



Ministry of **JUSTICE**

Regional Procurement Unit North

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RPU N09 10/81/1d

CONTRACT DOCUMENT

**FOR THE PROVISION OF PRIVATE ENFORCEMENT SERVICES TO
HMCS NORTH EAST, MIDLANDS AND LONDON REGIONS**

PHILIPS COLLECTION SERVICES LIMITED

Principle Contractor: HMCS North East, Midlands and London

Reserve Contractor: HMCS North West and South East

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Form of Agreement

THIS AGREEMENT is made between the Secretary of State for Justice ("the Authority") acting through his representatives in National Offender Management Service and Philips Collection Services Limited, ("the Contractor") having its main or registered office at [REDACTED] together referred to as "the Parties".

It Is Agreed That:

1. This Form of Agreement (Section 1) together with the attached Sections 2 to 5 inclusive are the documents which collectively form "the Contract" (as defined in Section 2).
2. The Contract effected by the signing of this Form of Agreement constitutes the entire agreement between the Parties relating to the subject matter of the Contract and supersedes all prior negotiations, representations or understandings whether written or oral.

3. Contract Coverage

In line with clauses 1, 8, and 21 of the specification and Appendix B Contract Requirements the Authority has appointed Principal and Reserve contractors for each region, in respect of this contract with Philips Collection Services Limited the appointments are as follows:

Principal: HMCS North East, Midlands and London
Reserve: HMCS North West and South East

Signed:

For the Contractor:

For the Authority:

Signature:

Signature:

Full Name:

Full Name:

Title of position held on behalf of the Title of position held on behalf of the

Contractor:

Authority:.....

Date:

Date:



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INTRODUCTION

Ministry of Justice's Conditions of Contract for the Supply of Goods and Services

This document, in conjunction with the attached Contract Summary Form, sets out the Conditions of Contract on which goods and/or services are to be provided to the Ministry of Justice by a Contractor. These Conditions, as amended by any Special Terms referenced in the Contract Summary Form, shall apply to any Contract placed by the Ministry of Justice with any Contractor for any goods and/or services.

All of these Conditions apply to the supply of both Goods and Services except where application to one or the other is specified.

1. INTERPRETATIONS

- 1.1 As used in these Conditions of Contract, the following terms and expressions shall have the following meanings:

“Conditions” means these conditions of contract.

“Confidential Information” means information, the disclosure of which would constitute an actionable breach of confidence, which has either been designated as confidential by either party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including commercially sensitive information, information which relates to the business, affairs, properties, assets, trading practices, Goods, Services, developments, trade secrets, Intellectual Property Rights, know-how, personnel, customers and suppliers of either party and all personal data and sensitive personal data within the meaning of the Data Protection Act 1998;

“Charges” means the charges and prices set out in the Contract or as otherwise agreed in writing.

“Contract” means collectively the Contract Summary Form, Conditions of Contract, Special Terms, Department's Specification, Contractor's Tender, Pricing Schedule and any other schedules to which reference is made in the Contract Summary Form.

“Contracting Authority” means a contracting authority defined in Regulation 3(1) of the Public Services Contracts Regulations 1993 (as amended by Regulation 4(2) of the Public Contracts (Works, Services and Supply) (Amendment) Regulations 2000).

“Contractor” means the contractor specified in the Contract.

“Default” means any breach of the obligations of either party (including but not limited to fundamental breach or breach of a fundamental term) or any default, act, omission, negligence or statement of either party, its employees, agents or sub-contractors in connection with or in relation to the subject matter of the Contract and in respect of which such party is liable to the other.

“Deliverables” means anything delivered or to be delivered to the Department under the Contract by or for the Contractor (including, but not limited to, any reports, manuals, other documentation, program code, data, documentation, hardware, and software).

“Department” means the Secretary of State for Justices acting through the Ministry of Justice.

“Departmental Property” means any tangible property owned by the Department.

“Environmental Information Regulations” means the Environmental Information Regulations 2004.

“FOIA” means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation.

“Goods” means the goods to be supplied to the Department by the Contractor, as described in the Contract and any related Schedule.

“Information” has the meaning given under section 84 of the Freedom of Information Act 2000;

“Intellectual Property Rights” means patents, trade marks, design rights (whether registerable or otherwise), applications for any of the foregoing, copyrights database rights, trade or business names and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom).

“Liquidated Damages” means any liquidated damages payable by the Contractor for failure to meet the contracted timetable, as referenced in the Contract and any related Schedule.

“Premises” means any building or area for which the Department is responsible, whether or not occupied by the Department.

“Price Schedules” means those price schedules attached to the Contract.

“Requests for Information” shall have the meaning set out in FOIA or any apparent request for information under the FOIA and the Environmental Information Regulations.

“Services” means the services to be performed for the Department by the Contractor, as described in the Contract and any related Schedule.

“Service Credits” means any service credits payable by the Contractor for failure to meet the Service Levels, as referenced in the Contract and any related Schedule.

“Service Levels” means the service levels to be met by the Services as referenced in the Contract and set out in any related Schedule.

“Special Term” means any conditions additional to these Conditions which are agreed between the Department and the Contractor and which are specified in the Contract and any related Schedule.

“Specification” means the specification issued by the Department in respect of the Goods or the Services.

“Subcontractor” means the third party with whom the Contractor enters into a Sub-contract.

“Tender” means the tender submitted by the Contractor in response to the Specification.

- 1.2 A reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment thereof.
- 1.3 Headings are included in these Conditions of Contract for ease of reference only and shall not affect the interpretation or construction of the Contract.
- 1.4 References to “Clauses” are, unless otherwise provided, references to clauses of these Conditions of Contract.

- 1.5 In these Conditions of Contract, the masculine includes the feminine and the neuter and the singular includes the plural and vice versa.
- 1.6 In the event and to the extent of any conflict or inconsistency between the Conditions of Contract, the Specification and the Tender, the following order of priority between them shall apply to the extent that it is necessary to resolve the conflict or inconsistency:
- 1.6.1 the Conditions of Contract shall prevail over the Specification and the Tender; and
- 1.6.2 the Specification shall prevail over the Tender.
- 1.7 Except as otherwise expressly provided in the Contract, all remedies available to the Contractor or to the Department for Default under the Contract are cumulative and may be exercised concurrently or separately and the exercise of any one remedy shall not exclude the exercise of any other remedy.

GOODS

2. SUPPLY OF GOODS

- 2.1 The Contractor shall:
- 2.1.1 supply the Goods, as referenced in the Contract and detailed in the Tender and in the Specification, in accordance with all applicable provisions of the Contract;
- 2.1.2 not charge for delivery of the Goods to the Premises, or for packaging used by the Contractor, other than as expressly provided for in the Contract;
- 2.1.3 ensure that the Goods conform in all respects with the Contract;
- 2.1.4 remain fully responsible for the Goods until delivery is complete (including off-loading and stacking) when ownership shall pass to the Department.
- 2.1.5 permit and assist the Department to inspect and test the Goods at the Contractor's premises or elsewhere at any time prior to delivery. If as a result of such inspection or testing the Department considers that the Goods do not conform or are unlikely to conform with the Contract, the Contractor shall immediately take such action as the Department deems necessary to ensure such conformity and in addition the Department shall have the right to require and witness further testing and inspection.

3. DELIVERY

- 3.1 The Goods shall be delivered, carriage paid, to the Premises or to such other place of delivery as is agreed by the parties in writing prior to delivery of the Goods. The Contractor shall off-load the Goods as directed by the Department.
- 3.2 The date for delivery shall be specified in the Contract, or if no such date is specified then delivery shall take place within 28 days of receipt by the Contractor of the Contract.
- 3.3 The Contractor shall ensure that each delivery is accompanied by a delivery note which shows, among other things, the order number, date of order, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered.
- 3.4 Time for delivery shall be of the essence.

3.5 Unless otherwise stipulated by the Department in the Contract, deliveries shall only be accepted during normal business hours.

3.6 If the Contractor requires the Department to return any packaging material that fact must be clearly stated on any delivery note delivered to the Department and any such packaging material shall only be returned at the Contractor's own risk and expense.

4. REMEDIES (GOODS)

4.1 If the Contractor fails to deliver the Goods on the due date or if the Contractor fails to comply with any other provision of the Contract, and such Default is not caused by the Department, or by its employees or authorised agents, then the Department may elect, in addition to any other remedies that may be available to it, either under this Contract or otherwise, any one or more of the following remedies, whether or not it has accepted the Goods:

4.1.1 cancel the Contract in whole or in part;

4.1.2 reject the Goods (in whole or part) and return them to the Contractor at the Contractor's own risk and expense and obtain from the Contractor a full refund in respect of them;

4.1.3 refuse to accept any subsequent delivery of the Goods which the Contractor attempts to make; or

4.1.4 require the Contractor to remedy any defect in the Goods, or supply a replacement in respect of the Goods, or carry out any other work necessary to comply with the Contract;

4.1.5 recover from the Contractor any expenditure reasonably incurred by the Department in obtaining similar goods in substitution from another supplier, or in making the Goods comply with the Contract; and

4.1.6 claim damages for any additional costs, loss or expenses incurred by the Department which are in any way attributable to the Contractor's failure to perform its obligations under the Contract.

SERVICES

5. PROVISION OF SERVICES

5.1 The Contractor shall perform the Services, as referenced in the Contract and detailed in the Specification and in the Tender, in accordance with all applicable provisions of the Contract.

6. SERVICE LEVELS

6.1 If specified in the Contract, the Contractor shall perform the Services in accordance with all applicable Service Levels referenced in the Contract.

7. REMEDIES (SERVICES)

7.1 In the event that the Contractor is in Default in relation to the performance of the Services in accordance with this Contract, and such Default is not caused by the Department, or by its employees or authorised agents, then the Department may elect, in addition to any other remedies that may be available to it either under this Contract or otherwise, one or more of the following remedies:

- 7.1.1 the Department may require the Contractor, at the Contractor's own expense, promptly to remedy any Default or re-perform any non-conforming Services; or
 - 7.1.2 except where Service Credits have been fully recovered from the Contractor for any Default or where the Department terminates the Contract under Clauses 17.1.2 or 17.1.3, the Department may withhold from payment to the Contractor or recover as a sum of money due from the Contractor the Charges or any portion thereof that are attributable to the Default or non-conforming Services provided that, upon rectification of such Default, the Department shall promptly pay any sum withheld from payment or repay any sum recovered from the Contractor; or
 - 7.1.3 if the Contractor fails to remedy the Default or re-perform any non-conforming Services pursuant to Clause 7.1.1 within seven (7) days (or as otherwise agreed and specified in the Contract) after notice thereof is given to the Contractor, the Department may either remedy any Default, or re-perform any non-conforming Services itself or have them remedied by a third party on its behalf, and in either case the Contractor shall pay the reasonable costs so incurred by the Department.
- 7.2 In the event that the Services are not provided in accordance with all applicable provisions of the Contract as a result of a Default of the Contractor, the Contractor shall, at the request of the Department and without prejudice to the Department's other rights and remedies, arrange all such additional resources as are reasonably necessary to correct such failure as early as practicable thereafter and at no additional charge to the Department.
- 7.3 In the event that the Services do not meet the Service Levels, the Contractor shall automatically, without prejudice to any other non-financial rights and remedies of the Department, credit the Department with Service Credits as calculated in accordance with the Contract. The Department shall claim the Service Credits within six months of the end of the month in which it has been credited with them by the Contractor.
- 7.4 Subject to Clause 7.5, the parties acknowledge that the Liquidated Damages and Service Credits referred to in this Clause shall constitute the sole financial remedy of the Department for failure by the Contractor to provide the Services for which, if referenced in the Contract, Liquidated Damages or Service Credits are available, and are a genuine pre-estimate of the loss likely to be suffered by the Department in situations other than those envisaged by Clause 7.5, and that the figures therein are reasonable.
- 7.5 Where the Department terminates the Contract under Clauses 17.1.2 or 17.1.3 Clause 7.4 shall no longer apply and the Department shall be entitled to claim damages at large in respect of the Contractor's Default, subject to the limitations of liability under Clause 16.

GENERAL

8. COMMENCEMENT AND DURATION

- 8.1 The Contract shall commence on the 1st December 2009 and, unless otherwise terminated or renewed in accordance with the provisions of the Contract or otherwise in accordance with law or equity, it shall expire on the 30th November 2012.

9. IMPLIED CONDITIONS

- 9.1 The Department's rights under these Conditions of Contract are in addition to the statutory conditions implied in favour of the Department by the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982.

FINANCIAL

10. PAYMENT

- 10.1 In consideration for the performance of the Contract, the Department shall pay the Charges as set out in the Contract or as otherwise agreed in writing.
- 10.2 Charges shall be payable on any valid invoice or part thereof which is undisputed within thirty (30) days after receipt by the Department. Invoices for Services shall be submitted monthly in arrears. Payment by the Department shall be made by the BACS system. Invoices for Goods shall be submitted after (and separately from) delivery of the Goods. Invoices shall include any information required by the Department.
- 10.3 All sums payable under the Contract are exclusive of any value added tax or other applicable sales tax, which shall be added to the sum in question.
- 10.4 If the Department fails to make payment in accordance with Clause 10.1, the Contractor's sole remedy shall be an entitlement to charge interest on undisputed late payments at a rate of four percent (4%) above the Bank of England MPC (Monetary Policy Committee) Interest Rate from time to time in force, but shall not, for the avoidance of doubt, have the right to terminate or suspend performance of the Contract for non-payment by the Department.

11. AUDIT

- 11.1 The Contractor shall keep and maintain until six (6) years after the Contract has come to an end, for whatever reason, records to the satisfaction of the Department of all costs which are payable by the Department. The Contractor shall on request afford the Department, its representatives or the National Audit Office such access to those records as may be required in connection with the Contract. For the avoidance of doubt this Clause 11 does not entitle the Department to inspect records setting out the Contractor's underlying profits.

12. INSURANCE

- 12.1 In addition to any specific requirements set out in the Contract, the Contractor shall insure or make provision for self-insurance and shall maintain in full force throughout the term of the Contract such insurance in accordance with good industry practice against any losses and damages which might arise from the performance of the Contract. The Contractor shall comply with any request made by the Department to provide an insurance broker's verification of insurance to demonstrate that the appropriate cover is in place.

13. SET OFF

- 13.1 If any sum of money shall be due from the Contractor, the same may be deducted from any sum then due or which at any time thereafter may become due to the Contractor under the Contract or any agreement with the Department or with any Department, office, or agency of the Crown.

WARRANTIES, INDEMNITIES AND LIABILITIES

14. WARRANTIES AND REPRESENTATIONS

14.1 The CONTRACTOR warrants and represents that:

- 14.1.1 neither the performance of the Contract, nor the supply or use of the Goods nor the performance or use of the Services will in any way constitute an infringement or other violation of any Intellectual Property Right of any third party which is enforceable in the United Kingdom (or in any other country where the Goods are supplied or used or the Services are performed or used);
- 14.1.2 it owns, has obtained or will obtain valid licences of all Intellectual Property Rights which are necessary to the performance of the Contract, the supply and use of the Goods and the performance and use of the Services;
- 14.1.3 the Contractor has the full capacity and authority to grant, or to procure the grant of, all software licences pursuant to the Contract;
- 14.1.4 the Contractor has the full capacity and authority and all necessary consents (including but not limited to, where its procedures so require, the consent of its Parent Company) to enter into and perform the Contract and that the Contract is executed by a duly authorised representative of the Contractor;
- 14.1.5 the Goods supplied or Services performed shall comply with the Contract;
- 14.1.6 all obligations of the Contractor pursuant to the Contract shall be performed and rendered by appropriately experienced, qualified and trained personnel with all due skill, care and diligence, including but not limited to good industry practice and (without limiting the generality of this Clause) in accordance with its own established internal procedures;
- 14.1.7 in respect of Goods supplied under the Contract, upon final payment the Department shall acquire title to the Goods free from all encumbrances and the Department shall have the right to quiet possession of such Goods;
- 14.1.8 it has taken all requisite corporate and other action to approve the execution, delivery and performance of the Contract, and agrees to produce to the Department evidence of such action upon reasonable request; and
- 14.1.9 it has fully complied with its insurance obligation in accordance with Clause 12.1.

15. INDEMNITIES

15.1 Subject always to the Department's proper observance of its obligations under the Contract, the Contractor shall indemnify the Department:

- 15.1.1 against all claims, demands, actions, costs, expenses (including but not limited to legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including but not limited to the defence of such alleged infringement) in the United Kingdom (or in any other country where the Goods are supplied or used or the Services are performed or used) of any Intellectual Property Right in connection with

- the performance of the Contract, the supply or use of the Goods or the performance or use of the Services
- 15.1.2 against all claims, demands, actions, costs and expenses (including but not limited to legal costs and disbursements on a solicitor and client basis), losses, damages and fines arising from or incurred by any claim, demand or action by a third party (including any criminal justice organisation) against the Department arising as a result of a Default by the Contractor.
- 15.2 The parties shall promptly notify each other if any claim or demand is made or action is brought against them to which Clause 15.1 may apply.
- 15.3 The Contractor shall, to the extent that in the Department's view it is reasonably practicable, at its own expense handle any claim or demand or conduct any litigation arising to which Clause 15.1 may apply and all negotiations in connection therewith, except that the Department reserves the right at its complete discretion to handle any claim or demand or conduct any litigation arising therefrom and all negotiations in connection therewith.
- 15.4 Where the Contractor is conducting the litigation, the Department reserves the right at its complete discretion to assume responsibility for the conduct of such litigation at any time.
- 15.5 Both parties shall afford to each other all reasonable assistance for the purpose of contesting any claim or demand made or action brought against the Department to which Clause 15 may apply. In the event that the Department exercises its right under Clause 15.4, the Contractor shall take all reasonable steps to assist with the takeover of such negotiations or litigation by the Department. The Contractor shall reimburse the Department for all legal expenses (including but not limited to legal costs and disbursements on a solicitor and client basis) incurred in so doing
- 15.6 Neither party shall make any admissions which may be prejudicial to the defence or settlement of any claim, demand or action to which Clause 15 may apply.
- 15.7 If a claim or demand is made or action brought to which Clause 15.1 may apply or in the reasonable opinion of the Contractor is likely to be made or brought, the Contractor may at its own expense either.
- 15.7.1 modify any or all of the Goods or Services without reducing the performance and functionality of the same, or substitute alternative deliverables or services of equivalent performance and functionality for any or all of the Goods or Services, so as to avoid the infringement or the alleged infringement, provided that the terms herein shall apply to such modified or substituted items or services and that such modified or substituted items shall be acceptable to the Department, such acceptance not to be unreasonably withheld or delayed; or.
- 15.7.2 procure a licence to use the Goods or Services on terms which are acceptable to the Department
- 15.8 The foregoing provisions of this Clause shall not apply insofar as any such claim or demand or action is in respect of:
- 15.8.1 any use by or on behalf of the Department of Goods or Services in combination with any item not so supplied where such use of the Products or Services directly gives rise to the claim, demand or action; or
- 15.8.2 the use by the Department of the Goods or Services in a manner not reasonably to be inferred from the Specification requirements of the Department; or

- 15.8.3 the Department's unreasonable refusal to accept modified Goods or Services or substitute products or services pursuant to Clause 15.5.
- 15.9 If the Contractor has availed itself of its rights to modify the Goods or Services or supply substitute products or services pursuant to Clause 15.5.1 or to procure a licence under 15.5.2 and such exercise of the said rights has avoided any claim, demand or action for infringement or alleged infringement, then the Contractor shall have no further liability thereafter under this Clause in respect of the said claim, demand or action.
- 16. LIMITATION OF LIABILITY**
- 16.1 Neither party excludes or limits liability to the other party for death, personal injury, fraud or any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982.
- 16.2 Subject always to Clauses 16.1 the liability of either party for Defaults shall be subject to the financial limits set out in this Clause as follows:
- 16.2.1 The aggregate liability under the Contract for all Defaults and including for the avoidance of doubt liability to pay Liquidated Damages or Service Credits shall in no event exceed one hundred per cent (100%) of the Charges paid and payable during that Year; and
- 16.2.2 The aggregate liability of either party for all Defaults resulting in direct loss of or damage to the property of the other under this Contract shall in no event exceed the limit specified in the Contract.
- 16.3 Subject always to Clauses 15.1 and except in respect of liability under Clauses: 15 (Indemnities) and 22 (Confidentiality), in no event shall either party be liable to the other for loss of profits, business, revenue, goodwill or anticipated savings, or for indirect or consequential loss or damage.
- 16.4 The provisions of Clauses 16.2 and 16.3 shall not be taken as limiting the right of the Department to claim from the Contractor for:
- 16.4.1 direct additional operational and administrative costs and expenses; and/or
- 16.4.2 direct expenditure or Charges rendered unnecessary as a result of any Default by the Contractor; and/or
- 16.4.3 all claims, demands, actions, costs, expenses (including but not limited to legal costs and disbursements on a solicitor and client basis), incurred by the Department in respect of any third party to the extent only that such losses, costs, awards, liabilities and expenses are incurred by such third party in connection with or as a result of any Default by the Contractor and to the extent only that the Contractor would be liable to the Department in respect thereof pursuant to the Contract;
- 16.5 The parties expressly agree that any order for specific performance made in connection with the Contract in respect of either party shall be subject to the financial limitations set out in Clause 16.2.1.
- 16.6 The parties expressly agree that should any limitation or provision contained in this Clause be held to be invalid under any applicable statute or rules of law it shall to that extent be deemed omitted but if any party thereby becomes liable for loss or damage which would otherwise have been excluded such liability shall be subject to the other limitations and provisions set out herein.

- 16.7 Where the Department supplies any Department data to the Contractor which is inaccurate, the Contractor shall incur no liability to the Department for any Default to the extent that such Default is caused by the inaccuracy of such Department Data.

TERMINATION

17. TERMINATION

- 17.1 The Department may (without prejudice to its other rights) terminate the Contract, in whole or in part, by giving notice in writing to the Contractor if:
- 17.1.1 the Contractor becomes unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986), admits its inability to pay its debts or becomes insolvent, or (ii) a petition is presented, an order made or a resolution passed for the liquidation (otherwise than for the purposes of a solvent amalgamation or reconstruction), administration, bankruptcy or dissolution of the Contractor, or (iii) an administrative or other receiver, manager, trustee, liquidator, administrator or similar person or officer is appointed to the Contractor and/or over all or any part of the assets of the Contractor, or (iv) the Contractor enters into or proposes any composition or arrangement concerning its debts with its creditors (or any class of its creditors) generally, or (v) anything equivalent to any of the events or circumstances stated in (i) to (iv) inclusive occurs in any applicable jurisdiction; or
 - 17.1.2 the Contractor commits a Default and (in the case of a remediable Default) fails to remedy the breach within seven (7) days of receipt of the Department's written notice to do, provided that a Default shall not be treated as incapable of remedy within the meaning of this Clause 17 merely because it has already occurred; or
 - 17.1.3 the Contractor repeatedly or willfully fails to supply the Goods or perform the Services in accordance with the Contract; or
 - 17.1.4 the Contractor ceases to carry on all or a substantial part of that part of its business relating to the provision of Goods or supply of Services which are the subject matter of the Contract, or disposes of all or a substantial part of its assets; or
- 17.2 The Department may at any time by notice in writing terminate the Contract if there is a breach by the Contractor of any provision hereof which expressly entitles the Department to terminate the Contract.
- 17.3 Subject to clause 17.3.1, the Department may at any time terminate the Contract, in whole or in part, by giving the Contractor ninety (90) days notice in writing subject to:
- 17.3.1 the Department shall reimburse the Contractor against any commitments, liabilities or expenditure incurred or to be incurred which are reasonably and properly chargeable by the Contractor in connection with the Contract, provided that the Contractor complies with Clause 17.3.2. However, it is expressly agreed that the Department shall not be liable to pay any severance payment or compensation to the Contractor for loss of profits.
 - 17.3.2 the Contractor shall take all reasonable steps to mitigate any costs incurred in relation to the Contract, including but not limited to cancelling all capital and recurring cost commitments, terminating any contracts with sub-contractors or suppliers on the best possible terms; and
- 17.4 In the event of any termination or expiry of the Contract:

- 17.4.1 the Department shall be entitled to obtain a refund of Charges paid by the Department in respect of any part of the Contract which has not been performed by the Contractor;
 - 17.4.2 the Charges shall be reduced on a pro rata basis where any part of the Contract is terminated, and the remaining parts of the Contract shall continue to be performed for the remainder of the Term;
 - 17.4.3 the Contractor shall return to the Department all Departmental Property and all other items belonging to the Department in its possession (save for copies required by the Contractor for statutory audit or archive purposes);
 - 17.4.4 subject to the payment of the appropriate portion of the Charges the Contractor shall provide the Department with a copy of all Deliverables undertaken to date (whether completed or not) in its state at that time and, at the Department's option, return or destroy all other copies in the Contractor's possession or control; and
 - 17.4.5 the Contractor shall at the Department's request novate any agreements between the Contractor and any third parties that are relevant to the receipt of the Services by the Department.
- 17.5 Upon expiry or termination of any part of the Contract, the Contractor shall provide all reasonable assistance and information to the Department (and to any replacement contractor appointed by the Department) if requested, to the extent necessary to effect an orderly assumption of the Services by the Department or the replacement contractor.
- 18. TUPE**
- 18.1 The Contractor shall provide the Department or such bidders as the Department nominates with information on staff employed to perform the Contract who, in the Contractor or Department's reasonable opinion, may be subject to a transfer under the Transfer of Undertakings (Protection in Employment) Regulations ("TUPE") as follows:
- 18.1.1 upon termination or at any time in the 12 months preceding expiry of the Contract ("Retender Period"), all information necessary for bidders to prepare their bids; and
 - 18.1.2 after the Retender Period but before the date on which the replacement Contractor is contractually obliged to provide the Goods or Services ("Transition Period"), all information necessary to comply with TUPE and any then current Government guidance (including but not limited to the Cabinet Office Guidance on Staff Transfers in the Public Sector – Statement of Practice (January 2000) as amended from time to time); and
 - 18.1.3 this information shall be provided at the time and in the format reasonably requested by the Department and, in any event, not later than five (5) days after receiving such a request and at no cost to the Department.
- 18.2 The Contractor shall co-operate with any replacement contractor and provide them with as much information as they reasonably require to ensure a smooth transition
- 18.3 During the 12 months prior to expiry or from the date at which notice of termination has been received by the Contractor, the Contractor shall not change the staff it uses to perform the Contract, nor alter their terms and conditions of employment (including rates of pay) unless the Contractor has the Department's express prior written agreement.

- 18.4 During the Transition Period, the Department or such bidders as the Department nominates shall be entitled to reasonable direct access to the Contractor's staff employed to perform the Contract. Such access shall be for the purpose of conducting group meetings or individual meetings as is reasonably required.
- 18.5 The Contractor shall procure any consents which may be required by the Data Protection Act 1998 and related legislation in order to comply with these provisions.
- 18.6 Any Non-Disclosure Agreement entered into between the Contractor and bidders and/or a replacement contractor in respect of this Contract or the Transition Agreement shall be on substantially similar terms as the Confidentiality clause (Clause 22) in this Contract.
- 18.7 Termination, or partial termination, or expiry in accordance with this Clause 17 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to either party.
- 18.8 The following provisions of the Contract shall survive the early termination or expiry of the Contract: 1 (Interpretation), 11 (Audit), 13 (Set Off), 14 (Warranties and Representations), 15 (Indemnities), 16 (Limitation of Liability), 17.4 – 17.5 (rights and obligations on termination), 22 (Confidentiality), 30 (Intellectual Property Rights), 33 (Jurisdiction and Governing Law), 34 (Dispute Resolution Procedure), and 35 (Rights of Third Parties).

