

Assessment, Moderation, Monitoring & Data Verification Service Level Agreement

Date of this Agreement:

Parties

- (1) **Coventry City Council** of 0-19 (25) Education Improvement & Standards, PO Box 15, Council House, Earl Street. Coventry. CV1 5RR ('Council').
- (2) **[XXX name of school/]** of **[XXX address of school/]** ('School').

The parties agree as follows:

1. The School hereby appoints the Council to provide the Services. The Council accepts its appointment.
2. The Council's appointment shall be on the terms of this Agreement.
3. Reference to this Agreement shall be this agreement (which shall include the attached terms in Schedule 1, and all other schedules, annexures and appendices attached to it) as any of these are amended from time to time.
4. This Agreement shall be interpreted according to English law. Subject to anything in this Agreement regarding the resolution of disputes, the parties shall submit to the exclusive jurisdiction of the English courts.

SIGNED AS AN AGREEMENT on the date indicated above by the parties named below in the presence of their respective witnesses:

School		Council
Signature	X	X
Date of signature		
Name of signatory (please print)		
Title or role of signatory (please print)		

Schedule 1 - Terms

1. **Service provision:** The Council shall provide the Services as follows:
 - (a) According to the specification described in Schedule 2.
 - (b) With reasonable skill and care.
2. **Subscription Fee – amounts:** The following shall apply to the Subscription Fee:
The Subscription Fee shall be:
 - Monitoring visits KS2 Sats: £240
 - Phonics screen check monitoring visits: £100
3. **Cooperation:** The Council's provision of any part of the Services from time to time shall be subject to the School's proper and timely cooperation with any reasonable request of the Council for information or access to documents or personnel to enable the Council to provide the School with that part of the Services.
4. **Issues outside the Council's reasonable control:** The Council shall not be liable to the School for failure to provide any of the Services due to matters genuinely outside the Council's reasonable control.
5. **Duration:** The duration of this Agreement is as follows:
 - (a) 01 September 2025 – 31 August 2026.
 - (b) It shall end on the effective cancellation date (see clause 10).
6. **Intellectual Property:** The following shall apply to Intellectual Property:
 - (a) Each party shall continue to own its own separately developed Intellectual Property. The other party shall acquire no right or interest in that Intellectual Property except to the extent clearly indicated in this Agreement or as otherwise agreed between the parties in writing.
 - (b) All Intellectual Property arising from the provision of the Services shall belong to the Council.
 - (c) The Council shall grant the School a perpetual, royalty-free, non-exclusive, worldwide licence (capable of being assigned or sub-licensed with the Council's written consent, not to be unreasonably withheld) to use the arising Intellectual Property referred to in paragraph (b) (and to use any background Intellectual Property of the Council on which that arising Intellectual Property depends) solely for the legitimate internal purposes of the School to enable it to enjoy the benefits of the Services.
7. **Data protection:** The Council shall observe the obligations referred to in Schedule 3 in relation to any School Personal Data in its possession or control for purposes connected with this Agreement.
8. **Insurance:** The Council shall at all times whilst it is providing any Services have in place professional indemnity insurance cover which is appropriate to the Services, with a required minimum level of cover of £1,000,000.
9. **Liability:** Subject always to any restrictions under the Law on the right of a party to cap or exclude its liability, the caps and exclusions of liability of each party to the other party in connection with this Agreement (whether arising in tort, contract, under statute or otherwise) shall be as follows (to the fullest extent permitted by Law):
 - (a) **Liability of the School to the Council:** capped to payment of the Annual Subscription Fee.
 - (b) **Liability of the Council to the School:** capped at £1,000,000 per Subscription Year.
 - (c) **Exclusion where advice not followed:** regardless of paragraph (b), the Council excludes all liability to the School in relation to any advice given by the Council to the School in connection with the Services to the extent the School fails to follow that advice as given by the Council in a full, proper, lawful and punctual manner.

- (d) **Liability of either party to anyone else other than the other party:** fully excluded.
- (e) **Liability of either party to the other in any case:** each party excludes (to the fullest extent permitted by Law) its liability to any person in connection with this Agreement for indirect or consequential Losses of that person, including without limitation, that person's loss of actual or anticipated profits, loss of revenue, loss of opportunity or business, loss of anticipated savings, and/or loss of reputation or goodwill.

10. **Cancellation:** Either party may cancel this Agreement at any time subject to the following:

- (a) The party wishing to cancel shall do so by giving the other party a written notice (strictly according to clause 0) indicating the cancellation of this Agreement.
- (b) The effective date of cancellation shall be one month after the date on which the notice is given, or such later date indicated in the notice.

