

**POLICE AND CRIME COMMISSIONER (PCC) FOR LINCOLNSHIRE  
REQUEST FOR DECISION**

REF: 007-2015

DATE: 17 February 2015

<b>SUBJECT</b>		<b>VICTIM SUPPORT GRANT AGREEMENT</b>
<b>REPORT BY</b>	<b>CHIEF EXECUTIVE</b>	
<b>CONTACT OFFICER</b>	Howard Hunt, Deputy Chief Executive Telephone: 01522 947221	
<b>EXECUTIVE SUMMARY AND PURPOSE OF REPORT</b> To approve a Grant Agreement between the Police and Crime Commissioner and Victim Support for the provision of Referral and General Support to Victims of Crime in Lincolnshire for the period 1 <sup>st</sup> April to 30 <sup>th</sup> September 2015.		
<b>RECOMMENDATIONS</b>	<i>That:</i> <ol style="list-style-type: none"> <li>the Grant Agreement (attached) between the Police and Crime Commissioner and Victim Support for the provision of Referral and General Support to Victims of Crime in Lincolnshire for the period 1<sup>st</sup> April to 30<sup>th</sup> September 2015 be approved;</li> <li>authority be delegated to the Deputy Chief Executive to sign the Grant Agreement on behalf of the Police and Crime Commissioner.</li> </ol>	
<b>POLICE AND CRIME COMMISSIONER FOR LINCOLNSHIRE</b> I hereby approve the recommendation above, having considered the content of this report.		
Signature: 		Date: 17/02/15

**A. NON-CONFIDENTIAL FACTS AND ADVICE TO THE PCC**

**A1. INTRODUCTION AND BACKGROUND**

- Following a Government consultation in 2012 (Getting it Right for Victims and Witnesses), the victims' commissioning landscape has seen significant changes including the transfer of responsibilities from the Ministry of Justice (MoJ) to Police and Crime Commissioners (PCCs) to enable local commissioning of emotional and practical support services for victims of crime.

2. To enable local commissioning, grant funding has been provided to PCCs by the MoJ under powers given to the Secretary of State by S56 of the Domestic Violence, Crime and Victims Act 2004 (DVCVA 2004). Grant funding has been provided to PCC's in the form of a 'Victims' Services Grant' which not only replaces the former MoJ general fund for victims and witnesses but also enhances the overall funding allocated to victims services.
3. Local commissioning of services for victims of crime presents an opportunity for the PCC to ensure that local services can respond to and meet local needs. An overview of the proposed commissioning arrangements for Victims Services in Lincolnshire is detailed here: <http://www.lincolnshire-pcc.gov.uk/Document-Library/024---2014-scanned.pdf>
4. The timescale to achieve delivery of a local referral solution by April 2015 is particularly challenging and specialist support has been procured to scope, develop and support the transition to a redesigned victim and witness referral service.

This is a large piece of work with a number of interdependencies including:

- Force Control Room (FCR) review and transition to a new model of service delivery
  - Development of Force ICT system with the capacity to meet the needs of a victim referral system
5. To enable coordinated transition to a re-designed service, the existing referral arrangements are to be extended for a 6 month period, to enable the development and delivery of a robust project plan and a coordinated project for final handover to a re-designed service from 1<sup>st</sup> October 2015. A copy of the Grant Agreement between the PCC and Victim Support and is appended to this report. It is recommended that the PCC delegate authority to the Deputy Chief Executive to enter into the agreement on his behalf.

## **A2. LINKS TO POLICE AND CRIME PLAN AND PCC'S STRATEGIES/PRIORITIES**

Victims of crime are central to the Lincolnshire Police and Crime Plan (2013 – 2017). The PCC is committed to ensuring that victims of crime are supported, listened to and kept informed. Additionally, the Police and Crime Plan sets out a commitment to ensuring that victims see real benefits from the significant changes to the victims' commissioning landscape:

- *“...victims of crime are central to this plan and deserve to be supported and listed to and kept informed of progress in relation to their crime. They need our support through court proceedings or through restorative justice where they can play a part to bring an appropriate and more satisfactory end to their experience...”*

- *“...unwavering support for close working with partners to protect children and vulnerable adults. Working with the Safeguarding Boards we will explore opportunities to support and improve multi-agency working”*
- *“...where appropriate we will use restorative justice so offenders are confronted with the reality of the crime they commit and victims have the satisfaction of seeing the offender brought to book. This will not be appropriate in all cases but evidence shows first time offenders can be deterred from offending by restorative justice options which can involve putting damage right or other forms of reparation”*

## **B. FINANCIAL CONSIDERATIONS**

Grant funding for the period 1<sup>st</sup> April 2015 to 30<sup>th</sup> September 2015 will be £129,933.

### **Calculation of grant award:**

MoJ Grant to Victim Support 14/15 6 month cost across all Police Force Areas (PFA) = £12,000,000 therefore annual cost £24,000,000

Calculation of Lincolnshire % share of Victim Support costs by PFA (2013 data)  
 $1.0828\% (\text{£}270,000 / 24,936,000 \times 100)$

$1.0828\% \text{ of } \text{£}24,000,000 = \text{£}259,865 \text{ (annual cost)}$

$\text{£}259,865 / 2 = \text{£}129,933 \text{ (6 month cost)}$

*(nb: figures rounded at end of calculation)*

## **C. LEGAL AND HUMAN RIGHTS CONSIDERATIONS**

*[This should include the legal powers the PCC has for making the decision]*

Section 143 of the Anti-social Behaviour, Crime and Policing Act 2014 provides Police and Crime Commissioners with powers to provide or commission services.

Within the meaning of this section, a PCC may provide or arrange for the provision of:

- services that in the opinion of the PCC will secure, or contribute to securing, crime and disorder reduction in the PCC's area;
- services that are intended by the PCC to help victims or witnesses of, or other persons affected by, offences and anti-social behaviour;
- services of a description specified in an order made by the Secretary of State.

A PCC arranging for the provision of services under S.143 may make grants in connection with the arrangements. A grant may be subject to any conditions (including conditions as to repayment) that the PCC thinks appropriate.

#### **D. PERSONNEL AND EQUALITIES ISSUES**

The Police and Crime Commissioner must ensure that services commissioned under the Victims Services Grant are:

- i. Provided free of charge
- ii. Confidential
- iii. Non-discriminatory (including being available to all regardless of residence status, nationality or citizenship)
- iv. Available whether or not a crime has been reported to the police
- v. Available before, during and for an appropriate time after any investigation or criminal proceedings
- vi. Compliant with requirements under the Data Protection Act (DPA) when dealing with personal data and sensitive personal data

#### **E. REVIEW ARRANGEMENTS**

Review and evaluation arrangements will be put in place to ensure that required outcomes have been achieved.

#### **F. RISK MANAGEMENT**

As part of contract management requirements – this will be a core part of the procurement and subsequent contract management process.

#### **G. PUBLIC ACCESS TO INFORMATION**

Information in this form along with any supporting material is subject to the Freedom of Information Act 2000 and other legislation. Part 1 of this form will be made available on the PCC's website within one working day of approval. However, if release by that date would compromise the implementation of the decision being approved, publication may be deferred. An explanation for any deferment must be provided below, together with a date for publication.

**Is the publication of this form to be deferred?** No

**If Yes, for what reason:**

**Until what date:**

Any facts/advice/recommendations that should not be made automatically available on request should not be included in Part 1 but instead on the separate part 2 form.

**Is there a part 2 form?** No

**If Yes, for what reason:**

## ORIGINATING OFFICER DECLARATION

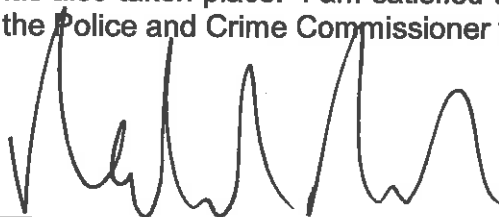
	Initial to confirm
Originating Officer: The Deputy Chief Executive recommends this proposal for the reasons outlined above.	HH.
Financial advice: The PCC's Chief Finance Officer has been consulted on this proposal.	JF
Monitoring Officer: The PCC's Monitoring Officer has been consulted on this proposal	JG

## OFFICER APPROVAL

### **Chief Executive**

I have been consulted about the proposal and confirm that financial, legal and equalities advice has been taken into account in the preparation of this report. Consultation outlined above has also taken place. I am satisfied that this is an appropriate request to be submitted to the Police and Crime Commissioner for Lincolnshire.

**Signature:**



**Date:** 17/2/2015



**THIS AGREEMENT** is made the 17<sup>th</sup> day of February 2015

**BETWEEN:**

- (1) The Police and Crime Commissioner for Lincolnshire of Lincolnshire Police Headquarters, Deepdale Lane, Nettleham, Lincoln, LN2 2LT (the **"PCC"**); and
  - (2) Victim Support of 56-60 Hallam Street, London W1W 6JL, a charity registered in England and Wales under number 298028 whose registered office is at 56-60 Hallam Street, London W1W 6JL (the **"Beneficiary"**);
- each of the PCC and the Beneficiary being a **Party** and together the PCC and the Beneficiary are the **Parties**.

**BACKGROUND**

A This Agreement sets out the terms and conditions that will apply in respect of the Grant Funding.