CHANGE

19. CONTRACT VARIATIONS

- 19.1 The Contract shall not be amended unless such amendment is agreed by a duly authorised representative of both parties. Such amendment must be made in writing, expressly purporting to amend the Contract, referring to the Clause or Schedule so amended and including in its entirety the full text of any such amendment.

20. TRANSFER AND SUB-CONTRACTING

- 20.1 The Contract is personal to the Contractor. The Contractor shall not assign, novate, sub-contract or otherwise dispose of the Contract in whole or in part without the prior written consent of the Department, which if provided shall be at the Department's absolute discretion. Sub-contracting any part of the Contract shall not relieve the Contractor of any obligation imposed by the Contract.
- 20.2 If the Contractor wishes to sub-contract any obligations under the Contract at any time it shall submit a list of sub-contractors to the Department for approval. The Contractor shall obtain the Department's prior written approval before changing any of the sub-contractors so approved. The Department shall not unreasonably withhold or delay such approval.
- 20.3 In the event that the Contractor enters into a sub-contract or supply contract in connection with the Contract, the Contractor shall ensure that a term is included in such sub-contract or supply contract which requires the Contractor to pay all sums due thereunder to the relevant sub-contractor or supplier within a specified period, not to exceed thirty (30) days, from the date of receipt of a valid undisputed invoice as defined by the terms of the sub-contract or supply contract (as appropriate).
- 20.4 The Department is entitled to assign, novate or otherwise dispose of its rights and obligations under the Contract in whole or in part.
- 20.5 Any change in the legal status of the Department such that it ceases to be a Contracting Authority shall not affect the validity of the Contract. In such

circumstances, the Contract shall bind and inure to the benefit of any successor body to the Department.

INFORMATION

21. OFFICIAL SECRETS ACTS

- 21.1 The Contractor shall comply with the Official Secrets Acts 1911 to 1989 in connection with the performance of the Contract and shall take all reasonable steps to ensure such compliance by its employees, agents, consultants and sub-contractors. In particular, and without prejudice to the generality of the foregoing, the Contractor shall take all reasonable steps to ensure that all persons engaged on any work in connection with the Contract have notice that these statutory provisions apply to them and shall continue so to apply after the expiry or termination of the Contract.
- 21.2 Notwithstanding the generality of Clause 21.1, the provisions of Clause 21 shall operate without prejudice to and be read subject to the application of the Official Secrets Acts 1911 to 1989.
- 21.3 Any breach of this Clause 21 shall entitle the Department to terminate the Contract in accordance with Clause 17.2 with immediate effect and recover the amount of any loss resulting from such termination.

22. CONFIDENTIALITY

- 22.1 Without prejudice to the application of the Official Secrets Acts 1911 to 1989 to any Confidential Information the Contractor acknowledges that any Confidential Information obtained from or relating to the Crown, its servants or agents is the property of the Crown.
- 22.2 Each party hereby warrant that:
 - 22.2.1 it shall treat all Confidential Information belonging to the other party as confidential and safeguard it accordingly;
 - 22.2.2 any person employed or engaged by the parties (in connection with the Contract in the course of such employment or engagement) shall only use Confidential Information for the purposes of the Contract;
 - 22.2.3 any person employed or engaged by either the Contractor or the Department (in connection with the Contract in the course of such employment or engagement) shall not disclose any Confidential Information to any third party without the prior written consent of the other party; and
 - 22.2.4 it shall take all necessary precautions to ensure that all Confidential Information is treated as confidential and not disclosed (save as aforesaid) or used other than for the purposes of the Contract by their employees, servants, agents or sub contractors.
- 22.3 The provisions of Clauses 22.1 and 22.2 shall not apply to any information which:
 - 22.3.1 is or becomes public knowledge other than by breach of this Clause 22.2; or
 - 22.3.2 is in the possession of the receiving party without restriction in relation to disclosure before the date of receipt from the disclosing party; or
 - 22.3.3 is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;

- 22.3.4 is independently developed without access to the Confidential Information; or
- 22.3.5 which must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations pursuant to Clause 28.7 (Freedom of Information).
- 22.4 Where it is considered necessary in the opinion of the Department, the Contractor shall ensure that its employees, professional advisors and/or consultants sign a confidentiality undertaking before commencing work in connection with the Contract.
- 22.5 Nothing in this Clause shall be deemed or construed to prevent the Department from disclosing any Confidential Information obtained from the Contractor:
 - 22.5.1 for the purpose of the examination and certificate of the Department's accounts, or any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Department has used its resources;
 - 22.5.2 to any Crown Body or any other Contracting Authority provided that the recipient Crown Body or Contracting Authority and its respective servants and agents shall treat all such Confidential Information as confidential in relation to parties who are not Crown Bodies or Contracting Authorities. All Crown Bodies or Contracting Authorities in receipt of such Confidential Information shall be considered as parties to the Contract within Section 1(1)(a) of the Contracts (Rights of Third Parties) Act 1999 for the purpose only of being entitled to further disclose the Confidential Information to other Crown Bodies or other Contracting Authorities on such terms; and
 - 22.5.3 to any consultant, contractor, transferee or other person engaged by the Department in connection herewith, provided that the Department shall have obtained from the consultant, contractor or other person a signed confidentiality undertaking on substantially the same terms as are contained in this Clause 21 and the Department shall notify the Contractor of the identity of such consultant, contractor or other person as soon as practicable.
- 22.6 Nothing in this Clause 22 shall prevent the Contractor or the Department from using data processing techniques, ideas and know how gained during the performance of the Contract in the furtherance of its normal business, to the extent that this does not relate to a disclosure of Confidential Information or an infringement by the Department or the Contractor of any Intellectual Property Right.
- 22.7 Any breach of this Clause 22 by the Contractor shall entitle the Department to terminate the Contract in accordance with Clause 17.2 with immediate effect and recover the amount of any loss resulting from such termination.

23. PUBLICITY

- 23.1 Except with the written consent of the Department (which shall not be unreasonably withheld or delayed), the Contractor shall not make any press announcements or publicise the Contract in any way.
- 23.2 For the avoidance of doubt, the Department shall be entitled to publicise the Contract in accordance with any legal obligation placed upon the Department or in accordance with any other normal practice of the Crown or other relevant public body, including any examination of the Contract by the National Audit Office pursuant to the National Audit Act 1983.

PROPRIETY

24. CONFLICT OF INTEREST

- 24.1 The Contractor shall establish and maintain appropriate business standards, procedures and controls including those necessary to avoid any real or apparent impropriety or to prevent any action or conditions which could result in conflict with the Department's best interests.
- 24.2 Any breach of this Clause 24 by anyone employed by the Contractor or anyone acting on behalf of the Contractor, whether with or without the knowledge of the Contractor, shall entitle the Department to terminate the Contract in accordance with Clause 17.2 and recover the amount of any loss resulting from such termination.
- 24.3 The maintenance of public confidence in the integrity and impartiality of the Judicial system is of paramount importance. The Contractor is required to inform the Contract Manager immediately of any event, such as court proceedings, or the threat of such proceedings, which may cause embarrassment, regardless of whether the event is in connection with or has any effect upon the performance of their other obligations under the Contract.

25. CORRUPT GIFTS AND PAYMENT OF COMMISSION

- 25.1 The Contractor shall neither:
 - 25.1.1 offer nor give nor agree to give any person on Her Majesty's Service any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or performance of the Contract or any other agreement with Her Majesty's Service or for showing or forbearing to show favour or disfavour to any person in relation to the Contract; nor
 - 25.1.2 enter into the Contract if in connection with it commission has been paid or agreed to be paid to any person on Her Majesty's Service by the Contractor or on the Contractor's behalf or to the Contractor's knowledge, unless before the Contract is made particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in writing to the Department.
- 25.2 In the event of any breach of this Clause 25 by the Contractor or by anyone employed by the Contractor or acting on the Contractor's behalf (whether with or without the knowledge of the Contractor) or the commission of any offence by the Contractor or by anyone employed by the Contractor or acting on behalf of the Contractor under the Prevention of Corruption Acts, 1889 to 1916 in relation to this or any other contract for Her Majesty's Service, the Department may terminate the Contract by notice in writing to the Contractor in accordance with Clause 17.2. Provided always that the Department may recover from the Contractor the amount or value of any such gift, consideration or commission.
- 25.3 The decision of the Department shall be final and conclusive in any dispute, difference or question arising in respect of:
 - 25.3.1 the interpretation of this Clause (except so far as the same may relate to the amount recoverable from the Contractor under Clause 25.1 in respect of any loss resulting from such termination of the Contract); or
 - 25.3.2 the right of the Department under this Clause 25 to terminate the Contract; or
 - 25.3.3 the amount or value of any such gift, consideration or commission.

LEGISLATIVE COMPLIANCE

26. DISCRIMINATION

- 26.1 The Contractor shall:
- 26.1.1 not unlawfully discriminate within the meaning of any law, enactment, order, regulation or other similar instrument relating to discrimination in employment (whether in relation to race, gender, religion or otherwise);
 - 26.1.2 comply with its obligations under all relevant legislation and in particular the Disability Discrimination Act 1995, the Race Relations (Amendment) Act 2000, the Employment Equality (Sexual Orientation) Regulations 2003 and the Employment Equality (Religion or Belief) Regulations 2003;
 - 26.1.3 have proper regard to the Codes of Practice prepared and issued from time to time by the National Disability Council, the Disability Rights Commission or the Secretary of State.
- 26.2 Any breach of this Clause 26 shall entitle the Department to terminate the Contract in accordance with Clause 17.2 and recover the amount of any loss resulting from such termination.

27. LEGISLATIVE CHANGE

- 27.1 To the extent they are relevant to the Contractor for the performance of its obligations under the Contract the Contractor shall, at its own cost, comply with all applicable statutes, enactments, orders, regulations or other similar instruments and any amendments thereto, except that where any such amendment necessitates a change to the Goods or Services supplied under the Contract or to their manner or cost of delivery.

28. DATA PROTECTION AND FREEDOM OF INFORMATION

- 28.1 The Contractor's attention is hereby drawn to the Data Protection Act 1998, Directive 95/46/EC of the European Parliament and any legislation and/or regulations implementing them or made in pursuance of them and any associated legislation that arises in connection with the Contract ("Data Protection Requirements").
- 28.2 Both parties warrant that they shall duly observe all their obligations under the Data Protection Requirements. Both parties shall have regard to and take into consideration any codes of practice or other relevant guidance issued under such legislation.
- 28.3 Where the Contractor as part of its obligations under the Contract processes personal data on behalf of the Department it shall:
- 28.3.1 act only on instructions from the Department, as data controller, in processing the personal data; and
 - 28.3.2 comply with the Department's instructions in relation to the processing of personal data as such instructions are given and varied from time to time by the Department; and
 - 28.3.3 at all times take all appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
- 28.4 The Department may from time to time serve on the Contractor an information notice requiring the Contractor within such time and in such form as is specified in the information notice, to furnish to the Department such information as the Department may reasonably require relating to:

- 28.4.1 compliance by the Contractor or by its sub-contractors with the Contractor's obligations under the Contract in connection with the processing of personal data; and/or
- 28.4.2 the rights of data subjects, including but not limited to subject access rights.
- 28.5 For the purposes of this Clause, "data controller", "data processor", "data subject", "personal data" and "processing" shall have the meanings ascribed to them in the Data Protection Act 1998.
- 28.6 Where the Contractor in performing its obligations under the Contract processes personal data as a data controller, the Contractor warrants that it shall obtain any personal data fairly and lawfully. Further, the Contractor warrants that it is able to disclose such data to the Department and that it has performed the Contract in such a way to ensure that the use by the Department of the personal data obtained in connection with Contract shall not breach any provisions of the Data Protection Requirements by reason of performance of the Contract, provided that the Contractor shall not be responsible for the Department's compliance with the Data Protection Requirements where such use by the Department is not a usual or acceptable use of such personal data for the purposes envisaged by the Contract.
- 28.7 Freedom of Information
 - 28.7.1 The Contractor acknowledges that the Department is subject to the requirements of the FOIA and the Environmental Information Regulations, and shall assist and cooperate with the Department (at the Contractor's expense) to enable the Department to comply with all Information disclosure requirements.
 - 28.7.2 The Contractor shall and shall ensure that its sub-contractors shall:
 - 28.7.2.1 transfer to the Department as soon as practicable and in any event within two (2) Working Days any Requests for Information that it receives;
 - 28.7.2.2 assist the Department, at no additional charge and within such timescales as the Department may reasonably specify, in meeting any Requests for Information which are made to the Department, such assistance to include, but not be limited to, provision of a copy of all information in its possession or control in the format requested by the Department within five (5) Working Days of request by the Department, or such other period as the Department may specify.
 - 28.7.3 The Department shall be responsible for determining at its absolute discretion whether:
 - 28.7.3.1 the Information is exempt from disclosure under the FOIA and the Environmental Information Regulations;
 - 28.7.3.2 the Information is to be disclosed in response to a Request for Information, and
 - 28.7.3.3 in no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Department.
 - 28.7.4 The Contractor acknowledges that the Department may, acting in accordance with the Department's Code of Practice on the Discharge of Functions of Public Authorities under Part I of the Freedom of Information Act 2000, be obliged under the FOIA, or the Environmental Information Regulations to disclose Information:

- 28.7.4.1 without consulting with the Contractor, or
- 28.7.4.2 following consultation with the Contractor and having taken its views into account.
- 28.7.5 The parties may set out, in a Schedule to the Contract, a list of information which the parties reasonably consider is exempt information (as defined in section 84 FOIA), together with a reference to the relevant section of the FOIA which confirms the exemption. The Contractor acknowledges that any such Schedule is of indicative value only and that, as set out at Clause 28.7.3, the Department shall determine, at its absolute discretion, whether or not to release Information in response to a Request for Information.
- 28.7.6 If the Department and the Contractor have drawn up a Schedule of exempt information, the Department shall not be liable for any loss or damage suffered by the Contractor, whether in contract, tort (including negligence) or any other way, as a result of the Department releasing Information in response to a Request for Information if the Information is not of a type listed in such a Schedule.
- 28.7.7 If, at the request of the Contractor, the Department seeks to withhold Information on the basis that it is exempt information and a competent authority determines, or the parties subsequently agree, that the Information is not exempt, then the Contractor shall reimburse the Department for all costs (including but not limited to legal costs) incurred by the Department in seeking to withhold such Information from a Request for Information.
- 28.7.8 The Contractor shall ensure that all information produced in the course of the Contract or relating to the Contract is retained for disclosure and shall permit the Department to inspect such records as requested from time to time.

STAFF

29. CONTRACTOR'S PERSONNEL

- 29.1 The Department reserves the right under the Contract to refuse to admit to the Premises any person employed or engaged by the Contractor, or by a subcontractor, whose admission would be, in the opinion of the Department, undesirable.
- 29.2 If and when directed by the Department, the Contractor shall provide a list of the names and addresses of all persons who it is expected may require admission in connection with the performance of the Contract, to the Premises, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Department may reasonably require.
- 29.3 The Contractor's representatives, when on 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 that establishment and when outside that establishment.
- 29.4 If the Contractor shall fail to comply with Clause 29.2 and if the Department (whose decision shall be final and conclusive) shall decide that such failure is prejudicial to the interests of the State and if the Contractor does not comply with the provisions of Clause 29 within a reasonable time of written notice so to do then the Department may terminate the Contract in accordance with Clause 17.2.

- 29.5 The decision of the Department as to whether any person is to be refused admission to any Premises occupied by or on behalf of the Crown and as to whether the Contractor has failed to comply with Clause 29.2 shall be final and conclusive.

30. HEALTH AND SAFETY HAZARDS

- 30.1 The Contractor shall notify the Department of any health and safety hazards which may arise in connection with the performance of the Contract.
- 30.2 The Department shall notify the Contractor in writing of any health and safety hazards which may exist or arise at the Premises and which may affect the Contractor. The Contractor shall draw these hazards to the attention of its employees and sub-contractors or any persons engaged by the Contractor in the performance of the Contract at the Premises and shall instruct such persons in connection with any necessary associated safety measures.
- 30.3 If the Contractor does not comply with the provisions of Clause 30 within a reasonable time of written notice to do so then the Department may terminate the Contract in accordance with Clause 17.2.

DEPARTMENTAL PROPERTY

31. INTELLECTUAL PROPERTY RIGHTS

- 31.1 Title to all Intellectual Property Rights created as a result of the supply or use of the Goods or the performance or use of the Services or the performance of the Contract generally, shall vest in the Department upon creation.

32. DPEARTMENTAL PROPERTY

- 32.1 The Contractor shall, except as otherwise provided for in the Contract, make good or, at the option of the Department, pay compensation for, all damage occurring to any Departmental Property caused by the Contractor, arising from its use of such Departmental Property or presence on Premises in connection with the Contract, provided that this Clause shall not apply to the extent that the Contractor is able to show that any such damage was not caused or contributed to by the neglect or default of the Contractor or by any circumstances within its control.

33. OCCUPATION OF PREMISES

- 33.1 Any Premises made available to the Contractor by the Department in connection with the supply of Goods or provision of Services under the Contract shall be made available to the Contractor free of charge unless otherwise provided in the Contract, and shall be used by the Contractor solely for the purpose of performing the Contract.
- 33.2 The Contractor shall have the use of such land or premises as licensee, and shall vacate the same when the performance of its obligations under the Contract is completed or terminated, or when directed to vacate by the Department.

DISPUTE RESOLUTION

34. JURISDICTION AND GOVERNING LAW

- 34.1 The Contract shall be considered as an agreement made in England and according to English Law and, subject to Clause 35, shall be subject to the exclusive jurisdiction of the English Courts to which both parties hereby submit.

- 34.2 The Contract is binding on the Department and its successors and assignees and the Contractor and the Contractor's successors and permitted assignees.

35. DISPUTE RESOLUTION PROCEDURE

- 35.1 If any dispute arises between the parties under or in relation to the Contract it shall first be referred to the Department's Contract Manager and the Contract Manager/Account Manager/Implementation Manager of the Contractor. If it cannot be resolved to the satisfaction of both parties within ten (10) Working Days of such referral it shall be referred to the Chief Executive/Managing Directors/Head of Procurement/Head of Department of each party for resolution. The Contractor's obligation to perform the Services or supply the Goods shall not be affected by this procedure, or by any other procedure for the resolution of disputes referred to in this Clause.
- 35.2 If the parties are unable to resolve any dispute under or in relation to the Contract within ten (10) working days of its referral to the director (or equivalent) of the Department and the director (or equivalent) of the Contractor referred to in Clause 34.1, the parties will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution's (CEDR's) Model Mediation Procedure:
- 35.2.1 to initiate the mediation, either party must give notice in writing to the other party requesting mediation in accordance with this Clause 35. The initiating party shall send a copy of such request to CEDR.
- 35.2.2 if there is any issue on the conduct of the mediation (including as to the nomination of the mediator) upon which the parties cannot agree within a reasonable time, CEDR will, at the request of any party, decide the issue for the parties having consulted with them.
- 35.2.3 If the dispute is not resolved within ninety (90) days of the initiation of the mediation, or if either party will not participate in mediation, either party may commence proceedings in accordance with Clause 34.
- 35.3 Nothing in this Clause shall prejudice the right of either party to apply to Court for interim relief to prevent the violation by the other party of any proprietary interest, or any breach of the other party's obligations which could cause irreparable harm to the first party.
- 35.4 Work and activity to be carried out under the Contract shall not cease or be delayed by this dispute resolution procedure.

MISCELLANEOUS

36. RIGHTS OF THIRD PARTIES

- 36.1 Except where expressly agreed as a Special Term, the Contract is not intended to be for the benefit of, and shall not be enforceable by, any person who is not named at the date of the Contract as a party to it or any person who claims rights under the Contracts (Rights of Third Parties) Act 1999 or otherwise and neither party can declare itself a trustee of the rights under it for the benefit of any third party.
- 36.2 Any third party rights created by 36.1 can be altered or extinguished by the parties under Clause 18 without the consent of any third party beneficiary of such rights.

37. RELATIONSHIP BETWEEN THE PARTIES

- 37.1 Nothing in this Contract shall (except as expressly provided) be deemed to constitute a partnership or create a relationship of principal and agent between the Department and the Contractor for any purpose.

38. FORCE MAJEURE

- 38.1 For the purposes of the Contract the expression "Force Majeure" shall mean any cause affecting the performance by a party of its obligations arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control including (but without limiting the generality thereof) governmental regulations, fire, flood, or any disaster or an industrial dispute affecting a third party for which a substitute third party is not reasonably available. Any act, event, omission, happening or non-happening shall only be considered Force Majeure if it is not attributable to the wilful act, neglect or failure to take reasonable precautions of the affected party, its agents or employees.
- 38.2 Neither party shall in any circumstances be liable to the other for any loss of any kind whatsoever including but not limited to any damages or abatement of Charges whether directly or indirectly caused to or incurred by the other party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure. Notwithstanding the foregoing, each party shall use all reasonable endeavours to continue to perform, or resume performance of, such obligations hereunder for the duration of such Force Majeure event.
- 38.3 If either of the parties shall become aware of circumstances of Force Majeure which give rise to or which are likely to give rise to any such failure or delay on its part it shall forthwith notify the other by the most expeditious method then available and shall inform the other of the period which it is estimated that such failure or delay shall continue.
- 38.4 It is expressly agreed that any failure by either party to perform or any delay by either party in performing its obligations under the Contract which results from any failure or delay in the performance of its obligations by any person, firm or company with which such party shall have entered into any contract, supply arrangement or subcontract or otherwise shall be regarded as a failure or delay due to Force Majeure only in the event that such person, firm or company shall itself be prevented from or delayed in complying with its obligations under such contract, supply arrangement, subcontract or otherwise as a result of circumstances or Force Majeure.

39. SEVERABILITY

- 39.1 If any provision of the Contract is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if the Contract had been executed with the invalid, illegal, or unenforceable provision eliminated. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of the Contract, the Department and the Contractor shall immediately commence good faith negotiations to remedy such invalidity.

40. WAIVER

- 40.1 The failure of either party to insist upon strict performance of any provision of the Contract, or the failure of either party to exercise any right or remedy to which it is entitled hereunder, shall not constitute a waiver thereof and shall not cause a diminution of the obligations established by the Contract.
- 40.2 A waiver of any Default shall not constitute a waiver of any subsequent Default.
- 40.3 No waiver of any of the provisions of the Contract shall be effective unless it is expressly stated to be a waiver and communicated to the other party in writing in accordance with the provisions of Clause 40.

41. COMMUNICATIONS

- 41.1 Except as otherwise expressly provided no communication from one party to the other shall have any validity under the Contract unless made in writing by or on behalf of the Department or as the case may be by or on behalf of the Contractor.
- 41.2 Any notice or other communication whatsoever which either party hereto is required or authorised by the Contract to give or make to the other shall be given or made either by post in a prepaid letter, by facsimile transmission or by email, addressed to the other party at the address specified in the Contract Summary Form and if that letter is not returned as being undelivered that notice or communication shall be deemed for the purposes of the Contract to have been given or made after two days, for a letter, or four hours, facsimile transmission or email.

42. ENTIRE AGREEMENT

- 42.1 The Contract constitutes the entire agreement between the parties in relation to its subject matter, and replaces and extinguishes all prior agreements, arrangements, undertakings or collateral contracts of any nature made by the parties, whether oral or written, in relation to such subject matter. Each party acknowledges that it is not relying on, and shall have no remedy in respect of, any statements, warranties, undertakings or representations given or made by the other party regarding the subject-matter of the Contract, except for those expressly set out in the Contract. Nothing in this clause excludes or restricts the liability of either party arising out of fraud or fraudulent misrepresentation.



SPECIFICATION



Ministry of
JUSTICE

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**HER MAJESTY'S COURT SERVICE
SPECIFICATION**

FOR THE PROVISION OF PRIVATE ENFORCEMENT SERVICES

1 FOREWORD

- 1.1 Contracted Private Enforcement Services are currently provided to Magistrates' Courts in England and Wales. This Specification, which will form part of the Contract, sets out the requirement for the provision of Private Enforcement Services to the Ministry of Justice ("the Department"), its Executive Agencies, NDPBs and Associated Offices.
- 1.2 The Contractor shall be deemed to have satisfied himself as regards the nature and extent of the Services to be performed. No claims by the Contractor for additional payments will be allowed on the grounds of misunderstanding or misinterpretation due to lack of knowledge of the requirements as set out in the documents, which comprise the Contract. The Conditions of Contract for the Supply of Goods and Services, attached at Schedule B shall apply.
- 1.3 This Contract may also be used by all bodies which comprise the other Government Departments and Agencies, local Government Bodies and Non-Departmental Public Bodies. The Department reserves the right to negotiate pricing, invoicing, contract management and any other area it sees fit, should the use of the contract be extended beyond the scope described in paragraphs 6 and 7 of this document.
- 1.4 There will be eight contracts plus six reserve contracts. The six English regions will each have a principal and reserve contractor. The Welsh region will have two principal contractors. A Contractor can be awarded a maximum of three principal contracts and a maximum of two reserve contracts. A Contractor must be a principal to be a reserve. Welsh principals can be reserves for English regions.
- 1.4.1 Subject to the principal contractor failing to meet contracted performance requirements in **Appendix A paragraph 7.4** in two consecutive quarters, the Department reserves the right to divert 20% of warrant volumes to the reserve contractor. Should the principal contractor not recover performance to Minimum Attainment Standard (MAS) level by the end of the next two consecutive quarters the contract may be transferred to the reserve contractor in its entirety who then becomes the new principal contractor. At this point the Department will decide if it wishes the former principal contractor to become the reserve contractor or terminate the contract completely. The contractors performance against the other MAS Service Level Indicator's (SLI) will be taken into account when making any decision. In the case of the Welsh region this process follows the English model except that the process of transferring warrants in 20% blocks will continue until 80% of warrant volumes have been diverted. At this point the Department will decide if it wishes to terminate the contract completely.
- 1.5 No level of work is guaranteed and all figures provided are the volumes of warrants raised and allocated in 2006/07 2007/08 and Quarter 1 2008/09. They are given to provide context but Contractors should not assume that both overall warrant volumes and the pattern of warrant allocation will hold throughout the contract. The Contractor may receive all warrants issued by HMCS should it be deemed necessary by HMCS. The Criminal Operational Blueprint (The Blueprint) for 2008 to 2012 sets out HMCS's strategic objective for enforcement which primarily focuses on first time compliance whilst continuing to apply the principles of rigorous enforcement to the hard-core of defaulters. Delivery across HMCS of the proposals set out in The Criminal Operational Blueprint is scheduled for completion by March 2012. At this stage it is not possible to quantify the degree to which the compliance agenda will reduce warrant volumes to both in-house

Civilian Enforcement Officers (CEOs) and contractors. However, it is fundamental to the success of this policy that the quality of the data set and the timely issue of warrants by the courts should improve the percentage of executable warrants. A copy of the Blueprint is attached at **Appendix C**.

