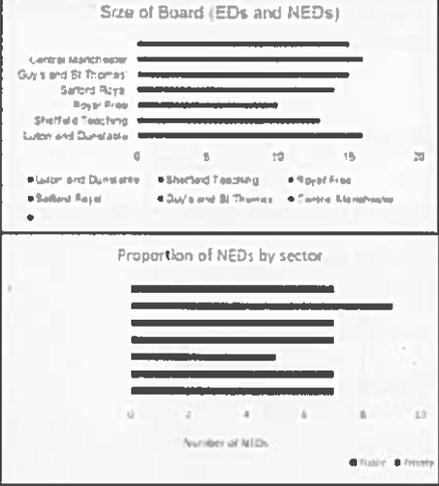
Method Statement	Question Weighting
<p><i>How we will monitor, measure and assure quality outcomes</i></p>	
<p>Your specification clearly outlines the KPIs expected from your review, and we confirm that, should we be appointed, we would be fully committed to delivering against these.</p>	
Your KPI	How we propose to address and monitor this
<p>5) The timeliness of deliverables against key milestones</p>	<p>We have set out an indicative timeline for the review above which we would agree with you upon appointment. As part of this process, we will be happy to schedule an in-depth set up meeting with the Project lead and the Chairman and CEO if required.</p>
<p>6) Weekly progress reporting.</p>	<p>We typically hold weekly progress meetings as part of each review we undertake and we confirm that this would be the case for this Review. This would usually take the form of a telephone call between our project lead (Jane Taylor) and your project lead. These discussions will be supported by a written progress report which we will send out in advance of the meeting. Within this we will include a calendar of activities supported by a summary of progress (for example % of interviews and surveys completed). We will also summarise progress against the potential delivery risks for the review, demonstrating how these are being mitigated appropriately.</p>
<p>7) Good team working with the CQC and effective use of internal resources; and</p>	<p>We pride ourselves on the quality of our relationships with clients, as evidenced through our client feedback. We understand the importance of ensuring that the Review is undertaken in an effective and efficient manner. Where possible we will seek to rely on work that has already been undertaken, such as the recent internal audit review, along with any other reviews of Board and Committee effectiveness. As outlined within the exit strategy section, we would be happy to share our survey questions, and observation templates with you to ensure a smooth transition to your team at the end of the process.</p>
<p>8) Chairman's satisfaction with the quality of advice and deliverables provided.</p>	<p>Jay will ensure regular communication with the Chairman throughout the review, enabling prompt discussion of any matters arising. We will also ensure that we share key themes and proposed course of actions with you in advance of the workshop and report to ensure sufficient time for debate and tailoring if needed. We see the board workshop as a key part of the review, to confirm key themes and actions. We typically find that this enhances the level of Board members' buy in and engagement in any final recommendations which will be implemented. At the end of the review we will seek more formal feedback from you, ensuring that actions are taken in response to any matters raised.</p>
<p>We will also apply our rigorous internal review processes as referenced above to ensure that your deliverables are of high quality, meet your requirements and will be of lasting value to your Board.</p>	

Method Statement	Question Weighting		
<p>In line with your tender specification, key criteria we will assess as part of the model have been described below:</p>			
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%; text-align: left;">Outline of tender scope</th> <th style="text-align: left;">How we will respond to the requirement</th> </tr> </thead> </table>		Outline of tender scope	How we will respond to the requirement
Outline of tender scope	How we will respond to the requirement		
<p>Purpose Board understanding of its purpose and is invited in support of CQC's strategic objectives and goals</p>	<p>This area will primarily assess the extent to which there is a clear organisational purpose, and the extent to which the strategy and plans in place to deliver this are clear, and known by all Board members.</p> <ul style="list-style-type: none"> • We will conduct non attributable interviews with each member of the Board to ascertain the extent to which there is a consistent understanding of the organisation's strategic direction and objectives as set out in your strategy document 'Shaping the Future'. We will also consider the extent of focus on this at the Board as you seek to continue to respond and adapt to reducing budgets, a shifting landscape across health and social care, along with changes to the inspection regime • During our Board observations, we will consider the focus of the agenda and debate, ensuring an appropriate balance between strategic and operational matters. • We will also consider the adequacy of plans to support the induction of the new Board Members in order to develop their understanding of the CQC and its aims and ambition in order to facilitate their transition to the organisation. • Work in this area will be supported by a comprehensive and non-attributable Board survey tool tailored to the areas of focus set out in your requirements. This is outlined in more detail below. 		
<p>Competence The Board comprises of the right skills and experience to direct the strategy/evaluate performance and there is adequate focus on different areas of CQC's remit.</p>	<p>This area will principally focus on the extent to which the Board has the right balance of skills, knowledge and experience to govern the organisation effectively.</p> <ul style="list-style-type: none"> • We will use our Board skills matrix to benchmark the skills and construct of your Board against those in comparable organisations. We will discuss and agree which organisations to include in this at the start of the Review. • During interviews, we will seek Board members' assessments of its collective capacity and capability, paying particular attention to how this is aligned to the strategic direction for the CQC. • Given some of the newer Board appointments and further planned changes to the Board composition, we will also focus on Board cohesion and processes in place to support succession planning. • Our Board Member survey will also enable us to capture qualitative views on any gaps in the Board skills and capability, and how the future composition of the Board may need to develop to align to the CQC's strategic direction. • Finally, we will use our observation of the Board "in action" to understand the quality of Board challenge and debate, and how 		