11. **Consequences of cancellation:** On the effective date on which this Agreement is cancelled, all rights and obligations of the parties in connection with this Agreement shall immediately end except the following:

- (a) Each party ('X') shall return to the other party ('Y') any property of Y which X holds or controls at the time for purposes mainly connected with this Agreement.
- (b) All rights, liabilities and obligations which had arisen or accrued before cancellation, including any interest accruing on any such liabilities.
- (c) All other rights and obligations under this Agreement which are indicated (or clearly implied) to continue after cancellation. These shall continue until they expire, are carried out or indefinitely, as relevant according to the nature of the right or obligation.

12. **Refunds on cancellation:** The following apply to refunds of the Annual Subscription Fee if this Agreement is cancelled:

- (a) If this Agreement is cancelled by the School and the effective cancellation date occurs part-way through a particular Subscription Year, the Council shall be entitled to retain a non-refundable cancellation fee equivalent to one month.
- (b) The Council shall refund to the School the unused portion of the Annual Sum (no later than) the unexpired portion of the Subscription Fee (pro-rated on a daily basis and if any having regard to the Council's right to a cancellation fee described in paragraph (a)) pro-rated on a daily basis according to the number of days remaining from the effective cancellation date until the end of that particular Subscription Year.
- (c) The due date for the refund described in paragraph (b) (if any) shall be 30 days after the effective cancellation date.

13. **Implied warranties:** All warranties implied by Law in connection with this Agreement are excluded to the fullest extent permitted by Law.

14. **Entire agreement:** This Agreement represents the entire agreement between the parties on its subject matter. It fully extinguishes all existing agreements and understandings between the parties on that subject matter. All statements, warranties, representations, opinions or predictions of the future made by the respective parties in relation to this Agreement are excluded from this Agreement except to the extent they are expressly repeated in this Agreement. This shall not be read to limit or exclude a party's liability for fraudulent misrepresentation.

15. **Third party rights:** All rights under this Agreement of persons who are not parties to this Agreement under the Contracts (Rights of Third Parties) Act 1999 are excluded to the fullest extent permitted by Law.

- 16. Notices:** Notices to be given under this Agreement must strictly comply with the following to be valid:
- (a) If given to the School, it must be marked to the attention of the Head Teacher or equivalent.
 - (b) If given to the Council, it must be marked to the attention of the Assistant Director, Education & Learning Services.
 - (c) It must be given in at least one of the following ways:
 - (i) By hand to the person whose attention it is marked, in which case the notice is given on the date it is delivered by hand.
 - (ii) By registered first class mail or pre-paid courier to the recipient's last known address of business or registered office, in which case it shall be deemed to have been given 2 business days after the reasonably evidenced date of dispatch.
 - (iii) By fax to the recipient's last known fax number, in which case it shall be deemed to be given on the successful transmission of the last page, except that if that is not on a business day between 9.00am and 5.00pm, it shall be deemed to be given at 9.00 on the next business day.
- 17. Assignment:** Neither party may assign its rights and benefits under this Agreement without the other party's prior written consent, not to be unreasonably withheld, delayed or subject to unreasonable conditions.
- 18. Amendment:** This Agreement may only be amended by written agreement between the parties (authorised by a representative of each party with appropriate seniority and authority) where it is expressly intended to amend this Agreement.
- 19. Waivers:** A party shall only be bound by waiver of a right or power it otherwise has under or in connection with this Agreement if the waiver is in writing, authorised by a representative of that party with appropriate seniority and authority and is clearly indicated to be a waiver of the relevant right or power.
- 20. Interpretation:** Except to the extent the context otherwise requires, this Agreement shall be interpreted as follows:
- (a) Reference to any party is a reference to a party to this Agreement and includes reference to that party's successors in title and permitted assignees.
 - (b) Reference to one gender refers to all genders; reference to the singular includes the plural and vice versa; reference to any particular type of body, firm or other entity includes reference to any other type of body, firm or other entity.
 - (c) If a word or phrase is defined in this Agreement, its other grammatical forms have a corresponding meaning.
 - (d) Reference to any statute, code or the like includes reference to any which amends, replacing, modifying or consolidating statute, code or the like on substantially similar subject matter.
 - (e) Use of the expression 'in writing' (or a similar word) includes (but is not limited to) a facsimile and e-mail.
 - (f) Use of the word 'including' (or a similar word) at the commencement of a list to illustrate a particular concept is deemed not to limit or restrict that concept in any way.