**THE PARTIES AGREE AS FOLLOWS**

**1 Definitions and Interpretation**

- 1.1 The terms and expressions used in this Agreement shall have the meanings set out below:
- 1.1.1 **"Authorised Representative"** means those persons appointed by the Parties in accordance with Clause 13 of this Agreement;
  - 1.1.2 **"Commencement Date"** means 1<sup>st</sup> April 2015;
  - 1.1.3 **"Data Protection Legislation"** means the Data Protection Act 1998, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any legislation implementing the Data Protection Directive 95/46/EC of 24 October 1995 or the Privacy and Electronic Communications Directive 2002/58/EC of 12 July 2002;
  - 1.1.4 **"Data Controller", "Data Processor", "Data Subject", "Personal Data" and "Processing"** have the meaning given to them in the Data Protection Legislation;
  - 1.1.5 **"End Date"** means the date on which this Agreement expires or terminates or any of the Funded Services cease to be performed by the Beneficiary;
  - 1.1.6 **"Expiry Date"** means 30<sup>th</sup> September 2015;
  - 1.1.7 **"EIR"** means the Environmental Information Regulations 2004;
  - 1.1.8 **"Final Staff List"** means the list of all the Staff engaged (in whatever capacity) in or wholly or mainly assigned to the performance of the Funded Services or any part of the Funded Services (as appropriate) at the End Date;
  - 1.1.9 **"Exit Employee"** means any person:
    - (a) who is engaged in the performance of the Funded Services when the Beneficiary or any sub-contractor of the Beneficiary ceases for whatever reason, whether directly or indirectly, to perform the Funded Services or any part of them; and
    - (b) whose contract of employment has effect by virtue of the Transfer of Undertaking (Protection of Employment) Regulations 2006 as if originally made between such person and a Replacement Provider;
  - 1.1.10 **"FOIA"** means the Freedom of Information Act 2000;
  - 1.1.11 **"Force Majeure Event"** means an event or sequence of events beyond a Party's reasonable control preventing or delaying it from performing its obligations under this Agreement;
  - 1.1.12 **"Funded Service"** means any of the individual services which form part of the Project as specified in Schedule 1;

- 1.1.13 **"Funding"** means the sum or sums of money stated in Schedule 1 that are to be paid by the PCC to the Beneficiary under the terms of this Agreement;
- 1.1.14 **"Funding Conditions"** means the purpose and conditions of the Funding set out in Clause 3;
- 1.1.15 **"Good Industry Practice"** means standards, practices, methods and procedures conforming to the Law and the exercise of that degree of skill, diligence, prudence and foresight which, at the relevant time, would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in the same or a similar type of undertaking as the relevant Party under the same or similar circumstances, seeking in good faith to comply with its contractual and other obligations.
- 1.1.16 **"Grant Period"** means the period from the Commencement Date to:
- (a) the Expiry Date, or
  - (b) following an extension pursuant to Clause 2.2, the date of expiry of the extended period,
- or such earlier date of termination or partial termination of this Agreement in accordance with the Law or the provisions of this Agreement.
- 1.1.17 **"Intellectual Property Rights"** means patents, inventions, trademarks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off;
- 1.1.18 **"Law"** means any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body;
- 1.1.19 **"Objectives"** means the objectives for the Project and/or the Funded Service (as appropriate) set out in Schedule 1;
- 1.1.20 **"Project"** means the project set out in Schedule 1;
- 1.1.21 **"Provisional Staff List"** means a list prepared and updated by the Beneficiary of all the Staff engaged (in whatever capacity) in, or wholly or mainly assigned to, the performance of the Funded Services or any part of the Funded Services at the date of preparation of the list;
- 1.1.22 **"Regulatory Bodies"** means those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate or influence the matters dealt with in this Agreement or any other affairs of the PCC and **"Regulatory Body"** shall be construed accordingly;
- 1.1.23 **"Replacement Provider"** means the PCC or any third party which performs services which are substantially similar to any of the Funded Services following the expiry, termination or partial termination of this Agreement;
- 1.1.24 **"Staff"** means all employees, staff, workers, agents and consultants of the Beneficiary, and of any sub-contractor or other third party with whom the Beneficiary contracts in order to perform the Funded Services or any part of them, who are engaged in the performance of the Funded Services from time to time;
- 1.1.25 **"Staffing Information"** means in relation to all persons detailed on the Provisional Staff List, such information as the PCC may reasonably request (subject to the Data Protection Legislation), but including:
- (a) their ages, dates of commencement of employment or engagement, nature of role, working hours, apportionment of time to specific services and gender;
  - (b) details of whether they are employees, workers, self-employed, contractors or consultants, agency workers or otherwise and whether they have previously worked for a public sector organisation;
  - (c) the identity of their employer or relevant contracting party;



- (d) their relevant notice periods and any other terms relating to termination of employment or engagement, including any redundancy procedures and contractual redundancy payment schemes;
  - (e) the current wages, salaries, profit sharing, incentive and bonus arrangements applicable to them;
  - (f) details of other employment-related benefits including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and car schemes applicable to them;
  - (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
  - (h) disciplinary records and details of any such individuals on long-term sickness absence, maternity or other statutory leave or otherwise absent from work;
  - (i) copies of all relevant documents and materials relating to such information including copies of relevant contracts of employment or engagement (or relevant standard contracts if applied generally in respect of such individuals); and
  - (j) details of all collective agreements with a brief summary of the current state of negotiations with such bodies and details of any current industrial disputes and claims for recognition by any trade union;
- 1.1.26 **"VAT"** means value added tax in accordance with the provisions of the Value Added Tax Act 1994 and any similar fiscal or sales tax;
- 1.1.27 **"Victims"** means victims of crime as defined in Code of Practice for Victims of Crime (2013), Introduction paragraphs 13-20 and Chapter 1, paragraphs 1.1 – 1.12; and
- 1.1.28 **"Working Day"** means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
- 1.2 Unless the context otherwise requires, the interpretation and construction of this Agreement shall be subject to the following provisions:
- 1.2.1 words importing the singular meaning include where the context so admits the plural meaning and vice versa;
  - 1.2.2 words importing the masculine include the feminine and the neuter;
  - 1.2.3 references to Clauses or to Schedules are to clauses or the schedules of this Agreement;
  - 1.2.4 references to legislation:
    - (a) include any secondary or subordinate legislation made under or pursuant to that legislation; and
    - (b) include any modification or re-enactment of that legislation;
  - 1.2.5 reference to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
  - 1.2.6 the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation";
  - 1.2.7 headings are included in this Agreement for ease of reference only and shall not affect the interpretation or construction of this Agreement;
  - 1.2.8 references to this Agreement means:
    - (a) the Clauses;
    - (b) the Schedules; and
    - (c) any other documents referred to in or attached to the Schedules; and
  - 1.2.9 in the event and to the extent only of any conflict between the Clauses and the Schedules, the Clauses shall prevail.

## **2 Commencement and Duration**

- 2.1 The rights and obligations of the Parties under this Agreement shall be deemed to have taken effect on the Commencement Date and shall continue in force for the Grant Period.
- 2.2 Subject to Clause 2.3, the Parties may by agreement in writing signed by each Party's Authorised Representative extend the Grant Period for not more than three months' from the Expiry Date.
- 2.3 Any agreement to extend the term of this Agreement beyond the Expiry Date shall include an agreement as to any Funding payable for such extension period.
- 2.4 Where this Agreement is extended in accordance with Clauses 2.2 and 2.3, all other provisions of this Agreement shall continue in full force and effect during any period of extension.

## **3 Funding Conditions**

- 3.1 The Beneficiary shall use the Funding:
  - 3.1.1 for the purposes set out in, and in accordance with the scope and nature of, the Project and the relevant Funded Service;
  - 3.1.2 to achieve the Objectives;
  - 3.1.3 in accordance with the Budget; and
  - 3.1.4 in accordance with the terms and conditions of this Agreement.
- 3.2 The Beneficiary shall not be permitted to change, amend or vary the purposes, scope or nature of the Project or an individual Funded Service without the prior written consent of the PCC.
- 3.3 The Beneficiary shall not without the prior written consent of the PCC, not to be unreasonably withheld or delayed, exceed any amount set out in the Budget for any itemised capital or operating expenditure.
- 3.4 In the event that the Beneficiary applies for or secures any additional funding for the Project (or a Funded Service), the Beneficiary shall give the PCC prior written notice as soon as reasonably practicable of its intention to apply or the receipt of additional funding, and shall provide the PCC with all reasonable information and confirmation of any application or grant of funding. The PCC may, in its absolute discretion, permit the Beneficiary to amend the Budget, the Funded Service and/or the Project as a result of the Beneficiary securing alternative or additional funding for the Project and/or Funded Service.
- 3.5 The Beneficiary shall not use the Funding for the following:
  - 3.5.1 the payment of any capital or operating expenditure incurred prior to the Commencement Date;
  - 3.5.2 any activity which is party-political in intention, use, or presentation;
  - 3.5.3 to support or promote religious activity (excluding inter-faith activity).
- 3.6 The Funded Service(s) must be in the interests of the Victim and be:
  - 3.6.1 free of charge;
  - 3.6.2 confidential;
  - 3.6.3 non-discriminatory (including being available to all regardless of residence status, nationality or citizenship);
  - 3.6.4 available whether or not a crime has been reported to the police; and
  - 3.6.5 available before, during and for an appropriate time after any police investigation or criminal proceedings.
- 3.7 Where the Funding relates to more than one Funded Service, the Beneficiary may not use Funding provided for one Funded Service for or in respect of another Funded Service.
- 3.8 Subject to Clauses 3.1 and 3.2, the Beneficiary will take account of any formal reports and recommendations made by the Commissioner for Victims and Witnesses in its performance of the

Funded Service and will provide the PCC with a written response detailing its views on any such reports and/or recommendations.