- 1.6 The Tribunals, Courts and Enforcement Act, 2007 received Royal Assent on 19 July 2007. The Act has wide reaching implications for the bailiff industry including in respect of modernisation and consolidation of bailiff law and a new fee structure. These provisions are contained in Part 3 and Schedule 12 of the Act. Independent regulation of bailiffs will replace the current county certification procedure. Contractors should note that the fee structures and protocols agreed at contract formation will be replaced by the statutory fee framework and law at sometime during the tenure of the contract. There will of course be comprehensive consultation ahead of implementing Part 3 of the Act and introduction of independent regulation.
- 1.7 If required for the purposes of audit and performance monitoring the Contractor shall allow the Department's nominated representative to have access to relevant records, to take copies of such, and to observe their working methods.

2 DEFINITIONS

- 2.1 As used in this Specification and other schedules, the following terms and expressions shall have the following meanings:

The Contractor/AEA	Approved Enforcement Agency
Defaulter/Defendant	The person named in the warrant or order issued by the area
Regional Contract	Appointed and employed by the Department the Regional Contract Manager will be Manager (RCM) the main point of contact for/responsible for day to day contact with the Contractor
Area Contract Manager (ACM)	Appointed and employed by the Department, will report to the RCM on performance of the contract specifically for their area
Fines Officer	HMCS official who will hold relevant authority in order to carry out the Courts Act sanctions will make daily decisions regarding appropriate enforcement methods on individual cases
CEO	Civilian or Court Enforcement Officer
Authorised Employee	An employee of the Contractor possessing the necessary qualifications, competencies, licences and identification appropriate to the tasks for which they are employed
Court	Court building or non-court offices
Absolute Privilege	Absolute privilege covers goods/property which cannot be taken into legal control and sold e.g. Crown/government property
Auction Timelines	The Contractor shall supply on a monthly basis notification to the area of goods distrained awaiting auction and the details of auction dates and venue

BACS

Bank Automated Credit System

Breach of Community Penalty Warrant	Warrant issued for the purpose of bringing individuals before the court that are in breach of a community order
Clamping Order	An order issued under Paragraph 38 Schedule 5 of the Courts Act 2003 for the purpose of clamping the vehicle of a fine defaulter
Confiscation Order	A High or Crown Court order for payment of monies, which are deemed to be earnings as a result of criminal activities
Commitment Warrant	A warrant of commitment to prison for default of payment of a sum as ordered by a magistrates' court
Distrain/Distrait/Distress	To seize goods to pay for a financial penalty.
Distress Warrant	Warrant of Distress issued for the purpose of levying a sum adjudged to be paid by order of magistrates' court
Financial Warrant	Warrant issued for the purpose of securing payment or bringing an individual before the court to attend a means enquiry regarding a sum adjudged to be paid by order of the Magistrates' Court

Successful Execution

Financial Warrants	
Distress Warrant	Part or Full payment with or without levy of goods.
Arrest with Bail	<ul style="list-style-type: none"> Defendant arrested and bailed to appear before the court Defendant arrested, pays in part and bailed to appear before the court Defendant voluntary surrenders in response to contractors instructions which are verified by the court Defendant pays in part and voluntary surrenders in response to contractors instructions which are verified by the court Defendant pays contractor in full
Arrest without Bail	<ul style="list-style-type: none"> Defendant arrested and transported to appear before the court or to a police station if outside of court hours Defendant arrested, pays in part and transported to appear before the court or to a police station if outside of court hours Defendant voluntary surrenders in response to contractors instructions which are verified by the court

	<ul style="list-style-type: none"> Defendant pays in part and voluntary surrenders in response to contractors instructions which are verified by the court Defendant pays contractor in full
Community Penalty Breach Warrants	
Breach of Community Penalty Warrant with Bail	<ul style="list-style-type: none"> Defendant arrested and bailed to appear before the court Defendant voluntary surrenders in response to contractors instructions which are verified by the court
Breach of Community Penalty Warrant without Bail	<ul style="list-style-type: none"> Defendant arrested and transported to appear before the court or to a police station if outside of court hours Defendant voluntary surrenders in response to contractors instructions which are verified by the court
3.1 Confiscation Warrants	
Distress Warrant	Payment in full inclusive of any interest accrued with or without levy of goods
Arrest without Bail	<ul style="list-style-type: none"> Defendant arrested and transported to appear before the court or to a police station if outside of court hours Defendant arrested, pays in part and transported to appear before the court or to a police station if outside of court hours Defendant voluntary surrenders in response to contractors instructions which are verified by the court Defendant pays in part and voluntary surrenders in response to contractors instructions which are verified by the court Defendant pays contractor in full
Commitment	
Warrant	Payment in full or transported to prison
Orders	
Clamping	Part or Full payment with or without clamping of vehicle.

Target timescales for the table above can be found in Appendix H

3 THE DEPARTMENT

- 3.1 The **Ministry of Justice** was formed on 9 May 2007. It brings together the agencies that are responsible for the criminal, civil and family courts, tribunals, sentencing policy, prisons and the management of offenders. Public Service Agreements set out the key priority outcomes the government wants to achieve across government covering the period 2008-2011. The Department contributes to a number of PSA targets but is the lead department for PSA24, "to deliver a more effective, transparent and responsive criminal justice system for victims and the public." To meet this PSA responsibility the Departments work is focused

around four strategic objectives. These are:

DSO1: Strengthening democracy rights and responsibilities

DSO2: Delivering fair and simple routes to civil and family justice

DSO3: Protecting the public and reducing reoffending

DSO4: A more effective, transparent and responsive criminal justice system for victims and the public

Contractors will contribute to the achievement of DSO4.

3.2 **Her Majesty's Courts Service (HMCS).** HMCS is an executive agency within the Department. It is responsible for the management of all courts, civil, criminal and family (save for the House of Lords) in England and Wales. HMCS is managed through an administrative structure of 7 Regions and below these 25 Areas. There are over 100,000 employees working with the Department. HMCS estate comprises around 850 buildings, ranging from the Royal Courts of Justice in the Strand, London to one-room court offices in the more remote districts of England and Wales.

3.3 All staff of HMCS owe a joint duty to the Lord Chancellor and to the Lord Chief Justice for the efficient and effective operation of the courts. The objectives of HMCS include:

- Promotion of a modern, fair, effective and efficient justice system that is available to all and responsive to the needs of the communities it serves
- Achievement of best value for money
- Continuous improvement of performance and efficiency across all aspects of the courts' work, having regard to the contribution the judiciary can appropriately make
- Collaboration with a range of justice organisations and agencies, including the legal professions, to improve the service provided for local communities
- Greater confidence in, and respect for, the system of justice

3.4 Specifically in respect of PSA24 Indicator 5 where there are the following targets are set which the Contractor will contribute to their achievement:

Payment Rate – Key Performance Indicator

- To achieve an [REDACTED] payment rate for financial penalties

Community Penalties-Key Performance Indicator

- For [REDACTED] of all breached Community Penalties to be resolved within [REDACTED] working days of the relevant failure to comply;

Supporting Indicator

- Execute [REDACTED] of Community Penalty Breach Warrants within [REDACTED] working days for adults and [REDACTED] working days for youths

Confiscation Recovery-Supporting Indicator

- To collect [REDACTED] from the enforcement of confiscation orders

3.5 How Contractors will contribute to the attainment of these objectives and key performance indicators is detailed throughout the remainder of this service specification.

4 BACKGROUND TO THE REQUIREMENT

- 4.1 Paragraphs 3.1, 3.3 and 3.4 set the organisational context within which the AEAs will work as a partner with HMCS to deliver its strategic objectives and key performance indicators. It is clear from the above that there is a requirement on HMCS to achieve best value in support of the continuous improvement agenda to its core customers and other stakeholders. The HMCS Criminal Compliance and Enforcement Services – A Blueprint for 2008 to 2012 states that the role of AEA, “... will continue to remain an important and significant partner to HMCS.” As stated above the Tribunals, Courts and Enforcement Act, 2007 implementation (particularly Part 3) will have direct implications for Contractors. This fundamental change agenda will be managed in co-operation with Contractors.
- 4.2 The headline payment rate for financial penalties as at [REDACTED] [REDACTED] The Community Penalty KPI and Confiscation KPI headline performance as at [REDACTED] (including compensation) respectively. Contractors will work with HMCS in-house operations staff to support their continued attainment and improvement

5 FUTURE PROVISION

- 5.1 In consideration of future potential changes and the need for operational and outcome improvement in retrieving fine payments, the Contractor shall;
- Work strategically with the Department to assist in achieving ongoing increase in performance and government targets
 - Agree an annual service enhancement (at no cost to HMCS) to support the attainment of continuous improvement and best value to run throughout each contract year. This could take a range of forms including being service or support based and could involve joint working or asset sharing. Each proposal will be assessed by the Department for compliance against Departmental policy etc before being agreed and implemented. The annual service enhancement should be agreed through the following mechanism and timescales
 - The first service enhancement is that proposed in the tender document (and agreed as part of the award process) and attached to this contract as **Annex A**
 - Subsequently, during June the contractor will submit their proposal for agreement by the RCM in consultation with their Regional Management Board (RMB) and the HMCS Director of Enforcement, who will review the proposal for compliance to HMCS policy and procedure by the end of July to enable the proposal to commence on 1 December


6 OPERATIONAL PROTOCOL

- 6.1 The Contractor shall provide the full range of services for clamping orders and warrants issued under the Magistrates' Courts Warrants (Specification of Provisions) Order 2001¹ (see **Appendix D**) and any other warrant agreed between the Contractor and the Department.
- 6.2 All services provided by or on behalf of HMCS in Wales will operate within the requirements of the HMCS Welsh Language Scheme. The Contractor shall therefore make provision at no cost to the Department for accommodating the

¹ As amended by the Magistrates' Courts Warrants (Specifications of Provisions) (Amendment) Order 2001. The Magistrates' Courts Warrants (Specifications of Provisions) (Amendment) Order 2004 and the Magistrates' Courts Warrants (Specifications of Provisions) (Amendment) Order 2007

Scheme in its operations, specifically in relation to provision of written material in a bilingual format and access to Welsh-speaking authorised employees. The HMCS Welsh Language Scheme can be found on the HMCS website at www.hmcourts-service.gsi.gov.uk

- 6.3 The Department will issue warrants of Distress, Community Penalty Breach, Financial Arrest and Clamping Orders, as well any other enforcement action specified at paragraph 6.1, to the Contractor, at a minimum of once per week and as regular a volume as possible, making efforts to ensure that detail of the Defaulters is full and correct. Breach Warrants will be issued forthwith and dispatched by signature for recorded delivery or as agreed by the Contractor and RCM.
- 6.4 It is a general principle that the Contractor shall collect in person all warrants and clamping orders from the issuing courts. The specific day and times for collection of warrants and clamping orders shall be agreed in advance of the commencement of the contract with the RCM. The issue of breach warrants is described above in paragraph 6.3. The court will obtain a discharge signature from the Contractor to ensure audit compliance. The Contractor shall provide a formal schedule of warrants received, providing any additional reference number allocated by the Contractor, within 2 working days of collection. As an alternative and only where agreed between the Contractor and Department, other forms of distribution can be used, such as DX Tracked or signed for courier. In these cases, a copy of the warrant register shall be endorsed by the Contractor and returned to the issuing court to ensure audit compliance. The Departmental Policy Statement on Data Security and Use of IT by Contractors/Consultants and Agency Staff Employed by the Ministry of Justice sets the compliance requirement to FIPS140-2 and is recorded at **Appendix E**.
- 6.5 In recognition of employers' duties under relevant Health & Safety legislation, the Contractor shall have in place suitable and sufficient systems to undertake a full risk assessment procedure relating to the execution of the Department's Warrants.
- Contractors must
- be able to demonstrate that their risk assessment process, meets as a minimum, the Departments own standard. It is accepted that contractors will not be able to fully replicate the Departments procedures i.e. access to Police National Computer (PNC)
 - demonstrate that they have procedures in place to ensure the risk assessment is undertaken by a competent and capable person
- 6.6 The Department shall make available to the Contractor suitable and sufficient information on Defaulters in order to assist with such risk assessments. Should the Contractor on individual cases request additional information, the Department may pass on to the Contractor any reasonable costs incurred in providing such information. These charges will be agreed in advance. As part of its risk assessment procedure, the Contractor shall pass to the Department any risk assessment, incident report or other related information concerning any warrant executed or unexecuted in order that the Department can pass such information on to its own employees when issuing further enforcement. The Contractor can contact the court in any circumstance considered high risk in order to agree an approach for execution of the warrant. This may include the provision of police assistance.
- 6.7 The Departments requirements in respect of risk management are contained at **Appendix F**.

- 6.8 If a Breach of Community Penalty no-bail warrant remains unexecuted after a first attempt to visit an address or after 5 working days of warrant issue the Contractor must contact the court to inform them that the warrant should be updated on the PNC.
- 6.9 The Contractor shall ensure that each warrant and clamping order is assigned to an authorised employee in such a way as to ensure a clear audit trail from the issuing court to the authorised employee.
- 6.10 When executing warrants and Clamping orders, the Contractor shall ensure that full information on the contact procedure, including the fee applicable and their escalation, is sent to the Defaulter on receipt of the warrant or clamping order, in accordance with the Contact Protocol at **Appendix G**.
- 6.11 The Contractor will attempt to obtain, at no extra cost to HMCS, completion of the means forms but as a minimum will obtain:
- Telephone numbers (mobile and landline where applicable)
 - National Insurance number
 - Date of Birth
 - Any Employment details or benefit details
- Such details are to be endorsed on the warrant and included on any return sent to the court. Sufficient means forms, as necessary, will be distributed to the Contractor.
- 6.12 The Contractor will adhere to instructions given by the Department in respect of the powers of the Domestic Violence and Crime and Victims Act 2004. Before exercising any of these powers all certificated bailiff staff must have successfully attended a search and entry course. This requirement to be reported on through the Balanced Scorecard at B3.
- 6.13 For financial penalties, the Distress and Financial Arrest Warrant handling period is 180 days and 90 days respectively. However, at the expiry of the initial 90 day period the contractor will supply the court with a list of warrants where there has been no activity to either trace the defaulter or undertake other enforcement activity i.e. letter, visit(s). On receipt on this list the court can request the return of a warrant(s). Alternatively, the Contractor can be given a further 30 days to commence this activity by the court. The court will only make such a request where there is evidence that no activity has taken place to trace the defaulter. In either event they are to be returned on a weekly basis. For unexecuted Clamping orders these shall be returned to the issuing court within 60 days of receipt. Unexecuted Breach 
- 6.14 All classes of warrants shall be returned according to the timetable detailed in paragraph 6.13 and summarised at **Appendix H** together with a report stating exactly what steps have been made to execute the warrant or order and what further information has been obtained.
- 6.15 If a bail date has been specified then the warrant must be returned executed or unexecuted on/before this bail date together with a report stating exactly what steps have been made to execute the warrant and what further information has been obtained. Where agreed between the Contractor and the Department, other forms of return can be used, such as, signed for recorded, DX Tracked or signed for courier.

- 6.16 Unexecuted Clamping orders shall be returned to the issuing court within 60 days of receipt on a weekly basis. However, this period may be extended by a further 30 days, to a total of 90 days, with the prior approval of the court. The court will grant the requested extension where the Contractor can demonstrate that the granting of an extension will enable the defaulter to be traced and either their vehicle clamped or full payment of the outstanding fine and associated costs made.
- 6.17 A Contractor may need an extension to the warrant handling periods described in paragraphs 6.13 to 6.16 and summarised at **Appendix H**. If so, a request should be made to the issuing court. This should include a schedule showing the full name, account number and sum owing. In addition, this should be accompanied by a full report on each warrant extension sought, including, for each warrant, a history of contact attempts and results. This should also include the reason(s) for the Contractor requesting a further extension of the warrant handling period and an indication of the likely success of executing the warrant(s) if the court grants the extension sought. Any warrants which are being actively pursued and which the Contractor wishes to retain beyond this validity period shall be notified to the issuing court, whose approval is required. However, it is envisaged that such requests will be infrequent given the warrant handling period duration.
- 6.18 In respect of services provided the Contractor shall make a minimum of two visits to execute the warrant(s) before returning it to the relevant court. These visits are to be on different days of the week and at different times of the day with at least one attempt being outside normal working hours (i.e. 0800 to 1800 hours, Monday to Friday). There are no legal restrictions on times to visit. However it is expected that visits should commence at a reasonable time, to be agreed with the RCM. The Contractor should not undertake visits on Sundays, Good Friday, Christmas Day, Bank Holidays, or at a time that is likely to be inappropriate to the religious beliefs of the particular Defaulter, where these are known. The initial visit is to be made in accordance with the contact protocols outlined at the Standards Protocol section 6.30.
- 6.19 For each warrant returned to the court as unexecuted the Contractor shall state the reason for failure to execute together with a report of all enquiries made including the day, date and time of all visits. Enquires are to include those made by office staff as well as by bailiffs. As a minimum these enquiries should include:
- Day, date and time of all visits made to the address
 - Post code listings
 - Enquiries with current occupants
 - Enquiries with neighbours
 - Electoral rolls
- 6.20 The Contractor shall provide a facility for telephone calls to be charged at a local rate for defaulters, which should be advertised on all correspondence.
- 6.21 The Contractor shall pay monies received from Defaulters into a client account separate from all other monies administered by the Contractor.
- 6.22 The Contractor shall remit all monies collected from Defaulters to the appropriate court on a weekly basis. Monies shall be remitted to the court no later than seven days after collection, except for cheque payments received from Defaulters, which shall be retained in the Contractor's client account for up to five working days until cleared before being remitted to the Department. This will ensure that no payment made by a Defaulter to the Department is dishonoured.
- 6.23 Each remittal shall be by use of the BACS payment scheme, and shall be

accompanied by a schedule showing for each warrant:

- Full name
- Account number
- Amount being remitted to the court
- Amount in fees retained by the Contractor

- 6.24 In addition, each schedule shall include the relevant executed warrants and a statement of the amount held awaiting clearance together with details of any warrants so affected.
- 6.25 At no time shall the amount of money held awaiting remittal to the Department exceed the amount of cover in the Contractors bond or insurance policy. The Contractor's attention is drawn to the bond requirement at paragraph 16.3.
- 6.26 In respect of warrants issued for Distress the Contractor shall apply monies received from Defaulters in relation to any given warrant to the court penalty first, with its own fees to be paid afterwards.
- 6.27 In respect of Clamping orders if a payment is less than the amount of the fine and fees and charge(s) due, the Contractor should first apply the monies received to meet the charge or charges and any balance remaining will then be applied towards payment of the fine. Until full outstanding payment of the fine and costs is received any necessary enforcement action will continue.
- 6.28 The Department will not, in light of R-v-Hereford & Worcester Magistrates' Court, ex-parte MacRae (1998 ref 163JP433), recall or withdraw any Distress Warrant unless the fine to which it has been issued against becomes subject to an appeal, Section 142 application, statutory declaration or other legal instrument. Where a warrant or clamping order has been issued as a result of an administrative error, the Contractor will be notified immediately and required to return the warrant or order. The Contractor will then ensure that all activities to execute the warrant or order cease immediately, and return the warrant or order to the court concerned. In all cases, the court shall clearly inform the Contractor of the reason for recall of the warrant.
- 6.29 The Department will not accept full or part payments on any account where any warrant or clamping order is with the Contractor. Should a Defaulter attend a court and offer to pay whilst a warrant or clamping order is outstanding, the court will direct the Defaulter to contact the Contractor concerned. A process will be agreed by the Department to pay to the Contractor the administrative fee in instances where courts have recalled warrants outside these provisions and the contractor can demonstrate they have undertaken considerable work to execute the warrant before it is recalled. This means all administrative process (i.e. tracing) and one visit.

STANDARDS PROTOCOL

- 6.30 Contractors are discharging a public service duty on behalf of the department. As such they are required to take cognisance of the principles of public service set out in the Nolan report. These principles are:
- **Selflessness** - Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends;
 - **Integrity** - Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties;

- **Objectivity** - In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit;
- **Accountability** - Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office;
- **Openness** - Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands;
- **Honesty** - Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest; and
- **Leadership** - Holders of public office should promote and support these principles by leadership and example.

6.31 In addition, Contractors are required to take appropriate account of HMCS's Code of Governance principles. There are five dimensions to the Code. These are summarised below:

Dimension 1 – Working with the Justice Community

6.32 HMCS is committed to working with the justice community and delivering high quality services. In doing this it will make soundly based decisions, manage the risks that it faces and demand high standards of conduct from its Board Members and officers. The HMCS Board will work in partnership with the MOJ, independent judiciary, Courts Boards, the public and other stakeholders.

Dimension 2 – Delivering Services

6.33 The HMCS Board recognises that the court users and other stakeholders expect continuous improvements in the quality of services that they receive. HMCS will do this by:

- Using objective measures of performance (which are aligned to the public service agreements) to drive up standards;
- Working with the Local Criminal Justice Boards, Local Courts Boards and with other Criminal Justice System partners to improve the efficiency of the justice system;
- Leading reform to improve our services;
- Planning for and delivering first class administration; and
- Being open in dealing with business and other partners when making decisions about the best means to deliver services to local people.

Dimension 3 – Making Good Decisions

6.34 Since the HMCS Board is responsible for running many of the services that have an important impact on the quality of services delivered to court users and other stakeholders, they expect the Board to make sound decisions and implement them effectively. This is especially the case as resources are limited so sometimes difficult choices have to be made.

HMCS will do this by:

- Complying with HM Treasury's Guidance on Corporate Governance for Central Government Departments;
- Opening the work of the HMCS Board to proper and effective scrutiny;
- Maintaining up to date and transparent decision making processes; and

- Effectively defining the responsibilities for decision making in the organisation.

Dimension 4 – Managing Risk

- 6.35 The HMCS Board is responsible for spending large sums of public money and looking after valuable public land and property. It also plays a significant role in the administering services for the administration of *justice* – a key principle and fundamental value for citizens and residents of England and Wales. Although the Board cannot avoid all risks if it is to provide effective services, it must manage those risks that it unavoidably faces. While at the same time it can capitalise on opportunities.

HMCS will do this by:

- Complying, where appropriate, with best practice risk management standards including HM Treasury's Orange Book;
- Identifying, classifying, controlling and monitoring the risks that HMCS meets in the course of its work;
- Maintaining systems and procedures to control risks and monitoring their effectiveness to ensure that these are being followed; and
- Communicating relevant shared risks to the MOJ

Dimension 5 – Standards of Conduct

- 6.36 Since the decisions of the Board can often affect the public, court users and other stakeholders, everyone has a right to expect that they be made fairly and impartially.

HMCS will do this by:

- Ensuring that Board members and staff conduct themselves in accordance with the highest standards of conduct; and
- Maintaining a fair but effective disciplinary procedure to investigate alleged breaches of the standards of conduct.

- 6.37 In addition, the Contractor should take account of the, "The Good Governance Standard for Public Services, 2004-The Langlands Report". This identifies six core principles of good governance in the delivery of public services. These are:

- Focusing on the organisation's purpose and on outcomes for citizens and service users
- Performing effectively in clearly defined functions and roles
- Promoting values for the whole organisation and demonstrating the values of good governance through behaviour
- Taking informed, transparent decisions and managing risk
- Developing the capacity and capability of the governing body to be effective
- Engaging stakeholders and making accountability real

A copy of this report can be found at **Appendix I**.

FRAUD AND IRREGULARITY

- 6.38 HMCS has a zero tolerance fraud policy. Individuals employed on behalf of HMCS have a requirement to report incidents of actual or suspected fraud. This requirement extends to HMCS partner organisations. This includes its contractors where a possible fraud or irregularity relates to contracted services. Fraud includes, but is not limited to, deception, bribery, forgery, extortion, corruption,

conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion. There is also a requirement to report any incidents of actual or suspected thefts.

6.39 Contractors, on discovery of a fraud or a suspicion of a fraud, should contact the HMCS Director of Enforcement, [REDACTED]

[REDACTED] Contractors should consult HMCS Corporate Governance if they require clarification of this requirement.

6.40 The Contractor shall not take any action to levy distress without prior reference to the court if the Defaulter:

- Is in hospital or nursing home
- Appears to suffer from severe physical or any mental disability
- Is an elderly person who has difficulty dealing with his/her affairs
- Is suffering long term sickness, serious or acute illness or frailty, which has resulted in a recent period of hospitalisation or defaulter being housebound and can provide evidence of sickness for the period in default
- Has suffered a recent bereavement of close/immediate family member
- Is heavily pregnant
- Has a genuine communication problem
- Produces evidence to show the account has been paid
- Claims to have made a statutory declaration, thereby setting aside the conviction

Or

- In circumstances where the Authorised Employee has doubts as to the identity of the defaulter or considers that to proceed with enforcement may prejudice the reputation or credibility of either party to this contract. The Department also reserves the right to withdraw enforcement action where there is evidence that the defaulter is vulnerable and enforcement would not be in the interests of justice or may bring the Contractor or Department into disrepute.
- Any other circumstance in which the Authorised Employee would consider it prudent to contact the relevant court enforcement office.

6.41 The Contractor shall not distrain against goods that: -

- May be necessary to maintain the “core of life”, such as the only cooking facility, item of heating or food storage; or
- Are clearly identifiable as “children’s items”, or
- Are subject to absolute privilege or
- Are such tools, books, vehicles and other items of equipment as are necessary to the Defaulter for use personally in a job or business.

6.42 The Contractor shall refer to the appropriate court if a commercial removal of assets may result in serious job losses.

6.43 The Contractor must not carry out or direct and supervise the clamping of:

- A vehicle not registered in the Defaulters name under the Vehicle and Excise

Registration Act 1994

- A vehicle on which a current disabled persons badge is displayed or in relation to which there are reasonable grounds for believing that it is used for the carriage of a disabled person
- A vehicle used for police, fire or ambulance purposes
- A vehicle being used by a doctor on call away from his usual place of work on which is displayed a British Medical Association badge or other health emergency badge showing the doctors address.

6.44 Other than letters generated in response to specific enquiries the Contractor shall only use letters and forms which have been agreed by the Department and a file of such letters must be lodged by the Contractor with each ACM.

7 CONTACT PROTOCOL

7.1 The Contractor shall apply the following protocols: **See Appendix G**

- For Distress and Financial Arrest warrants Part One
- For Breach of Community Penalty warrants Part Two
- For Clamping orders Part Three
- Confiscation Distress Warrants: General and Identified Assets Part Four

8 CONTRACT PERIOD AND EXTENSION

- 8.1 The Contract shall commence on the day of acceptance and work shall commence on the 1st day of December 2009. Subject to provisions for earlier termination, the Contract shall continue for a period of three years from the date on which work commences.
- 8.2 Subject to satisfactory performance by the Contractor during the Contract Period, the Department shall have the option to extend the Contract for a further period of up to two years by annual extension. If the Department wishes to exercise this option, it shall give written notice to the Contractor no later than two months prior to the date upon which the Contract would otherwise expire. The Contractor's attention is drawn to Clause 17 of the Conditions of Contract (Termination).

8.3 Termination Rights -



9 CONTRACT PRICE AND VARIATION

- 9.1 The Fees and Charges shall remain firm for a minimum of 12 months from the date of commencement of work. Thereafter the Department or the Contractor

may give written notice of any desire to amend the Charges although the Department will also be looking for efficiency gains. Such notice, together with the varied Charges and full justification shall be given at least 3 months before the date in which it is desired that the variation comes into effect.