21. DEFINITIONS

- 22.** The following words and expressions shall be given the meaning ascribed to them respectively below, except to the extent the context otherwise requires:

Defined term	Definition
Annual Subscription Fee	The charges payable from time to time by the School to the Council according to this Agreement, particularly clause 2.
Data Protection Legislation	<p>(i) the General Data Protection Regulation (GDPR) and any applicable national implementing Laws as amended from time to time (ii) the Data Protection Act 2018 (DPA) to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy This definition includes any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then any successor legislation to the GDPR or the DPA, and all guidance, standards and codes of practice published by the Information Commissioner's Office, or any replacement body, which relate to data protection.</p> <p>Controller, Processor, Data Subject, Personal Data, Personal Data Breach and Data Protection Officer take the meaning given in the Data Protection Legislation.</p>
Intellectual Property	Copyright, trademarks (whether registered or otherwise), service marks (whether registered or otherwise), patents, design rights (whether capable of registration or otherwise), registered designs, domain names, know how rights, rights in relation to databases, trade secrets, rights to sue for passing off, Confidential Information, and all other relevant intellectual property rights as ordinarily recognised as such throughout and in any parts of the world, and in relation to the items so listed in this definition, all registrations, pending registrations, reversions, extensions and renewals of such rights.
Law	Any statute, regulation or other subordinate legislation, directive or other European instrument, industry code of conduct, treaty, judgement or other court order, rule of common law or equity, guidance or the like issued by authorised government bodies (whether legally binding or not), or anything else having a legally binding effect on the respective activities connected with this Agreement of either or both of the parties (as the context requires).
Losses	All losses, damages, costs, charges and expenses incurred by the relevant party in the relevant circumstances to which the context refers, whether in tort, contract, by Law or otherwise including, where relevant, third party claims, liabilities, demands, proceedings, interest, penalties and fines, damage to property, death or personal injury, and full legal costs charged on a solicitor-client basis, but does not include losses listed in clause (e).
School Personal Data	Personal data in relation to which the School is the data controller which comes into the possession or control of the Council (as data processor) from time to time in connection with this Agreement.
Services	The services described in more detail in the specification in the Schedule 2.
Subscription Year	Each year of this Agreement commencing on the commencement date indicated in clause (a) or on each anniversary of that date, as relevant.

Schedule 2: Service specification (see clause (a))

The Local Authority Lead Officer will:

Phonics screening check:

- Include all schools in a formal LA Phonics screening monitoring visit within a set cycle
- Provide telephone/email support and guidance on the phonic screening statutory arrangements within KS1

- Carry out quality assurance checks on the Phonic data returns from schools to verify that data is accurate prior to DfE submission

Key Stage 2:

- Ensure that the KS2 assessment arrangements are implemented through a LA programme of moderation monitoring and data checking.
- Offer guidance and advice on all aspects of assessment at KS2 through assessment briefings and updates
- Ensure all schools receive an external moderation of Y6 writing at least once in a four yearly cycle and that schools where assessment is at risk of inaccuracy moderate more frequently.
- Provide advice to schools on disapplication and reporting of statutory assessment for the end of KS2
- Quality assure writing teacher assessment data prior to submitting teacher assessments to the DfE
- Conduct LA test monitoring visits as per statutory guidelines. The KS2 monitoring visits will take place within a set cycle

Schedule 3: the Council's obligations in relation to certain personal data (see clause 7)

1. In this Agreement, reference to 'data processor', 'data controller', 'personal data' and 'access request' shall have the same meanings as given in the Data Protection Legislation.
2. The Parties acknowledge that for the purposes of the Data Protection Legislation, the School is the data controller and the Council is the data processor of School Personal Data. The only processing that the Council is authorised to do is listed in Appendix 1.
3. The Council shall notify the School immediately if it considers that any of the School's instructions infringe the Data Protection Legislation.
4. The Council shall notify the School immediately if it considers that any of the School's instructions infringe the Data Protection Legislation.
5. The Council shall provide all reasonable assistance to the School in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the School, include:
 - (a) a systematic description of the envisaged processing operations and the purpose of the processing
 - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services
 - (c) an assessment of the risks to the rights and freedoms of School Personal Data subjects
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of School Personal Data.

