



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

## **NEATH PORT TALBOT COUNTY BOROUGH COUNCIL SOCIAL CARE HEALTH & WELL-BEING CABINET BOARD**

**25<sup>th</sup> of July 2019**

**Report of the Head of Children and Young People Services –  
K. Warren**

### **Matter for Decision**

**Wards Affected:** All Wards

### **INTER-AGENCY (COLLABORATIVE) AGREEMENT RELATING TO THE PROVISION OF A REGIONAL ADVOCACY SERVICE TO BE DELIVERED IN THE WEST GLAMORGAN REGIONAL PARTNERSHIP BOARD**

#### **Purpose of the Report:**

To request that the Head of Children and Young People Services be granted delegated authority to enter into an Inter-Agency Agreement (“IAA”) with the City and County of Swansea (“CCoS”), for the commissioning and delivery of a regional advocacy service to be provided in the West Glamorgan Regional Partnership Board (“RPB”) area (appendix 1).

#### **Executive Summary:**

The existing provision of a regional advocacy service for children and young people in the West Glamorgan RPB area, was developed in response to a Welsh Government requirement for a national approach for the delivery of children's advocacy services.

Currently there is an IAA in place between the former Western Bay RPB Local Authority partners for the delivery of a regional children's advocacy service within the former RPB geographical area. However, the departure of Bridgend County Borough Council ("BCBC") from the former Abertawe Bro Morgannwg University Health Board ("ABMU HB") footprint and the subsequent formation of the West Glamorgan RPB means that this IAA will come to an end. As such, a new arrangement will need to be in situ to cover future partnership working between CCoS and Neath Port Talbot Council (the Council) with regards to the delivery of a regional children's advocacy service.

In light of the above, the Head of Children and Young People Services requests permission to enter in to a new IAA with CCoS.

### **Background:**

On the 3<sup>rd</sup> of July 2017, Cabinet gave approval for the Council to enter into an IAA with BCBC and CCoS (i.e. the former Western Bay RPB Local Authority partners) to commission an independent professional advocacy service for children, known as the "Western Bay Advocacy Service". This service ensured that the Council was compliant with Welsh Government's requirement for the standardisation of a national service specification and a common performance reporting tool. The aim of Welsh Government's national approach was to ensure that children subject to child protection ("CP") or "looked after children" ("LAC") procedures, are systematically informed (by a professional advocate) of their rights, including their right to an advocate.

CCoS were the designated lead organisation in the procurement of this service and oversaw the management of the regional contract. Each partner authority submits performance measures to CCoS commissioning leads, who collate and produce regional performance reports for Welsh Government.

BCBC's departure from the ABMU HB footprint to join the Cwm Taf University Health Board region in April 2019 and the subsequent realignment of partners to form the West Glamorgan RPB, has

necessitated a review of both the regional children's advocacy contract and the IAA.

The Cwm Taf RBP Local Authority partners, including BCBC, are in the process of tendering a new regional advocacy service and it is anticipated that this tender will be awarded at the end of May 2019. BCBC has continued to be part of the IAA between the former Western Bay RPB local authority's until the end of May 2019, to ensure they continuity of service provision whilst waiting for the conclusion of the Cwm Taf procurement exercise. The contract between CCoS and the current provider has been extended to allow time for CCoS officers to commence a re-procurement exercise in August 2019, leading to the awarding, and full implementation of a new West Glamorgan Regional contract for the provision of a children's advocacy service in October 2019. The new service to be tendered will reflect the changes brought about by the exit of BCBC from the existing contract. In order for the Council to continue being part of these arrangements with CCoS, the Council is required to enter into a new IAA with CCoS.

It should be noted that the terms of the existing IAA allow for both the extension of the regional contract, the departure of one partner and the continuation of the agreement with the remaining two partners. This provision is on the condition that the contract with between CCoS and the existing provider remains in place.

In order to ensure that the Council continues to meet the Welsh Government requirement of a national approach for the provision of children advocacy services once BCBC exit from the current IAA, the Head of Children and Young People Services requests members' permission to jointly commission a regional advocacy service with CCoS and enter into a new IAA with CCoS for the provision of a West Glamorgan regional advocacy service for children and young people, in which CCoS continue to be the contract lead.

**Financial Impacts:**

Welsh Government have set out the contributions each Local Authority in Wales is required to allocate for the delivery of children

advocacy services. This calculation was based on a national formula developed to identify how much each Local Authority should invest in children advocacy services.

In the 2019/20 financial year, £124,450 has been allocated from the Children Social Services base budget for the delivery of children advocacy services.

The recommendations in this report will not have a financial impact on the Council's budget as the Council's contribution towards this service will remain the same as it is under the current IAA.

### **Integrated Impact Assessment:**

A first stage impact assessment (appendix 2) has been undertaken to assist the Council in discharging its legislative duties (under the Equality Act 2010, the Welsh Language Standards (No.1) Regulations 2015, the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016.

The first stage assessment has indicated that a more in-depth assessment is not required. A summary of the reasons for this is included below:

The purpose of the paper is to ensure that the Council continues to discharge its statutory obligation to provide an active offer of professional independent advocacy to children and young people subject to CP or LAC proceedings.

It is a Welsh Government directive for a national approach to the delivery of children's advocacy, and that organisations deliver this on a regional basis.

Entering in to a formal Inter Agency Agreement is the accepted mechanism for ensuring that this approach is delivered and that children and young people advocacy is continues to be offered to those subject to CP or LAC. Proceedings.

The proposal does not look to change current services and the aim of the proposal is to ensure that there is continuity of service provision once Bridgend County Borough Council leave the current arrangement.

As such, the implementation of the recommended proposal will not have an adverse impact on those individuals with protected characteristics.

**Valleys Communities Impacts:**

Entering into an Inter-Agency Agreement has no spatial impact on our valleys communities and does not link to the impacts identified in the Cabinet's response to the Council's Task and Finish Group's recommendations on the Valleys.

**Workforce Impacts:**

No implications.