- 9.2 At the time of request, the Contractor shall provide a full breakdown of the Charges. The Contractor shall provide such other information as the Department may reasonably require in order to verify any request for increase. This will usually take the form of a Submission in support of the proposed variation. The form of Submission shall be determined by the Department.
- 9.3 It will normally be the case that any variation shall not exceed the change in the Retail Price Index. This will be measured from the date of commencement of work or the date the last variation came into effect, whichever is the later until the date the Department receives the request for variation. However, increases above this level can be agreed but will only be considered in exceptional circumstances. These will be judged as and when they arise on the merits of the case made by the Contractor. No increase in the Charges shall be permitted within 12 months of a previous increase save in exceptional circumstances and at the absolute discretion of the Department.
- 9.4 In determining the amount, if any, of the increase in the Charges which will be accepted, the Department will take into account the Contractor's Submission and the general operation of the contract by the Contractor.
- 9.5 The Department shall only agree an increase in the Charges to the extent that it is reasonable and subject to the acceptable operation of the contract by the Contractor. The Department's decision on the level of increase shall be final and binding on the Contractor. The Department shall deal with requests promptly.
- 9.6 Where the contract ends or is terminated these fees shall remain in force after the contract end date or date of termination only when the Contractor has validly retained warrants for collection with the express written permission of the department. All other warrants held by the contractor shall immediately be returned to the issuing court. Where the Contractor is successful in a retender exercise the new contract fee and costs schedule shall only apply to the warrants and orders issued from the date the new contract comes into force. All other warrants or orders held shall continue to be managed under the old contract fees and costs structure.

10 CONTRACT PERFORMANCE

- 10.1 Contract performance will be measured on a Balanced Scorecard approach. The Contract reporting Balanced Scorecard is detailed at **Appendix A**.

11 VARIATIONS

- 11.1 Subject to reasonable written notice, the Department may, from time to time wish to make temporary or permanent variations to the requirements under the contract. This may take the form of the addition or removal of Services, increasing or decreasing the Services or the locations where they are to be provided or otherwise. Such a change is hereinafter called a "variation".
- 11.2 Where a variation is made under this paragraph, then:-
- The documents comprising the Contract shall thereafter apply in relation to such variations as if they were set out in the Contract; and
 - The Charges shall be adjusted at the rates quoted in the Price Schedule or as otherwise agreed in writing. The price shall be such amount as properly and fairly reflects the nature and extent of the variation.

- 11.3 All variations will be subject to the agreement of both parties and must be confirmed in writing by the RCM before any such variation is implemented. The RCM must consult with HMCS Enforcement Directorate before agreeing to any variation request. (See also Clause 19 of the Conditions of Contract). Before the RCM agrees to any variation to core services, contractor fees and charges the HMCS Director of Enforcement must be consulted and their agreement obtained.
- 11.4 This clause is without prejudice to the ability of the parties to make any other variations to the Contract by agreement.

12 CONTRACT MANAGEMENT

- 12.1 The Regional Director will nominate a person who will act as a RCM. They will be the main contact for the contractor and responsible for overall contract performance. In addition, respective Area Directors will nominate a person who will act as an ACM. They will report to the RCM on performance of the contractor in their area.
- 12.2 The Contractor shall nominate a Contract Manager (CM) who shall be the single point of contact, shall take overall responsibility for the Contract and shall not change without the Department's agreement. The Department places a high value on Contract Management therefore the time spent by the CM shall be as agreed with the RCM, and if the contract is sufficiently large, the CM shall be solely dedicated to the Department.
- 12.3 The Contractor shall be responsible for ensuring that the provision of Services is carried out with reasonable skill, care and diligence in accordance with the Contract and to the satisfaction of the RCM.
- 12.4 The Contractor shall provide the RCM with such reports on the Provision of Services and attend meetings concerning such provision as agreed as a minimum in the contract.
- 12.5 The CM shall meet with the RCM at least three times a year and with the ACM monthly.
- 12.6 If or when, for whatever reason, the CM identifies any potential problems in meeting the requirements of the Contract, these should be brought to the RCM's attention without delay.
- 12.7 The Contractor's attention is drawn to the clause 23.1 of the Conditions of Contract (Publicity).

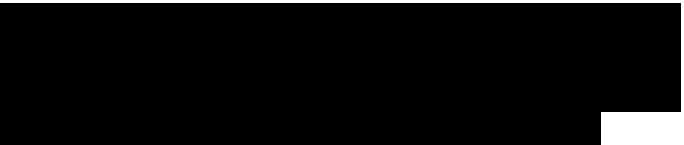
13 MANAGEMENT INFORMATION

- 13.1 The Contractor shall agree procedures that enable the Department to monitor the progress of individual warrants electronically.
- 13.2 In respect of Distress, Financial Arrest Warrants, Community Penalty Breach Warrants and Clamping Orders the Contractor will provide the Balanced Scorecard and Dashboard which shall be forwarded electronically to the RCM, ACM and HMCS Director of Enforcement Director of Enforcement monthly. The Balanced Scorecard and Dashboard requirement is recorded at **Appendix A**. The roles and responsibilities of the Departmental representatives in respect of the validation of reported Scorecard data and information and general contract monitoring and management is included at **Appendix J**.
- 13.3 In addition to the Balanced Scorecard requirement the Contractor shall provide management information to areas and to the RCM on a monthly and quarterly basis. They shall also do so on demand. Management Information will include number of warrants held, total value of warrants held, total amount of monies held awaiting remittal, status of any individual warrant, numbers returned etc. All

information is to be provided electronically in an excel spreadsheet. The Department reserves the right to make alterations to the format of management information by giving the contractor one months notice in writing.

- 13.4 All costs associated with the above performance monitoring shall be met in full by the Contractor.
- 13.5 The Contractor and the Department will undertake to explore enhancements to the electronic interchange of information in the future, including uploading of warrants and orders to Contractors.
- 13.6 In addition to the assurance checks undertaken by the Department in respect of the Balanced Scorecard the Department will make such other checks as it considers necessary. This includes but is not exclusive to checks on the Contractor's returned unexecuted warrants and Clamping orders deemed necessary in order to satisfy itself that sufficient efforts are being made to execute those warrants. This may include the issue of means warrants, proof of visits, and issue of a postal notice. In addition the Department's representatives shall visit the Contractor's premises to have access to the Contractor's records, including books of account relating to the contract, and/or observe the Contractor's staff and Authorised Employees for the same purpose.
- 13.7 As well as reporting complaints handled in the Balanced Scorecard, the Contractor shall record all complaints received and this information shall be available to the Department upon demand.

14 INVOICES – FOR FINANCIAL ARREST AND BREACH WARRANTS

- 14.1 The Department requires a system of invoicing, which meets the following criteria;
- Invoices shall be submitted every four weeks or as agreed, in arrears.
 - One invoice shall be provided for each Region. This shall detail separately the costs for each Area.
- 14.2 All invoices shall be sent to: 
- 14.3 The Contractor's attention is drawn to Clause 10 of the Conditions of Contract.
- 14.4 During the Contract, the Department may wish to streamline the invoicing process and/or make payments using alternative methods, such as the Government Procurement Card.
- 14.5 The Department has an eProcurement process, which provides facilities for the electronic 3-way matching of (i) purchase orders, (ii) goods and services receipts, and (iii) invoices, so that invoices can be paid automatically where successful matches are made.
- 14.6 The Department may wish to update these procedures during the contract and will work in partnership with the Contractor to introduce these changes.

15 DISCRIMINATION

- 15.1 The Contractor shall:
- not unlawfully discriminate within the meaning of any law, enactment, order, regulation or other similar instrument relating to discrimination in employment (whether in relation to race, gender, religion, age or otherwise);

- comply with its obligations under all relevant legislation and in particular the Disability Discrimination Act 1995, the Race Relations (Amendment) Act 2000, the Employment Equality (Sexual Orientation) Regulations 2003, the Employment Equality (Religion or Belief) Regulations 2003 and the Employment Equality (Age) Regulations 2006;
- have proper regard to the Codes of Practice prepared and issued from time to time by the National Disability Council, the Disability Rights Commission or the Secretary of State.

16 CONTRACTOR INSURANCE

- 16.1 As standard within the Contract Price, the Contractor shall provide insurance as described below. The Contractor's attention is drawn to Clause 12 of the Conditions of Contract.

- 16.2 The Contractor shall also provide, before commencement of the contract and then annually, to the RCM, copies of the appropriate premiums paid in respect of his/her employees, whilst engaged on duties on the Contract, as follows:

- [REDACTED]
- [REDACTED]

- 16.3 The Contractor shall ensure that they have in place a bond or similar insurance policy, of a sum adequate to cover the total amount of money collected from Defaulters likely to be being held by the Contractor awaiting remittal to the Department at any one time. Should volumes change, the Contractor shall adjust this bond or insurance policy accordingly.

- 16.5 The Contractor shall accept full responsibility for any wrongful act or misdoing arising during the execution process, and agree to indemnify the Department in any claim against the Department arising from any error by the Contractor.

17 CONTRACT STAFF

- 17.1 Contractor's staff shall operate under the direction and control of the Contractor, who shall be responsible for their conduct and discipline at all times.
- 17.2 Contractor's staff shall at all times during their engagement in the delivery of services under this Contract be servants of the Contractor and this includes the self-employed. Where self-employed staff are engaged by the Contractor, the Contractor shall not seek to transfer any responsibilities from themselves to self-employed staff so as to dilute the Contractors responsibilities in respect of the range of contracted services to the Department.
- 17.3 All staff engaged by the Contractor shall possess the qualifications, competencies, licences and identification appropriate to the tasks for which they are employed.
- 17.4 The Contractor's Authorised Employees shall be certificated, security vetted, trained in Health & Safety and be aware of their duties under the Human Rights Act 1998. The Contractor shall ensure the certification is renewed every two years as required by current legislation. The Contractor shall issue each individual authorised to execute warrants or orders with an identity card displaying a photograph of that individual and that these are carried at all times and whether demanded or not shall be shown to every person against whom the Contractor is executing a process. The Contractor shall ensure that the Department has current details of recruitment and selection procedures, security

vetting procedures and training programme for its Authorised Employees. It shall also supply details of how Authorised Employees' are monitored for performance, and how convictions are declared.

- 17.5 The Contractor's Authorised Employees and other employees shall at all times operate in a professional and appropriate manner. They shall be sensitive to the need to ensure they do not discriminate against anyone on the grounds of their gender, ethnicity, religion, race or age. They shall not bring the relevant procedures or the Department into disrepute. The Contractor shall supply a copy of its code of conduct, plus any updates as they are adopted.
- 17.6 The Contractor's contact procedures and other working methods should be transparent and known to and followed by its entire staff.
- 17.7 The Contractor shall disclose details of its management structure and senior staffing levels annually, and when changes occur during the period of the Contract.
- 17.8 The Contractor shall have a clear complaints procedure, involving the Department where necessary, which is advertised to the public on its paperwork. Complaints shall be processed in accordance with the reporting requirements set out in the Balanced Scorecard.

18 EQUAL OPPORTUNITIES AND DIVERSITY

- 18.1 The Department is committed to equality of opportunity in all of its employment practices, policies and procedures. This is important, not only so that everyone has a fair chance of developing and realising their potential, but also so that the Department makes effective use of the workforce in meeting its business aims and objectives.
- 18.2 The scope of the Department's policy covers all established and temporary employees, job applicants, contractors and agency employees. All those referred to within the scope are required to adhere to its terms and conditions and accordingly a full copy of the MOJ Equality and Diversity Statement is included as **Appendix K** to this Specification.

19 COMPANY REGISTRATION

- 19.1 A Contractor search will be conducted by the Department; the Contractor shall be, and remain, registered at Companies House (the Contractor to forward proof annually). The status of partnerships and Consortia will be checked by the Department before entering into any contract.
- 19.2 The Contractor shall be a member of the British Parking Association and either the Certified Bailiffs Association or the Association of Civil Enforcement Agencies, and abide by that body's codes of practice and provide proof of membership to the Department annually.
- 19.3 The Contractor shall be aware of and comply with any necessary legislative and regulatory requirements in order for them to legally discharge their duties.

20 VERIFYING IDENTITY AND INTEGRITY OF EMPLOYEES

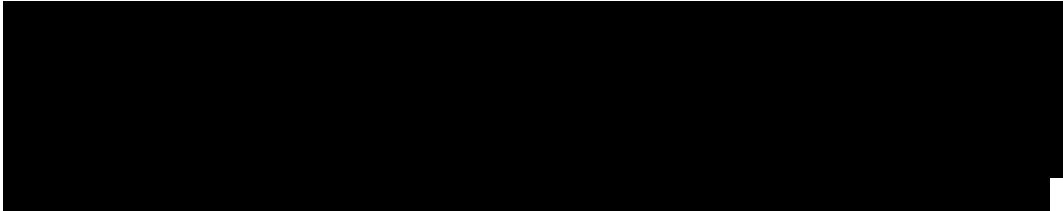
- 20.1 The Department operates the agreed Government checks and its security policies require that appropriate checks must be made on contractor employees to give assurance as to their reliability.
- 20.2 Contractors must make use of criminal records checks in assessing suitability of individuals to hold certain posts. Such checks are used where the security of people, information or property is assessed to be at a particular risk from potentially unreliable employees, and where it is considered that a basic

employer check gives insufficient assurance.

- 20.3 In addition to the basic employer checks as described in **Appendix L**, all staff employed by the contractor, including temporary, sub-contracting staff and those employed on contracts for services), and however involved in the processing and execution of warrants received from the Department must undertake a standard disclosure check through the Criminal Records Bureau. These checks shall be renewed every 3 years.
- 20.4 The Contractor shall keep a record of the Standard Check and as part of the regular contract management procedures, the RCM will carry out checks of the appropriate records as part of the Balanced Scorecard requirement
- 20.5 Contractors are advised that the level and type of checks required may change during the contract. Contractors are expected to co-operate with the Department in implementing any required changes.
- 20.5. The Criminal Records Bureau can be accessed at www.crb.gov.uk
- 20.6 The Contractor shall inform the respective CM by a report, as specified below, and in writing within 24 hours, of any situation listed below occurring:
- a) where the Department will be, or likely to be held in disrepute
 - b) where any gross misconduct, suspected or known, involving an employee or agent, in respect of any of the following:
 - Any criminal offence or conviction involving dishonesty or violence
 - Falsifying records, or knowingly aiding and abetting others to do so
 - Misappropriation of money
 - Abusive or threatening behaviour
 - Assault or offence against the person
 - c) where any investigation by the Contractor or any other organisation (e.g. police) in relation to any of the instances in b above is being conducted.
- 20.7 The report referred to above shall be in writing and shall be sent immediately by signed or recorded deliver to the respective CM. It shall specify the person, to whom it applies, indicating which part (or parts) of the Region that the employee works and to indicate what disciplinary action has been taken. This is in addition to the Balanced Scorecard requirement
- 20.8 **Confidentiality Agreement.** Each employee shall be briefed on organisational security procedures and the provisions of the Official Secrets Act –1911-1989 and abide by these security procedures and the regulations of the Official Secrets Act.
- 20.9 **Aftercare.** The Contractor shall ensure that their managers maintain the standards of security expected and brief employees about the protection of assets and processes under their control. In particular, they should be on the look out for potential difficulties or conflicts of interests among staff and, where identified, report any concerns as soon as possible to the RCM.

21 SERVICE LEVEL INDICATORS

- 21.1 The Service Level Indicators (SLIs) are recorded in the Balanced Scorecard (**see Appendix A**).
- 21.2 In respect of English regions if the principal contractor does not meet contracted performance requirements [REDACTED]




- 21.3 In the case of the Welsh region this process follows the English model except that the process of transferring warrants in 20% blocks will continue until 80% of warrant volumes have been diverted. At this point the Department will decide if it wishes to terminate the contract completely.

22 EXIT ARRANGEMENTS

- 22.1 Upon the expiry or on the notice of termination the Contractor shall return all warrants and orders in their possession to the issuing Court.
- 22.2 Where a warrant or order is sent in error to the Contractor after Contract expiry or termination the Contractor shall immediately return it to the issuing court and shall not commence any work upon the warrant or order.
- 22.3 At Contract expiry or termination the Contractor shall send to the issuing Court a document listing all warrants (at all stages of execution) they hold.
- 22.4 With the written agreement of the issuing Court the Contractor shall be entitled to retain warrants/ orders for a maximum of 180 days from the initial date of the warrant/order being sent by the issuing Court. At the end of the 180 day period the Contractor shall return the warrant whether it has been actioned or not except where;
- (a) A Debtor has a payment arrangement on a warrant(s) or order(s) with the Contractor, which shall exceed the 180 day period. In this instance the Contractor shall inform the Court in the list sent prior to Contract expiry. Any extension of the 180 day period will be by written agreement to any extension by the issuing Court.
 - (b) The Contractor has been successful in a re-tender of the contract.
- 22.5 Where a warrant or order is sent in error to the Contractor after Contract expiry or termination the Contractor shall immediately return it to the issuing court. They shall not commence any work upon the warrant or order, except where they have been successful in a re-tender of the contract.
- 22.6 Where the Contractor has been successful in a re-tender, the new Contract shall commence as per the relevant Contract Summary Form. On the date of the commencement of the new contract the new terms and conditions of the contract including pricing shall commence and shall apply to all warrants and orders issued on or after that date.

SCHEDULE OF FEES, CHARGES AND EXPENSES**All prices are quoted excluding VAT****Fees to be levied on defaulters**

Description	Charge £ unless stated
<p>Financial Distress Warrant {Part or Full payment with or without levy of goods} and Confiscation Distress Warrant {Payment in full inclusive of any interest accrued with or without levy of goods}.</p> <p>Administrative Fee {for all administrative activity associated with the service i.e. tracing}</p> <p>Attendance Fee {to cover all visits made and actions taken recoverable on 1st visit}</p>	<p>£75.00</p> <p>£200.00</p>
<p>Arrest Unit Cost (single fee applies to all arrest categories)</p> <p>Financial Arrest with Bail</p> <ul style="list-style-type: none"> - Defaulter arrested and bailed to appear before the court - Defaulter voluntary surrenders in response to contractor's instructions which are verified by the court - Defaulter pays in part and voluntary surrenders in response to contractor's instructions which are verified by the court - Defaulter pays in full <p>Financial Arrest without Bail</p> <ul style="list-style-type: none"> - Defaulter arrested and transported to appear before the court or to a police station if outside of court hours - Defaulter arrested, pays in part and transported to appear before the court or to police station if outside of court hours - Defaulter voluntary surrenders in response to contractor's instructions which are verified by the court - Defaulters pays in part and voluntary surrenders in response to contractor's instructions which are verified by the court - Defaulter pays contractor in full <p>Community Penalty Breach Warrants with Bail</p> <ul style="list-style-type: none"> - Defaulter arrested and bailed to appear before the court - Defaulter voluntarily surrenders in response to contractor's instructions which are verified by the court 	
<p>Community Penalty Breach Warrant without Bail</p> <ul style="list-style-type: none"> - Defaulter arrested and transported to appear before the court or to a police station if outside of court hours 	<p>£70.00</p>

- Defaulter voluntary surrenders in response to contractor's instructions which are verified by the court	£70.00
Commitment Warrant {Payment in full or transported to a police station, prison or court}	£70.00
Clamping {Fee payable on execution of clamping order}	£200.00
Contractor Costs	
Removal of motor vehicle	£200.00
Removal of commercial vehicle (large van)	£200.00
Removal of heavy goods vehicle	£200.00
Storage of vehicle, per day	£20.00
Storage of non-vehicle items, per day	£0
Delivery to auctioneers if not redeemed	£0.00
Auctioneer's costs	3rd party (max 15%)
Dishonoured cheque charge	£30.00
Credit card payment surcharge	4%
Debit card payment surcharge	£1.00

.1.1.1 THE BALANCED SCORECARD

COMPLETION

- (1) The Balanced Scorecard (the scorecard) forms a central part of the contract monitoring and management arrangements for the Authorised Enforcement Agents Contracts.
- (2) The scorecard provides an aggregated view of the operation of the contract at an area and regional level. A scorecard must be produced for each area within a region and a consolidated regional scorecard (with dashboard).
- (3) There is a further aggregation of the 7 regional scorecards undertaken by the HMCS Enforcement Team to provide a comprehensive picture of the operation of contracts at a national level.
- (4) This overview is broken down into the following sections. They provide high level guidance.
 - (A) Sections of the Scorecard
 - (B) Contractor Requirement & Sources of Evidence
 - (C) Area and Regional Contract Managers Actions
 - (D) The Centre

For more detailed guidance contact: [REDACTED]

- (5) Guidance for completing the scorecard is detailed below. The guidance covers (A) – (C) above.
- (6) This includes guidance on the completion of the Balanced Scorecard Dashboard (see paragraph 8 onwards).

(7) (A) SECTIONS OF THE SCORECARD

The scorecard (see **Appendix A**) has 7 elements. These are detailed below from (7.1) to (7.7):

1 **CONTRACT AREA**

(7.1) The Scorecard has 4 sections: Performance, People & Learning, Community and Improving the Way we Work. The 4 contract areas follow HMCS's own balanced scorecard. It is hoped that this provides linkage and continuity to the agency aims and objectives.

2 **HEADINGS**

(7.2) These are the specific data headings being reported against.

3 **STANDARD**

(7.3) [REDACTED]

(7.4) [REDACTED]

[REDACTED]

(B) CONTRACTOR REQUIREMENT & SOURCES OF EVIDENCE

(7.5) [REDACTED]

4 **ACTUAL**

(7.6) [REDACTED].

5 **VARIANCE**

(7.7) [REDACTED]

(C) REGIONAL CONTRACT MANAGERS ACTIONS

(7.8) The RCM requirement is covered below.

6 **SUPPORTING PAPER ANNEX**

(7.9) As detailed in the Scorecard below.

7 **CONTRACTORS COMMENTS**

(7.10) [REDACTED]

[REDACTED]

8 AGREED ACTIONS/DATES

(7.11) [REDACTED]

(7.12) [REDACTED]

.1.1.1.1.1.1 SECTION A: PERFORMANCE

[REDACTED]	[REDACTED]	S [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	A [REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]		
	[REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]		

a) **For Distress:**

[REDACTED]

[REDACTED]

b) The performance measure records the outcome of batches reported at the end of the month during which they expire, expressed as a

[REDACTED]

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

[REDACTED]

d) [REDACTED]

e) [REDACTED]

- f) The fees are contractors assurance statements that the fee schedule (all fees and costs) have been correctly applied in accordance with the fees schedule. To support transparency and accountability all contractors shall publish their fee schedule on their web-sites and include the fee schedule on all correspondence to defaulters.

Contract Area	Headings	Standard	Actual (%)	Variance (%)	Supporting Papers Annex	Contractors Comments	Agreed Actions By Whom/By When
(A) Performance	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[illegible]

f)

[REDACTED]

g)

For Financial Arrest:

[REDACTED]

•

[REDACTED]

**Batch No.
(Date Batch formed)**

[REDACTED]

[REDACTED]

•

[REDACTED]

Batch No.
(Date Batch formed)

[REDACTED]

[REDACTED]

h) For Community Penalty Breach A13 and A14:

[REDACTED]

i)

[REDACTED]

[REDACTED]

Batch No.
(Date Batch formed)

[REDACTED]

[REDACTED]

- [REDACTED]

Batch No.
(Date Batch formed)

[REDACTED]

[REDACTED]

- [REDACTED]

i) Forced Entry Powers Used: [REDACTED]

[REDACTED]

SECTION B: PEOPLE & LEARNING

Contract Area	Headings	Standard	Actual (%)	Variance (%)	Supporting Papers Annex	Contractors Comments	Agreed Actions By Whom/By When
(B) People & Learning							

Contract Area	Headings	Standard	Actual (%)	Variance (%)	Supporting Papers Annex	Contractors Comments	Agreed Actions By Whom/By When

k) **For B1 to B6: These are monthly cumulative reports.** These cover the important areas of staff recruitment, training, certification and any disciplinary action taken by the contractor.

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

SECTION C: COMMUNITY

Contract Area	Headings	Standards	Actual (%)	Variance (%)	Supporting Papers Annex	Contractors Comments	Agreed Actions By Whom/By When
(C) Community	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Contract Area	Headings	Standards	Actual (%)	Variance (%)	Supporting Papers Annex	Contractors Comments	Agreed Actions By Whom/By When
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

l) For C1 to C11: These are monthly cumulative reports.

[REDACTED]

SECTION D: IMPROVING THE WAY WE WORK

Contract Area	Headings	Standards	Actual (%)	Variance (%)	Supporting Papers Annex	Contractors Comments	Agreed Actions By Whom/By When
(D) Improving the Way We Work	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED])

Contract Area	Headings	Standards	Actual (%)	Variance (%)	Supporting Papers Annex	Contractors Comments	Agreed Actions By Whom/By When
	[REDACTED]	[REDACTED]					
	[REDACTED]	[REDACTED]				[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]				[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]				[REDACTED]	[REDACTED]

m) For D1 to D4: These are period reports as they become due or are produced ad hoc D5 at the request of either the contractor or client. [REDACTED]

(D) THE CENTRE

(7.13)

[REDACTED]

(8) THE DASHBOARD

(8.1) [REDACTED]

[REDACTED]

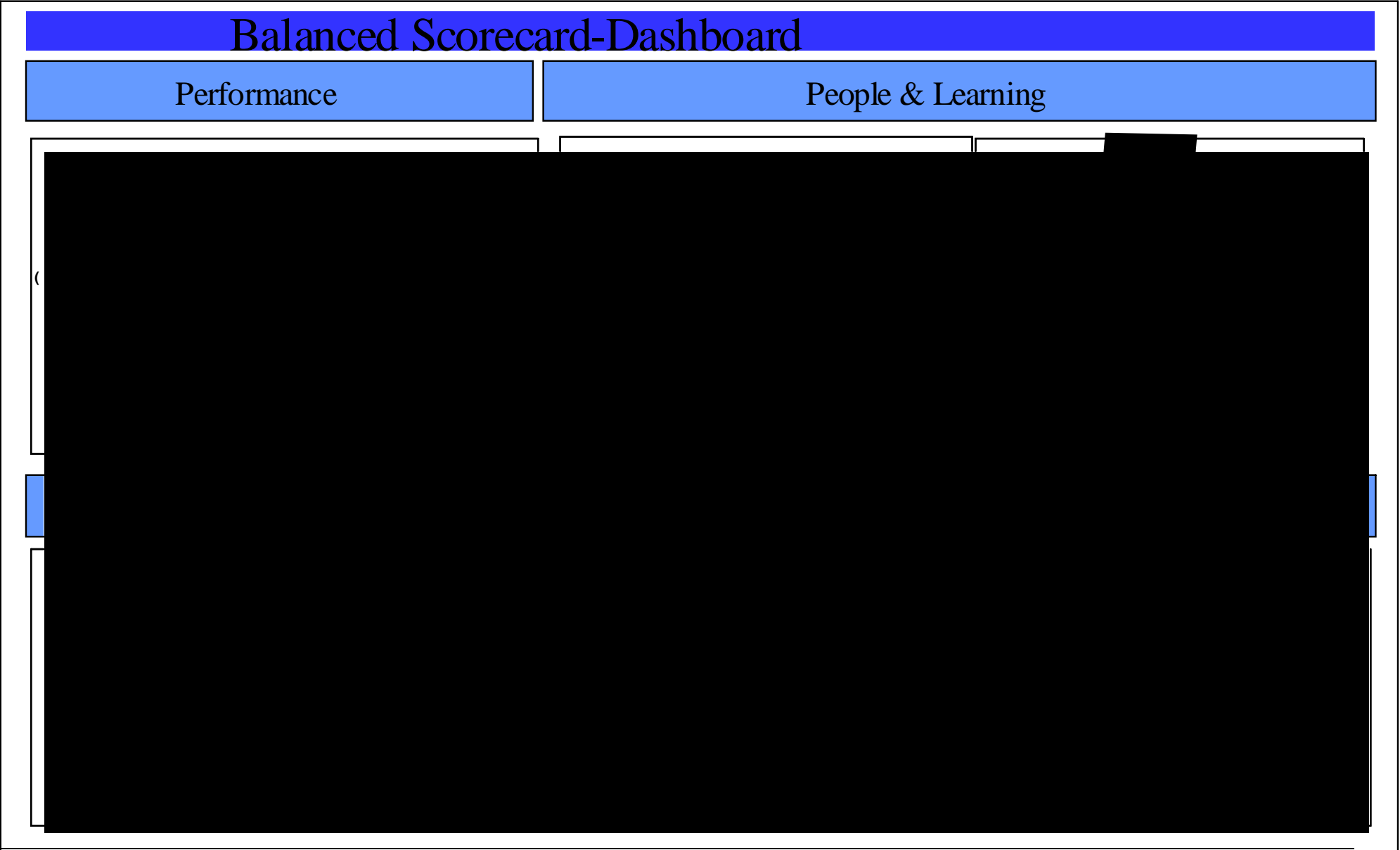
[REDACTED]

[REDACTED]

[REDACTED] Appendix A.

