Introduction

Associate Consultants

**Terms and Conditions (November 2022)**

**for working with**

**West Midlands Employers**

(including GDPR & Off Payroll Working)

V5 November 2022

**West Midlands Employers (WME)** has established a Talent Bank of preferred suppliers of consultancy services, more commonly known as “Associate Consultants” hereinafter referred to as Consultants. These individuals offer a range of consultancy services aligned to the services provided by WME to its public sector client base.

WME will contract with Consultants to deliver services on our behalf, direct to our clients to meet their bespoke and specific needs. This document sets out the terms and conditions under which WME will contract with Consultants\* for their services.

*\*A consultant is a generic term within this document and may be an individual or an organisation.*

*\* WME and the Consultants will be referred to as the Parties in this document.*

The Consultants may provide services across WME’s core service areas; these include HR & OD consultancy, recruitment and resourcing, leadership and OD products and services, and coaching and mentoring. Our wide range of activities are detailed at [www.wmemployers.org.uk](http://www.wmemployers.org.uk)

WME will actively promote the skills and expertise of Consultants working with WME. Consultants will provide WME with details of their personal expertise and specialisms via a WME CV template and this information will be shared with WME Clients through the WME website. Clients can review the skills and expertise available and select Consultants that they would like to work with.

By agreeing to become a WME Consultant you give consent to WME to hold your information whilst you remain on the WME Talent Bank and for WME to promote your services via our website and other media. Services are captured within the following categories of expertise: -

* Attraction, Recruitment and Onboarding
* People Management (employee relations, pay and grading, organisational change)
* Coaching & Mentoring
* Leadership and Development
* Exit and Transition
* Organisational Development
* Diversity and Inclusion
* Sector Specialism (e.g Section 151, Monitoring Officer, Adult social care, Children, Education, Governance and Democracy, Elected Members and NHS)

A Consultant may be listed under more than one category. We invite you to regularly check that the information we publish for you is up to date and relevant and email info@wmemployers.org.ukif you need us to change any information on the website.

WME requires all Consultants to have Professional Indemnity Insurance of no less than £2 million. In signing and accepting these terms and conditions you are confirming you have, and will continue to hold, the required insurance and will provide evidence of such to WME on commencement and thereafter upon request as part of audit processes.

These terms and conditions include a set of general conditions (that are applicable to all Consultants regardless of the type of service being supplied) as well as conditions that are specific to certain services.

**1.** **General Terms and Conditions**

**1.1 The Commissioned Service**

The Consultant agrees to deliver their services on behalf of WME in accordance with the terms and conditions set out in this document and as specifically detailed in a purchase order or other appropriate engagement document.

**1.2 Changes to the Commissioned Service**

If, during the course of service provision, it is necessary (generally at the Client’s request) to adapt or extend the nature, scope, or duration of the service being provided, the Consultant must notify WME immediately in writing by way of an email to finance@wmemployers.org.uk, so that the terms of the engagement of all parties involved can be amended to accurately reflect any variance in the service being delivered.

WME is not committed to make any payment for services provided by the Consultant that have not been agreed with WME in writing prior to being delivered.

**1.3 Sub-contracting**

The Consultant will not sub-contract the service they have agreed to provide on behalf of WME, without the prior written consent of WME.

**1.4 Performance of Service**

The Consultant will be solely responsible for determining all matters of detail as to the manner in which the service is performed, and for ensuring that all work is carried out to the highest standard and quality as expected by WME and the Client.

**1.5 Quality Control**

WME will use a variety of evaluation methods to check the quality of services delivered on its behalf, including but not restricted to, direct consultation with the client. Feedback will be provided to the Consultant at the conclusion of the services.

**1.6 Service Fees and Expenses**

WME is a not-for-profit public sector service provider owned by its subscribing local authorities and the fees charged for its services reflect this.

WME will confirm the agreed fee payable to the Consultant prior to any commission and this will be confirmed in the WME engagement documentation.

If WME agree to pay related expenses for travel and accommodation costs as part of the engagement process, the Consultant must provide receipts/ evidence of expenses with the Consultant’s invoice for services delivered.