**Legal Impacts:**

The IAA is made under the powers conferred by Section 101 and 111 of the Local Government Act 1972, Section 25 of the Local Government Wales Act 1994, the Local Authorities (Goods and Services) Act 1970, Sections 2, 19, 20 of the Local Government Act 2000.

The IAA sets out the arrangements under which CCoS will procure and contract the relevant services. Notwithstanding the existence of the agreement, the Council will remain responsible for discharging its statutory duties in relation to the All Wales Child Protection Procedures, Social Services and Wellbeing Act 2014 Well-being of Future Generations (Wales) Act 2015 and Children Act 1989.

**Risk Management Impacts:**

No additional risks in addition to those mentioned in the body of the report.

**Consultation:**

There is no requirement for external consultation on this item as the recommendations will not result in a change to service delivery.

**Recommendations:**

It is recommended that Members approve:

- a) That the Head of Children and Young People Services be granted delegated authority to enter into an Inter-Agency Agreement with the City and County of Swansea to facilitate the procurement of a West Glamorgan Children's Advocacy Service and for the City and County of Swansea to continue to be the lead partner on this arrangement.
- b) The City and County of Swansea to lead the procurement process on behalf of Neath Port Talbot County Borough Council and for the City and County of Swansea to continue to host the contract for a regional West Glamorgan Children's Advocacy Service, which will be used by Neath Port Talbot County Borough Council.

**Reasons for Proposed Decision:**

The approach outlined within this paper, is an accepted means of discharging the Councils statutory duty to deliver the Welsh Government directive on the national approach to advocacy for children and young people.

**Implementation of Decision:**

The decision is proposed for implementation after the three day call in period

**Appendices:**

Appendix One: Collaboration agreement relating to the provision of a regional advocacy service to be delivered in the west Glamorgan area

Appendix two: Integrated Impact Assessment

**List of Background Papers:**

Cabinet Board Paper 3<sup>rd</sup> of July 2017: To Enter into an Inter Authority Agreement within the Western Bay Region for the Collaborative Procurement of Regional Advocacy Services (restricted) -

[http://modern.gov.neath-](http://modern.gov.neath-portalbot.gov.uk/ieListDocuments.aspx?CId=322&MId=7643)

[portalbot.gov.uk/ieListDocuments.aspx?CId=322&MId=7643](http://modern.gov.neath-portalbot.gov.uk/ieListDocuments.aspx?CId=322&MId=7643)

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DATED

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**COLLABORATION AGREEMENT**

**RELATING TO THE PROVISION OF A REGIONAL ADVOCACY SERVICE  
TO BE DELIVERED IN THE WEST GLAMORGAN AREA**

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**Between**

**Neath Port Talbot County Borough Council**

**And**

**The Council of the City and County of Swansea**



**THIS AGREEMENT** is made on the  
**Date”)**

2019 (“**Commencement**

## **PARTIES**

- (1) **THE COUNCIL OF THE CITY AND THE COUNTY OF SWANSEA** of Civic Centre, Oystermouth Road, Swansea, SA1 3SN (“**Host Authority**”).

And

- (2) **NEATH Port Talbot COUNTY BOROUGH COUNCIL** of Port Talbot Civic Centre, Port Talbot. SA13 1PJ (“**NPT**”)

Hereinafter, in addition to the defined names detailed above, may be referred to as the **Parties, Partners** or **Authorities** as appropriate.

## **BACKGROUND**

- (A) The Authorities have agreed to secure the provision of an advocacy service for service users in the West Glamorgan area.
- (B) The Council of the City and County of Swansea will be the Host Authority and lead in procuring the relevant services. The Host Authority will enter into an agreement with the Service Provider for the provision of the services on behalf of all Authorities detailed in this agreement (“**the Service Contract**”)
- (C) Owing to the fact that the Host Authority will be contracting with the Service Provider they will be responsible for managing the Service Contract and acting as key contact for any contractual discussions.

- (D) This Agreement facilitates the collaboration of the Authorities to enable the delivery of a regional advocacy service to those who are assessed as requiring this Service in the Neath Port Talbot and Swansea areas as more particularly described in the Service Contract (“**the Service**”).

## **IT IS AGREED**

### **1. SCOPE OF AGREEMENT**

- 1.1 This Agreement is made under the powers conferred by Section 101 and 111 of the Local Government Act 1972, Section 25 of the Local Government Wales Act 1994, the Local Authorities (Goods and Services) Act 1970, Sections 2, 19, 20 of the Local Government Act 2000, and all other enabling powers now vested in the Authorities.
- 1.2 The Authorities shall undertake to establish the Service on the terms of this Agreement in order to collaborate effectively in the spirit of this Agreement and to offer support to the Service Provider in such a way that they may deliver the Service fully in accordance with the particulars of what is defined as the Tender Documents in the Service Provider’s Agreement
- 1.3 The Authorities wish to record the basis on which they will collaborate with each other in relation to the establishment of the Service. This Agreement sets out:
- (a) The Key Objectives agreed in the Service Specification;
  - (b) The principles of collaboration referred to in Clause 3.1;

- (c) The governance structures the parties will put in place;
- (d) The respective roles and responsibilities the Authorities will have during the functioning of the Service.

## 2. **WARRANTY**

2.1 Each Authority warrants and represents to the other Authorities that, at the Commencement Date it has obtained its respective Authority's approval to:

1. Enter into this Agreement
2. Enable the Host Authority to undertake a procurement process and award the Service Contract to the Service Provider on its behalf

And it has complied with its own internal procedures and standing orders, and Public Contracts Regulations 2015, where appropriate.

Each Authority also warrants and represents to the other that at the Commencement Date all necessary and appropriate powers have been delegated to enable each Authority to comply with its obligations under this Agreement and to further the Service.