6. The Council shall, in relation to any School Personal Data processed in connection with its obligations under this Agreement:
- i. process School Personal Data only in accordance with Appendix 1, unless the Council is required to do otherwise by law. If it is so required, the Council shall promptly notify the School before processing the School Personal Data unless prohibited by law;
 - ii. ensure that it has in place protective measures, which have been reviewed and approved by the School as appropriate to protect against a Data Loss Event having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a breach of School Personal Data;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;

- iii. ensure that:
 - 1. the Council personnel do not process School Personal Data except in accordance with this Agreement (and in particular Appendix 1);
 - 2. it takes all reasonable steps to ensure the reliability and integrity of any Council personnel who have access to the School Personal Data and ensure that they:
 - a. are aware of and comply with the Council's duties under this clause;
 - b. are subject to appropriate confidentiality undertakings with the Council or any Sub-processor;
 - c. are informed of the confidential nature of the School Personal Data and do not publish, disclose or divulge any of the School Personal Data to any third party unless directed in writing to do so by the School or as otherwise permitted by this Agreement; and
 - d. have undergone adequate training in the use, care, protection and handling of School Personal Data; and
 - iv. not transfer Personal Data outside of the EU unless the prior written consent of the School has been obtained and the following conditions are fulfilled:
 - (i) the School or the Council has provided appropriate safeguards in relation to the transfer (in accordance with GDPR Article 46) as determined by the School;
 - (ii) the School Personal Data data subject has enforceable rights and effective legal remedies;
 - (iii) the Council complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any School Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the School in meeting its obligations); and
 - (iv) the Council complies with any reasonable instructions notified to it in advance by the School with respect to the processing of the School Personal Data;
 - v. at the written direction of the School, delete or return School Personal Data (and any copies of it) to the School on termination of the Agreement unless the Council is required by law to retain the School Personal Data.
7. Subject to clause 8, the Council shall notify the School immediately if it:
- (a) receives a request or purported request made by, or on behalf of, a School Personal Data data subject in accordance with rights granted pursuant to the Data Protection Legislation to access their School Personal Data;
 - (b) receives a request to rectify, block or erase any School Personal Data;
 - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with School Personal Data processed under this Agreement;
 - (e) receives a request from any third party for disclosure of School Personal Data where compliance with such request is required or purported to be required by law;
- or
- (f) becomes aware of a breach of School Personal Data.

8. The Council's obligation to notify under clause 7 shall include the provision of further information to the School in phases, as details become available.
9. Taking into account the nature of the processing, the Council shall provide the School with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 7 (and insofar as possible within the timescales reasonably required by the School) including by promptly providing:
 - (a) the School with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the School to enable the Council to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the School, at its request, with any School Personal Data it holds in relation to a School Personal Data subject;
 - (d) assistance as requested by the School following any breach of School Personal Data;
 - (e) assistance as requested by the School with respect to any request from the Information Commissioner's Office, or any consultation by the School with the Information Commissioner's Office.
10. The Council shall allow for audits of its School Data Processing activity by the School or the School's designated auditor.
11. The Council is required by the Data Protection Legislation to have a designated Data Protection Officer, the details of which can be found on the Council's website.
12. Before allowing any third-party processor to process any School Personal Data related to this Agreement, the Council must:
 - (a) notify the School in writing of the intended sub-processor and processing;
 - (b) obtain the written consent of the School;
 - (c) enter into a written agreement with the processor which give effect to the terms set out in this clause 12 such that they apply to the sub-processor; and
 - (d) provide the School with such information regarding the third-party processor as the School may reasonably require.
13. The Council shall remain fully liable for all acts or omissions of any sub-processor.
14. The School may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable School Personal Data controller to School Personal Data processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).
15. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The School may on not less than 30 Working Days' notice to the Council amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.
16. The Council shall indemnify the School against all losses incurred by the School in respect of any breach of this Schedule 3 by the Council. This indemnity shall not apply to the extent the relevant act (or failure to act) by the Council was as a result of the Council's compliance with the School's express (or clearly implied) instructions.

Appendix One – Processing, personal data and data subjects

Nature and Purpose of the Processing

Processing is necessary to provide the services as detailed at Schedule 2 of this Agreement: -

The Council collates the personal data, stores it and processes it in accordance with this Agreement by automated means.

Duration of the processing

The Council will process the School Personal Data for as long as the Agreement is in place with the School until it is determined as by clause 10 of this Agreement at Schedule 1. Thereafter the Council will cease processing the School Personal Data and at the written direction of the School delete or return School Personal Data (and any copies of it) to the School unless the Council is required by law to retain the School Personal Data.

Types of School Personal Data

The Council will process the following types of School Personal Data: -

- Pupils initials
- Date of Birth and Gender
- Attainment
- Teachers name
- Name of school

Any other such School Personal Data as may be reasonably required from time to time to perform the Council's duties under this Agreement

Categories of data subject

- Pupils
- Teachers

Third party processors

Microsoft – the data is securely hosted on the Council's Microsoft cloud, as such, this data is not "shared

with Microsoft” as it is protected and only visible to the relevant Council personnel.