

Explanatory Note: debt advice in prisons

Introduction

The purpose of this explanatory note is:

- to provide a guide to the documents which will form the basis of the contract awarded to successful applicants; and
- to summarise the main changes to the draft contract standard terms and schedule which we published with our invitation to tender on 14 April 2009 (“ITT”) as against the revised version which supersedes it.

Guide to Contract Structure

Applicants are advised to familiarise themselves with the content of the following two documents. Together these comprise the basis of the contract which will be awarded to successful Applicants under the tender process:

- contract for signature; and
- contract standard terms and schedule.

1. Contract for signature

This includes certain bespoke provisions in relation to the organisation and some key provisions of the contract:

- term;
- table of contract work to be undertaken by the organisation;
- conditions of contract (if any) which apply to the organisation;
- list of contract documents and their order of precedence;
- quality standard;
- organisation contact details; and
- signature clause.

2. Contract standard terms and schedule

The contract standard terms contain provisions applying to all providers of the debt advice in prison services included in our ITT.

The schedule sets out:

- definition of scope of legal advice in debt category of law;
- the specification for each service: debt advice surgery, debt group work and family member debt advice (South West only) and those requirements which apply to all three services e.g. referrals, liaison with prison staff, technical requirements and use of translation services;
- price and payment provisions;
- performance standards; and
- substantive obligations.

Summary of main changes

We have changed the contract standard terms and schedule (and included a separate contract for signature):

- so that they are more closely aligned with our main face-to-face legal services contracts (LSC Unified Contract) both in terms of content and structure;
- to clarify the scope of the debt advice services to be delivered in prisons; and
- to clarify the obligations on providers delivering those services.

The following table gives an overview of the main changes to the draft contract standard terms and schedule:

Revised contract standard terms – clause heading	Revised contract standard terms – clause number	Draft contract standard terms – clause number	Description of change	Further information
Interpretation	1.1	1.1	Various definitions changed.	Changes made either because definitions not relevant to the services or consequential to amendments to other provisions.
Communication	3	3.6 – 3.8	These clauses have been deleted.	To harmonise with our approach under LSC Unified Contract.
Financial disclosure and risk	4	4.4	Deletion of indemnity given by provider for breach of its data protection obligations under clause 18.	This indemnity has been moved to clause 18.25 so that it sits with the obligations to which it relates.
Equality and diversity	5	5.3/5.4	Obligation on provider to comply with LSC Single Equality Scheme deleted as providers' obligations are as set out in this clause and Annex A to the contract standard terms. Addition of references to regulations/legislation at sub-clauses (g), (j), (m), (n) and (o) to the revised contract standard terms.	For clarificatory purposes and to update the requirements in accordance with all relevant legislation.
Looking after Clients/Family Members, compliance and self-monitoring	7.9	7.9/7.10	Clause 7.9 amended and clause 7.10 deleted as the requirements set out in the Monitoring Annex (Annex A) are those which apply to this contract.	Please see also changes to Monitoring Annex (Annex A) which have been made to tailor the records/monitoring requirements to the particular services to be provided under this contract.

Demonstrating compliance and co-operating in audits	8	8.2 (b) and 8.12	Clause 8.2(b) deleted as not applicable to the services under this contract. Clause 8.12 deleted.	To harmonise with our approach under LSC Unified Contract.
Keeping and providing documents and completing and returning forms	9	9.4	Addition of the proviso that closed files (or copies) must be retained if, without them, there is a risk the provider will be unable to demonstrate compliance with Clause 8.	To clarify the requirement.
Approved Personnel and Supervisors, standard of Contract Work and Performance Standards	10	10	Amendments to clarify that only Frontline Advisers who are Approved Personnel.	
Amendments to Contract Documents	12	12	12.2 (e) – deleted as not relevant 12.3 – changed so provision operates to take account of changes to the prison system too Insertion of new clause 12.6 to allow for amendments which clarify ambiguities or to correct errors and omissions Insertion of new clause 12.13 confirming the restrictions on our powers to amend the contract.	Changes made for relevance to services under this contract and to harmonise with our approach under LSC Unified Contract.
Set off and repayment	15.5	15.4	Addition of obligation on provider to pay amount in debit note issued under clause 15.2 within 14 days.	To harmonise with our approach under LSC Unified Contract.

Instruction and payment of third parties	16.1	16.1/16.2	These provisions have been deleted and replaced with a provision which confirms that providers may not instruct any third parties to carry out Contract Work.	For consistency with our requirement as stated in the ITT.
Confidentiality and data protection	18.12-18.25	18.12-18.22	Please see revised wording within these clauses.	Provisions amended to fit the particular services and data flows under this contract and associated definition of "Shared Data" inserted.
How this Contract can be ended	27	27.1	Provider no fault termination right changed from 6 months' to 3 months' notice. Amendments consequential to other changes have also been made.	
Consequences of termination	28.2-28.9 28.15	28.2-28.7	Amendments consequential to other changes have also been made. Prohibition on application for new contract where we terminate the contract (n/a where no fault termination).	To harmonise with approach under LSC Unified Contract.
Dispute resolution	30	30	Please see this clause. Early Neutral Evaluation and arbitration provisions deleted and insertion of provisions around disputes subject to court proceedings.	For consistency with our approach under other legal services contracts.
Approved Personnel, Front Line Advisers and Supervisors Annex C	-	-	Please see clause wording.	Amendments made to clarify who may carry out Contract Work and related requirements.

Schedule – definitions and background	Paragraph 1.1-1.6	Paragraph 1	Amendments to definitions/additional definitions. Background provisions at 1.2-1.6 added to clarify the requirement on providers and the structure and content of the Schedule.	
Schedule – your obligations and price	Paragraph 2-3	Paragraph 2-3	Various clarificatory changes. Insertion of requirements around use of a translation service to provider interpreters and associated amendments to price provisions (Paragraph 3).	
Schedule – performance standards and substantive obligations	Paragraph 5	Paragraph 5	Status of provision – whether performance standard or substantive obligation clarified – with provisions being placed into two separate tables. Timings for compliance with performance obligations clarified. Performance standard 1 made subject to circumstances outside of the provider’s reasonable control.	