3.1

REGION	HEADING	PERFORMANCE	STANDARD (%)	ACTUAL (%)	VARIANCE (%)	DIRECTION OF TRAVEL	AGREED ACTIONS	DATES
NORTH EAST	P	[REDACTED]						



Contract Requirements

REGION	AREA	Distress	Clamping	Arrest	Breach
London	London	✓	✓		
Midlands	Derbyshire	✓	✓	✓	✓
	Leicestershire	✓	✓		
	Lincolnshire	✓	✓	✓	
	Northamptonshire	✓	✓		
	Nottinghamshire	✓	✓		
	Staffordshire	✓	✓		
	Warwickshire	✓	✓		
	West Mercia	✓	✓	✓	✓
	West Midlands	✓	✓		
North East	Cleveland	✓	✓	✓	✓
	Durham	✓	✓	✓	✓
	Humberside	✓	✓		
	Northumbria	✓	✓	✓	✓
	North Yorkshire	✓	✓		
	South Yorkshire	✓	✓		
	West Yorkshire	✓	✓		
North West Reserve Contractor	Cheshire	✓	✓		
	Cumbria	✓	✓		
	Gtr Manchester	✓	✓		
	Lancashire	✓	✓		
	Merseyside	✓	✓		
South East Reserve Contractor	Bedfordshire	✓	✓	✓	✓
	Cambridgeshire	✓	✓	✓	✓
	Essex	✓	✓	✓	✓
	Hertfordshire	✓	✓	✓	✓
	Kent	✓	✓		
	Norfolk	✓	✓	✓	✓
	Suffolk	✓	✓	✓	
	Surrey	✓	✓	✓	
	Sussex	✓	✓		
	Thames Valley	✓	✓	✓	



**HMCS Criminal Compliance and Enforcement Services
A Blueprint for 2008 to 2012.**

Please note that a copy of the Blueprint is available from
www.hmcourts-service.gov.uk

**List of warrants included in the Magistrates' Courts Warrants
(Specifications of Provisions) Order 2000¹**

Statute	Warrant
Section 16(2) of the Children and Young Persons Act 1969 ²	Warrant of arrest following breach of a Supervision Order
Section 76 of the Magistrates' Courts Act 1980	Warrants of distress and warrants of commitment for default in paying a sum adjudged to be paid by a conviction or order of a magistrates' court
Section 83(1) and (2) of the Magistrates' Courts Act 1980	Warrants of arrest for the purpose of bringing defaulters before the court.
Section 86(4) of the Magistrates' Courts Act 1980	Warrants of arrest for the purpose of bringing defaulters before the court for appearance at a means inquiry.
Section 93(5) of the Magistrates' Courts Act 1980	Warrants of arrest for non-payment of magistrates' courts' maintenance order.
Section 136 of the Magistrates' Courts Act 1980	Warrants for overnight detention in a police station.
Section 40 of the Child Support Act 1991	Warrant of commitment issued for non-payment of child support maintenance.
Section 77(1)(b) of the Crime and Disorder Act 1998 ³ / Section 104(1) of the Powers of Criminal Courts (Sentencing) Act 2000	Warrant of arrest following breach of supervision requirements of a Training and Detention Order
Section 123(1) of the Powers of Criminal Courts (Sentencing) Act 2000	Warrant of arrest following breach of a Suspended Sentence Supervision Order
Paragraph 3(1)(b) of Schedule 3 of the Powers of Criminal Courts (Sentencing) Act 2000	Warrant of arrest following breach of one of the following: <ul style="list-style-type: none"> • Curfew Order • Probation Order • Community Service Order • Combination Order • Drug Treatment and Testing Order
Schedule 8 of the Criminal Justice Act (CJA) 2003 paragraph 7 (2)(b)	Warrants issued by the magistrates court for breaches of community orders made in the magistrates court and the Crown Court (where the direction from the Judge has been to release the breach to the magistrates court) and paragraph (3)(a) and (b) ((as amended by Schedule 5 of the DVCV Act 2004) directs which court the offender should be brought before))

¹ As amended by the Magistrates' Courts Warrants(Specifications of Provisions) Order 2001, the Magistrates' Courts Warrants(Specifications of Provisions) Order 2004, and the Magistrates' Courts Warrants(Specifications of Provisions) Order 2007

² Section 16(2) of the Children and Young Persons Act 1969 has been repealed and replaced. Under the Interpretation Act 1978 this should be construed as reference to the replacing provision, Schedule 7 paragraph 7(2) of the Powers of Criminal Courts (Sentencing) Act 2000.

³ Now replaced by section 104(1) of the Powers of Criminal Courts (Sentencing) Act 2000: see note **a** above.

Statute	Warrant
Schedule 8 of the CJA 2003 paragraph 8 (2)(b)-	Warrants issued in the Crown Court for the breach of a community order with the direction that they are brought before the Crown Court
Schedule 12 of the CJA 2003 paragraph 6 (2)(b)	Warrants issued by the magistrates court for breaches of suspended sentence orders made in the magistrates court and the Crown Court (where the direction from the Judge has been to release the breach to the magistrates court) and paragraph (3)(a) and (b) ((as amended by Schedule 5 of the DVCV Act 2004) directs which court the offender should be brought before))
Schedule 12 of the CJA 2003 paragraph 7 (2)(b)	Warrants issued in the Crown Court for the breach of a suspended sentence order with the direction that they are brought before the Crown Court
Paragraph 1(1) of Schedule 5 of the Powers of Criminal Courts (Sentencing) Act 2000	Warrant of arrest following breach of an Attendance Centre Order
Paragraph 6(2) of schedule 8 of the Powers of Criminal Courts (Sentencing) Act 2000 (but only where an application is made under paragraph 2(1) of that schedule)	Warrant of arrest following breach of one of the following: <ul style="list-style-type: none"> • Action Plan Order • Reparation Order
Regulations 41(1) of the Community Charges (Administration and Enforcement) Regulations 1989	Warrant of commitment for non-payment of Community Charge
Regulation 42(5)(b) of the Community Charges (Administration and Enforcement) Regulations 1989	Warrant of arrest for non-payment of Community Charge.
Regulations 16(3)(a) of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989	Warrant of commitment for non-payment of non-domestic rates.
Regulation 17(5)(b) of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989	Warrant of arrest for non-payment of non-domestic rates.
Regulations 47(3)(a) of the Council Tax (Administration and Enforcement) Regulations 1992	Warrant of commitment for non-payment of council tax.
Regulation 48(5)(b) of the Council Tax (Administration and Enforcement) Regulations 1992	Warrant of arrest for non-payment of council tax.
Section 1 of the Magistrates Courts Act 1980	Warrant of arrest following being laid that person has, or is suspected of having, committed an offence,

Statute	Warrant
Section 13 of the Magistrates Courts Act 1980	Warrant of arrest for non-appearance of accused:
Section 97 and 97(A) of the magistrates court act 1980	Warrant of arrest for witness on non attendance following issue of summons
Paragraph 7 of schedule 8 Criminal justice act 2003	Warrant of arrest for failure to comply with any of the requirements of a community order or where a summons issued requires the offender to appear before a magistrates' court and the offender does not appear
Paragraph 7(2) of schedule 7 to the powers of criminal courts (sentencing) act 2000	Warrant for securing attendance of offender to court
Section 7(1) of the Bail Act 1976 [4]	Warrant for arrest for absconding or breaking conditions of bail



**From the Chief Information
Officer**

Policy Statement on Data Security and Use of IT Equipment By Contractors/Consultants and Agency Staff Employed By The Ministry of Justice

Contractors, consultants and agency staff providing services to MoJ may use their own computing facilities to deliver those services with the following conditions:

1. These computing facilities must be their 'tools of trade', i.e. separate from personal computing facilities used by themselves or their families etc. for leisure or other personal uses; and must employ best practice security controls such as up to date anti-virus control, personal firewall, access control, disk encryption and up to date software patches.
2. Use of these computing facilities should be limited to activities involving MoJ data such as producing reports, reviewing documents, sending and receiving emails, and should not involve storing and processing large volumes of MoJ data, for example database extracts.
3. The disk encryption employed must conform to the FIPS140-2 standard or CAPS (CESG Assisted Product Scheme).
4. If the data warrants a RESTRICTED marking the disk encryption employed must conform to CAPS except in exceptional circumstances e.g. short timescales, lack of alternative product etc., where a FIPS140-2 certified product may be employed as a short term, interim measure. In this instance, senior management approval must be obtained and documented in an email to the Information Assurance email account. If long term access to RESTRICTED data is required MoJ computing facilities must be provided.
5. Where the computer connects to a remote network e.g. the contractor's company network, then an encrypted link must be used.
6. No emails containing protectively marked or personal data should be sent un-encrypted over the Internet. Personal and protectively marked emails, up to RESTRICTED, may be exchanged via the Criminal Justice Secure Mail System (CJSM). The CJSM is accredited to handle RESTRICTED - Criminal data, so consideration should be given to the suitability of CJSM where the data relates to other types of RESTRICTED information e.g. Policy. Guidance on determining what is personal data is available from the Information Commissioner's Office (ICO) website at www.ico.gov.uk.
7. Any removable media used to transport data outside of secure buildings must be encrypted with a product certified to FIPS 140-2. Once no longer required these devices should be securely disposed of. CD/DVDs and floppy disks should be cut into 4 pieces and disposed of as normal waste.

COMMERCIAL IN CONFIDENCE

8. Computer hard disk drives should be securely erased before disposal or recycling if it has held any personal or protectively marked data. Information Assurance Branch should be consulted on the procedure to be followed.
9. In compliance with the Data Protection Act, any personal data must be deleted when no longer required, thus must not be retained beyond the duration of engagement with the MoJ.
10. Where there is a need to provide access to large volumes of personal or protectively marked data only MoJ computing facilities must be used. Removable media provided by MoJ must be returned to the MoJ after use.
11. Paper records containing personal data should be stored, transported and disposed of securely. Sensitive waste paper should be collected separately from normal waste, and stored securely pending destruction by shredding or burning. As with electronic records, particular care should be taken when moving bulk paper records.

Assurance and Risk Protocol

- 1.0 The Assurance and Risk protocol requires the Contractor to evidence that they have systems in place to identify and manage the risks associated with delivering the contract and that services are being delivered as specified. There are two elements to the protocol. The Risk Framework and the Assurance Framework. These frameworks are recorded at Part A and Part B respectively. The assurance and risk cycle is recorded diagrammatically at paragraph 5.
- 1.1 The Risk Framework records how the contractor is monitoring, managing, and mitigating the risks associated with the contract at regular intervals.
- 1.2 The Risk Framework consists of:
- Risk Register
 - Quarterly Statement of Risk on Internal Control (SRIC)
 - Annual Statement on Internal Control (SIC)
- 1.3 The Assurance framework records the contract governance and assurance requirements together with the RCM, ACM and HMCS Corporate roles and responsibilities, which together provide assurance that the contracts are being operated as specified in the service specification.
- 1.4 The Assurance Framework consists of:
- Client Meetings (monthly and quarterly)
 - The Balanced Scorecard
 - Contractor Risk Register
 - Contractor Quarterly Statement of Risk and Internal Control
 - Contractor Annual Statement of Internal Control
 - Six monthly and Annual Assurance reporting
 - Annual contract monitoring and management audit and follow up audit reports

This is shown in the process map recorded overleaf.

- 1.5 The Assurance and Risk framework key meeting calendar dates are:
- Monthly within 1 week of the issuing of the Contractor Balanced Scorecard
 - Quarterly at July, October, January and April
 - Six monthly in October
 - Annually in March at end of contract year

Part A: The Risk Management Framework

The Contractor shall report on the how they are managing risk within the contract. There are three elements to this requirement. These are:

- A. Risk Register
- B. Quarterly Statement of Risk on Internal Control (SRIC)
- C. Annual Statement on Internal Control (SIC)

1.1 The Contractor shall maintain a Contract Risk Register and provide each of the reports listed at 1B and 1C above. The reports will contain identified risks along with a description of risk mitigation plans and agreed actions.

General approach to Contract Risk Management

2.1 A key element to effective risk management is the timely communication and escalation of risk information. The Contractor is required to record, monitor and report this information to appropriate management levels within their organisation and also to HMCS as detailed in the assurance and risk protocol.

2.2 The Contractor will identify the four or five core contract objectives from which the Department will monitor risks to the delivery of the contract, for instance:

- Delivering the Minimum Attainment Standards, Balanced Scorecard and contract requirements
- Operating the contract in accordance with the Operational, Ethics and Standards, Assurance and Risk Protocols
- Delivery of the annual service enhancements
- Operating in accordance with industry Codes of Practice

3. Setting Objectives and Identifying Risks

3.1 When setting the objectives referred to above the Contractors should test them by using the SMART technique

Specific – Stating clearly what is to be achieved i.e. deliverables/products/outcomes.

Measurable – Through indicators such as percentages, volumes, or quality measures.

Achievable – Consistent with objectives in other business areas.

Realistic – Achievable (whilst stretching) within the given timescale.

Time – Include target dates/periods

to ensure they are clear, robust and include sufficient information to support control of the risk. It is expected that the RCM should be consulted on the objectives. Once agreed the objectives should be sent to the RCM and a copy sent to the ACM and the HMCS Director of Enforcement.

3.2 The Contractor shall identify the risk(s) that may cause the objectives set, not to be achieved. A risk should be defined as an 'Uncertainty of outcome whether positive (opportunity) or negative (threat or missed opportunity)'.

COMMERCIAL IN CONFIDENCE

3.3 The Contractor in consultation with the RCM (if applicable) should assess the risk using two factors, namely its:

Impact were it to occur; and
Likelihood of it materialising.

3.4 The Contractor will be able to assess the overall severity of each risk using these factors to enable risks to be prioritised and resources focused on the red risks.

3.5 There will be a risk scoring system used to measure and assess these risks. It shall follow the HMCS standard five point scale risk assessment. This is summarised in the table below

SCALE	IMPACT	
5	Very High	Prevents achievement of the objective or highly damaging impact (e.g. on operational effectiveness or reputation).
4	High	Significant detrimental effect on achievement of the objective in the longer term.
3	Medium	Significant short-term damage, and important to outcome of long term objective.
2	Low	Affects short term goals within the objective without affecting long term achievement.
1	Very Low	Minor and containable impact on achievement of objective.

SCALE	LIKELIHOOD	
5	> 80%	Almost Certain
4	51 – 80%	Probable
3	21 – 50%	Possible / May well happen
2	6 – 20%	Unlikely
1	< 5%	Very Unlikely

Multiplying the impact scale and likelihood scale provides an indication of the overall risk score significance on the following scale.

Scores above 15	Very High
Scores 12 – 15	High
Scores 5 – 10	Medium
Scores 1 – 4	Low

3.6 An illustration the approach is shown below.

Contractor Risk Register						
Objective no. 1		To ensure that all performance standards meet the standards set in the Balanced Scorecard.				
Obj ID	Risk ID	Risk Description	Inherent			Score
			I	L		
1	1	<i>Risk (Event)</i> Not meeting performance standard on Distress.	5	5	25	Very High
		<i>Cause(s)</i> We do not have sufficient resources to met requirements. Poor management of resources.				
		<i>Effect (s)</i> Unable to meet requirements of client. Performance Standard not achieved. Loss of work from client. Contract termination by client				

3.7 The objective is to ensure that all standards in the Balanced Scorecard are met. One of the risks to this objective is not meeting the performance standard on Distress, this is recorded together with the likely causes of this also being recorded and the impact of this risk if it materialises.

3.8 The impact that this would have has been recorded as a 5 as it would prevent the objective being achieved therefore making the impact very high. For this example it has been taken that sufficient resources are not available to currently meet requirements in the Balanced Scorecard and therefore the likelihood of this occurring is greater than 80% therefore this is recorded as a 5. By using the risk scoring as explained earlier the impact score of 5 is multiplied by the likelihood score of 5, giving a risk score of 25. This is greater than 15 therefore the risk is classed as very high. In this scenario the Contractor would escalate the risk to the RCM and agree appropriate risk mitigation actions.

4 Recording Risk

4.1 Risks should be defined in a clear and consistent way. The risk should consist of three components: the risk, its cause(s), and the effect(s). A Contract Risk Register shall be maintained. The Risk Register template is shown at Page 15.

5 Monitoring

5.1 The Contractor shall monitor potential risks by regular, at least monthly, risk assessment reviews to ensure that appropriate action is taken in the event that there are changes in risk(s) profile. Review of the contract Risk Register should be a standing item at the Contractors Board meetings.

5.2 At each review the Contractor shall consider if risks are still relevant, correctly scored in the light of changing circumstance and record any new risks that have emerged since the Risk Register was last reviewed. If the risks have not changed

the Contractor should record if risk mitigation plans require any changes to reduce the risk score to the target level.

- 5.3 Risk mitigation plans are defined as plans of action that put into place systems or processes to improve ways of working while reducing the impact and/or likelihood of risk(s).

6 Risk Escalation

- 6.1 The Contractor shall have in place a process to escalate risk should the need arise. The next level of management should be made aware any risk(s) that moves up the risk scale into a new category. The RCM and the HMCS Director of Enforcement should also be made aware at the review meetings of any risk escalation and of the plan of action to reduce the risk to the target level.

7 A. Risk Register

- 7.1 This section covers the contract Risk Register. This is part of the risk management framework; guidance for the completion of the Risk Register template is given below.
- 7.2 The Risk Register provides an aggregated view of risk management of the contract at an Area and Regional level.

8 Completion

- 8.1 The Contractor should complete a Risk Register in the form of the risk template provided to support the efficient and effective management of the Authorised Enforcement Agent Contracts.
- 8.2 The Risk Register should be used as a “live” management tool to be reviewed regularly and updated to meet the reporting needs of the contract.
- 8.3 The Risk Register should be updated at least monthly and provided quarterly to the RCM's and the HMCS Director of Enforcement unless a significant change in a risk profile occurs that requires escalation. If this does occur the Risk Register shall be sent to the RCM immediately and copied to the HMCS Director of Enforcement. The Contractor shall in consultation with the ACM and RCM put together an action plan to manage risk to an agreed level.
- 8.4 The overview is broken down into the following sections
- A) Sections of the Risk Register
 - B) Contractor Requirement
 - C) Area Contract Managers Actions
 - D) Regional Contract Managers Actions
 - E) HMCS Director of Enforcement

For more detailed guidance contact: the HMCS Enforcement Team on 0203 3346336.

- 8.5 Guidance for completing the Risk Register is detailed below starting at paragraph 9.

9 A) Sections of the Risk Register

The Risk Register has 11 elements. These are detailed below from (9.1) to (9.11):

1 Obj ID

- 9.1 This relates to the objective no. at the top of the Risk Register. The Contractor identifies these objectives as detailed earlier.

2 Risk ID

- 9.2 This is the risk number. Each objective may have more than one risk associated with it and this enables a distinction to be made between each risk.

3 Risk Description

- 9.3 This is broken down into three elements. The first is Risk (Event) which when completed should describe what the threat is to the objective being achieved. The second is Cause(s), which when completed will outline what occurrences are likely to result in the risk materialising. The third is Effect(s) which when completed will outline potential consequences should the risk be realised.

4 Inherent

- 9.4 This is split into three sections and records what the risk score would be if no controls (A control is a policy, procedure, check or limit in respect of actions. It can be physical or IT based) were in place. It shows the Impact rating and Likelihood rating giving a risk score which will determine if the risk is of low, medium, high or very high status. Remember this is a situation where management exercise no control or have any systems in place to prevent this risk from occurring.

5 Controls: In Place/Active

- 9.5 This section records measures put into action or already in place to help reduce the risk and keep the risk from escalating and being realised.

6 Last Period

- 9.6 This section records the previous impact and likelihood scores prior to updated/current scores. This helps the Contractor to see what change has occurred in the risk status straight away.

7 Current

- 9.7 As the Risk Register is a 'live' management tool this section records the present risk score.

8

Controls: Proposed / Planned

- 9.8 This section records the planned actions agreed by Management and any plans already being actioned based on the current risk score to manage the risk.

9

Target

- 9.9 This section records the risk score that is required to satisfy the Contractor and HMCS that the risk is under control. The date expected to have this score in place is also recorded.

10

Risk Owner

- 9.10 This section records the person who is responsible for ensuring the risk is managed and controlled.

11

Any significant control weaknesses identified in SIC Yes or No

- 9.11 This section records whether any weaknesses identified in the SIC effect the current risk.

Risk Register

Risk Register																			
Objective no. 1 Objective no. 2																			
Obj ID	Risk ID	Risk Description	Inherent			Controls: In Place/Active	Last Period			Current			Controls: Proposed / Planned (incl. Date/Action Officer)	Target				Risk Owner <i>Control Owner</i>	Any significant control weaknesses identified in your SIC Yes or No
			I	L	Score		I	L	I	L	Score	I		L	Score	Date			
		Risk (Event)																	
		← 1																	
		← 3																	
		← 2 Cause(s)																	
		← 4																	
		← 5																	
		← 6																	
		← 7																	
		← 8																	
		← 9																	
		← 10																	
		← 11																	

10 B) Contractor Requirement

- 10.1 The Contractor is responsible for completion of the Risk Register. It is expected that they would discuss the Risk Register with the RCM, ACM, and the HMCS Director of Enforcement to ensure that the Risk Register is a true reflection of threats to the running of the contract and to ensure that the risks are managed and controlled. The Contractor should complete the Risk Register monthly. The Risk Register should form part of the standard agenda for the monthly meetings with the ACM. It should also be sent quarterly to the RCM for discussion in the Quarterly review meetings and a copy sent to the HMCS Director of Enforcement.

11 C) Area Contract Managers Actions

- 11.1 The ACM should keep the Contractors Risk Register under constant review and have an ongoing dialogue with the Contractor on the risks to the successful operation of the contract together with the risk mitigations proposed and actioned in the Risk Mitigation Action Plan. This will include making the Contractor aware of risks identified by the Regional, Area or even Department administrative and risk management processes. Discussion on the Risk Register and agreed actions should be a standard agenda item on the monthly client/contractor meeting. The risk mitigation plan should be reviewed with the contractor to gauge progress and agree further actions as necessary. The ACM should bring to the attention of the RCM any findings on the Risk Register, which are likely to impact on the efficient and effective working of the contract.

12 D) Regional Contract Managers Actions

- 12.1 The RCM is responsible for managing the strategic risks to the successful delivery of the contract. This role will be discharged in conjunction with the ACM. Discussion on the Risk Register and agreed actions should be a standard agenda item on the quarterly client/contractor meeting. The risk mitigation plan should be reviewed with the contractor to gauge progress and agree further actions as necessary. The RCM should verify the completeness and accuracy of the Risk Register every quarter. The information in the Risk Register should form part of the quarterly report to the HMCS Director of Enforcement and Regional Management Board.

13 E) HMCS Director of Enforcement

- 13.1 The HMCS Director of Enforcement will collate the Risk Register information from the seven regions into a HMCS wide Risk Register and provide comment, advice and direction on risk activity within the regions and internally within HMCS including to the HMCS Compliance and Enforcement Board.

14 B. Statement of Risk on Internal Control (SRIC)

- 14.1 This section introduces the Statement of Risk on Internal Control. This is an important element of the Assurance and Risk framework and is completed quarterly. The guidance below sets out the process to follow when completing the SRIC.

15 Completion

- 15.1 The Contractor should complete a SRIC to demonstrate to HMCS that they are able to manage and control contract risk adequately. The Contractor should complete the SRIC on a quarterly basis and send to the RCM. A copy should also be sent to the HMCS Director of Enforcement.

- 15.2 This overview is broken down into the following sections

- A) Sections of the Statement of Risk on Internal Control
- B) Contractor Requirements
- C) Area Contract Managers Actions
- D) Regional Contract Managers Actions
- E) HMCS Director of Enforcement

Guidance for completing the SRIC is detailed below at paragraph 16.

16 A) Sections of the Statement of Risk on Internal Control

- 16.1 The elements of the SRIC are described below

Scope of Responsibility

- 16.2 This should identify who is responsible for the system of internal control for the work undertaken by the Contractor on behalf of HMCS.

The Purpose of the System of Internal Control

- 16.3 The Contractor should state what the purpose of the system of internal control is and why they have one in place.

Capacity to Handle Risk

- 16.4 The Contractor should describe the organisational structures, systems (Administrative and IT based), policies and process they have in place to manage contract risk.

The Risk and Control Framework

- 16.5 In this section the Contractor should describe the key elements of their risk management strategy, including the way in which risk (or change in risk) is identified, evaluated and controlled. The Contractor should also describe ways in which risk management is embedded in the activities carried out to deliver the service specification. This should form a standing item on agendas for client/contractor meetings to form a key element of managing the contract,

delivery service improvements and exploiting opportunities whilst minimising risk to service delivery.

Review of Effectiveness

- 16.6 In this section the Contractor should state how they ensure that risks and mitigation actions are implemented are being managed. The Contractor should describe the process that has been applied in maintaining and reviewing the effectiveness of the system of internal control to enable the aims and objectives of the contract to be met.

Significant Control Weaknesses

- 16.7 In this section the Contractor should identify what control weaknesses currently exist and what they are doing to resolve them or manage them. Examples of this could be:
- Any common areas of non-compliance
 - Contract specific weaknesses impacting on the Contractors ability to deliver the contract aims and objectives including capacity and capability issues.
 - IT system specific weaknesses impacting on the achievement of a particular element of contracted services
 - Health and Safety weaknesses that impact on the contract
 - Finance related issues including capacity and capability issues.
- 16.8 A template of the SRIC is shown overleaf.

To

Statement of Risk on Internal Control (SRIC) for Quarter xxxxxx**Scope of Responsibility**

I have responsibility for maintaining a sound system of internal control that supports the achievement of the service delivery obligations I have in respect of the Authorised Enforcement Agents Contract I hold for region(s).

The Purpose of the System of Internal Control

The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of our business objectives and service delivery obligations to HMCS, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically.