#### **4 Payment of the Funding**

- 4.1 The PCC shall pay the Funding to the Beneficiary by instalments as set out in Schedule 1 to the Beneficiary's nominated bank account notified to the PCC in writing on or before the Commencement Date..
- 4.2 The Beneficiary shall notify the PCC as soon as reasonably practice if any underspend is forecast.
- 4.3 If an overpayment of the Funding is made at any time, the Beneficiary shall repay any overpayment within 30 days of receiving any request for repayment from the PCC.

#### **5 Warranties**

- 5.1 The Beneficiary warrants and represents to the PCC that:
  - 5.1.1 it has the right, power and authority to enter into this Agreement and to perform its obligations under this Agreement;
  - 5.1.2 all information provided by the Beneficiary to the PCC is at the Commencement Date true and accurate and that it is not aware, having made all reasonable enquiries and to the best of its knowledge and belief, that any change will occur after the Commencement Date which will render that information untrue or misleading in any respect and that there has been no material adverse change in the business, assets, operation or prospects of the Beneficiary that will affect the Project (or any Funded Service) since the date any information was provided;
  - 5.1.3 none of the information provided by the Beneficiary to the PCC infringes the Intellectual Property Rights of any third party; and
  - 5.1.4 any services (including Funded Services) included within the Project will be performed:
    - (a) by suitably qualified and competent personnel who shall exercise all due skill and care and all due diligence in their execution of the services;
    - (b) in accordance with Good Industry Practice;
    - (c) so as to conform with all applicable Law relating to those services and the Project.
- 5.2 The Beneficiary shall notify the PCC in writing as soon as it is reasonably able upon becoming aware of any breach of any warranty or representation set out in Clause 5.1. When notifying the PCC of a breach the Beneficiary shall use all reasonable endeavours to provide such documentation, information, details and assistance in respect of the breach that the PCC may reasonably request.

#### **6 Compliance with Law**

- 6.1 The Beneficiary shall comply, and shall (at its own expense unless expressly agreed otherwise) ensure that its employees, agents and representatives shall comply, with all applicable Laws in the performance of the Beneficiary's duties under this Agreement, provided that the Beneficiary shall not be liable for any breach to the extent that such breach is directly caused or contributed to by any act or default of the PCC or its employees, agents and representatives.

#### **7 Intellectual Property Rights**

- 7.1 The Beneficiary shall grant to the PCC at no cost an irrevocable, royalty-free perpetual license to use and to sub-license the use of any material created by the Beneficiary under the terms of this Agreement ('the Beneficiary's IPR') for such purposes as the PCC shall deem appropriate, subject to the prior written agreement of the Beneficiary. For the avoidance of doubt, the Beneficiary's IPR as well as any pre-existing IPR belonging to the Beneficiary shall be and remain after termination for whatever reason the property of the Beneficiary.
- 7.2 The Beneficiary shall indemnify and keep indemnified and hold harmless the PCC from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by it as a result of or in connection with any action, demand or claim that use or possession of any information supplied

by it to the PCC or in connection with the Project, the Funded Service(s) or the performance of any services by it pursuant to the Project or any Funded Service, infringes the Intellectual Property Rights of any third party ("**IPR Claim**"), provided that :

- 7.2.1 the PCC notifies the Beneficiary in writing setting out full details of any IPR Claim of which it has notice as soon as is reasonably possible;
- 7.2.2 the PCC does not makes any admission of liability or agrees any settlement or compromise of the relevant IPR Claim without the prior written consent of the Beneficiary (which shall not be unreasonably withheld or delayed);
- 7.2.3 if the Beneficiary requests, the Beneficiary (at its own expense) shall have the conduct of or settle all negotiations and litigation arising from the IPR Claim; and
- 7.2.4 if the Beneficiary requests, the PCC shall (at the Beneficiary's expense), give the Beneficiary all reasonable assistance in relation to the Beneficiary's conduct, settlement and/or negotiation of any IPR Claim.

## **8 Exclusion and limitation of liability**

### **8.1 Neither Party limits its liability for:**

- 8.1.1 death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors (as applicable); or
- 8.1.2 fraud or fraudulent misrepresentation by it or its employees.

### **8.2 Subject to Clause 8.1, either Party's total aggregate liability in respect of all claims, losses or damages, whether arising from contract, tort (including negligence) or otherwise under or in connection with this Agreement shall in no event exceed the aggregate of sums paid by the PCC to the Beneficiary or, if greater, an amount equivalent to the Funding.**

### **8.3 Subject to Clause 8.1, neither Party shall be liable to the other Party for:**

- 8.3.1 any indirect, special or consequential loss or damage;
- 8.3.2 any loss of profits, turnover, data, business opportunities, anticipated savings or damage to goodwill (whether direct or indirect); or
- 8.3.3 any loss, whether direct or indirect, arising from:
  - (a) the Beneficiary conducting or undertaking the Project or an individual Funded Service; or
  - (b) the use of the Funding,.

## **9 Confidentiality**

### **9.1 During the Grant Period and after termination or expiry of this Agreement for any reason, neither Party shall:**

- 9.1.1 disclose any information concerning or relating to the other Party, which a reasonable person would regard as confidential, to any other person other than with the prior written consent of the other Party or in accordance with Clause 9.2 or 9.3; or
- 9.1.2 use any of the other Party's confidential information for any purpose other than to perform its obligations and/or exercise its rights under this Agreement.

### **9.2 A Party ("**Receiving Party**") may disclose confidential information belonging to the other Party to its employees, agents, representatives, sub-contractors and advisers to the extent that it is necessary to enable the Receiving Party to perform its obligations and/or exercise its rights under this Agreement provided that the Receiving Party shall ensure that each recipient:**

- 9.2.1 only uses the information for that purpose;
- 9.2.2 understands that the information is confidential;

9.2.3 is made aware of and complies with all the obligations of confidentiality set out in this Agreement. The Receiving Party shall be responsible for any failure by any of its recipients to observe the obligations of confidentiality in this Agreement as though it were a breach committed by the Receiving Party.

9.3 The obligations contained in this Clause 9 shall not apply to any confidential information which:

9.3.1 was at the Commencement Date, or at any time after the Commencement Date comes into, the public domain other than through breach of this Agreement;

9.3.2 can be shown by the Receiving Party to the reasonable satisfaction of the other Party to have been known by, or available (on a basis that did not require it to be maintained as confidential) to the Receiving Party before it was provided to it by the other Party;

9.3.3 subsequently comes lawfully into the possession of the Receiving Party from a third party (who has not derived it directly or indirectly from the other Party), who is rightfully in possession of such confidential information and who is not bound as to its use or disclosure by an obligation of confidence or secrecy to the other Party; or

9.3.4 is required by Law, court order or any Regulatory Body, to be disclosed; or

9.3.5 in the case of the PCC, is disclosed pursuant to the PCC's rights set out in Clause 11.

## **10 Data Protection**

10.1 The Beneficiary, as Data Controller for any Personal Data used for Processing in connection with the Project and/or a Funded Service, shall comply with all of its obligations under the Data Protection Legislation and shall not indicate to any Data Subject that the PCC is a Data Controller or Data Processor of that Personal Data.

10.2 The Beneficiary shall indemnify and keep indemnified and hold harmless the PCC on demand against any costs, claims and proceedings, damages and other liabilities (including monetary penalties or other regulatory fines) incurred by the PCC as a result of the breach of this Clause 10 by the Beneficiary or its permitted sub-Processors.

10.3 The Beneficiary consents to the PCC holding and Processing personal data relating to the Beneficiary and the Beneficiary agrees that the PCC may Process and disclose such data internally and so far as is reasonably necessary externally for the purposes of complying with statutory requirements, meeting the PCC's legitimate interests and complying with this Agreement. The PCC shall Process Personal Data relating to the Beneficiary in accordance with the Data Protection Legislation.

10.4 The Beneficiary shall permit representatives of the Ministry of Justice to examine de-personalised data collected for the purposes of evaluation and ongoing performance monitoring of the Funding and other funding provided by the Ministry of Justice or the PCC for Victim support service.

10.5 The data processing agreement of 6<sup>th</sup> September 2013 between Lincolnshire Police and Victim Support Lincolnshire, as at Schedule 3, shall apply to this agreement.

## **11 Freedom of Information and Transparency Obligations**

11.1 The Beneficiary acknowledges that the PCC is subject to the requirements of the FOIA and the EIR and shall assist and co-operate with the PCC (at the Beneficiary's expense) to the extent permitted by statute to enable the PCC to comply with the requirements of the FOIA and EIR, including but not limited to transferring (or procuring the transfer) to the PCC any request for information pursuant to the FOIA or EIR received by the Beneficiary (or any of its sub-contractors) as soon as practicable following receipt and in any event within three Working Days of receipt.

11.2 In no event shall the Beneficiary respond to a request for information under the FOIA or EIR without the prior written consent of the PCC.

11.3 The PCC acknowledges that the Beneficiary is not subject to the FOI Act. The Beneficiary will however seek to assist the PCC to comply with requests it receives where the Recipient it has

data relevant to that request. In doing so the Recipient will comply with the requirements of the Data Protection Act 1998.

- 11.4 The Beneficiary shall ensure that all Information (as defined by the FOIA) produced in the course of this Agreement or relating to this Agreement is retained for disclosure and shall permit the PCC to inspect such records as requested from time to time to the extent permitted by statute.
- 11.5 The Beneficiary acknowledges that the PCC is subject to certain transparency and disclosure obligations set out in the Elected Local Policing Bodies Specified Information Order 2011 (as amended) ("**Transparency Obligations**").
- 11.6 The Beneficiary gives consent to the PCC to publish the contents of this Agreement and information regarding any tender process related to the Project and/or a Funded Service only to the extent to enable it to comply with its Transparency Obligations and to the extent permitted by statute..