## 3. **PRINCIPLES OF COLLABORATION**

3.1 The Authorities agree to adopt the following principles when carrying out the Service (**Principles**) to:

- (a) Collaborate and co-operate. Establish and adhere to the governance structure set out in this Agreement to ensure that activities are delivered and actions taken as required;
- (b) Be accountable. Take on, manage and account to each other for performance of the respective roles and responsibilities set out in this Agreement;
- (c) Be open. Communicate openly about major concerns, issues or opportunities relating to the Service;
- (d) Learn, develop and seek to achieve full potential. Share information, experience, materials and skills to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;
- (e) Adopt a positive outlook. Behave in a positive, proactive manner;
- (f) Adhere to statutory requirements and best practice. Comply with applicable laws and standards including data protection and freedom of information legislation. In particular the parties agree to comply with the requirements of the Information Sharing Protocol attached to this Agreement at Schedule 1;
- (g) Act in a timely manner. Recognise the time-critical nature of the Service and respond accordingly to requests for support;
- (h) Manage stakeholders effectively;

- (i) Deploy appropriate resources. Ensure sufficient and appropriately qualified resources are available and authorised to fulfil the responsibilities set out in this Agreement; and
- (j) Act in good faith to support achievement of the Key Objectives and compliance with these Principles.

#### **4. HOST AUTHORITY**

4.1 The Council of the City and County of Swansea is appointed as the Host Authority for the duration of the agreement, and, subject to the Host Authority exiting the agreement in accordance with its terms in which case clause 13 applies, shall

- (a) Lead in procuring and contracting with the Service Provider;
- (b) Manage and monitor the Service Provider's performance;
- (c) Keep apprised of any and all issues that arise between the other Authorities and the Service Provider; and

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- (d) Implement the decisions of the Project Board unless otherwise agreed by the Authorities.

4.2 The Host Authority shall not be required to implement resolutions of the Project Board where a Representative or Representatives have acted outside their delegated authority. In such circumstances, the Host Authority will not be responsible to the Authorities for any losses the Authorities suffer howsoever caused, by its failure to implement the resolutions of the Project Board.

## 5. PROJECT GOVERNANCE

### Overview

- 5.1 The governance structure defined below provides a structure for the development and delivery of the Service.

### Guiding principles

- 5.2 The following guiding principles are agreed. The Service's governance will:
- (a) Provide strategic oversight and direction;
  - (b) Be based on clearly defined roles and responsibilities at organisation, group and, where necessary, individual level;
  - (c) Align decision-making authority with the criticality of the decisions required;
  - (d) Be aligned with Service scope (and may therefore require changes over time);
  - (e) Use existing structures and processes where possible to ensure good governance in the Service;
  - (f) Provide coherent, timely and efficient decision-making; and
  - (g) Correspond with the key features of the Service governance arrangements set out in this Agreement.

## **The Project Board**

- 5.3 The Project Board is responsible for overseeing the delivery of the Service. The functions and terms of reference of the Project Board are further detailed in Schedule 2.

## **6. SERVICE DELIVERY AND INVOICING**

- 6.1 Appropriate representatives from the Authorities Child and Family Services Departments shall be solely responsible for ensuring the eligibility of service users from their area accessing the Service.
- 6.2 Each Authority's Finance Officer will be individually responsible for settling invoices raised by the Service Provider that relate to the services provided to Service Users for whom they have responsibility in accordance with the particulars of the Service Contract
- 6.3 The Authorities shall be individually responsible for the day to day arrangements between the Service Provider and the Service User, to include the commencement, suspension and/or termination of services for individual service users and the review of service user needs in accordance with regulatory guidance.
- 6.4 Each respective Authority shall be individually responsible for their duties in relation to the All Wales Child Protection Procedures, Social Services and Wellbeing Act 2014 Well-being of Future Generations (Wales) Act 2015 and Children Act 1989.

- 6.5 From the commencement of the Service Contract, each Authority shall work co-operatively with the others and with the Service Provider to ensure that transition arrangements to any new Service Provider are undertaken with minimal disruption to the Service Users.
- 6.6 The Authorities agree that they shall engage with the Service Provider in such a way so as not to prejudice the interests of one Authority member over another.

## **7. INDEMNITIES AND LIMITATION OF LIABILITY**

- 7.1 Except as otherwise provided, the Parties shall each bear their own costs and expenses incurred in complying with their obligations under this Agreement.
- 7.2 The Authorities shall individually remain liable for any losses or liabilities incurred due to their own or their employee's actions and no party intends that the other party shall be liable for any loss it suffers as a result of this Agreement, save that all Authorities to this agreement shall equally share all losses that are suffered, in relation to all actions, proceedings, costs, claims, demands, liabilities, losses and expenses howsoever arising (including, for the avoidance of doubt, any employment costs or losses arising from the operation of TUPE), whether in tort, default or breach of contract (including for the avoidance of doubt breach of any grant conditions) or breach of law arising directly or indirectly out of or in connection with or in any way related to the role of Host Authority or in relation to any act or omission by the Host Authority in carrying out all or any of the duties and responsibilities of the Host Authority and/or implementing the decisions of the Project Board.



7.3 The indemnity given in clause 7.2 shall not apply where the liability arises from any fraud, dishonesty, negligence, unlawful expenditure, libel or slander on the part of the Host Authority and/or where the Host Authority has acted outside the scope of its authority or in contravention of procurement legislation, where such action has not been agreed by the other Authorities.

## **8. ASSISTANCE IN LEGAL PROCEEDINGS**

8.1 If requested to do so by the Host Authority, the other Authority shall give all reasonable assistance and co-operation and provide to the Host Authority any relevant information which is not confidential in connection with any legal enquiry, arbitration or Court proceedings, in which the Host Authority may become involved, or any relevant disciplinary hearing internal to the Host Authority, or any inquiry by the Public Services Ombudsman arising out of the business of this agreement.

8.2 Where any Authority becomes aware of any incident, accident or other matter which may give rise to a complaint to the Public Services Ombudsman or a claim or legal proceedings in respect of the provision or failure in the business of this agreement, it shall notify the Project Board in writing as soon as practicable and in any event within 48 hours. Such notification in writing shall include all relevant information which is not confidential to enable the Project Board to investigate the matter fully.