Capacity to Handle Risk**Describe the key ways in which:****leadership is given to the risk management process;****staff are trained or equipped to manage risk in a way appropriate to their authority and duties. Include comment on guidance provided to them and ways in which you seek to learn from good practice.****The Risk and Control Framework****Describe the key elements of risk management strategy, including the way in which risk (or change in risk) is identified, evaluated and controlled.****Describe ways in which risk management is embedded in the activity in your area of the organisation.**

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Review of effectiveness

I have responsibility for reviewing the effectiveness of the system of internal control. My review is informed by the work of the managers within my business who have responsibility for the development and maintenance of the internal control framework, and comments made by external audit in their reports and management letters, as appropriate. I have been advised on the implications of the result of my review of the effectiveness of the system of internal control by the Board and a plan to address weaknesses and ensure continuous improvement in the areas identified is in place and being actively managed.

Describe the process that has been applied in maintaining and reviewing the effectiveness of the system of internal control, including some comment on the roles of people involved.

Significant Control Weaknesses

Detail identified significant control weaknesses and include an outline of the actions taken, or proposed to deal with any significant internal control issues, if applicable.

Signed:

Position:

Print Name:

Dated:

17 B) Contractors Requirements

- 17.1 The Contractor is responsible for the completion of the SRIC. The Contractor should discuss the SRIC and the significant control weaknesses together with the risk mitigation actions detailed with the ACM at the client/contractor monthly meetings. The Contractor will send the SRIC to the RCM on a quarterly basis to form part of the quarterly client/contractor meeting. The SRIC should be copied to the HMCS Director of Enforcement on a quarterly basis.

18 C) Area Contract Managers Actions

- 18.1 The ACM will discuss the SRIC during the monthly client/contractor meetings with the Contractor and report any issues to the RCM.

19 D) Regional Contract Managers Actions

- 19.1 The RCM will discuss with the contractor at the quarterly client/contractor meetings. The RCM will verify the completeness and accuracy of the report every quarter. The report should be sent to the HMCS Director of Enforcement and form part of the quarterly report on the operation of the contract by the RCM to their respective Regional Management Board.

20 E) HMCS Director of Enforcement

- 20.1 The HMCS Director of Enforcement will collate the SRIC information from the seven regions into a HMCS wide picture and provide comment, advice and direction on risk activity within the regions. This information will also be used to form the basis of further reporting to the HMCS Compliance and Enforcement Board.

21 C. Statement on Internal Control (SIC)

- 21.1 The SIC is an annual requirement placed on the Contractor to report on their management of contract risk across the year just ended and detail planned actions to reduce identified control weaknesses going forward into the year ahead. This is an important element of the Assurance and Risk framework. Guidance on completion of the SIC is detailed below.

22 Completion

- 22.1 As part of the yearly report the Contractor shall submit a SIC. The SIC produced by the Contractor should be sent to the RCM on an annual basis with a copy sent to the HMCS Director of Enforcement and should form part of their annual report covering the operations of the contract and wider organisational issues and concerns.
- 22.3 The SIC is broken down into the following sections
- A) Sections of the Statement on Internal Control
 - B) Contractor Requirements
 - C) Area Contract Managers Actions
 - D) Regional Contract Managers Actions
 - E) HMCS Director of Enforcement

Guidance for completing the SIC is detailed below at paragraph 23.

23 A) Sections of the Statement on Internal Control

- 23.1 The elements of the SIC have the same structure as the SRIC. This is described below.

Scope of Responsibility

- 23.2 This should identify who is responsible for the SIC for the work undertaken by the Contractor on behalf of HMCS.

The Purpose of the System of Internal Control

- 23.3 The Contractor should describe the organisational structures, systems (Administrative and IT based), policies and processes they have in place to manage contract risk and administer their business operations.

Capacity to Handle Risk

- 23.4 In this section the Contractor will explain what leadership has been provided over governance arrangements that are in place and provide examples of this. In addition, they will detail agreed actions to develop their risk management process.

The Risk and Control Framework

- 23.5 The Contractor in this section should confirm whether the key elements of the framework (Risk Register, Quarterly SRIC and SIC) have been followed and maintained. Comment on whether risk management is embedded in their activities to deliver the service specification providing examples.

Review of Effectiveness

- 23.6 In this section the Contractor should describe the process used to review the effectiveness of the system of internal control. They are required to comment on key contract risks. They should confirm or otherwise that their staff administering the process have complied with their policy and procedures. The Contractor should also confirm how assurance controls are operating.

Significant Control Weaknesses

- 23.7 In this section the Contractor will confirm they have reviewed their assurance mechanisms and detailed any significant internal control weaknesses identified. The Contractor must state what actions have been taken or been proposed to mitigate identified risks.
- 23.8 The SIC will be produced principally based on the submissions of the quarterly SRIC to form an annual overview of how the Contractor has managed and controlled the risks to the contract aims and objectives set out in the service specification.
- 23.9 A template of the Statement on Internal Control is recorded on the following pages.

To.....

Statement on Internal Control (SIC) for Year xxxxxx

Scope of Responsibility

I have responsibility for maintaining a sound system of internal control for that supports the achievement of the service delivery obligations I have in respect of the Authorised Enforcement Agents Contract I hold for with HMCS.

The Purpose of the System of Internal Control

The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of our business objectives and service delivery obligations to HMCS, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically.

Capacity to Handle Risk

Describe the key ways in which:

- leadership is given to the risk management process;
- staff are trained or equipped to manage risk in a way appropriate to their authority and duties. Include comment on guidance provided to them and ways in which you seek to learn from good practice.

The Risk and Control Framework

Describe the key elements of risk management strategy, including the way in which risk (or change in risk) is identified, evaluated, and controlled. Describe ways in which risk management is embedded in the activity in your area of the organisation.

Review of effectiveness

I have responsibility for reviewing the effectiveness of the system of internal control. My review is informed by the work of the managers within my business who have responsibility for the development and maintenance of the internal control framework, and comments made by external audit in their reports and management letters, as appropriate. I have been advised on the implications of the result of my review of the effectiveness of the system of internal control by the Board and a plan to address weaknesses and ensure continuous improvement in the areas identified is in place and being actively managed.

Describe the process that has been applied in maintaining and reviewing the effectiveness of the system of internal control, including some comment on the roles of people involved.

Significant Control Weaknesses

Detail identified significant control weaknesses and include an outline of the actions taken, or proposed to deal with any significant internal control issues, if applicable.

Signed:

Position:

Print Name:

Dated:

24 B) Contractor Requirements

24.1 The Contractor should identify a board level officer who will be responsible for producing the SIC. This SIC will cover:

- How the company operates to ensure that risk is managed and controlled across their contract.
- How the company deals with any issue(s) that will impact upon their ability to complete the requirements of the contract to contracted levels.
 - An example of this could be how the Contractor deals with taking on other client contracts without these adversely impacting on their capacity to deliver HMCS contracted service levels.
- The framework the Contractor has in place to manage the threat of risks materialising.
- How the Contractor ensures that the processes they have in place are reviewed periodically to ensure that they are working as designed.
- Any identified weaknesses the Contractor has in relation to the contracted services together with a risk mitigation action plan detailing how weaknesses are to be managed and risk reduced.

24.2 The Contractor should discuss the content of the SIC with the RCM. The SIC should be sent to the RCM and a copy sent to the HMCS Director of Enforcement.

25 C) Area Contract Managers Actions

25.1 The ACM should ensure they are aware of the contents of the SIC and discuss with the RCM which elements of the SIC they should take forward in their ACM role.

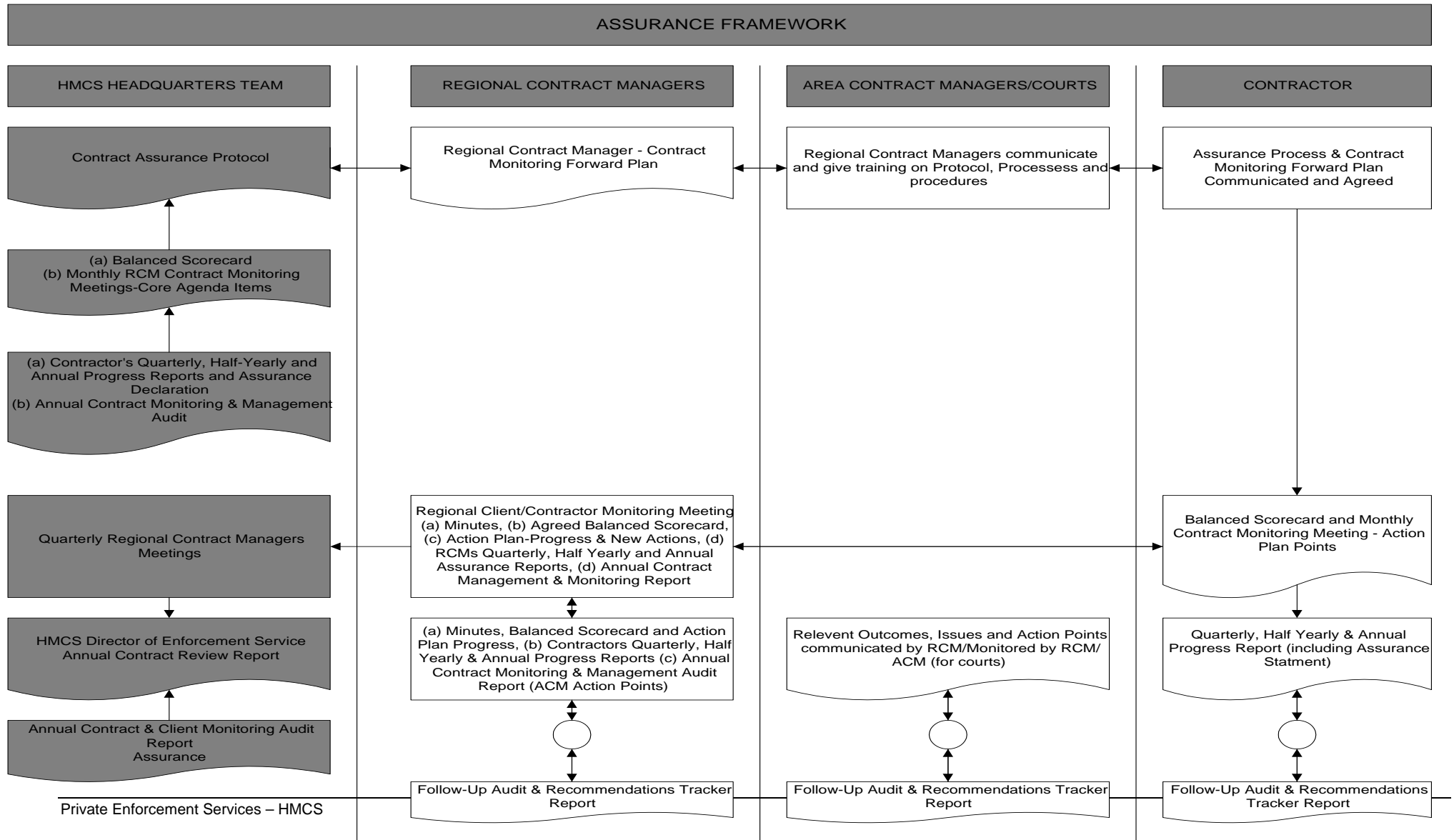
26 D) Regional Contract Managers Actions

26.1 The RCM will discuss the SIC with the contractor at the end of each year. The RCM will verify the completeness and accuracy of the report. The RCM will include the SIC in their annual report on the operation of the contract to their Regional Management Board.

27 E) HMCS Director of Enforcement

27.1 The HMCS Director of Enforcement will collate the SIC information from the seven regions into a HMCS wide picture and provide comment, advice and direction on risk activity of the contractors within the regions. The regional SICs will also be used as the basis of the HMCS Director of Enforcement annual review report on the operation of the contracts to the Compliance and Enforcement Board.

PART B: The Assurance Framework is recorded below



28 Assurance and Risk Reporting

- 28.1 The production of the core reports forming the Assurance and Risk Protocol is a vital part of ensuring that the contract is being delivered in accordance with the contract and that contract risk is being managed effectively, assurance and risk monitoring requirements are maintained recorded and acted upon

Contract reporting documents

- 28.2 The following are the documents that will form the core agenda items at scheduled assurance meetings

ACM/RCM/Contractor meeting agenda at monthly and quarterly periods

- 28.3 The meetings between the contractor and HMCS should cover, reporting outcomes for the Balanced Scorecard as a minimum. An agenda, referenced at paragraph 28.19 should form the basis of these meetings. Minutes of these meetings should be produced and circulated to all attendees for agreement.

Risk Register

- 28.4 The Risk Register is completed by the contractor to assist them in managing the key risks associated with the contract and to provide the Department with visibility over contract matters and actions planned to mitigate identified risks. The contractor to identify and manage contract risk should use the Risk Register. The ACM and RCMs will monitor and scrutinise its use. This forms an important element of the quarterly review meeting agenda. The requirement for completion of the Risk Register is referenced at paragraphs 7 to 9 above.

Quarterly Statement of Risk on Internal Control (SRIC)

- 28.5 The contractor will produce a (SRIC) at quarterly, intervals. The contractor will use this document and the ACM and RCMs to monitor, manage, and mitigate the risks associated with the contract at regular identified intervals throughout the contract.
- 28.6 The SRIC production, scrutiny and management of planned actions will enable clear and defined areas of risk to be reported. The SRIC will be produced on a six-month and annual cycle. Its productions will assist in setting out the Contractors objectives for managing these risks effectively. The SRIC template is referenced at paragraph 16.8 above.

Statement on Internal Control

- 28.7 As part of the yearly report the Contractor shall submit a Statement on Internal Control (SIC) in relation to the aims and objectives set out in the service specification of the contract. The SIC should identify an overview of the Contractors responsibilities, the ability to manage, handle and mitigate risk together with their need to identify and manage key weaknesses.
- 3.1 28.8 The Statement on Internal Control produced by the Contractor should be sent to the RCM on an annual basis with a copy sent to the HMCS Director of Enforcement and should form part of the annual report. The Statement on Internal Control template is referenced at paragraph 16.8.

3.1 Six month progress and annual assurance reports

- 28.9 The Contractor will provide a report covering performance, operations and protocol compliance. The reports are to be used by RCMs and the Regional Management Board, HMCS Enforcement Directorate and HMCS Compliance and Enforcement Board to ensure Contractors have operated the contract in accordance with the service specification and delivered continuous improvement and value for money. They will provide an overview of the contracts operation, risks and their management by the contractor.
- 28.10 In the case of the Regions, it will be accompanied by the RCMs summary report. The HMCS Director of Enforcement will make a consolidated report on all contracts to the Compliance and Enforcement Board
- 28.11 There are two reporting cycles six monthly and yearly. Reports will cover the operational performance of the contract for the six month period between April and October of the contract year, followed by an annual report at the end of March. The report should follow the template at paragraph 28.17.

Six Month Contract Assurance and Progress Report

- 28.12 The six month report should provide a summary of the monthly reported Balanced Scorecards for the period and include identification of key areas of risks and how they have been managed and include the following:
- Risk Register
 - Quarterly SRIC
 - Six monthly and annual contract assurance and progress reports (as appropriate)

It should also report progress on the (annual) agreed service enhancement.

3.1 Annual Contract Assurance and Progress Report

- 28.13 The annual report is a review of the operation of the contract over the year and provides an opportunity to identify what has gone well, together with what challenges have been encountered and overcome. It should also include a review of contract performance and discuss how opportunities have been exploited and weaknesses managed. A commentary on changes to the contractors business (contract wins/losses and other factors i.e. merger or acquisition) across the year and comment on general operational considerations experienced throughout the year.
- 28.14 The reports should cover the following topics.
- Performance Objectives - Describe the operational framework and any changes made to it during the year. Including structures, systems, policies, procedures and personnel.
 - Operations – Describe how the operational framework has supported the achievement of the key service level indicators (the Minimum Attainable Standards (MAS)) through:
 - the Balanced Scorecard
 - performance indicators

- the annual service improvement initiative across the contract year, along with any agreed service enhancement.
 - Identification of continuing blockages to the performance of attainment to the MAS.
 - describing what activities are agreed or proposed to address these identified blockages.
 - assessment of Assurance and Risk by providing a commentary on the operation of the assurance and risk protocol and highlight areas for improvement.
 - describing how risk has been handled throughout the year and the key risks going forward and will be managed
- Financial Framework – Describe the financial framework and any changes to it throughout the year. Report on fine recovery made and costs recovered. The Contractor should also define the number and value of returned warrants. The report should also cover the operating returns made from the contract and the overall profitability and financial viability of the company taking into account other contracts and commitments.
 - Ethics and Standards – Describe how the ethics and standards framework used by the contractor and its operation throughout the year.
 - Relationships – How the Contractor engaged with its stakeholders, MoJ/HMCS, the public and its staff.
 - Annual Service Enhancement proposal – Describe and provide a report on the current years annual service enactment with agreed actions and outcomes.

Six Month/Annual Contract Assurance and Progress Report template

- 28.15 The template should be used as a basis for completion of the six months and annual operational report(s)
- 28.16 The senior responsible person within the organisation who has the authority to provide the information should complete it, and have it ratified by the Board before it is dispatched to HMCS.
- 28.17 The template is detailed below.

Six Month/Annual Assurance/Progress Report Template

1.1.1 Performance and Objectives

- Description of the key objectives of the business and its management of the risks in relation to the contract
- Impact of other contracts, organisational change and improvements

Key performance results

- Description of achievements in the six month/year of operations
- Collation of information from Balanced Scorecard including Minimum Attainment Standards

Improvement initiatives

- Description of initiatives undertaken or proposed within the reporting period, including update or progress on the mandatory initiative as required within the service specification

3.1 Operations

Purpose and Structure

- Description of contractors management of the operational aspects of its business and how these are and have been applied to the contract through the structure of roles and responsibilities

Aims

- To include action plans on performance improvement and company development
- To include commentary from the contract Risk Register and Risk Mitigation Action Plans
- Detail actions planned/taken in respect of the Annual Contract and Client Audit undertaken by MoJ Internal Audit Division and follow up reports

3.1

3.1 Financial Framework

Attach Annual Statement of Accounts

- **Report of operating costs – Breakdown of the contracts operating costs**
- **Recovery amounts – Breakdown of fines recovered as a direct result of the contract work**
- **Forecasts - What are the financial (Income and Expenditure and Gross Profit) forecast for the coming year**

3.1 Ethics and Standards

Implementation of contractor and MoJ/HMCS principles

- **Description of how the contractor has embedded and managed its own and MoJs/HMCS core values across the business, including interaction with stakeholders and the public**
- **Summary narrative on engagement with the public, including complaint procedures and handling, the monitoring of agreed actions**
- **Collation of information from Balanced Scorecard Section C**

3.1 Relationships

Engagement with staff, stakeholders and public

- **Description of how the business developed its methods for managing stakeholder relationships and working with its own staff, MoJ/HMCS and the public**
- **Collation of information from Balanced Scorecard Section C**

3.1 Human Resources and Development

Improving the way we work.

- **Describe the company's recruitment and training processes, with reference staff turnover rates, retention, disciplinary considerations and planned improvements to the HR system**
- **Collation of information from Balanced Scorecard Sections B and D**

Review meetings

28.17 Contractors and HMCS contract managers should meet at regular intervals to ensure that the contract is being operated in accordance with the service specification. These meetings will aid the discussion and resolution of operational concerns. This includes agreeing Risk and other Action Plans and their on-going monitoring. The reports action plans and documents forming a key part of each meeting agenda are detailed below.

28.18 The agenda should have a structured approach to ensure that the key requirements of the contract are discussed (at the appropriate time). Minutes should be taken agreed and made available to all attendees following the meeting. Action notes should be detailed on the action points template referenced at paragraph 28.19 below.

When	Contractor Representative	HMCS Representative	Outline of discussions and reporting documents
Monthly Within 1 week following issuing of Balanced Scorecard by contractor	Contract Management Team	Area Contract Manager Regional Contract Manager (optional)	<ul style="list-style-type: none"> Balanced Scorecard (Referenced at Appendix A) Monthly Agenda (Referenced at paragraph 28.19)
Quarterly periods within contract year: July October January April	Contract Management Team	Regional Contract Manager Area Contract Manager	<ul style="list-style-type: none"> Compiled results from quarterly Balanced Scorecards Risk Register (Referenced at paragraph 9 to 11) Quarterly Statement of Risk and Internal Control (Referenced at paragraph 16.8)
Six months October	Contract Management Team	Regional Contract Manager Area Contract Manager	<ul style="list-style-type: none"> Combined six monthly results from Balanced Scorecard Six month Contract Progress Report (Referenced at paragraph 28.17)
Annual March at end of contract year	Contract Management Team	Regional Contract Manager Area Contract Manager	<ul style="list-style-type: none"> Compiled annual results from Balanced Scorecard Statement of Internal Control (Referenced at paragraph 23.9) Annual Contract Progress Report (Referenced at paragraph 28.17) Contractor Internal assurance reports and agreed recommendations MoJ Internal Audit Division report

28.19 The generic client/contractor meeting template is recorded below.

AGENDA-CLIENT/CONTRACTOR MEETING

1. Notes and action points from last meeting

- Review the previous meetings minutes and action points updating where necessary.

2. Balance Scorecard

- Analysis of the Balanced Scorecards on an Area basis looking at the MAS and wider reporting.
- Identify and question poor performance areas and discuss improvement methods.
- Identify good performing HMCS Areas and consider how these successes can be replicated throughout the Region.

3. Performance Report

- Contractor to provide updates on specific reports requested/discussed or activities and agreed initiatives from previous meetings.
- Contractor updates on actions taken to rectify particular areas of poor performance from previous month(s).

4. Complaints log

- Examination of individual complaints selected from the Balanced Scorecard to discuss issues and agree necessary actions.

5. Quarterly SRIC (as required at quarterly meeting)

6. Six month assurance report (as required at six month period)

7 Plans for the next period

- Agree plans and key actions for next period and any longer term initiatives

8 A.O.B

- Any other business as required

Action Point Template

HMCS Area/Region
and contractor.

Date of meeting.

Action Points from xxxxxx meeting on xxxxxx

Action Point	By whom	By When	Completed	Further action
1				
2				
3				
4				
5				
6				
7				
8				

Attendees:

Description of activity
and required action.

Apologies:

Person(s)
responsible
for action
point

Date activity to
be actioned by

Record if action complete
or update with
proposed/agreed

Record any further
action required in
order to complete the
action. Indicate
person responsible
and required date

Appendix G

THE CONTACT PROTOCOL

All activities on warrants should take place with the require warrant handling period for that warrant. These can be found at Appendix H. All warrants should be returned to the court once the warrant handling period has passed unless the court agrees for an extention with the Contractor.

Stage 1: Initial contact letter

- 1.1 To be sent to the Defaulter within ten days of the warrant being received by the Contractor.
- 1.2 The Contractor will issue a notice, the wording of which will be agreed before commencement of work on the Contract, which shall:
 - Require payment in full within seven days of the date of the notice
 - Include full contact details for the Contractor
 - Include a clear explanation of the Contractor's responsibilities and duties in relation to the warrant
 - Include details of all fees and charges pertaining to this stage of the execution and the fee schedule (including costs)
 - Include details of the consequences of non-payment, giving details of the next stage(s) of execution with relevant charges
 - Provide details of payment options

All postal correspondence from the Contractor to the defaulter must be sent to enable the independent verification of volumes sent by the contractor

- 1.3 Additional contact attempts with the defaulter.

During the ten day period following receipt of the warrant it is expected that the Contractor will, in addition to issuing the contact letter, undertake appropriate methods in an attempt to contact the defaulter. HMCS expectation is that the Contractor will have systems in place and provide services to encourage compliance of the warrant and collection of monies owed. This could be but not limited to, a range of other telephone and/or texting methods including call centres to enable contact and payments to be made by the defaulter. These services should be available throughout the life of the warrant handling period.

Stage 2: Initial personal visit

- 1.4 This stage shall be carried out within 90 days of the expiry of the notice period in Stage 1 above. If on the first visit contact is not made with the Defaulter, a letter shall be left in an envelope clearly addressed to the Defaulter and put through the letterbox of the address, the letter will include the time of visit. The letter shall state that a call was made and that payment shall be made to the Contractor. A note shall be made on the warrant as to the date and time the letter was left. Local enquiries to find out if the Defaulter is still living at the address or doing business at the address shall be made and endorsed on the warrant along with any identifying marks of the address such as the specific colour of the door

Stage 3: Follow-up personal visits

- 1.5 If Stage 2 is unsuccessful, the Contractor shall make at least one further personal visit or further number as they feel necessary as the circumstances of the case dictate until contact is established and warrant executed. To satisfy the court that the Defaulter is not at the address the Contractor shall obtain proof of identity of the contact made, evidence of which shall be endorsed on the warrant.

New addresses of Defaulter obtained

- 1.6 If the contractor obtains a new address for the Defaulter, the Contractor shall issue a contact letter to that address before making a personal visit to execute the warrant.

Stage 4: Procedure to be taken when contact is made with the Defaulter

- 1.7 When contact is made the Authorised Employee shall:-
- Show the Defaulter his/her identity card and statement of authorisation issued by the Department.
 - If the warrant is in his/her possession, show it to the Defaulter or if it is not state where the warrant is and what arrangements may be made to allow the Defaulter to inspect it.
 - Provide the following information in writing:-
 - i. The purpose of the visit;
 - ii. The powers vested in the Contractor;
 - iii. How the outstanding sum may be paid, including details in respect of part payment;
 - iv. Where advice about the effect of the warrant and related matters may be obtained;
 - v. The complaints procedure operated by the Contractor
- 1.8 If contact is made with the Defaulter and:-
- Payment can not be obtained and/or
 - There are insufficient/no goods upon which to levy or
 - The Defaulter is identified as being in a category specified at paragraph 6.41 or
 - The goods are identified as being in a category specified at paragraph 6.42
- 1.9 The Contractor will issue a notice to Defaulter inviting surrender at court at a time and place, which will be specified on the notice.

In respect of Distress

- 1.10 Upon contact with the Defaulter the Authorised Employee will seek, with the following priority, to:
- Obtain full payment
 - If full payment cannot be obtained to effect specific levy upon goods
 - If a specific levy is made, agree a payment plan, providing a part payment is made at the time of contact and full payment will be completed within 180 day warrant

handling period.

- 1.11 If payment in full is not forthcoming after contact is established, or after non-compliance with a payment plan, the Contractor shall issue notice of attendance to remove goods.
- 1.12 The Contractor shall use its discretion in granting time to pay and accepting part payments, subject to payment in full being completed and funds cleared and paid to the court within the warrant handling period.
- 1.13 If payment is not made within seven days of the issue of a notice of attendance to remove goods, the Contractor shall remove the goods and present them for sale at auction to realise the sum due to the Department. The Contractor shall ensure a full audit trail is maintained.
- 1.14 Attempt further visits as agreed by the contract within the 180-day warrant-handling period.
- 1.15 If full payment is not made within the 180-day warrant-handling period, the warrant shall be returned to the court

In respect of arrest for Financial Warrants (bail and no bail)

- 1.16 Upon person contact with the Defaulter the Authorised Employee will seek, with the following priority, to:
 - Obtain full payment
 - Obtain part payment accompanied by arrest and bail/transport
 - Arrest and bail/transport (if no payment forthcoming)
- 1.17 Upon telephone contact by the Defaulter, if full payment cannot be secured arrangements for the Defaulter to voluntarily surrender to the court, at an agreed day and time, will be made by the Contractor. The Contractor shall suggest that attendance is within 5 working days of any such agreement and shall retain the warrant until the agreed date. The Contractor will liaise with the court to confirm or otherwise, the Defaulter's attendance on the agreed date. If the Defaulter fails to attend the Contractor shall arrest the Defaulter within a further 2 working days.
- 1.18 If, following telephone contact, voluntary surrender cannot be agreed the Contractor will execute the warrant by arresting and bailing, or arresting and transporting the Defaulter to the court as directed on the warrant.
- 1.19 If the Contractor considers it appropriate, it may contact the issuing court to request a change in bail status of a warrant. Such a change will be considered by the court and, if agreed by a magistrate, be communicated unambiguously to the Contractor.