## **12 Discrimination**

- 12.1 The Beneficiary shall, and shall use all reasonable endeavours to procure that its employees, agents and sub-contractors shall:
  - 12.1.1 not unlawfully discriminate either directly or indirectly on such grounds as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age;
  - 12.1.2 without prejudice to the generality of the foregoing, not unlawfully discriminate within the meaning and scope of Sex Discrimination Act 1975, the Equal Pay Acts 1970 and 1983, the Disability and Discrimination Act 1995, the Human Rights Act 1998, the Employment Equality (Sexual Orientation) Regulations 2003, the Employment Equality (Religion or Belief) Regulations 2003, provisions of the Equality Act 2010 or any other relevant or equivalent legislation (including any equivalent legislation from time to time in force in any other jurisdiction in which any activities are carried out under or in connection with this Agreement by the Beneficiary or any of its Staff or sub-contractors) or any statutory modification or re-enactment thereof;
  - 12.1.3 comply with the Human Rights Act 1998 in respect of obligations under this Agreement and in the performance and conduct of the Project (or a Funded Service) as if it (or they) were a public body within the meaning of the Human Rights Act 1998; and
  - 12.1.4 takes all steps as the PCC may reasonably require in connection with the PCC's own obligations under the Human Rights Act 1998.

## **13 Authorised Representatives**

- 13.1 The PCC's Authorised Representative shall be Howard Hunt, Deputy Chief Executive to the PCC, or such other person appointed as such by the PCC and notified to the Beneficiary pursuant to Clause 33.
- 13.2 The Beneficiary's Authorised Representatives shall be Mick Studley, Divisional Manager for the Beneficiary, or such other person appointed as such by the Beneficiary and notified to the PCC pursuant to Clause 33.

## **14 Review, Monitoring and Information**

- 14.1 The Beneficiary shall provide such information, and any supporting documentation, in relation to the performance of its obligations and compliance with the Law required under this Agreement (including information in respect of progress towards achieving the Objectives and any monitoring information identified in Schedule 3) as the PCC may reasonably request from time to time. Such information shall be provided in the format and within the timescales specified in Schedule 3 and/or as the PCC reasonably requests from time to time.
- 14.2 The Beneficiary shall ensure that all such information provided pursuant to this Clause 14 (including the Provisional Staff List, the Final Staff List and the Staffing Information) is true, accurate and complete and, in respect of any information required by the PCC for tendering purposes, shall notify the PCC without delay of any changes to information previously provided to the PCC.

- 14.3 The Beneficiary shall meet with the PCC from time to time, at such intervals and in such places reasonably requested by the PCC, in order to discuss the Project, a Funded Service and/or progress towards achieving the Objectives and to identify any lessons learned for future projects and/or future grants of funding. The PCC shall be permitted to share information arising from such meeting with the Chief Constable of its police force and/or with police and crime commissioners and/or chief constables of other police forces.
- 14.4 The Beneficiary shall not change its constitution or governing rules without the prior written approval of the PCC.
- 14.5 The Beneficiary shall notify the PCC in writing of any changes to its bank or building society accounts.
- 14.6 The Beneficiary agrees that:
- 14.6.1 within 5 Working Days of the Commencement Date; and
- 14.6.2 within 15 Working Days of the earliest of:
- (a) receipt or the giving of notice of early termination of this Agreement; or
- (b) the date which is 12 months before the Expiry Date; or
- it shall provide the Provisional Staff List and the Staffing Information to the PCC and/or, at the direction of the PCC, to any Replacement Provider, and it shall provide an updated Provisional Staff List and updated Staffing Information whenever reasonably requested by the PCC;
- 14.6.3 at least 10 Working Days prior to the End Date, the Beneficiary shall prepare and provide to the PCC and/or, at the direction of the PCC, to the Replacement Provider, the Final Staff List, which shall be complete and accurate in all material respects. The Final Staff List shall identify which of the Staff named are Exit Employees;
- 14.6.4 the PCC shall be permitted to use and disclose the Provisional Staff List, the Final Staff List and the Staffing Information for informing any tenderer or other prospective Replacement Provider for any services which are substantially the same type of services (or any part thereof) as the Funded Services; and
- 14.6.5 upon reasonable request by the PCC the Beneficiary shall provide the PCC or at the request of the PCC, the Replacement Provider, with access (on reasonable notice and during normal working hours) to (and copies of) such employment records as the PCC reasonably requests.
- 14.7 Within 10 Working Days following the End Date, the Beneficiary shall, if so requested by the PCC, provide to the PCC or any Replacement Provider, in respect of each person (subject to compliance with the Data Protection Legislation) on the Final Staff List who is an Exit Employee, their:
- 14.7.1 pay slip data for the most recent month;
- 14.7.2 cumulative pay for tax and pension purposes;
- 14.7.3 cumulative tax paid;
- 14.7.4 tax code;
- 14.7.5 voluntary deductions from pay; and
- 14.7.6 bank or building society account details for payroll purposes.
- 14.8 From the date of the earliest event referred to in clause 14.6.2 the Beneficiary shall not, and shall procure that its sub-contractors shall not, without the prior written consent of the PCC assign any person to the performance of the Funded Services (or the relevant part) who is not listed in the Provisional Staff List and shall not without the prior written consent of the PCC (such consent not to be unreasonably withheld or delayed):
- 14.8.1 increase the total number of employees listed on the Provisional Staff List save for fulfilling assignments and projects previously scheduled and agreed with the PCC;
- 14.8.2 make, propose or permit any changes to the terms and conditions of employment of any employees listed on the Provisional Staff List;
- 14.8.3 increase the proportion of working time spent on the Funded Services (or the relevant part) by any of the Staff save for fulfilling assignments and projects previously scheduled and

agreed with the PCC;

14.8.4 introduce any new contractual or customary practice concerning the making of any lump sum payment or the giving of any benefit on the termination of employment of any employees listed on the Provisional Staff List; or

14.8.5 replace any of the Staff listed on the Provisional Staff List or deploy any other person to perform the Funded Services (or the relevant part) or increase the number of employees or terminate or give notice to terminate the employment or contracts of any persons on the Provisional Staff List.

14.9 The Beneficiary shall promptly notify the PCC or, at the direction of the PCC, the Replacement Provider of any notice to terminate employment received from any persons listed on the Provisional Staff List regardless of when such notice takes effect.

## **15 Records**

15.1 The Beneficiary shall maintain (and procure that any of its agents and sub-contractors maintain) comprehensive and up-to-date records of its capital and operating expenditure in respect of the Project, each Funded Service and the Budget, including such details as the PCC may reasonably require to ensure that the Funding is being used in accordance with this Agreement solely for and in connection with the Project and/or the relevant Funded Service.

15.2 The Beneficiary shall (and shall procure that its agents and sub-contractors shall) make its (or their) records and books of account in relation to the Funding available to the PCC or any person nominated by the PCC for the purposes of inspection and audit on the giving of reasonable notice by the PCC.

15.3 The Beneficiary shall keep all records relating to the Funding for a period of seven years from expiry of the Grant Period.

## **16 External Assurances**

16.1 The Beneficiary shall ensure that this Funding falls within the scope of audit as part of the Beneficiary's annual internal and external audit programme. The external auditor will be expected to sign off an Independent Assurance Statement as part of the scope of audit.

16.2 The value and purpose of this Funding shall be identified separately in the Beneficiary's audited accounts (or the notes thereto).

16.3 Upon request, the Beneficiary shall send to the PCC a copy of its audited accounts.

## **17 Procurement by the Beneficiary**

17.1 In so far as the Beneficiary procures any goods, services or works from any third party in order to achieve the Objectives, then it shall do so in accordance with:

17.1.1 the PCC's standing orders and any other reasonable instructions given by the PCC;

17.1.2 the Public Contracts Regulations 2006 and all other Law governing public procurement as if the Beneficiary was itself a Contracting Authority within the meaning of those Laws. In addition and without limiting the generality thereof, the Beneficiary must secure the best value for money and must act in a fair, open and non-discriminatory manner in all purchases of goods and services; and

17.1.3 its own procurement processes and financial regulations.

17.2 In addition to the provisions of Clause 17.1 if the Beneficiary follows a single tender procedure, it must provide and document a full justification that can be robustly defended and maintain the relevant documentation on file. Such justification may apply in exceptional circumstances for example where:

17.2.1 the requirement can demonstrably be met only by proprietary or specialist equipment; or

17.2.2 the requirement can demonstrably be met only by a single available entity with extremely niche skills; or



17.2.3 there are simply no alternative sources of supply.

- 17.3 If any Funding provided by the PCC is used to procure goods or services and VAT is included in the cost, the Beneficiary shall recover that VAT from HM Customs and Excise where it is recoverable and use it to deliver the services required under this Agreement to achieve the Objectives.

## **18 Purchase of Capital Equipment**

- 18.1 The Beneficiary shall account for the Funding on an accruals basis. This requires the cost of goods or services to be recognised when the goods or services are received, rather than when they are paid for.
- 18.2 If any capital asset costing more than £1,000 is purchased with funds provided by the PCC, the asset must not be sold or otherwise disposed of within five years of purchase without the PCC's written consent. The PCC may require the repayment of all or part of any proceeds of any disposal or sale.
- 18.3 The Beneficiary shall maintain a register of any capital assets purchased with funds provided by the PCC. This register will record, as a minimum, (a) the date the item was purchased; (b) the price paid; and (c) the date of disposal (in due course).
- 18.4 The Beneficiary must not attempt to raise a mortgage or other charge on PCC-funded assets without the prior written approval of the PCC.