8.3 Such information provided or assistance rendered pursuant to the obligation in clauses 8.1 and 8.2 above, in whatever form, shall be at no cost to the Host Authority unless otherwise ordered or determined in any decision or other outcome of any such inquiry, arbitrations, Court proceedings or enquiry by the Public Services Ombudsman.

## **9. ESCALATION**

- 9.1 If an Authority has any issues, concerns or complaints about the Service, or any matter in this Agreement, that Authority shall notify its own Project Board Representative, as defined in Schedule 2, who shall then seek to resolve the issue at the Project Board. If the issue cannot be resolved within a reasonable period of time, the matter shall be escalated to the Social Services Directors / Chief Officers of each respective Authority, who shall decide on the appropriate course of action to take. If the matter cannot be resolved by the Social Services Directorates of each respective Authority within 14 days, the matter may be escalated to the Chief Executives of each Authority for resolution.
- 9.2 If an Authority has any issue with the Service Provider, including but not limited to a disputed invoice, that Authority, irrespective of it not being a contracting party, shall furnish the Host Authority with all relevant information to allow it to begin the dispute resolution process. For the avoidance of doubt any losses, demands or claims that arise out of this process shall rest solely with the Authority who has instigated the dispute process.
- 9.3 If any Authority receives any formal inquiry, complaint, claim or threat of action from a third party including, but not limited to, claims made by a supplier or requests for information made under the FOIA in relation to the Service, the matter shall be promptly referred to both their own and the Host Authority's Representative.

## **10. CONFIDENTIALITY**

- 10.1 The Authorities shall keep confidential all matters relating to the Agreement and shall use all reasonable endeavours to prevent their employees from making any disclosure to any person of any matter relating to the Agreement.
- 10.2 Clause 10.1, shall not apply to:
- (a) Any disclosure of information that is reasonably required by persons engaged in the performance of their obligations under the Agreement;
  - (b) Any matter which an Authority can demonstrate is already generally available and in the public domain otherwise than as a result of a breach of this clause 10;
  - (c) Any disclosure which is required by law (including any order of a Court of competent jurisdiction).
  - (d) Any disclosure of information which is already lawfully in the possession of the receiving Party, prior to its disclosure by the disclosing Party; or
  - (e) Any disclosure by any Authority of any document related to the procurement of the Service Provider which the other Authorities (acting reasonably) have agreed with the disclosing Party contains no commercially sensitive information.
- 10.3 Where disclosure is permitted the recipient of the information shall be made aware of the confidential nature of the information and shall be subject to appropriate obligations of confidentiality.

- 10.4 The Authorities shall not make use of the Agreement or any information issued or provided by or on behalf of an Authority in connection with the Agreement otherwise than for the purpose of the Agreement, except with the prior written consent of the Authorities.

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## 11. DATA PROTECTION AND FREEDOM OF INFORMATION

### Data Protection

- 11.1 All Authorities shall comply with the notification requirements under the Data Protection Legislation ("**DPL**") as defined in Schedule 1.
- 11.2 All Authorities shall duly observe their obligations under the DPL which arise in connection with this Agreement and further agree to be guided by the Information Sharing Protocol detailed in Schedule 1 to this Agreement.
- 11.3 Prior to the commencement of the Agreement or in any event shortly afterwards, each Authority shall enter into an individual Data Protection Agreement with the Service Provider so that the appropriate management of data can be assured.

### Freedom of Information

- 11.4 Each Authority acknowledges that they are subject to the requirements of the Freedom of Information Act 2000 ("**FOIA**") and the Environmental Information Regulations 2004 ("**EIR**") and, should the request relate to the Service, shall assist and co-operate with each other to enable the Authority,

by whom the request has been received, to comply with disclosure requirements under the FOIA.

## **12. INTELLECTUAL PROPERTY**

12.1 Any Intellectual Property created through the establishment and running of the Service shall vest in the respective Authority.

12.2 Nothing in this clause shall operate to prevent or make difficult the sharing of good practice between the Authorities.

## **13. TERM AND TERMINATION**

13.1 This Agreement shall take effect on the Commencement Date and shall continue until the Service Contract expires by effluxion of time,

13.2 In the event of early termination of the Service Contract by the Service Provider or the Host Authority, the Authorities shall either:

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- Continue this Agreement, varied as necessary to reflect changes, for example in respect of a new Service Contract or Host Authority; or
- Terminate this Agreement

The Authorities shall provide a minimum of six months written notice to the Project Board of any intention to terminate the Service Contract

13.3 The Authorities will ensure that they offer every assistance to enable continuity of Service at the end of the Service Contract Term. This will include provision of any necessary information required for the partner

Authorities to enter into alternative arrangements or extend the Service Contract in accordance with the provisions therein.

- 13.4 In the event of termination of the Service Contract or this Agreement, each Authority and any successor organisation shall remain liable for any financial or other obligation or liability (actual or contingent) incurred during the period as a party to this agreement in respect of the Service.

#### **14. VARIATION**

- 14.1 This Agreement, including the Schedules, may only be varied by written agreement of each Authority.

#### **15. CHARGES AND LIABILITIES**

- 15.1 The Service Provider shall be tasked with invoicing each Authority individually for services provided in accordance with the terms of the Service Contract. It shall be the responsibility of each Authority to settle any and all invoices received from the Service Provider. Any disputed invoice shall follow the process detailed in clause 9.2.
- 15.2 The Host Authority shall be entitled to recover all monies and reasonable administrative fees incurred in the event of the Host Authority having to settle any correctly presented unpaid NPT invoices.
- 15.3 The Authorities shall remain solely liable for any losses or liabilities incurred due to their own or their employee's unauthorised actions or omissions.