Method Statement		Question Weighting
	<p>effectively Board skills are used to hold directors to account for delivery. We will base this upon an observation of at least one public and private session of the Board. In addition, we will also review previous webcasts of your Board meetings on your website.</p> <p>We will not, however, focus on the leadership profiling of individual Board members, as you have mentioned in the tender that this will not be necessary during the review.</p>	
<p>Ways of working</p> <p>There is an appropriate governance structure including: agenda planning; paper quality; development opportunities; meeting frequency and purpose; and adequate opportunity for discussion and debate.</p>	<p>This are will look at more technical aspects of the way the Board functions, including how its agendas are composed, the quality of information to support decision-making and the underlying structures to support the Board. To assess this we will:</p> <ul style="list-style-type: none"> • Undertake a thorough desktop review of key Board information, including recent agendas, papers and minutes, terms of reference, papers from any Board strategy or seminar sessions, and any documentation relating to previous Board development activities. • Our final information request will be agreed with you at the planning stages to ensure alignment on scope and no duplication with other activities, such as your recent internal audit into corporate governance. • We will use the breadth of our experience to benchmark your performance against other similar organisations, including for example in relation to the amount of time spent discussing strategic versus operational matters, quality and content of board papers, and your committee structure. • Our observation of the Board, Board member interviews and survey analysis will also provide qualitative views to triangulate our desktop findings. • As part of our activities we will also consider your 'Corporate Governance Framework', including how the principles set out are applied in practice. 	
<p>Relationships</p> <p>There are sufficient relationships between Board members and key internal and external stakeholders, whilst also maintaining sufficient boundaries in relation to the strategic role of the Board and the operational role of the Executive Team.</p>	<p>As outlined in your specification, internal and external relationships are key to an effective Board, including those with staff and stakeholders, but also those between the executive and non-executive Board cohorts. This will be determined in the following ways:</p> <ul style="list-style-type: none"> • Through Board interviews, we will seek to understand the quality of Board dynamics and debate, the extent to which Board members are focussed on key external stakeholder relationships and also any mechanisms in place to ensure that the Board is well-connected to internal stakeholders and staff. • The Board survey will enable further focus in this area, and could be tailored to provide an additional emphasis on the quality of internal and external stakeholder engagement. <p>Finally the observations of both the public and private Board sessions will provide a key opportunity to witness Board dynamics and</p>	