## **19 Publicity**

- 19.1 The Beneficiary shall acknowledge the Funding in its annual report and accounts, including an acknowledgement that the PCC was the source of the Funding, in a form reasonably acceptable to the PCC.
- 19.2 The PCC shall be entitled to promote the Funding of the Project (including the Funded Service(s)) in any publicity material or media statement issued by the PCC.
- 19.3 The Beneficiary shall (and shall use all reasonable endeavours to procure that its employees, agents, professional advisers and sub-contractors shall) not make any press announcement or publicise this Agreement, the Project, any Funded Service or any part thereof in any way, except with the express prior written consent of the PCC.
- 19.4 The Beneficiary shall (and shall use all reasonable endeavours to procure that its employees, agents, professional advisers and sub-contractors shall) not include in any published material the name, logo or style of "Nottinghamshire Police" nor "the Police and Crime Commissioner for Nottinghamshire"; any Intellectual Property Rights associated therewith; nor any photograph or drawing depicting any officer of Nottinghamshire Police force without the PCC's prior written consent.

## **20 Indemnity**

- 20.1 Subject to Clause 20.2, the Beneficiary shall indemnify the PCC on demand from and against all liabilities arising from third party actions, claims or demands brought against the PCC for breach of statutory duty concerning the Funded Service(s) which may arise out of or in consequence of a breach by the Beneficiary of its obligations under this Agreement.
- 20.2 The Beneficiary shall not be responsible under Clause 20.1 to the extent that any liability arises out of or in consequence of a breach by the PCC of its obligations under this Agreement or any negligent act or omission on the part of the PCC.
- 20.3 Subject to Clause 20.4, the PCC shall indemnify the Beneficiary on demand against all liabilities arising from third party actions, claims or demands brought against the Beneficiary for breach of statutory duty concerning the Funded Service(s) which may arise out of or in consequence of a breach by the PCC of its obligations under this Agreement.
- 20.4 The PCC shall not be responsible under Clause 20.3 to the extent that any liability arises out of or in consequence of a breach by the Beneficiary of its obligations under this Agreement or any negligent act or omission on the part of the Beneficiary.

## **21 Breach of Funding Conditions**

- 21.1 If the Beneficiary fails to comply with any of the Funding Conditions set out in this Agreement, or if any of the events mentioned in Clause 21.2 occur, then subject to the procedure outlined in Clause 21.3 being activated, the PCC may withhold payment of any future instalment of the Funding and/or require all or any part of the Funding to be repaid. The Beneficiary must repay any amount required to be repaid under this Clause 21 within 30 days of receiving the demand for repayment.
- 21.2 The events referred to in Clause 21.1 are as follows:
- 21.2.1 the Beneficiary purports to transfer or assign any rights, interests or obligations arising under this Agreement without the agreement in advance of the PCC;
  - 21.2.2 any information provided in relation to the Funding (or in a claim for payment) or in any subsequent supporting correspondence is found to be incorrect or incomplete to an extent which the PCC considers to be material;
  - 21.2.3 the Beneficiary does not implement or follow its Child Protection or Vulnerable Adult Policy (if appropriate) in all aspects of its activities;
  - 21.2.4 any member of the Beneficiary's governing body, staff or volunteers acts dishonestly or fraudulently;
  - 21.2.5 the Beneficiary takes inadequate measures to investigate and resolve any reported irregularity
- 21.3 If during the term of this Agreement there is a breach of the Funding Conditions in respect of any of the Funded Services the PCC may (at its option) write to the Beneficiary giving particulars of the breach and in that event:
- 21.3.1 the Beneficiary shall provide the PCC with a draft performance improvement plan for that Funded Service within 10 Working Days of the date of the Breach Notice;
  - 21.3.2 the PCC shall either accept the draft performance improvement plan within five Working Days of receipt or inform the Beneficiary why it cannot accept the draft performance improvement plan; and
  - 21.3.3 if the PCC does not accept the draft performance improvement plan:
    - (a) the Parties shall then meet to discuss the PCC's concerns,
    - (b) the Beneficiary shall provide a revised draft performance improvement plan within five Working Days of the meeting; and
    - (c) if the draft performance improvement plan cannot then be agreed, the PCC shall be entitled to serve three months' notice of termination in writing upon the Beneficiary in respect of that Funded Service. Such notice shall not have the effect of terminating this Agreement in respect of other Funded Services.

## **22 Termination**

- 22.1 This Agreement does not represent a commitment to renew or continue financial support to the Beneficiary for the Project, any Funded Service or any other purpose and the PCC gives no warranty or assurance that further Funding will be made available after the Expiry Date.
- 22.2 The PCC may, without prejudice to its other rights and remedies, by notice in writing to the Beneficiary immediately terminate this Agreement or the Funding for a specified Funded Service:
- 22.2.1 if the Funding or any part of the Funding is being used for any purpose other than the purpose set out in this Agreement; or
  - 22.2.2 if the Beneficiary:
    - (a) has been involved in any illegal activity or improper act in its administration;
    - (b) is in material or persistent breach of any of its obligations under this Agreement (or the relevant Funded Service) and if that breach is capable of remedy and the Beneficiary has failed to remedy that breach within 20 Working Days after receiving written notice requiring it to remedy that breach; or

- (c) is unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986) or becomes insolvent or an order is made or a resolution passed for the administration, winding-up or dissolution of the Beneficiary (otherwise than for the purposes of a solvent amalgamation or reconstruction) or an administrative or other receiver, manager, liquidator, administrator, trustee or similar officer is appointed over all or any substantial part of the assets of the Beneficiary or the Beneficiary enters into or proposes any composition or arrangement with its creditors generally or any analogous event occurs in any applicable jurisdiction; or
- (d) ceases or threatens to cease carrying on its business; and

22.2.3 in the circumstances set out in Clauses 21.3.3(c), 25.4, 26.5 or 37.2.

- 22.3 Where, in the reasonable opinion of the PCC, any funding secured by the Beneficiary, whether notified to it by the Beneficiary pursuant to Clause 3.4 or otherwise, is duplicate funding for the Project or a specific Funded Service, then the PCC may terminate this Agreement on 5 Working Days' notice in writing to the Beneficiary.
- 22.4 The Beneficiary may terminate this Agreement in relation to Funding for a specific Funded Service by providing not less than 3 months' notice in writing to the PCC specifying the Funded Service to which the notice relates.
- 22.5 In the event of termination of this Agreement for any reason or upon its expiry:
  - 22.5.1 the PCC shall not be liable to make any payment of any unpaid or future instalments of the Funding in respect of the terminated Funded Service(s);
  - 22.5.2 each Party shall within 5 Working Days of such termination or expiry return (or, at the other Party's option, destroy) all Confidential Information (and any other information) belonging to the other Party in its possession or under its control and all copies of such information in respect of the terminated Funded Service(s); and
  - 22.5.3 the Beneficiary shall:
    - (a) to the extent permitted by statute and with the exception of the Beneficiary's IPR and the Beneficiary's pre-existing IPR return to the PCC any assets or property (unless the PCC gives its written consent to their retention or sale) that are in its possession in connection with the terminated Funded Service(s); and
    - (b) repay to the PCC any unspent Funding for the terminated Funded Service(s) within 5 Working Days, to the bank account notified to the Beneficiary in writing on or before termination or expiry.
- 22.6 Termination of this Agreement for whatever reason shall not operate to affect any provisions that expressly or by implication survive termination.

## **23 Insurance**

- 23.1 The Beneficiary shall take out and maintain a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Beneficiary, arising out of the Beneficiary's performance of its obligations under this Agreement including death or personal injury, loss of or damage to property or any other loss together with any other insurances as may be required by Law.
- 23.2 The Beneficiary shall provide to the PCC on request satisfactory evidence of the existence of the insurance referred to in Clause 23.1 together with evidence that the relevant premiums have been paid and that those insurances are in full force and effect.
- 23.3 If the Beneficiary is in breach of Clause 23.1 or Clause 23.2, the PCC may pay any premiums required to keep such insurance in force or itself procure such insurance and may, in either case, recover such amounts from the Beneficiary on written demand, together with all expenses incurred in procuring such insurance.
- 23.4 The Beneficiary undertakes that it shall not do, or omit to do, anything to vitiate either in whole or in part any of the insurance cover that it is obliged to have and maintain under this Clause 23.

## **24 Dispute Resolution**

- 24.1 In the event of a dispute arising out of or in connection with this Agreement, it shall be resolved pursuant to this Clause 24.
- 24.2 Nothing in this dispute resolution procedure shall prevent a Party from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.
- 24.3 The Parties shall each use reasonable endeavours to resolve any dispute by means of a prompt and bona fide discussion between the Authorised Representatives.
- 24.4 In the event that a dispute is not resolved within five Working Days of any discussion between the Authorised Representatives in accordance with Clause 24.3, it shall be referred to the PCC's Chief Executive and the Beneficiary's Chief Executive to resolve.
- 24.5 If the dispute is not resolved within 10 Working Days of escalation of the dispute in accordance with Clause 24.4, the Parties shall refer it to mediation pursuant to the procedure set out in Clause 24.7 unless either Party does not agree to mediation.
- 24.6 The obligations of the Parties under this Agreement shall not cease, or be suspended or delayed by the reference of a dispute to mediation and each Party, its sub-contractors and their officers, employees and agents shall comply fully with the requirements of this Agreement at all times.
- 24.7 The procedure for mediation and consequential provisions relating to mediation are as follows:
- 24.7.1 A neutral adviser or mediator (the "**Mediator**") shall be chosen by agreement between the Parties or, if they are unable to agree upon a Mediator within 10 Working Days after a request by one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Party shall within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to either Party that he is unable or unwilling to act, apply to Centre for Effective Dispute Resolution to appoint a Mediator.
- 24.7.2 The Parties shall within 10 Working Days of the appointment of the Mediator meet with the Mediator in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the Parties may at any stage seek assistance from Centre for Effective Dispute Resolution to provide guidance on a suitable procedure.
- 24.7.3 Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.
- 24.7.4 If the Parties reach agreement on the resolution of the dispute, the agreement shall be recorded in writing and shall be binding on the Parties once it is signed by their Authorised Representatives.
- 24.7.5 If the Parties fail to reach agreement within 60 Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the Courts.
- 24.8 Subject to Clause 24.2, the Parties shall not institute court proceedings until the procedures set out in Clauses 24.3, 24.4 and 24.5 have been completed.