## **16. GOVERNING LAW AND JURISDICTION**

16.1 This Agreement shall be governed by and construed in accordance with the laws of England and Wales as they apply in Wales and, without affecting the escalation procedure set out in clause 9, each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

## **17. FAIR DEALINGS**

17.1 The Authorities recognise that it is impracticable to make provision for every contingency which may arise during the life of this Agreement and they declare it to be their intention that this Agreement shall operate between them with fairness and without detriment to the interests of any of them and that if in the course of the performance of this Agreement, unfairness to any of them does or may result then the others shall use their reasonable endeavours to agree upon such action as may be necessary to remove the cause or causes of such unfairness.

## **18. COUNTERPARTS**

18.1 This Agreement may be executed in two or more counterparts each one of which shall constitute an original but which, when taken together, shall constitute one instrument.

## **19. FORCE MAJEURE**

19.1 In this Agreement "force majeure" shall mean any cause preventing a party from performing any or all of its obligations which arises from or is attributable to acts, events, omissions or accidents beyond the reasonable control of the party so prevented including without limitation act of God, war,

riot, civil commotion, malicious damage, compliance with any law or governmental order rule regulation or direction, accident, fire, flood or storm.

19.2 If any Authority is prevented or delayed in the performance of any or all of its obligations under this Agreement by force majeure, that party shall forthwith serve notice in writing on the other party or parties specifying the nature and extent of the circumstances giving rise to force majeure and shall, subject to service of such notice, have no liability in respect of the performance of such of its obligations as are prevented by the force majeure events during the continuation of such events.

19.3 The Authority affected by force majeure shall use all reasonable endeavours to bring the force majeure event to a close or to find a solution by which the Agreement may be performed, despite the continuance of the force majeure event.

## **20. THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

20.1 The Contracts (Rights of Third Parties) Act 1999 is hereby excluded.

20.2 No variation to this Agreement and no supplemental or ancillary agreement to this Agreement shall create any such rights unless expressly so stated in any such agreement by the parties to this Agreement.

20.3 This Clause does not affect any right or remedy of a third party, which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999.

## **21. SEVERABILITY**



21.1 If at any time any part of this Agreement (including any one or more of the clauses of this Agreement or any sub-clause or paragraph or any part of one or more of these clauses) is held to be or becomes void or otherwise unenforceable for any reason under any applicable law, the same shall be deemed omitted from this Agreement and the validity and/or enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired as a result of that omission.

## **22. WAIVER**

22.1 The rights and remedies of any party in respect of this Agreement shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time granted by such party to the other nor by failure of, or delay by the said party in ascertaining or exercising of any such rights or remedies. The waiver by any party of any breach of this Agreement shall not prevent the subsequent enforcement of any subsequent breach of that provision and shall not be deemed to be a waiver of any subsequent breach of that or any other provision.

## **23. NOTICES**

23.1 All notices under this Agreement shall only be validly given, if given in writing, addressed to the Chief Executive.

23.2 Any notices required to be given under this Agreement must be in writing and may be served by personal delivery, post (special or recorded delivery or first class post) or facsimile at the address set out at the beginning of this Agreement or at such other address as each party may give to the other for the purpose of service of notices under this Agreement.

23.3 Notices shall be deemed to be served at the time when the notice is handed to or left at the address of the party to be served (in the case of personal delivery) or the day (not being a Saturday, Sunday or public holiday) next following the day of posting (in the case of notices served by post) or at 10 a.m. on the next day (not being a Saturday, Sunday or public holiday) following dispatch if sent by facsimile transmission.

23.4 To prove service of any notice, it shall be sufficient to show in the case of a notice delivered by hand that the same was duly addressed and delivered by hand and in the case of a notice served by post that the same was duly addressed prepaid and posted special or recorded delivery or by first class post. In the case of a notice given by facsimile transmission, it shall be sufficient to show that it was dispatched in a legible and complete form to the correct telephone number without any error message on the confirmation copy of the transmission.

23.5 Any Partner serving a notice on another Partner under this Clause shall promptly copy such notice to the other Partners.

## **24. EXCLUSION OF PARTNERSHIP AND AGENCY**

24.1 The Partners expressly agree that nothing in this Agreement in any way creates a legal partnership between them.

24.2 No Partner or any of its employees or agents will in any circumstances hold itself out to be the servant or agent of the other Partners, except where expressly permitted by this Agreement.

## **25 ASSIGNMENT AND SUB AGREEMENTS**

25.1 The Partners shall not assign or transfer the whole or any part of this Agreement, without the prior written consent of the other Partners except where expressly permitted by the Agreement.

This Agreement has been entered into as a Deed on the date stated at the beginning of it.

**THE COMMON SEAL of THE COUNCIL OF )**  
**THE CITY AND COUNTY OF SWANSEA )**  
Was hereunto affixed in the presence of: - )

**Authorised Officer:**

**THE COMMON SEAL of NEATH PORT  
TALBOT COUNTY BOROUGH COUNCIL**

Was hereunto affixed in the presence of: -

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**Proper Officer**

## Schedule 1 - Information Sharing Protocol

**Data Protection Legislation** : (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;

**Data Protection Impact Assessment** : an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.

**Controller , Processor , Data Subject , Personal Data , Personal Data Breach , Data Protection Officer** take the meaning given in the GDPR.

**Data Loss Event** : any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.

**Data Subject Access Request** : a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

**DPA 2018** : Data Protection Act 2018

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

**LED** : Law Enforcement Directive (Directive (EU) 2016/680)

**Protective Measures** : appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it.

**Sub-processor** : any third Party appointed to process Personal Data on behalf of the Contractor related to this Agreement

## 1. PROTECTION OF DATA

1.1 It is understood by each Authority that there is a great deal of data, much of it sensitive, processed by the teams in each Authority area. As a result of the collaborative working it is likely that, at times, Personal Data may be transferred between Authorities for the benefit of the Project.

1.2 This Schedule aims to clarify each Authority's duty when receiving Personal Data from another Authority.

1.3 With respect to the Authorities rights and obligations under this Agreement, the Authorities agree that each Authority is the Data Controller in respect of the work undertaken in that area relating to the Integrated Service. And that if such Data is passed to another Authority that Authority will be regarded as the Data Processor.