Method Statement	Question Weighting
	interactions between Board members. In particular we will use this activity to understand the extent to which executives and non-executive directors have a clear understanding of their respective roles, and enact these successfully in Board meetings.
<p>Performance and reporting</p> <p>Ensure there is a sufficient performance management process, in line with the strategic objectives, to assess annual outcomes and benefits, risks, and contribution and performance of the Board.</p>	<ul style="list-style-type: none"> • The desktop review, interview process and survey will seek to understand the appropriateness of the performance management processes, to ensure the Board are sufficiently informed of the organisation's performance in order to deliver on the strategic objectives. • As part of this assessment, we will also review how the Board successfully receives and addresses potential risks of the organisation. As part of this we will consider the adequacy of reporting from the Directorates to ensure that there is adequate scrutiny and support on key performance issues. • In addition, we will evaluate the appraisal process to ensure there is sufficient processes in place to appraise the contribution and performance of the Board. This will include both the use of a formal annual assessment, which we would be happy to share examples of if required, as well as processes to evaluate whether the Board is meeting its objectives throughout the year. • In this particular area, we will benchmark your key Board reports to understand the quality of the information received by the Board. In particular we are likely to analyse your finance and performance reporting, and also any Board-level risk registers in place. <p>We will be very happy to share examples from other sectors and organisations with you if required.</p>
<p>A desktop review of core documents (Board agendas, papers, etc.)</p>	<p>We will conduct a comprehensive review of key documentation to provide evidence and insight into the parameters within which the Board is working. This will highlight your existing strengths and development areas, and any barriers to existing working practices.</p> <p>The final documentation request will be agreed with you upfront, to ensure a minimum impact on your Project Team, but also to ensure that we maximise the use of any existing data which may be relevant to our scope. We will also use as much of your publically-facing information as possible.</p> <p>The typical items we would request include:</p> <ol style="list-style-type: none"> 1. Private Board papers from the last 12 months 2. Your key strategy documents (e.g. strategic plan and any supporting strategies) 3. Your Board-level risk register 4. Any relevant internal audit reports 5. Evidence of any Board development activities, including appraisal documentation

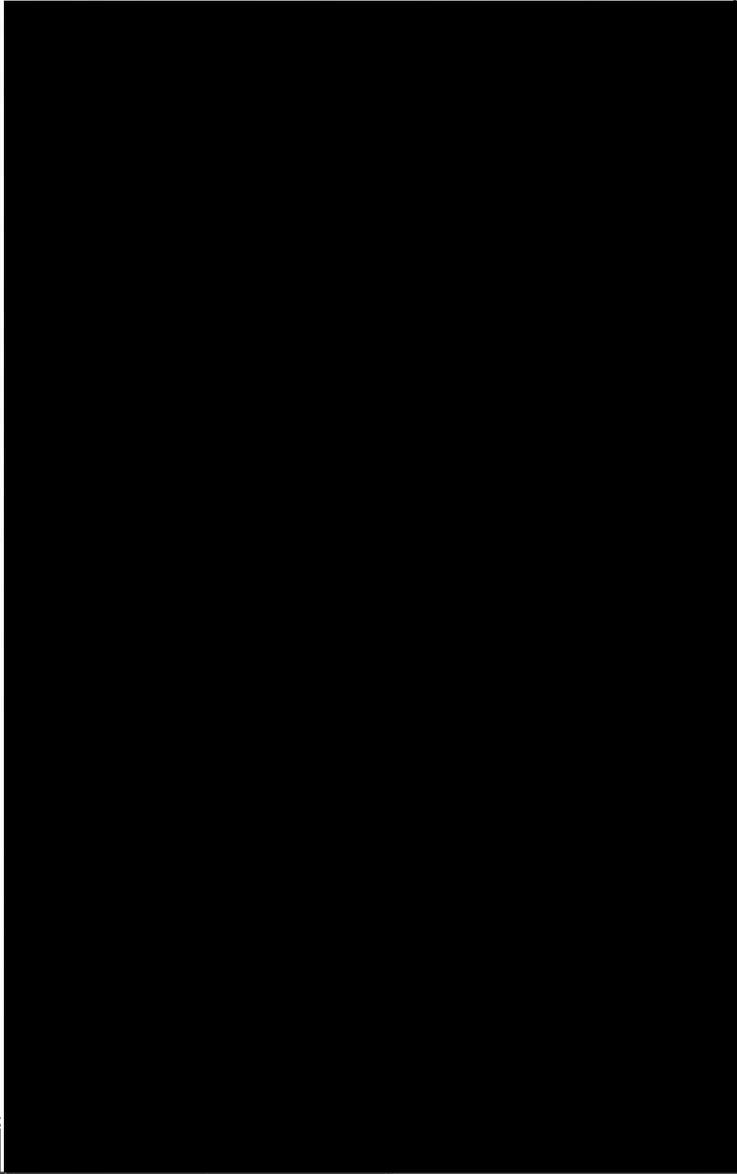
Method Statement		Question Weighting
	<ul style="list-style-type: none"> 6. Board member terms of appointment 7. Evidence of stakeholder engagement exercises 8. Your governance structure / schematic to show assurance flows 9. Board and committee terms of reference <ul style="list-style-type: none"> • Board and committee forward plans 	
Reporting and feedback processes	<p>We take pride in providing high quality deliverables which meet your requirements and add value after we have left the organisation.</p> <p>We also operate a 'no surprises' approach to feedback, by ensuring that the Chairman and CEO are regularly appraised of project progress and emerging themes by the engagement Partner.</p> <p>We will also schedule weekly calls and, if required, a supplementary one-page 'PMO documents' to ensure that the CQC project lead is regularly engaged in project progress and aware of any risks to the timely completion of the project plan.</p> <p>Following the completion of our on-site activities and desktop review, we will conduct a feedback call or meeting with the Chairman, CEO and CQC project lead, if appropriate. This will provide an opportunity to feedback our key themes, but also to agree an agenda and areas of focus for a workshop with all members of the Board. This will be an interactive session, which will balance both our core feedback messages with action planning a focus on the future.</p> <p>We will then issue a succinct but comprehensive draft report outlining our findings. This report will underline your existing areas of strength, and also any development opportunities if applicable. Any recommendations will be rooted in evidence, including our benchmarking data.</p> <p>You will then have an opportunity to comment on the draft, before we issue our final report in line with your indicated timescale of February 2017.</p> <p>Reporting structure</p> <p>Our report will be comprehensive and evidence-based. We will seek to outline where the Board is already performing well, and also any further opportunities for development.</p> <p>Following our review completion we will compare the results of the CQC Board review with previous reviews with organisations of a similar nature and scale we have within our portfolio. The typical areas we usually benchmark include: Board composition, Board reporting, Committee structures, Board agendas, as well as Board support/company secretarial resources.</p> <p>As indicated in your tender, our report will include both qualitative and quantitative sources. A sample of similar (anonymised) documentation we have included in previous reports is shown below.</p>	