## **25 Prevention of Corruption**

- 25.1 The Beneficiary or anyone associated with the Beneficiary shall not:
- 25.1.1 offer or give, or agree to give, to the PCC or any other public body or any person employed by or on behalf of the PCC or any other public body any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of this Agreement or any other contract with the PCC or any other public body, or for showing or refraining from showing favour or disfavour to any person in relation to this Agreement or any such contract;
- 25.1.2 commit any offence under the Prevention of Corruption Acts 1889 to 1916, or Section 117(2) of the Local Government Act 1972 or the Bribery Act 2010 or under Law creating offences in

respect of fraudulent acts or at common law in respect of fraudulent acts in relation to this Agreement or any other contract with the PCC.

- 25.2 For the purpose of this Clause 25, whether a person is associated with another person shall be determined in accordance with section 8 of the Bribery Act 2010 and a person associated with the Beneficiary includes, but is not limited to, any sub-contractor of the Beneficiary.
- 25.3 The Beneficiary warrants that it has not paid commission or agreed to pay commission to the PCC or any other public body or any person employed by or on behalf of the PCC or any other public body in connection with this Agreement.
- 25.4 If the Beneficiary, or anyone acting on the Beneficiary's behalf, engages in conduct prohibited by Clause 25.1 or Clause 25.3, the PCC may terminate this Agreement and recover from the Beneficiary the amount of any Funding paid to the Beneficiary together with any loss sustained by the PCC in consequence of any breach of those Clauses.
- 25.5 Any dispute, difference or question arising in respect of the interpretation of this Clause 25 including the right of the PCC to terminate this Agreement, shall be decided by the PCC, whose decision shall be final and conclusive.

## **26 Conflict of Interest and Prevention of Fraud**

- 26.1 The Beneficiary shall take all reasonable steps, in accordance with Good Industry Practice, to:
  - 26.1.1 ensure that neither the Beneficiary nor any of its employees, agents or representatives is placed in a position where, in the reasonable opinion of the PCC, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Beneficiary and the duties owed to the PCC under the provisions of this Agreement; and
  - 26.1.2 prevent fraud by its employees, agents and representatives (including its shareholders, members and directors) in connection with the receipt of monies from the PCC.
- 26.2 Without prejudice to the generality of Clause 26.1, the Beneficiary shall set up formal procedures to require all persons involved in the use of the Funding to declare any personal or financial interest in any matter concerning the Beneficiary's activities and to be excluded from any discussion or decision-making relating to the matter concerned.
- 26.3 The Beneficiary shall disclose to the PCC without delay full particulars of any such conflict of interest which may arise and if the Beneficiary has any grounds for suspecting financial irregularity in the use of any money paid under this Agreement, it shall notify the PCC immediately, explain what steps are being taken to investigate the suspicion, and keep the PCC informed about the progress of the investigation.
- 26.4 For the purposes of Clause 26.3, "financial irregularity" includes fraud or other impropriety, mismanagement, and the use of the Funding for purposes other than those intended by the PCC.
- 26.5 If the Beneficiary or its employees, agents or representatives commits fraud in relation to this Agreement or any contract with the PCC, the PCC may terminate this Agreement and recover from the Beneficiary the amount of any Funding paid to the Beneficiary together with any loss sustained by the PCC in consequence of any breach of this Clause 26.

## **27 Variation**

- 27.1 No amendment or variation to this Agreement shall have effect unless made in writing and executed on behalf of the Parties.

## **28 Relationship**

- 28.1 The Parties are independent entities and not partners, principal and agent, or employer and employee, or in any other relationship of trust to each other. Nothing in this Agreement shall create a partnership or joint venture between the Parties nor authorise any Party to enter into any contract or commitment for and on behalf of the other Party.

## **29 Counterparts**

- 29.1 This Agreement may be executed in counterparts, each of which when executed and delivered shall constitute an original but all counterparts together shall constitute one and the same instrument.

## **30 Severability**

- 30.1 If any provision of this Agreement 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 of this Agreement shall continue in full force and effect as if this Agreement had been executed with the invalid, illegal or unenforceable provision eliminated.
- 30.2 In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of this Agreement, the PCC and the Beneficiary shall immediately commence good faith negotiations to remedy such invalidity.

## **31 Remedies Cumulative**

- 31.1 Except as otherwise expressly provided by this Agreement, all rights and remedies available to either Party under this Agreement or otherwise are cumulative and may be exercised concurrently or separately, and the exercise of any one right or remedy shall not be deemed an election of such right or remedy to the exclusion of, and shall be without prejudice to the availability of, any other right or remedy.

## **32 Waiver**

- 32.1 The failure of either Party to insist upon strict performance of any provision of this Agreement, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by this Agreement.
- 32.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with Clause 33.
- 32.3 A waiver of any right or remedy arising from a breach of this Agreement shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of this Agreement.

## **33 Notices**

- 33.1 All notices and other communications in relation to this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered, or mailed (first class postage prepaid) to an Authorised Representative at the address of the relevant Party, as referred to above or otherwise notified in writing. If personally delivered all such communications shall be deemed to have been given when received (except that if received on a non-Working Day or after 5.00pm on any Working Day they shall be deemed received on the next Working Day) and if mailed all such communications shall be deemed to have been given and received on the second Working Day following such mailing.
- 33.2 For the avoidance of doubt, any notice given under this Agreement shall not be validly served if sent by electronic mail and not confirmed by a letter sent by post.

## **34 Assignment and sub-contracting**

- 34.1 The Beneficiary may not, without the PCC's prior written consent, assign or sub-contract any right or obligation under this Agreement, in whole or in part.

## **35 Contracts (Rights of Third Parties) Act 1999**

- 35.1 This Agreement does not and is not intended to confer any contractual benefit on any person who is not a Party to this Agreement pursuant to the terms of the Contract (Rights of Third Parties) Act

1999. This does not affect any right or remedy of such a person that exists or is available apart from that Act.

### **36 Entire Agreement**

- 36.1 This Agreement constitutes the entire agreement and understanding between the Parties and supersedes any previous arrangement, understanding or agreement between them relating the Funded Services.
- 36.2 The Beneficiary acknowledges and agrees that it has not been induced to enter into this Agreement in reliance upon, and in connection with this Agreement, does not have any remedy and waives all rights in respect of, any warranty, representation, statement, agreement or undertaking of any nature whatsoever other than as expressly set out in this Agreement, except that this Clause 36.2 shall not exclude liability in respect of any fraudulent misrepresentation.

### **37 Force Majeure**

- 37.1 Neither Party shall be liable to the other Party for any delay or non-performance of its obligations under this Agreement arising from any cause or causes due to a Force Majeure Event, provided that it:
- 37.1.1 promptly notifies the other Party of the Force Majeure Event and its expected duration; and
- 37.1.2 uses reasonable endeavours to minimise the effects of that event.
- 37.2 If, due to a Force Majeure Event, a Party is delayed in or prevented from performing its obligations for a continuous period of more than 5 Working Days OR more than 10 Working Days in any 12 month period, the PCC may terminate this Agreement immediately by notice in writing served on the Beneficiary.

### **38 Governing Law**

- 38.1 This Agreement shall be governed by and construed in accordance with the Law of England and, subject to Clause 24, the Parties irrevocably submit to the exclusive jurisdiction of the English courts.

This Agreement has been entered into on the date first above written

**Signed for and on behalf of**

**The Police and Crime**

**Commissioner for Lincolnshire:**

.....

Authorised Officer

**Signed for and on behalf of**

**Beneficiary**

.....