1.4 Each Authority that acts as Processor shall:

- (a) Process the Personal Data only in accordance with instructions from the Data Controller;
- (b) Process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Project or as is required by law or any regulatory body;
- (c) implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure;
- (d) obtain prior written consent from the Authority in order to transfer the Personal Data to any affiliates for the provision of the Project;
- (e) ensure that all Employees required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Schedule;
- (f) ensure that none of the Employees publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Data Controller;

(g) notify the Data Controller (within five Working Days), if it receives:

- a request from a Data Subject to have access to that person's Personal Data; or
- a complaint or request relating to the Authority's obligations under the Data Protection Legislation;
- provide the Authority with full co-operation and assistance in relation to any complaint or request made, including by:
- providing the Authority with full details of the complaint or request;
- providing the Authority with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Authority); and
- providing the Authority with any information requested by the Authority.

1.5 Each Authority shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this agreement in such a way as to cause any other Authority to breach any of its applicable obligations under the Data Protection Legislation.

1.6 Each Authority agrees that if a data subject access request is received then the Authority which is deemed to be Data Controller shall be responsible for all expenses relating to such request.

## **2. DATA STORAGE**

2.1 Each Authority shall be responsible for storing their own data in respect of services undertaken in their respective jurisdiction and shall do so in accordance with the Data Protection Legislation. All data relating to the service will be held by the Host Authority in accordance with the provisions of the Data Protection Legislation.

2.2 Each Authority shall store any Personal Data received from the other Authority for the duration required to discharge its obligation under this

Agreement and shall be returned or destroyed thereafter in accordance with the Data Protection Legislation.



## Schedule 2 - Project Board

### 1. MEMBERSHIP

1.1 The Project Board will comprise of:

| Authority         | Position of Representative        |
|-------------------|-----------------------------------|
| Swansea           | Head of Child and Family Services |
| Neath Port Talbot | Head of Child and Family Services |

1.2 From the Commencement Date the make-up and operation of the Project Board shall be governed by the Agreement. Each Party shall appoint one officer (**Representative**) as set out in the table in 1.1.

1.3 Each Project Board member shall have delegated authority to make decisions, relating only to the Terms of Reference detailed, in Paragraph 3 below, on behalf of the Authorities. Save for those matters which shall be referred back to the Authorities for resolution in accordance with the terms of this Agreement.

1.4 An officer shall cease automatically to be a Representative if she/he ceases to be an officer of the Authority that she/he represents at the Project Board.

1.5 For the first year of the Service Provider contract each Authority agrees to pay the following financial contribution to the Service Provider ('Core Funding') as a minimum:

|                          |          |
|--------------------------|----------|
| <b>Swansea</b>           | £144,662 |
| <b>Neath Port Talbot</b> | £121,004 |

Total Cost: £265,666.00

- 1.6 The Core Funding represents 80% of the Maximum Budget Envelope required to deliver the National Approach for Statutory Advocacy, as calculated by the Range and Level Mechanism. Should the Service Provider exceed the number of hours of advocacy funded via the Core Funding as specified in the Service Contract, the Authorities agree to pay up to an additional 20% of the Maximum Budget Envelope to the Service Provider ('Additional Funding'). Further information regarding the Core Funding, Additional Funding and Maximum Budget Envelope is set out in Schedule 2 of the Service Contract.
- 1.7 The Authorities shall individually be responsible for negotiating the aspects of growth of the Service and the financial contributions of their respective service areas with the Service Provider subject to the particulars of the negotiations being agreed by all Authority members through the Project Board.
- 1.8 The Project Board may make decisions by electronic agreement of the Representatives of the Project Board only. In such instances, all Authorities must collectively agree on any decisions made and the Host Authority will be responsible for securing email records of decisions made.
- 1.9 The Host Authority shall take the lead in the monitoring and reviewing the performance of the Service Provider where any performance reviews being

undertaken shall be undertaken at the direction of the Project Board or their delegated representatives.

## **2. MEETINGS AND DECISIONS**

2.1 The Project Board shall meet as and when necessary but in any event at least quarterly.

2.2 Only a Representative may call a meeting of the Project Board.

The Project Board may propose decisions based on Representatives from any two Authorities being present, though any such proposals may only be actioned through an endorsement, in writing, by the third Authority. Only by the collective agreement of all three Authorities may a decision be reached through the Project Board.

2.3 No business shall be conducted at any meeting of the Project Board unless a quorum of each Authority is present at the meeting.

2.4 The Project Board may convene an Operations Board or Task Finish Group to manage the day to day relationship or undertake designated tasks that contribute towards the success of the Regional Advocacy Service.

2.5 Any meetings shall be held within the West Glamorgan region at a location and time determined by the Project Board.

2.6 A Representative may appoint an authorised deputy to attend any Project Board meeting on his or her behalf. Where practicable the Project Board should be made aware of such substitution.

- 2.7 Any meeting of the Project Board may be summoned on the giving of not less than 5 working days' notice to all other parties and such meeting must be held within 3 working days following expiration of the notice.
- 2.8 Each Representative (or an authorised representative) will use their best endeavours to reach a consensus which contributes to the success of the Regional Advocacy Service.
- 2.9 Any decision of the Project Board must be passed by a unanimous vote.
- 2.10 Representatives may invite one or more guest officers, including any member of the Operations Board from the Authorities to attend meetings of the Project Board. Guest officers would attend in a non-voting capacity to provide information and expertise when required.
- 2.11 The minutes of the proceedings of every meeting of the Project Board shall be drawn up by the Host Authority. Copies shall be circulated to all those in attendance within 2 weeks of the date of such meeting.

### **3. TERMS OF REFERENCE**

- 3.1 The activities of the Project Board shall include but not be limited to:
- (a) monitoring and reviewing the standards of the Service Provider;
  - (b) resolving any conflicts between competing interests of the Authorities;
  - (c) the contract management of the Service Contract;
  - (d) reviewing the governance arrangement set out by this Agreement;

- (e) resolving any disputes referred to it via the escalation procedure;
- (f) communicating major concerns, issues or opportunities relating to the Service.