Method Statement	Question Weighting
	
<p>Action planning and ongoing support</p>	<p>We will ensure that our work has been value adding and that any recommendations are achievable by working with you in the following ways after our report has been issued.</p> <ul style="list-style-type: none"> • We will help to develop an appropriate action plan, which will include the SMART recommendations outlined in the final report. We will involve the CQC Board in the development of the action plan through our interactive workshop. We will also ensure there is sufficient capacity and capability within the CQC Board to ensure the action plan is achievable. • We will also work closely with the project lead throughout the review to discuss emerging themes and any cases in which your current arrangements diverge from good practice. If this occurs, we will as a matter of course share examples and learning from elsewhere. • We are also happy to share case studies and sample documentation after our work has finished. For example, in recent reviews we have shared example terms of reference, assurance frameworks and risk register templates to support our clients in implementing their action plans. • Should a Board development programme be required, we are able to share our learning from having designed and delivered numerous NHS Board development programmes over the last 18 months. Topics have typically included, for example: <ul style="list-style-type: none"> - Board dynamics and behaviours - Effective challenge and assurance - Cohesion and a unitary Board - Organisational values - Succession planning - The role of the Board

Resource Plan	Question Weighting
<p>Please provide a complete resource plan for the delivery of the requirements and organisational capacity to undertake the work.</p> <p><u>Evaluation Intention:</u></p> <p>The tender response should demonstrate that the Tenderer:</p> <ul style="list-style-type: none"> • can provide the services requested; • has the organisational capacity to undertake the work given other commitments and contingencies; • has identified appropriate management of these resources; • has assigned suitably qualified and experienced resource for service delivery; • has a resource plan that integrates with the method statement(s), and • has considered the effective use of client resources to where possible minimise costs and ensure effective use of client knowledge and data. 	<p>Weighting = 15%</p>

Response:

Resource plan: Overview



Resource Plan	Question Weighting
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Exit Strategy and Skills Transfer:	Question Weighting
<p>Please describe the processes and deliverables of the exit phase of the service and how the tenderer will affect handover of the next steps of the project to the client</p> <p><u>Evaluation Intention:</u></p> <ul style="list-style-type: none"> Seeks to ensure that the Tenderer will transfer knowledge back into the CQC in respect of reviewing Board effectiveness, and being clear on the next steps to implement any recommended changes 	
<p>Response:</p> <div style="background-color: black; width: 100%; height: 400px;"></div>	<p>Weighting = 5%</p>

Exit Strategy and Skills Transfer:	Question Weighting