Authorised Officer

## SCHEDULE 1

<b>Project</b>	Referral and General Support to Victims of Crime in Lincolnshire (1 <sup>st</sup> April 2015 to 30 <sup>th</sup> September 2015)
<b>Funded Services including Objectives</b>	<p>1. The Funded Services shall</p> <p><i>enable:</i></p> <ul style="list-style-type: none"> <li>• secure receipt of police referrals of victims' data to the service;</li> <li>• secure receipt of referrals from British Transport Police and Action Fraud;</li> <li>• victim self-referral via a national telephone helpline (see para 6 below);</li> </ul> <p><i>ensure that:</i></p> <ul style="list-style-type: none"> <li>• victims' data is hosted securely from point of receipt, and that use and onward transfer of this data is compliant with Data Protection Legislation and Information Security Standards;</li> <li>• all victims are contacted following referral in compliance with the <i>Code of Practice for Victims of Crime</i> (the exact method and number of contacts will vary depending on entitlement to enhanced service, priority category and need); for victims assessed as vulnerable, contact will be made no later than 48 hours from receipt of referral. For all other victims, contact will be made no later than 72 hours from receipt of referral in line with Victim Support Operating Procedures set out at Schedule 4.</li> <li>• all victims are provided with information on the services available;</li> <li>• victims, including but not limited to, those in the three priority categories identified in the <i>Code of Practice for Victims of Crime</i> have victim-centred needs assessments to determine individual support needs;</li> <li>• victims are referred or signposted to other support services, including those of other providers, as appropriate;</li> <li>• victims who choose not to report the crime to the police are able to access services; and</li> <li>• details of the service are widely publicised</li> </ul> <p>2. The Beneficiary shall offer support to all victims and, in particular, those with enhanced entitlements in the <i>Code of Practice for Victims of Crime</i>, namely:</p> <ul style="list-style-type: none"> <li>• victims of the most serious types of crime;</li> <li>• vulnerable or intimidated witnesses; and</li> <li>• persistently targeted victims.</li> </ul>



	<p>3. The Beneficiary shall be compliant with all relevant legislation and approved guidance, including but not limited to the <i>Code of Practice for Victims of Crime</i>.</p> <p>4. The Beneficiary shall provide robust evidence that is representative of service users of a) satisfaction with the service and b) how the service achieves the outcomes for victims of 'cope' and 'recover'.</p> <p>5. The Beneficiary shall work with the PCC to develop and support change management arrangements to prepare for transition to the new victims' service delivery model which will be operational from October 2015. The Beneficiary shall, in June 2015, produce and implement a transition plan for the period July 2015 – September 2015, to be agreed by the PCC.</p> <p>6. During the period 1<sup>st</sup> April 2015 to 30<sup>th</sup> September 2015, with the agreement of the PCC the Beneficiary shall ensure it provides, as a minimum, an accessible, free to call telephone number, or 03 geographic rate telephone number, which ensures callers can self-refer using either a landline or a mobile phone without having to pay a premium rate.</p>
<b>Funding</b>	<p>Grant funding for the period 1<sup>st</sup> April 2015 to 30<sup>th</sup> September 2015 <b>£129,933</b></p> <p><b>Calculation of grant award:</b></p> <ol style="list-style-type: none"> <li>1) MoJ Grant to Victim Support 14/15 6 month cost across all Police Force Areas (PFA) = £12,000,000 therefore annual cost £24,000,000</li> <li>2) Calculation of Lincolnshire % share of Victim Support costs by PFA (2013 data) 1.0828% (£270,000/24,936,000*100)</li> <li>3) 1.0828% of £24,000,000 = £259,865 (annual cost)</li> <li>4) £259,865 / 2 = <b>£129,933</b> (6 month cost)</li> </ol> <p><i>(nb: figures rounded at end of calculation)</i></p>
<b>Authority to Award Grant Funding</b>	<p>Section 143 of the Anti-social Behaviour, Crime and Policing Act 2014 provides Police and Crime Commissioners with powers to provide or commission services. Within the meaning of this section, a PCC may provide or arrange for the provision of:</p> <p>(a) services that in the opinion of the PCC will secure, or contribute to securing, crime and disorder reduction in the PCC's area</p> <p>(b) services that are intended by the PCC to help victims or witnesses of, or other persons affected by, offences and anti-social behaviour</p> <p>(c) services of a description specified in an order made by the Secretary of State.</p> <p>A PCC arranging for the provision of services under this section may make grants in connection with the arrangements. A grant may be subject to any conditions (including conditions as to repayment) that the PCC thinks appropriate.</p>
<b>Details of Payment of Funding / Funding Payment Plan</b>	<p>Subject to compliance with the terms of this Agreement, the Funding will be paid on or by the following dates:</p> <p>1 April 2015 £129,933.00</p>



## **SCHEDULE 2**

### **Monitoring Information**

The Beneficiary will provide on a monthly basis reports to the PCC on the number of cases, referrals, cases identified for phone contact, initial contact methodology, effectiveness of written contact, needs assessments, service delivery, satisfaction and outcomes, volunteering and costs.

The format for providing this information to the PCC shall remain as per current PCC monthly oversight report format.

In addition to the above the Beneficiary will provide the PCC with a monthly report setting out:

1. a breakdown of the victims supported in Lincolnshire by:

- postcode (first 3 digits)
- ethnicity, gender, and age
- whether or not the victim is a repeat victim
- number of victims with enhanced entitlements as defined within the *Code of Practice for Victims of Crime*, namely: victims of the most serious types of crime; vulnerable or intimidated victims; persistently targeted victims

2. Information about how victims in Lincolnshire are supported:

- how long victims are supported for
- how many interventions per victim (phone calls/visits)
- how many are referred onto other services and to which services they are referred
- outcomes achieved

**SCHEDULE 3**

**Lincolnshire Police Data Processing Agreement**

## **SCHEDULE 4**

### **Victim Support Operating Procedures in respect of victim contact methodology**

#### **VCUs prioritise contact before allocation to a VCO**

Once a case has been created it will go through a process of prioritisation, and the TL (or administrator) allocates it to a VCO.

#### **Priority contact**

The VCU should flag certain cases as priorities for **first contact** attempt within 48 hours. People who are or may be vulnerable or in most need should be contacted first, including the following cases:

- Sexual violence
- Domestic abuse
- Hate crime
- Referrals of children and young people (by contacting their parent unless they are 16 or 17 and the parent's details are not provided – to offer indirect support)
- Repeated offences and the persistently targeted
- People who appear to be vulnerable or intimidated, see appendix 5
- Cases where the police / referring agency indicates the need to prioritise.

\*For all other cases, the first contact attempt should be made within 72 hours



# *Lincolnshire Police*

## **DATA PROCESSING AGREEMENT**

This Agreement dated the 6<sup>th</sup> day of September sets out the terms and conditions under which personal data held by the specified data controller will be disclosed to the specified data processors. This Agreement is entered into with the purpose of ensuring compliance with the Data Protection Act 1998. Any disclosure of personal data must comply with the provisions of this Act.

### **1. The Parties**

1.1. This Agreement is between the Chief Officer of Lincolnshire Police, (herein after called the "Data Controller") of the one part and the Chief Executive, Victim Support, Hallam House, 56 – 60 Hallam Street, London, W1 WJL (herein after called the "Data Processor") of the other part.

### **2. "Purpose"**

2.1. The "Purpose" of the disclosure is to assist the Constabulary to discharge its obligations to offer support to victims of crime as required by the statutory Code of Practice for Victims of Crime (herein after called the "Purpose").

2.2. The Data Processor will offer, on behalf of the Data Controller, support to victims of crime in the form of an invitation (by telephone call, letter, email, sms or as specified by the victim) to be referred to the independent charity; "Victim Support". To maximise contact with victims the invitation may either be made by telephone call, letter, e-mail, SMS Text message (prior to obtaining their consent only one SMS text may be sent to the victim) or as specified by the victim. If the data subject consents, their details will be made available by the data processor to "Victim Support" staff for them to process, outside of this agreement in their own right and in accordance with their operating rules. If the data subject declines the offer, their details will, as soon as is practical, be removed from the data processors 'live' records and marked as "declined " until being fully weeded from the system at the earliest opportunity.

2.3. The "Purpose" is consistent with the original purpose of the data collection.

### **3. Definitions**

3.1. In this Agreement, the expressions "Data Controller", "Data Processor", "Personal Data", "Sensitive Personal Data", "Processing", "Information Commissioner" and "Subject Access" have the same meaning as in Sections 1, 2, and 6 of The Data Protection Act 1998, as amended by The Freedom of Information Act 2000.

3.2. **Police Data (PD)** is the personal and/or sensitive personal data of victims of crime provided to the data processor in order to deliver the "Purpose" of this agreement. Such data is identified in the schedule at Appendix A.

3.3. **ACPO/Government Protective Marking Scheme** is a scheme for the classification and handling of police information.

3.4. **ACPO** is the Association of Chief Police Officers

3.5. The **Data Processor Lead (DPL)** is the Divisional Manager who has the responsibility for the management and delivery of the process on behalf of the Data Processor.

3.6. The **Designated Police Manager (DPM)** is the DP & FOI Manager who has the responsibility for the management of the process on behalf of the Data Controller.

3.7. The **Data Subject** for the "Purpose" of this agreement is the reported victim of crime.

#### **4. Information provision**

4.1. It is recognised that the "Purpose" requires access to PD which is the subject of Protective Marking by the Data Controller under the ACPO Protective Marking Scheme and therefore has to be managed by the Data Processor in accordance with the requirements of that scheme.

4.2. The PD will be provided as agreed and as identified in Appendix A.

4.3. Ownership of the PD shall at all times remain with the Data Controller.

#### **5. Use, Disclosure and Publication**

5.1. The PD will be used solely for the "Purpose" stated.

5.2. The PD shall not at any time be copied, broadcast or disseminated to any other third parties, except in accordance with the terms of this Data Processing Agreement or with the express written permission of the Data Controller.

5.3. The Data Processor will not match PD with any other Personal Data otherwise obtained from any source, unless specifically authorised to do so by the Data Controller.

5.4. Unless in accordance with the "Purpose", the PD will not be disclosed to any third party without the written authority of the Data Controller.

5.5. The only exceptions to clauses 5.2 to 5.5 are where any person is required to give evidence in legal proceedings or where the data subject has given their explicit, informed consent.

5.6. Access to PD will be restricted to those approved and vetted staff of the Data Processor who are directly involved in the processing of the PD in pursuance of the "Purpose" and held on a list by the Data Controller.

5.7. In pursuance of the "Purpose", the use of the PD is subject to the terms of this agreement and to the operating policies and procedures of the Data Processor; which must be in accordance with at least the minimum standards required under relevant legislation e.g. Data Protection and Human Rights Acts.

5.8. The PD will be contained and processed within a specified database which is subject to the agreed security arrangements. See Appendix A.