3.2 For the avoidance of doubt, any fundamental matters relating to this Agreement, including but not limited to the following, shall be referred back to each individual Authority for decision or agreement:

- (a) Early termination of the Service Contract
- (b) Termination of this Agreement
- (c) Withdrawal by any Authority from this Agreement



## Impact Assessment - First Stage

### 1. Details of the initiative

**Initiative description and summary:**

INTER-AGENCY AGREEMENT (IAA) RELATING TO THE PROVISION OF A REGIONAL ADVOCACY SERVICE TO BE DELIVERED IN THE WEST GLAMORGAN AREA

**Service Area:** CHILDREN AND YOUNG PEOPLE SERVICES

**Directorate:** SOCIAL CARE HEALTH AND WELLBEING

### 2. Does the initiative affect:

|                                      | Yes | No |
|--------------------------------------|-----|----|
| Service users                        | X   |    |
| Staff                                |     | X  |
| Wider community                      |     | X  |
| Internal administrative process only |     | X  |

### 3. Does the initiative impact on people because of their:

|  | Yes | No | None/<br>Negligible | Don't<br>Know | Impact<br>H/M/L | Reasons for your decision (including<br>evidence)/How might it impact? |
|--|-----|----|---------------------|---------------|-----------------|--|
|--|-----|----|---------------------|---------------|-----------------|--|

|     |     |  |  |  |   |
|-----|-----|--|--|--|---|
| Age | Yes |  |  |  | <p data-bbox="1186 246 1218 271">H</p> <p data-bbox="1323 246 2037 466">This proposal is to ensure that children and young people subject to child protection (CP) or looked after (LAC) procedures receive an active offer of independent professional advocacy. As such, this proposal has a high likelihood of impacting on people due to their age.</p> <p data-bbox="1323 522 2037 920">The approach outlined within the paper, is an accepted means of discharging NPTC statutory duty to deliver the Welsh Government directive on the national approach to advocacy for children and young people. As such the proposal will have a positive impact on those with a protected characteristic by virtue of their age as the proposal ensures that people eligible for the service are able to access independent advocacy so that children and young people are supported through the process.</p> <p data-bbox="1323 961 2037 1026">In addition, entering into a new IAA will ensure that these vital services continue to be delivered.</p> <p data-bbox="1323 1083 2037 1334">Not implementing the proposal would result in the Council not complying with Welsh Governments requirement for a national approach to children advocacy services. Non-compliance would have a negative impact on children and young people and therefore presents a risk that the Council acts in a way that discriminates against people with an</p> |
|-----|-----|--|--|--|---|

|                     |  |    |  |  |   |  |
|---------------------|--|----|--|--|---|--|
|                     |  |    |  |  |   | age related protected characteristic if the proposal was not implemented.  |
| Disability          |  | No |  |  | L | <p>The purpose of the proposal is to provide an active offer of independent professional advocacy for all children and young people subject to CP or LAC proceedings. Whilst some children in proceedings may have a disability, it is not anticipated that children and young people with a disability will have a higher than average requirement to access the service.</p> <p>Any potential impact of this proposal on people with a protected characteristic by virtue of their disability will be positive as the proposal affords children and young people who have a disability the same opportunity to be supported through the CP/ LAC proceedings as those who do not have a disability.</p> <p>In addition, entering into a new IAA will ensure that these vital services continue to be delivered.</p> |
| Gender Reassignment |  | No |  |  | L | <p>The purpose of the report is to provide an active offer of independent professional advocacy for all children and young people subject to child protection or looked after proceedings. Whilst some children in proceedings may be transgender, it is not anticipated that transgender children and young people will have a higher than average requirement to access the service.</p>   |



|                            |  |    |  |  |   |  |
|----------------------------|--|----|--|--|---|--|
|                            |  |    |  |  |   | <p>Any potential impact of this proposal on people by virtue of their gender identity will be positive as the proposal enables transgender children and young people to have the same opportunity to be supported through the CP/ LAC proceedings as those without this protected characteristic.</p> <p>In addition, entering into a new IAA will ensure that these vital services continue to be delivered</p>   |
| Marriage/Civil Partnership |  | No |  |  | L | <p>The purposes of the services to support the child or young person who is in the process of CP or LAC proceedings. so that they voice can be heard in the decision making process.</p> <p>Although LAC goes up to 21 (25 if the YP is in education), people over the age of 18 would not be <b>new</b> to proceedings, and people between 16 &amp; 18 are also unlikely to be in proceedings. Any existing LAC aged 16 to 18 would need parental (or corporate parental) consent to marry or enter into a civil partnership. The advocacy service would not cover this, however in both scenarios the child / young person will have a young person's advisor who will support them.</p> |

|                     |  |    |  |  |   |  |
|---------------------|--|----|--|--|---|--|
| Pregnancy/Maternity |  | No |  |  | L | <p>The purpose of the report is to provide an active offer of independent professional advocacy for all children and young people subject to CP or LAC proceedings. Some children in proceedings may be parents or pregnant, however this will not impact their ability to access the service and the proposal will ensure that they have equal rights and the same opportunities to receive this service as those that do not share this protected characteristic.</p> <p>In addition, entering into a new IAA will ensure that these vital services continue to be delivered.</p>                                |
| Race                |  | No |  |  | L | <p>The purpose of the report is to provide an active offer of independent professional advocacy for all children and young people subject to child protection or looked after proceedings. Children and young people subject to proceedings will come from a range of ethnic backgrounds. However this will not impact their ability to access the service and will have equal rights and the same opportunities to receive this service as those that do not share this protected characteristic.</p> <p>In addition, entering into a new IAA will ensure that these vital services continue to be delivered.</p> |
| Religion/Belief     |  | No |  |  | L | <p>The purpose of the report is to provide an active offer of independent professional advocacy for all</p>  |