Bail

- 1.20 If personal contact is made and full payment cannot be obtained, the Defaulter must be arrested and served with a bail notice to attend court at a specified place and time, or as agreed with the ACM.

No Bail

- 1.21 If personal contact is made and full payment cannot be obtained, the Defaulter must be arrested and taken directly to court unless arrest occurs after the court has closed. In this case, the Defaulter must be taken to the nearest appropriate police station to be held in custody overnight whereupon the local Prison Escort and Custody Service Contractor will transport the Defaulter to court the following working day.

In respect of Arrest for Warrant of Commitment

- 1.22 Upon personal contact with the Defaulter the Authorised Employee will seek, with the following priority, to:
- Obtain payment in full or
 - Arrest and transport to prison or court (if no payment forthcoming)
- 1.23 Upon telephone contact with the Contractor by the Defaulter and full payment not secured, arrangements for the Defaulter to voluntarily surrender to the court, at an agreed day and time, will be made by the Contractor. The Contractor shall suggest that attendance is within 5 working days of any such agreement and shall retain the warrant until the agreed date. The Contractor will liaise with the court to confirm or otherwise the Defaulter's attendance on the agreed date. If the defaulter fails to attend the Contractor shall arrest the Defaulter within a further 2 working days.
- 1.24 If, following telephone contact, voluntary surrender cannot be agreed the Contractor will execute the warrant by arresting and transporting the Defaulter to the prison or court.
- 1.25 If personal contact is made and full payment cannot be obtained, the Defaulter must be arrested and taken directly to prison or court unless arrest occurs after the court has closed. In this case, the Defaulter must be taken to the nearest appropriate police station to be held in custody overnight, whereupon the local Prison Escort and Custody Service contractor will transport the Defaulter to court the following working day.

In respect of Arrest for Breach of Community Penalty Warrants

- 1.26 Upon personal contact with the Defaulter the authorised employee will arrest and bail or arrest and transport the Defaulter to the court as directed on the warrant.
- 1.27 The arrest must take place within the national target timescale for Community Penalty Breach Warrant execution which is that, 75% should be executed within 20 working days for adults and 75% within 10 working days for youths, from date of issue of the warrant. To assist the Contractor, the issuing court will indicate the remaining portion of the overall Department set end-to-end target timescale (60% of cases to be resolved within 25 working days from relevant failure to comply) on the warrant when it is issued. For fast track cases (which will be marked by the court) breach warrants should be executed within 10 working days for adults and 5 working days for youths.
- 1.28 Upon telephone contact with the Contractor by the Defaulter the Contractor will make arrangements for the Defaulter to voluntarily surrender to the court, at an agreed day and time. The Contractor shall agree a date with the Defaulter so that attendance is within the national target timescale set for Community Penalty Breach Warrant execution and shall retain the warrant until the agreed date. The Contractor will liaise with the court to confirm or otherwise, the Defaulters attendance on the agreed date. If the Defaulter fails to attend the Contractor shall arrest the Defaulter as soon as practicable and in any event within the national target timescale for Community Penalty Breach Warrant execution
- 1.29 If, following telephone contact, voluntary surrender cannot be agreed the Contractor will execute the warrant by arresting and bailing, or arresting and transporting the Defaulter to the court as directed on the warrant, within the national target timescales for Community Penalty Breach Warrant execution.
- 1.30 If the Contractor considers it appropriate, it may contact the issuing court to request a change in bail status of a warrant. Such a change will be considered by the court and, if agreed by the judiciary, the change will be communicated unambiguously to the

Contractor.

Bail

- 1.31 If personal contact is made the Defaulter must be arrested and served with a bail notice to attend court at a specified place and time, or as agreed with the Area Contract Manager. The defendant will generally be bailed to appear before the next available appropriate breach court date.

No Bail

- 1.32 If personal contact is made the Defaulter must be arrested and taken directly to court unless arrest occurs after the court has closed. In this case, the Defaulter must be taken to the nearest appropriate police station to be held in custody overnight whereupon the local Prison Escort and Custody Service Contractor will transport the Defaulter to court the following working day.
- 1.33 The Contractor shall risk assess on receipt of the warrant and as circumstances occur and undertake the action necessary to effect the execution of the warrant prior to activating formal arrest and transporting the Defaulter to the court. The Contractor can refer the arrest warrant back to the court in any circumstance considered high risk, forwarding the risk assessment to the court for consideration: Consideration will be given to assistance being requested from the police to execute the warrant
- 1.34 The Contractor will comply with local policy with regards to the requesting of access of data from data sharing tools e.g. PNC.

In Respect of Clamping Orders

Places where vehicles can be clamped

- 1.35 Vehicles may be clamped at any place (including on any highway or road) to which the public has access and on any private land to which access may be had without opening or removing any door, gate or other permanent barrier. Authorised persons and other employees of the Contractor may enter such private land with their equipment and with or without a vehicle or vehicles for the purpose of clamping a vehicle on the land, releasing it from clamping or removing it to secure storage.
- 1.36 The Contractor shall attempt to execute the clamping order within the timeframe as set out in paragraph 6.16.
- 1.37 If the Contractor is unable to clamp the vehicle he may retain the clamping order for a further period, not exceeding the maximum allowed in paragraph 6.16, to try again. If the clamping order cannot be executed the order shall be returned to the court stating the reasons for its return.

Payment of the fine and charges and release of vehicle

- 1.38 A vehicle must be released from clamping or, as the case may be, storage, if payment has been made in full, within;
- 4 hours of the time of payment if payment is made at or to the Contractor's office or the court; or
 - 2 hours of the time of payment if payment is made to an authorised person.
- 1.39 Payment of, or towards the payment of, the fine and charge(s) due must be accepted by cash, by cheque up to the amount specified on the payer's debit card or by credit card up

to the credit limit for which the card is valid.

- 1.40 If a payment is less than the amount of the fine and charge(s) due, it will first be applied to meet the charge or charges and any balance remaining will then be applied towards payment of the fine.

Removal to storage

- 1.41 The Contractor shall leave the vehicle where it has been clamped for up to a maximum of 24 hours to allow for payment. If the payment has not been made, after this period has expired, the Contractor shall arrange for it to be moved to a secure location and shall notify the defaulter and Fines Officer of its' new location. If this does not result in the fine being paid, the Fines Officer will refer the matter back to the court to enable the vehicle to be sold at auction in settlement of the fine.

- 1.42 The Contractor shall ensure that premises used for the storage of vehicles are secure so as to protect the vehicles from damage or deterioration.

- 1.43 When a vehicle is removed to storage the Contractor shall send a written notice by post to the offender at his last known address or have it delivered to him by hand, with a copy to the Fines Officer, specifying;

- the Contractor's name, address and telephone number;
- his value added tax registered number;
- the registration mark of the clamped vehicle;
- the date, time and place of clamping;
- that the vehicle was clamped under the Clamping order;
- the date of the Clamping order and the name, official address and telephone number of the Fines Officer and the court;
- that since the fine and charges due have not been paid in full the vehicle has been removed for storage;
- the date of removal of the vehicle and the address, telephone number for, and hours of opening of, the storage premises;
- the daily or weekly storage charge payable;
- that the vehicle will be released on payment of the amount of the fine and charges due in full with a statement of how the amount is made up;
- how to pay the fine and charges due;
- how to complain about the clamping or removal operation or both; and
- A serial number.

Sale of clamped vehicle

- 1.44 No earlier than 10 days following a car being clamped the Fines Officer shall list an application for an 'Order for Sale of Vehicle'. The case should be heard by the Magistrates' Court approximately 21 days following the clamping of the vehicle. If the court makes an order for sale the Fines Officer shall send a copy of the Order to the Contractor who shall arrange for the vehicle or vehicles to be sold by an agent for sale or by auction.

After sale

- 1.45 When the vehicle has been sold the proceeds first go to the Contractor who shall deduct an amount equal to the charges due in respect of clamping, removal and storage and shall then transmit the remaining balance to the Fines Officer. The Fines Officer should deduct an amount equal to the total fine due, including compensation and cost. If there are any remaining proceeds from the sale, they shall be returned to the Offender.

Complaints procedure

- 1.45 All operatives should also have available a leaflet giving details of the complaints procedure and this be given to the Defaulter during attendance at the Defaulters property.
- 1.46 A senior manager of the Contractor must be available during the hours that a vehicle may be released from clamping or storage to consider any complaint, follow the agreed procedure, and if justified, to order the release of the vehicle.

Detailed Operating Procedures.

- 1.47 Identification. Officers must always carry:
- written identification with the bearers photograph and designation and as approved by the HMCS,
 - a photographic reproduction of the certificate of authorisation of the relevant HMCS business unit for the carrying out of that business,
 - current bailiff certificate,
 - Details of the amount outstanding and all costs/charges incurred.
 - Any other licences, certificates and documents required by Government legislation in order to operate the clamping sanction.
- 1.48 Methodology. On arrival at the given address, the officer shall check the vehicle identified in the Clamping order to ensure that the exemptions set out in paragraph 6.43 not apply. They shall then
- Clamp the vehicle identified in the Clamping order
 - Knock at the defaulter's door to inform the defaulter of the action carried out and to try to obtain payment of the outstanding amounts.
- 1.49 After a clamping device is attached, the officer shall attach a notice to the windscreen or driver's side door glass warning that:
- an immobilising device is attached
 - the vehicle should not be moved until the device has been removed and;
 - Removal and/or interference with the device is a criminal offence and loss or damage to the device will be charged to the debtor/defaulters regardless of the person who attempts to/removes the device.
- 1.50 Challenge to validity of Clamping order. Where a vehicle owner disputes the application of a clamp, the operator should be prepared to explain immediately on request with documentary backup why a clamp was applied. The officer shall also;
- ask for written evidence of payment (receipt) or cancellation of Clamping order (letter)
 - check any evidence that the defaulter offers and attempt to verify that evidence

- if satisfied that the debt is not outstanding, conclude the visit and record the details
 - if satisfied that the debt is still outstanding, confirm that the vehicle will remain clamped until either payment of the outstanding amount or removal
 - request immediate payment in full
- 1.51 Change of address. If the vehicle cannot be found and the defaulter appears to have gone away, the officer should try to ascertain:
- the defaulter's new address
 - (if rented accommodation) the name and address of the landlord and/or managing agent
 - (if sold) the name and address of the conveyancer/solicitor who acted on behalf of the parties, with any references
- 1.52 Defaulter in receivership. Where the defaulter appears/is alleged to have gone into receivership, the officer must try to ascertain:
- the name and address of the receiver/administrator or supervisor of any ongoing voluntary arrangement
 - The date that the bankruptcy or liquidation petition or the voluntary arrangement was made/set up.
- 1.53 Defaulter deceased. Where the defaulter is alleged to be deceased, the officer must try to ascertain, using his judgement as to how to proceed in each case:
- the name and address of the executors or persons dealing with the affairs of the deceased
 - the date of death (sight of death certificate)

In respect of Confiscation Distress Warrants: General and Identified Assets

- 1.54 Upon contact with the Defaulter the Authorised Employee will seek, with the following priority, to:
- Obtain full payment
 - If full payment cannot be obtained to effect specific levy upon goods
 - For warrants with identified assets if full payment cannot be obtained, to levy upon the goods identified and any other goods that will secure full payment of the warrant and interest accrued.
- 1.55 The Contractor will provide the Court with information about the method of payment used to settle money owed on all Confiscation warrants.
- 1.56 If payment in full is not forthcoming after contact is established, the Contractor shall issue notice of attendance to remove goods.
- 1.57 If payment is not made within seven days of the issue of a notice of attendance to remove goods, the Contractor shall remove the goods and present them for sale at auction to realise the sum due to the Department. The Contractor shall ensure a full audit trail is maintained.
- 1.58 The Contractor shall attempt to execute the warrant within the timeframe as set out in 6.18 and within the 60-day warrant-handling period.

- 1.59 If full payment is not made within the 60-day warrant-handling period, the warrant along with an activity report shall be returned to the Regional Confiscation Unit.

In respect of Arrest for Confiscation (No bail)

- 1.60 Upon person contact with the Defaulter the Authorised Employee will seek, with the following priority, to:
- Obtain full payment
 - Obtain part payment accompanied by arrest and bail/transport
 - Arrest and bail/transport (if no payment forthcoming)
- 1.61 Upon telephone contact by the Defaulter, if full payment cannot be secured arrangements for the Defaulter to voluntarily surrender to the court, at an agreed day and time, will be made by the Contractor. The Contractor shall suggest that attendance is within 5 working days of any such agreement and shall retain the warrant until the agreed date. The Contractor will liaise with the court to confirm or otherwise, the Defaulter's attendance on the agreed date. If the Defaulter fails to attend the Contractor shall arrest the Defaulter within a further 2 working days.
- 1.62 If, following telephone contact, voluntary surrender cannot be agreed the Contractor will execute the warrant by arresting and bailing, or arresting and transporting the Defaulter to the court as directed on the warrant.
- 1.63 If personal contact is made and full payment cannot be obtained, the Defaulter must be arrested and taken directly to court unless arrest occurs after the court has closed. In this case, the Defaulter must be taken to the nearest appropriate police station to be held in custody overnight whereupon the local Prison Escort and Custody Service Contractor will transport the Defaulter to court the following working day.

Stage 5: No Contact – Further enquiries made

- 1.64 In addition to Stage 3, and where initial enquiries indicate this would be useful, the Contractor shall undertake further enquiries to trace the Defaulter using any appropriate means. Subject to data protection and other relevant regulations.
- 1.65 Where contact can not be made, but the Contractor obtains any of the following information:
- A new address is obtained for the Defaulter, which is out of the region for which the Contractor has responsibility
 - The Defaulter is a serving prisoner or
 - The Defaulter is deceased or
 - The Defaulter has been declared bankrupt or in the case of a company is in liquidation or
 - The Defaulter has emigrated

The information shall be conveyed to the court, the warrant returned to the court and will form part of contract management procedures.

- 1.66 In all cases, enquiries shall be conducted within the warrant handling period see Appendix H.

Warrant Handling Period - Summary

WARRANT TYPE		WARRANT HANDLING PERIOD (DAYS)	TARGET PERIOD (DAYS)	EXTENSION PERIOD	CONTACT	NO ACTION FROM CONTACT	
Financial Distress							
Confiscation Distress							

“The Good Governance Standard for Public Services 2004” The Langlands report
Please note this report is available from www.hmcourts-service.gov.uk

Administration Instructions

1. Authority's Authorisation

- 1.1 The following person is the Authority's Representative and is authorised to act on behalf of the Authority on all matters relating to the Contract:

Name: [REDACTED]

Title: Authority's Representative

- 1.2 The Authority's Representative may Approve Deputy Authority's Representatives to exercise on his/her behalf such powers as are contained in this Contract.

Name: [REDACTED]

Title: Authority's Deputy Representative

2. Contractor's Authorisation

- 2.1 The following person is the Contractor's Representative and is authorised to act on behalf of the Contractor on all matters relating to the Contract:

Name: [REDACTED]

Title: [REDACTED]

- 2.2 The following person is the Contractor's Contract Manager and is authorised to act on behalf of the Contractor on [all matters] relating to the Contract:

Names: [REDACTED]

Title: [REDACTED]

3. Payment Information

- 3.1 All invoices must be sent to: [REDACTED]

4. Correspondence Information

- 4.1 All correspondence sent from the Contractor's Representative to the Authority's Representative shall be sent to the following address.

Address: [REDACTED]



Tel: [REDACTED] Fax: [REDACTED]
e-mail: [REDACTED]

- 5.2 All correspondence addressed to the Authority's Representative shall be sequentially numbered.
- 5.3 All correspondence sent from the Authority's Representative to the Contractor's Representative shall be sent to the following address:



Tel: [REDACTED]

Roles and responsibilities

- 1 This section defines the roles and responsibilities of staff working as part of the contract on behalf of HMCS and on behalf of the Contractor in relation to contract assurance and management.

2 Her Majesty's Court Service

- 2.1 The RCM, ACM and other court-based staff involved in the contract have a duty to administer the contract in accordance with the following guidance as set out in the contract. The delivery of contracted services will complement the 'HMCS Criminal Compliance and Enforcement Services a Blueprint for 2008 2012' (Blueprint).
- 2.2 Regions should implement the contract taking into consideration the following blueprint criteria:
- The Blueprint sets the HMCS Enforcement Strategy for 2008 – 2012 based on a compliance agenda.
 - There will be a mixed provision for warrant execution.
 - The Blueprint will be managed on the basis of regionally developed enforcement plans.
 - The Contractors role should be clearly identified and assigned to them in the Regional Enforcement Plan.

HMCS Court Improvement Directorate/HMCS Enforcement Team

- 2.3 The directorate/team will be responsible for the following:

- Responsible for governance and risk arrangements
- Oversight and scrutiny of RCM's and the operation of region contracts
- Provide support, guidance and intervention role
- Comment on and agree contract variations
- Communicate regularly with the RCM discussing performance and other service issues, meeting at least quarterly.
- Report on the delivery of contracted services and associated risks to the Compliance and Enforcement Board
- The Directorate/Team will respond to complaints in the following areas:
 - The employment of the Contractors
 - The legality of the Contract.

Regional Contract Manager (RCM)

2.4 The Regional Director will nominate a person who will act as an RCM. This person shall be responsible for the following:

- Ensuring that contract performance requirements are met by the Contractor using the Balanced Scorecard as their primary monitoring tool
- Assurance over risk management using samples from the Risk Registers to satisfy requirements are being met
- Contract Monitoring and forward planning to provide strategic overview
- Mediation of issues in relation to the Contractor and HMCS
- Communicate regularly with the ACM's discussing performance and other service issues. Meeting at least quarterly.
- Communicate regularly with the Contractor discussing performance and other contract issues. Meet at least quarterly using the Balanced Scorecard, Risk Register, Quarterly SRIC and assurance reports as the catalyst for the meeting.
- Communicate regularly with the Department discussing performance and other service issues. Meeting at least quarterly
- Report to the HMCS Director of Enforcement and Regional Management Board on contract progress on a quarterly, 6 month and yearly basis. The Report will include the following issues:
 - Performance
 - Operational issues (Contractor/HMCS)
 - Relationships

- Development/Innovation
 - Non-compliance (Contractor/HMCS)
 - Assurance and Risk
- Raw material for the report is to be drawn from the Balanced Scorecard, Client Review Meetings, Risk Registers, the Quarterly, Six monthly and Annual SRIC and SIC and Contract Progress Reports.
- The Regional Contract Manager should ensure that all complaints issues are dealt with efficiently, accurately and consistently across the region. The RCM should ensure that the appropriate person within the region replies to complaints.
- The RCM should answer any complaint in the following areas:
 - Assurance of actions/procedures of Contractor Staff

Area Contract Manager (ACM)

2.5 The Area Director will nominate a person who will act as an ACM. This person shall be responsible for the following:

- Responsible for the day to day running of the contract within their court area.
- Implement processes and procedures to meet requirements of the contract.
- Focusing on individual warrant issues with the Contractor.
- Liaise with the Contractor in relation to issues of identified non-compliance with the contract i.e. performance, services provided.
- Communicating regularly with the Contractor to implement and improve ways of working to drive up performance and standards. Meeting at least monthly using the Balanced Scorecard and the Risk Register to monitor and drive operations.
- Report to RCM on following issues.
 - Performance
 - Operational issues (Contractor/HMCS)
 - Relationships
 - Development/Innovation
 - Non-compliance (Contractor/HMCS)
 - Assurance and Risk
- The Area Contract Manager should respond to all complaints in the first instance in relation to the operation of the contract. They should ensure that they are answered and dealt with in the line with HMCS timeframe. They should, if required, ensure that any complaint(s) should be escalated to the appropriate manager.

- All complaints and responses should be copied to the Contractor and to the Regional Contract Manager.

3 Contractor

- 3.1 The role of AEAs is to deliver the services specified in the contract to the levels and standards set out in the various contract protocols.
- 3.2 The Contractor will nominate a person who will be point of contact for the production of all Management Information. This person shall be responsible for:
- Providing the following reports to the relevant person(s) defined in the service specification of the contract:
 - Balanced Scorecard Reports
 - Risk Registers
 - Statement of Risk on Internal Control
 - Six monthly Assurance/Progress report
 - Statement on Internal Control
 - Annual Assurance/Progress report
 - Supply other ad hoc information as requested by the Department, RCM or ACM in relation to the contract.

4 Contract Manager (CM)

- 4.1 The Contractor shall nominate a CM who shall take overall responsibility for the Contract and shall not change without the Departments agreement. They will be responsible for the following:
- Ensuring the contract requirements are carried out with reasonable skill, care and diligence in accordance with the contract and to the satisfaction of HMCS
 - Manage the Balanced Scorecard requirements
 - Communicating regularly with the RCM, meeting at least quarterly using the Balanced Scorecard, quarterly SRIC and 6 monthly and annual assurance reports(as appropriate) as the catalyst for the meeting
 - Communicating regularly with the ACM, meeting at least monthly to look at the operational issues.
 - Ensure that the reports produced by the contractor (listed below) are sent to the relevant person(s) at HMCS as defined in the service specification.
 - Balanced Scorecard Reports
 - Risk Registers
 - Statement of Risk on Internal Control
 - Six monthly Assurance/Progress report
 - Statement on Internal Control
 - Annual Assurance/Progress report
 - Respond to ad hoc requests from Her Majesty's Court Service in relation to the contract.

- The Contractor should respond to any complaint regarding the execution of the warrant(s). The following areas are examples of types of complaints that should be dealt with:
 - Query on Fees/Costs
 - Working of warrants i.e. steps taken to execute - letters sent, visits made...
 - Actions of Contractor staff/bailiffs
 - All complaints and responses should be copied to the Area Contract Manager and form part of the Balanced Scorecard report.
- 5** The Assurance and Risk Framework and Client meeting and monitoring arrangements are documented overleaf.

COMMERCIAL IN CONFIDENCE

CONTRACTOR

MONTHLY

QUARTERLY

(July, October, January, March)

SIX MONTHLY

ANNUALLY

Reports
Produced

Balanced
Scorecard

Risk
Register

Compiled
Results
from
Balanced
Scorecard

Risk
Register

Statement Risk of
Internal Control
(SRIC)

Compiled
Results
from
Balanced
Scorecard

Assurance/
Progress
Report

Compiled
Results
from
Balanced
Scorecard

Annual
Assurance/
Progress
Report

Statement
on Internal
Control
(SIC)