#### **6. Data Protection and Human Rights**

6.1. The processing in any form of Personal Data shall be in accordance with the obligations imposed upon the parties to this Agreement by the Data Protection Act 1998 and the Human Rights Act 1998 which obligations will be reflected in all relevant policies, codes of practice and/or operating procedures adopted by the parties to this Agreement.

6.2. The Data Processor undertakes to comply with the provisions of the Data Protection Act 1998 and in particular to notify as required any particulars as may be appropriate to the Information Commissioner.

6.3. The following personnel are authorised by the parties to assume responsibility for Data Protection compliance, notification, security, confidentiality, audit and co-ordination of subject rights:

Force Data Protection Officer

Lincolnshire Police

Divisional Manager

Victim Support



6.4. On reasonable notice periodic checks may be conducted by a person(s) nominated by the Data Controller to monitor compliance with this Agreement.

## **7. Confidentiality**

7.1. The Data Processor shall not use or divulge or communicate to any person (other than those whose need to know the same for the "Purpose", or without the prior written authority of the Data Controller) any PD obtained from the Data Controller, which it shall treat at all times as private and confidential and safeguard accordingly.

7.2. The Data Processor shall ensure that any individuals involved in the "Purpose" and to whom PD is disclosed under this Agreement are aware of and comply with this Agreement and sign in acknowledgement the undertaking of confidentiality provided at Appendix B, which will be returned to the Data Controller upon request.

7.3. For the avoidance of doubt, the obligations of confidentiality imposed on the parties by this Agreement shall continue in full force and effect after the expiry or termination of this Agreement.

## **8. Retention, Review and Deletion.**

8.1. In accordance with the "Purpose" the details of those data subjects declining the offer of support will be securely managed and fully deleted from the data processors systems in accordance with Section 2.2 of this agreement. A crime reference number maybe retained by Victim Support in these circumstances. The details of those accepting support may be retained in accordance with the wishes of the data subject. At this time Victim Support becomes the Data Controller of this personal data.

8.2. The 'Data Processor Lead' will be responsible for ensuring the safe and secure subsequent disposal of the PD in accordance with the requirements of the Data Protection Act and any specific measures required by the Data Controller.

8.3. Archived copies of the PD created for back-up and recovery purposes must not be retained for longer than 6 weeks, from receipt or other period as agreed with the data controller and must then be securely deleted.

8.4. The original e-mail containing the Business Object Report or other communication detailing the data to be processed is to be deleted within 24 hours of its receipt excluding Sundays and Bank Holidays.

8.5. If telephone contact proves unsuccessful and a letter, e-mail or SMS Text message, or other communication as agreed with the victim, is sent to the victim, their data can be held for 6 weeks from the date the initial communication is sent or other period as agreed with the data controller, before the data is securely removed from the Victim Support Case Management system.

## **9. Security**

9.1. The Data Processor recognises that the Data Controller has obligations relating to the security of data in his control under the Data Protection Act 1998, ISO 27001 and the ACPO Information Community Security Policy. The Data Processor will continue to apply those relevant obligations as detailed below on behalf of the Data Controller during the term of this Agreement.

9.2. The Data Processor agrees to apply appropriate security measures, commensurate with the requirements of principle 7 of the Data Protection Act 1998 to the PD, which states that: "appropriate technical and organisation measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data". In particular, the Data Processor shall ensure that measures are in place to do everything reasonable to:

- make accidental compromise or damage unlikely during transfer, storage, handling, use, and the processing in any other way
- deter deliberate compromise or opportunist attack, And
- promote discretion and security awareness in order to avoid unauthorised access

9.3. The PD shall be processed by the Data Processor without unreasonable delay.

9.4. During the term of this Agreement, the Data Processing Lead shall carry out any checks as are reasonably necessary to ensure that the above arrangements are not compromised.

9.5. The Chief Officer as the Data Controller will wish to undertake suitability checks on any persons having access to the PD in accordance with the ACPO Vetting Policy. The Data Controller further reserves the right reasonably to request that particular individuals shall not be able to participate in the work covered by this agreement. Any appeal against a final decision should be made within 5 working days and the individual shall be suspended from access to the Police Data during the appeal process. The Data Processor will ensure that each person who will participate in this work understands this and provides their written consent as necessary.

9.6. Any security incidents, breaches and newly identified vulnerabilities (e.g. any event(s) that may or has impacted on the data processed) must be reported to the individuals identified in section 6.3 of this Agreement at the earliest opportunity.

9.7. The Data Controller reserves the right to undertake a review of security provided by the Data Processor and may request access to the Data Processor premises for this purpose. Failure to provide sufficient guarantees to the Data Controller, in respect of adequate security policies, practices and procedures will likely result in the suspension and/or termination of the agreement.

9.8. The parties hereto undertake to comply with all or any reasonable requirements concerning the storage, access or use of any PD as may from time to time be made by the Data Controller or by someone acting on his behalf.

9.9. Access to the PD will be confined to authorised persons only.

9.10. Any access to the premises used to process the PD by maintenance or repair contractors, cleaners or other non-authorised persons must be closely supervised to ensure that there is no access to the PD and there is no breach of the agreed security arrangements. If in doubt, the Data Processor must consult with the relevant person appointed by the Data Controller i.e. the Data Protection Officer/Information Security Officer.

9.11. The Data Processor undertakes not to use the services of any sub-contractors in connection with the processing of the PD without the prior written approval of the Data Controller.

## **10. Deed of Indemnity**

10.1. In consideration of the provision of the PD for the "Purpose", the Data Processor undertakes to indemnify, to a maximum of £5m any of the persons or any authority referred to in paragraph 10.2 below against any liability, which may be incurred by such person or authority as a result of the Data Processor's breach of this Agreement.

Provided that this indemnity shall not apply:

- (a) where the liability arises from information supplied which is shown to have been incomplete or incorrect, unless the person or authority claiming the benefit of this indemnity establishes that the error did not result from any wilful wrongdoing or negligence on his part or on the part of any other person or authority;
- (b) unless the person or authority claiming the benefit of this indemnity notifies the Data Processor as soon as possible of any action, claim or demand to which this indemnity applies, commits the Data Processor to deal with the action, claim or demand by settlement or otherwise and renders the Data Processor all reasonable assistance in so doing;
- (c) to the extent that the person or authority claiming the benefit of this indemnity makes any admission which may be prejudicial to the defence of the action, claim or demand.

10.2. Persons who may claim the benefit of this indemnity are as follows:

- (a) any Chief Officer of Police or Police and Crime Commissioner
- (b) any serving or former member of the police force
- (c) any serving or former Police Staff employee

## 11. Disputes

11.1. In the event of any dispute or difference arising between the parties out of this Agreement, the persons appointed pursuant to section 6.3 of this Agreement and representing the parties to the dispute or difference shall within 20 days of receipt of a written request from any party to the dispute addressed to one of the individuals described at section 6.3 meet in an effort to resolve the dispute or difference in good faith.

11.2. This Agreement is subject to English Law and the jurisdiction of the English Courts. The parties will, with the help of a Centre for Dispute resolution, seek to resolve disputes between them by alternative dispute resolution. If the parties fail to agree within 56 days of the initiation of the alternative dispute resolution procedure, then the parties shall be at liberty to commence litigation.

## 12. Termination and Variation

12.1. In the event that any party wishes to exit from this Agreement, that party shall serve a notice, in writing, to the offices of the other party of a date not less than 30 days from the date of the said notice, on which the party proposed to exit the Agreement. However the Data Controller may at any time by notice in writing terminate this Agreement forthwith if the Data Processor is in breach of any material obligation under this Agreement.

12.2. The Data Processor agrees to notify the Data Controller promptly if at any time the DPL is unable or unwilling to continue the direction and supervision of this work. Within thirty days after such incapacity or expression of unwillingness the Data Processor shall nominate a successor to the DPL. The Data Controller will not decline unreasonably to accept the nominated successor. However, if the successor is not acceptable to the Data Controller on reasonable and substantial grounds, then the Data Controller may terminate this Agreement by giving thirty days' written notice to the Data Processor.

12.3. In the event that either party wishes to vary any term of this Agreement that party will give notice, in writing to the offices of the other party, explaining the effect of and reason for the proposed variation. The parties shall within 30 days of receipt of such a notice meet to discuss the variation. As the Data Controller of the personal data this Agreement covers, the Data Controller will have the final decision on any proposed variation to this Agreement.

12.4. This Agreement shall operate forthwith and will be reviewed after six months in the first instance, and thereafter every year.

## 13. Relationship between the parties

13.1. The Data Processor shall give reasonable assistance as is necessary to the Data Controller in order to enable him to:

- Comply with request for Subject Access from the data subjects;
- Respond to Information Notices served upon him by the Information Commissioner;
- Respond to complaints from data subjects;
- Investigate any breach or alleged breach of the Act or of this agreement.

in accordance with his statutory obligations under the Data Protection Act 1998 and the Victims Code of Practice

13.2. The receipt by the Data Processor of an Order of the Court or a request under Subject Access or the Freedom of Information Act in respect of the PD covered by this Agreement, must be reported at the earliest opportunity to the DP & FOI Manager, representing the Data Controller, who will arrange the relevant response to that request.

13.3. This Agreement also acts in fulfilment of part of the responsibilities of the Data Controller as required by paragraphs 11 and 12 of Schedule 1, Part II of the Data Protection Act 1998.

Signed on behalf of Lincolnshire Police

Chief Inspector Phil Baker



In the presence of .....

RUTH FOX



Signed on behalf of Victim Support Lincolnshire

Nick Hall Divisional Manager



In the presence of .....

CHRISTINE THOMPSON