|                    |  |    |  |   |   |
|--------------------|--|----|--|---|---|
|                    |  |    |  |   | <p>children and young people subject to child protection or looked after proceedings. Children subject to proceedings will have a range of religious or belief systems. However this will not impact their ability to access the service and they will have equal rights and the same opportunities to receive this service as those that do not share this protected characteristic.</p> <p>In addition, entering into a new IAA will ensure that these vital services continue to be delivered.</p>               |
| Sex                |  | No |  | L | <p>The purpose of the report is to provide an active offer of independent professional advocacy for all children and young people subject to child protection or looked after proceedings. Both male and female children and young people will be subject to proceedings and it is not anticipated that one gender may be more impacted than the other through the implementation of this proposal.</p>   |
| Sexual orientation |  | No |  | L | <p>The purpose of the report is to provide an active offer of independent professional advocacy for all children and young people subject to child protection or looked after proceedings. Whilst children and young people in receipt of the service will have a range of sexual orientation identities, this will not impact their ability to access the service and they will have equal rights and the same opportunities to receive this service as those that do not share this protected characteristic.</p> |

|  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|
|  |  |  |  |  |  | In addition, entering into a new IAA will ensure that these vital services continue to be delivered. |
|--|--|--|--|--|--|--|

**4. Does the initiative impact on:**

|   | Yes | No | None/<br>Negligible | Don't<br>know | Impact<br>H/M/L | Reasons for your decision (including evidence used) / How might it impact?  |
|---|-----|----|---------------------|---------------|-----------------|---|
| People's opportunities to use the Welsh language            | x   |    |                     |               | H               | The proposal is to ensure that the Council is able to meet Welsh Governments requirement for a national advocacy service. The proposal will have a positive impact on people's opportunities to use the Welsh language as the contract for these services requires the provider to deliver the service in Welsh when required. This means that children and young people requiring an advocacy service will be supported to access this support in through the medium of Welsh. |
| Treating the Welsh language no less favourably than English | x   |    |                     |               | H               | The proposal is to ensure that the Council is able to meet Welsh Governments requirement for a national advocacy service. The proposal will have a positive impact on people's opportunities to use the Welsh   |

|  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|
|  |  |  |  |  |  | language as the contract for these services requires the provider to deliver the service in Welsh when required. This means that children and young people requiring an advocacy service will be supported to access this support in through the medium of Welsh and as such ensures that the Welsh language is treaded as favourably as the English language. |
|--|--|--|--|--|--|--|

**5. Does the initiative impact on biodiversity:**

|  | Yes | No | None/<br>Negligible | Don't<br>know | Impact<br>H/M/L | Reasons for your decision (including evidence) /<br>How might it impact?                                  |
|--|-----|----|---------------------|---------------|-----------------|---|
| To maintain and enhance biodiversity   |     | No |                     |               | L               | This proposal is for the delivery of services that is unlikely to impact on biodiversity.                 |
| To promote the resilience of ecosystems, i.e. supporting protection of the wider environment, such as air quality, flood alleviation, etc. |     | No |                     |               | L               | This proposal is for the delivery of services that is unlikely to impact on the resilience of ecosystems. |

**6. Does the initiative embrace the sustainable development principle (5 ways of working):**

|  | Yes | No | Details  |
|--|-----|----|--|
| <b>Long term</b> - how the initiative supports the long term well-being of people                                | x   |    | This initiative is in response to national drivers from Welsh Government for the standardisation of a national service specification and a common performance reporting tool to ensure children subject to child protection or looked after procedures are systematically informed (by a professional advocate) of their rights, including their right to an advocate. |
| <b>Integration</b> - how the initiative impacts upon our wellbeing objectives                                    | x   |    | As above.  |
| <b>Involvement</b> - how people have been involved in developing the initiative                                  | X   |    | Advocacy services helps to ensure that people are able to express that matters to them and are informed of their right so that they are able to be actively involved in CP/LAC proceedings.  |
| <b>Collaboration</b> - how we have worked with other services/organisations to find shared sustainable solutions | x   |    | This proposals enables regional working to deliver a standardised national approach to the delivery of children's advocacy services across West Glamorgan Area.  |
| <b>Prevention</b> - how the initiative will prevent problems occurring or getting worse                          | x   |    | Early access to independent advocacy allows the Child or young person subject to CP or LAC to receive an active offer of independent professional advocacy. This will help ensure that children and young people are informed and are able to express what matters to them.  |

**7. Declaration - based on above assessment (tick as appropriate):**

|   |   |
|---|---|
| A full impact assessment (second stage) <b>is not</b> required  | ✓ |
| Reasons for this conclusion   |   |
| <p>The purpose of the paper is to ensure that the Council continues to discharge its statutory obligation to provide an active offer of professional independent advocacy to children and young people subject to CP or LAC proceedings.</p> <p>It is a Welsh Government directive for a national approach to the delivery of children's advocacy, and that organisations deliver this on a regional basis.</p> <p>Entering in to a formal Inter Agency Agreement is the accepted mechanism for ensuring that this approach is delivered and that children and young people advocacy is continues to be offered to those subject to CP or LAC. Proceedings.</p> <p>The proposal does not look to change current services and the aim of the proposal is to ensure that there is continuity of service provision once Bridgend County Borough Council leave the current arrangement.</p> <p>As such, the implementation of the recommendations within the paper will not have an adverse impact on those individuals with protected characteristics.</p> |   |
| A full impact assessment (second stage) <b>is</b> required  |   |

|                             |
|-----------------------------|
| Reasons for this conclusion |
|                             |

|               | <b>Name</b>  | <b>Position</b>                             | <b>Signature</b> | <b>Date</b> |
|---------------|--------------|---|------------------|-------------|
| Completed by  | Julie Duggan | Interim Snr Strategic Commissioning Manager |                  | 20.05.2019  |
| Signed off by | Keri Warren  | Head of Service/Director                    |                  | 20.05.19    |