Reports
Sent to

ACM/RCM

ACM/RCM

RCM
The Department

RCM
The Department

RCM
The Department

Reports
Received

.1.1.1 No
reporting
requirements

.1.1.2 No
reporting
requirements

.1.1.3 No
reporting
requirements

.1.1.4 No
reporting
requirements

Received
From

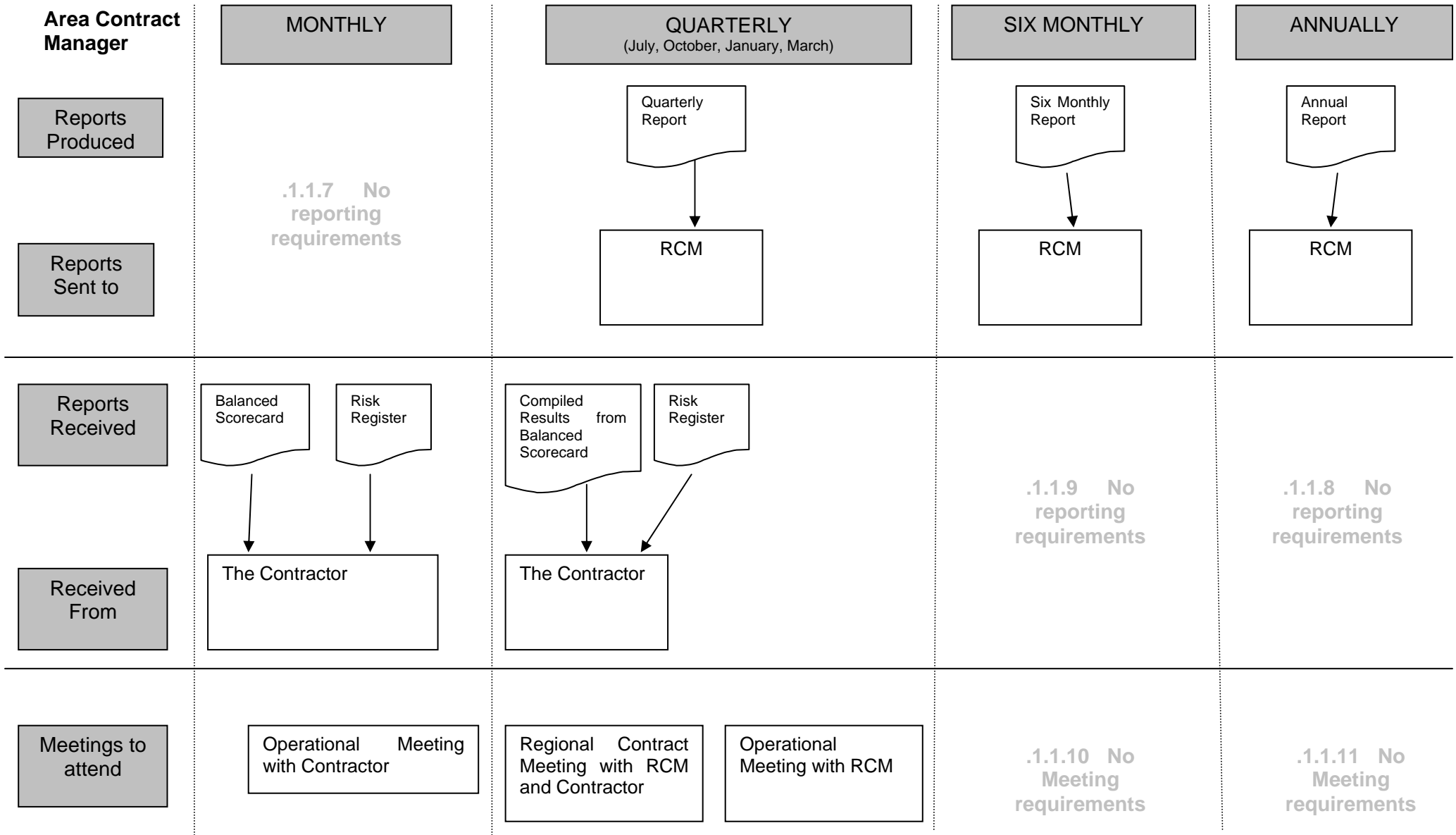
Meetings
to attend

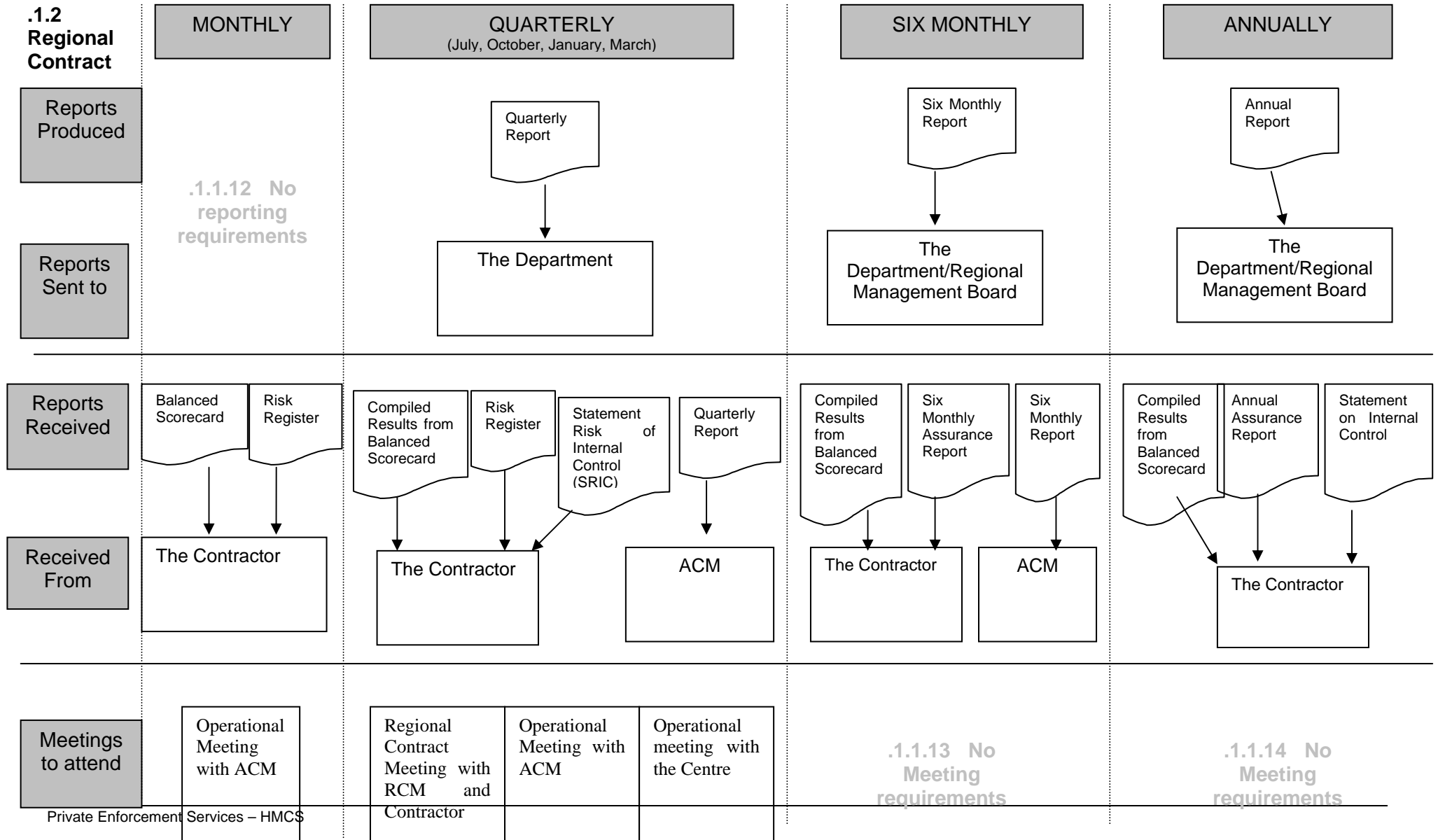
Operational Meeting
with ACM

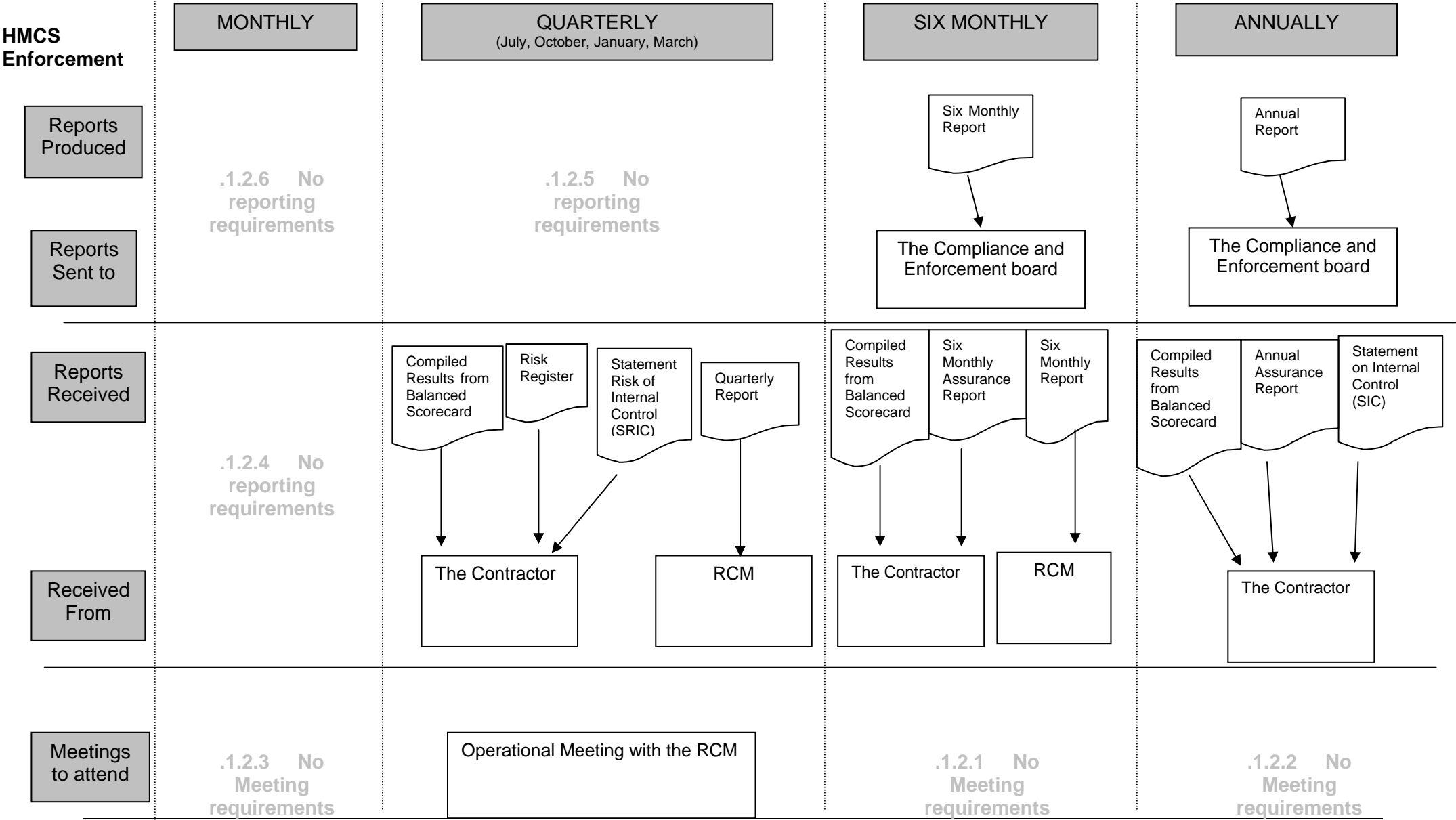
Regional Contract Meeting
with ACM and RCM

.1.1.6 No
Meeting
requirements

.1.1.5 No
Meeting
requirements







Ministry of Justice Equality and Diversity Statement

- 1 We serve a diverse society. That is a society made up of men and women; of people of different races, cultures and religions; of people with and without disabilities; of young people and older people; of straight and gay people; of people with and without caring responsibilities; and of people with many other differences. We recognise, respect and value that diversity and will strive in all we do to serve the interests of people from all sections of society. We will also strive to become an organisation that reflects more fully the diversity of the society we serve and truly values the contributions which employees from all sections of society make to our work.

In particular we will:

- in the development of our policies, take account of the interests of all sections of society
- ensure that wherever possible the services we provide meet the needs and expectations of all our service-users
- seek to influence others with whom we work, or from whom we purchase goods and services, to share our commitment to valuing the diversity of our society.

- 1.1 We will, to meet our business objectives:

- provide real equality of opportunity in the recruitment, development and promotion of all our employees irrespective of; race, nationality, colour, ethnic or national origins, religion, sex, marital status, disability, AIDS/HIV positive status, sexual orientation, age, gender reassignment, work pattern, membership or non-membership of a Trade Union and/or Corporate Staff Network or any reason which is irrelevant to the employee's ability to do the job
- eliminate unfair discrimination and harassment in our workplaces
- extend family friendly working practices
- develop all our employees to their maximum potential and make the best use of their different talents
- offer positive action training and development, where appropriate, for employees from under represented groups
- consult employees, including employees from minority groups, about how we can improve equality of opportunity and support diversity.

- 1.2 We will set ourselves goals with measurable outcomes to assess our progress towards becoming a diverse organisation providing excellent service to all sections of society. We hold ourselves accountable for their achievement.

Procedures for Employee Checks

The procedures for employee checks set out to provide the Department with a degree of assurance as to the identity and background of Contractors' employees whether, direct employees, self employed or whoever else is employed (present and future). Contractors **must** carry out the following checks as part of the **employee check** process.

The process has three parts, the **Identity Check**, the **Integrity Checks** and the requirement for each individual to sign a **Criminal Record Declaration**. These are in addition to the Criminal Records Bureau Standard Check requirement set out at 20.3 of the Specification.

A. Identity Check**Documents to be checked**

- 1.1 Before recruitment, prospective employees should be asked to provide original documents to establish their bona fides. Duplicates and photocopies should not under any circumstances be accepted. The documents necessary to establish identity will vary according to the nationality of the individual concerned:-

2 British Nationals

- 2.1 Inspection of a full ten-year UK, EEA passport or EEA National Identity Card or inspection of two of the following identity documents:

- British driving licence
- P45
- Birth certificate - issued within 6 weeks of birth
- Cheque book and bank card - with 3 statements and proof of signature, Credit card with 3 statements and proof of signature,
- Credit card - with photograph of the individual,
- Proof of residence - such as a council tax, gas, electricity, water or telephone bill

- 2.2 In some exceptional cases particularly where an individual is young it may not be possible for an employee to submit any of the identity documents listed above. Where this appears to be a genuine problem, the individual shall provide a passport sized photograph endorsed by a person of some standing in the community (such as a General Practitioner, JP, solicitor, officer of the armed forces, clergyman, teacher, lecturer, lawyer, bank manager or civil servant) certifying the identity of the employee. The signatory must have known the employee for at least 3 years. A signed statement of the individual providing the signatory's address, telephone number and full name must be submitted. The statement should always be checked to ensure that the signature matches that on the back of the photograph and that it contains a legible name, address and telephone number. In all cases of doubt, and for a random sample of the others, the signatory should be contacted, preferably by telephone, to check that he/she did complete the statement and has known the subject for a minimum of three years.

3 Other EC Nationals

- 3.1 Either a full EC passport or an identity card issued by an EC country.

4 Other nationalities

- 4.1 Either a full passport issued by the country concerned or a document/letter issued by the Home Office establishing the individual's immigration status in the UK.

4.2 Contractors should note that the following **must not** be accepted as proof of identity:-

- an international driving licence (these are frequently and easily forged);
- A copy birth certificate (such copies can be purchased on request at St Catherine's House for any identity, not just one's own).

4.3 The immigration status of the individual must be verified to ensure that the individual is entitled to work in the UK.

5 Checking Documents

5.1 When checking documentation Contractors should bear in mind that a small proportion of individuals may not be who they say they are. There are a number of reasons for deception including concealment of a criminal record, illegal immigration, and concealment of identity for the purposes of terrorism or espionage and DWP fraud.

5.2 Any of the above could cause someone to act improperly whilst on Departmental premises (e.g. commit theft or fraud; breach the Official Secrets Acts; provide false documents for others; threaten the safety and well being of Departmental staff and members of the public). It is thus of considerable importance that care is taken to check documents thoroughly.

5.3 There are a number of simple steps which Contractors should take to verify the documents produced:-

- insist that original documents are produced and not transcripts or photocopies;
- examine the documents to make sure that they are originals (modern photocopiers produce excellent results), comparing them where possible with other examples that may be to hand;
- check, as far as possible, that the paper and typeface are similar to any others that may be to hand, or may have been examined recently and that the watermark, where appropriate, is present (passports and driving licences invariably contain a watermark);
- examine the documents for alterations or signs that the photograph and/or signature have been removed and replaced (an ultra-violet lamp can be useful for this purpose);
- check that any signature on the documents tallies with other examples in their possession and, if practicable, ask the prospective employee to sign something in their presence; and
- Check that details given on the documents produced correspond with what is already known about the individual.

5.4 Contractors should also note the date of issue of the documents presented to them. Particular care should be taken where documents are recently issued, especially if all the documents available are new and there is little referee coverage (see below).

6 Other Means of Confirming Identity

6.1 Other means of checking documentation may be available to the Contractor and they should not be neglected. For example, adequate referee coverage can provide a high level of assurance, particularly where the reference is given by a reputable organisation or by someone known to the Contractor. However, reasonable steps should be taken to ensure that the reference is genuine. Written references produced by the prospective employee should be treated with care, and where possible, followed up directly with the organisation concerned, particularly where the reference is less than convincing (e.g. on

poor quality paper or containing spelling or grammatical errors). Where someone, particularly a young person, has difficulty providing both evidence of identity and adequate referee coverage, it may be appropriate to obtain both from the same person (see above).

B. Checks on Integrity

- 7 it is also necessary for the Department, through the Contractor, to be assured that the Contractor's employees meet suitable standards of honesty and integrity to perform the required duties. This shall be achieved by the Contractor obtaining the required references as described.
- 7.1 Employer and personal reference. A reference from a previous employer (covering 1 year of employment) and a personal reference (from a person of standing in the community who has known the applicant for at least 3 years) are required. Verbal references are acceptable but these must be followed up in writing and received back within 21 days assignment start date.
- 7.2 Employee resident overseas. Where the individual has been overseas for more than 6 months in the previous 3 years then a reference should be obtained from the overseas employer. In these cases verbal references are not acceptable and must be produced in writing.
- 7.3 Personal Referees. A personal referee should be a person of some standing in the community (such as a JP, medical practitioner, solicitor, officer of the armed forces, clergyman, teacher, lecturer, lawyer, bank manager or civil servant) and who has known the applicant for at least 3 years.

C. Records

- 8 The Contractor shall keep and maintain full records of all checks carried out. Such information shall include the name of the person making the check and the date, and the Contractor shall produce such records as requested by the Department.
- 8.1 The Contractor shall be obliged to pass on any information that may raise a question mark upon the integrity of the employee. Such information should be forwarded to the DCM for assessment and the Department shall decide whether the employee should be offered employment or not.
- 8.2 The Department reserves the right to arrange for such enquiries to be made, as it considers necessary about any employee supplied by the Contractor. The Contractor's attention is also drawn to Clause 29 of the Conditions of Contract.

A 6x6 grid of 36 squares, each containing a different black and white pattern. The patterns are variations of geometric shapes, lines, and dots, creating a complex visual texture. The patterns are arranged in a grid that is 6 squares wide and 6 squares high. Each square contains a unique combination of black and white pixels, forming a variety of abstract shapes and textures. The overall effect is a dense, intricate visual field.

The image displays a 6x6 grid of 36 squares, each containing a unique black and white pixelated pattern. The patterns are arranged in a 3x2 grid of pairs, with each pair sharing a common horizontal or vertical feature. The patterns are highly stylized and abstract, resembling a form of digital art or a complex code.

Warrant Volumes

The image displays a 6x6 grid of 36 squares, each containing a unique black and white pixelated pattern. The patterns are organized into six rows and six columns. Each row and column contains a distinct set of designs, ranging from simple geometric shapes to more complex, abstract forms. The patterns are created using a limited palette of black, white, and gray pixels, resulting in a high-contrast, digital aesthetic. The overall composition is a systematic arrangement of these individual patterns, creating a larger, cohesive visual structure.

Year 1 Annual Service Enhancement

All information taken from Tender Return

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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Summary

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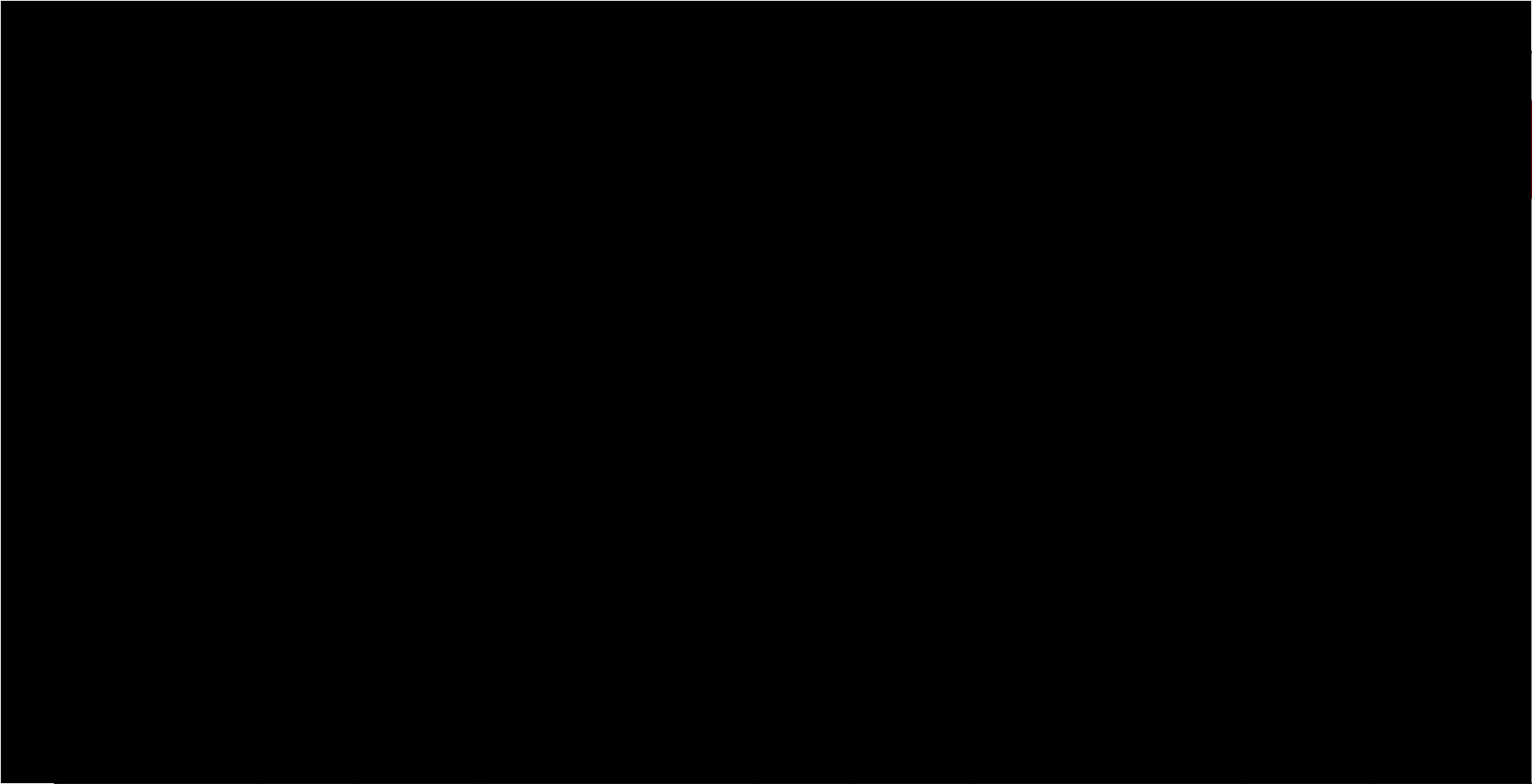
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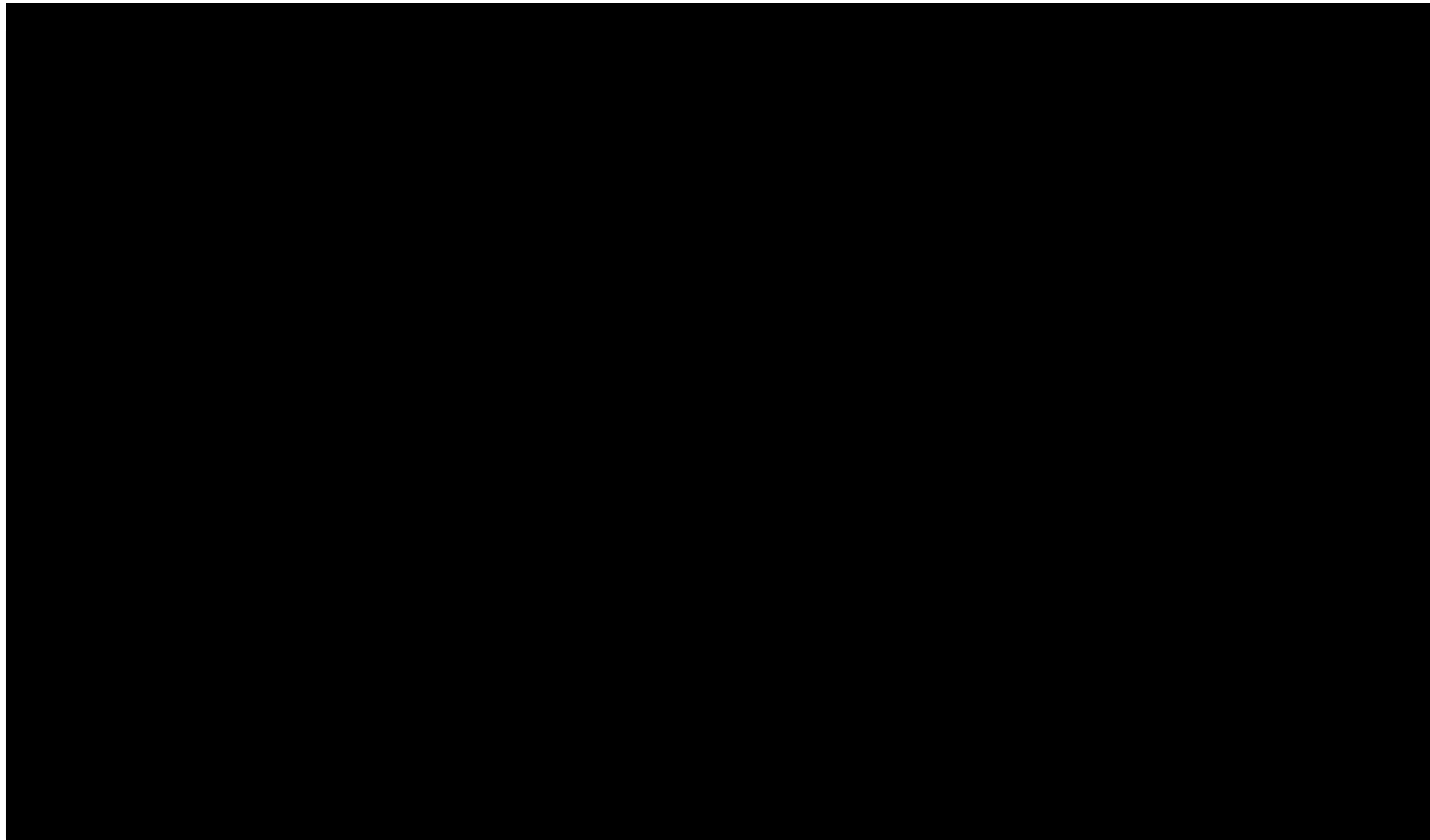
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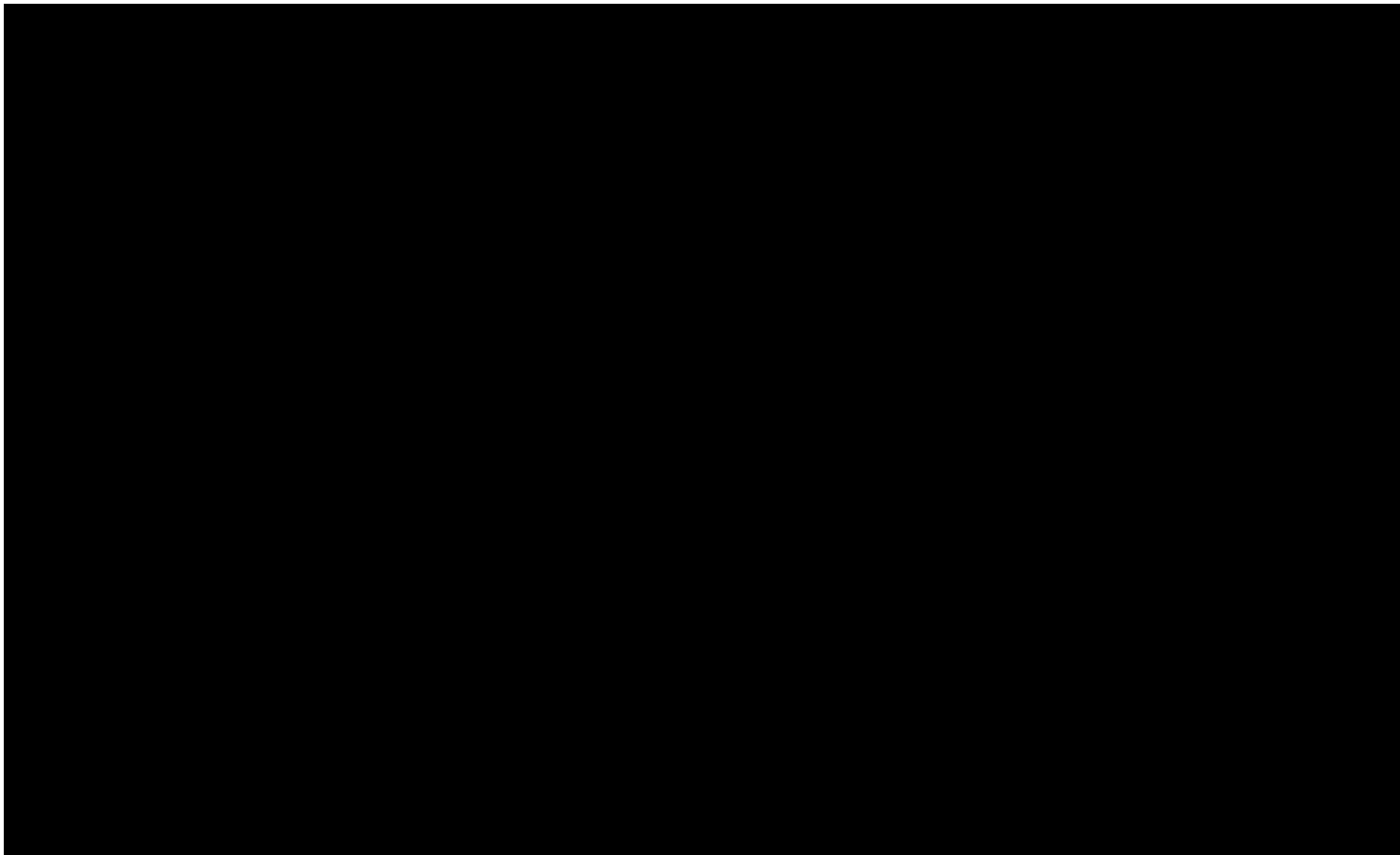
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Implementation Timetable







C