Further guidance on acceptable expenses:

|  |  |
| --- | --- |
| Car  | Mileage may be claimed at the prevailing WME Consultant rate *(in 2021 this equates to 45p per mile for the first 10,000 miles and 25p thereafter)* |
| Rail | Economy fares only (first class travel is not permitted unless it can be evidenced as the cheapest option) |
| Hotel | (Where an overnight stay is strictly necessary) Room, dinner and breakfast only - alcoholic beverages may not be claimed |
| Taxi | Taxi fares may be claimed if no alternative and reasonable form of public transport is available |

**1.7 Invoicing and Payment**

The Consultant must submit an invoice to WME **within 30 working days** of the service being delivered or at an agreed regular pattern for service provision that exceeds a 30 day period. The invoice must include the WME purchase order or contract (CRM) number; a detailed breakdown of fees and expenses and a copy of receipts must be attached to verify all expense claims.

**Important Note:**

* WME requires all invoices and documentation to be submitted to finance@wmemployers.org.uk to ensure WME can meet payment targets.
* If invoices are routinely provided late this will affect your suitability as a Consultant.
* WME will not make payment to anyone other than the Consultant unless agreed in writing.
* WME will make payments by BACS to the Consultant’s designated account within 30 days.
* If the service being provided falls within the scope of IR35 for Off Payroll Working, WME will process payment of invoices through the WME payroll services currently provided by Staffordshire County Council, deducting PAYE (see Appendix B).

**1.8 Non-Gratuity**

The Consultant shall not solicit any gratuity, tip or any other form of payment for any part of the services or goods, other than those expressly agreed with WME.

**1.9 Cancellations**

Should it be necessary for **WME** **to cancel** the agreed service, we will endeavour to confirm the cancellation with the Consultant at least two weeks before the agreed start/delivery date, upon which no preparation or cancellation fee will be due/paid to the Consultant.

If we cancel within two weeks of start delivery date, any evidenced out of pocket costs incurred by the Consultant will be reimbursed by WME unless the cancellation is due to circumstances beyond our control.

Should it be necessary for the **Consultant to cancel** the agreed service, the Consultant should provide one months’ notice before the start/delivery date, upon which no cancellation cost will apply.

If the Consultant fails to give due notice, or if they provide less than one month’s notice before the start/delivery date any costs incurred by WME and/or the client will be charged to the Consultant.

If the cancellation is due to unavoidable and extenuating circumstances, such as bereavement, illness or accident, no costs will be incurred by the Consultant.

**1.10 Confidentiality, Copyright and Brand**

The Consultant shall keep confidential any information relating to WME and that of service participants/clients.

The Consultant shall not engage in any discussion with the Client in respect of service fees. The service is commissioned from WME and provided by WME to the Client.

The Consultant may discuss the nature or detail of the service being provided with the Client, and if the Client wishes to discuss the cost of a potential additional or varied service, they should be advised to contact WME.

It is the responsibility of the Consultant to ensure that any materials used have the source identified and do not infringe any copyright conditions.

WME respects the copyright of materials produced by the Consultant and undertakes not to reproduce them without prior written permission from the Consultant.

The Consultant will respect the copyright of materials produced by WME and undertakes not to reproduce them without prior written consent from WME.

When delivering services on behalf of WME, the Consultant must ensure that all participants are aware the service is being delivered by WME. The logos of both WME and the Consultant should be used on materials provided to clients and participants.

Neither party shall act in any way that may be detrimental to the others reputation and brand.

**1.11 Professional Indemnity Insurance (PII)**

The Consultant is required to hold and provide evidence of their PII cover of a minimum of £2m. In signing and accepting these terms and conditions you are confirming you have, and will continue to hold, the required insurance. If a Client tender requires a higher value of PII cover, WME will offer Consultants with appropriate cover, or who are willing (if successful) to adjust their PII cover to meet the tender requirement.

You are asked to provide details of your insurance policy and WME can also ask you to provide a copy of your policy schedule at any time. If you are unable to provide evidence of insurance on request, or insurance cover is removed or revoked, you will be removed from the Consultant Talent Bank immediately.

**1.12 CV and References**

The Consultant is required to provide periodic updates of the WME CV template and refreshed references and renew consent for the use of their personal data to promote their services on the WME website or in printed materials.

When responding to Client tenders WME will generally encourage the Client to visit the website or provide several Consultant CVs for the Client to consider and then select from. Ensuring WME has your latest information will improve your opportunities for selection.

Please note that at any point in time the ‘references’ you provided may be taken up by either WME or a potential Client. It is important you ensure your referees are recent and relevant to the services you are offering and that you have acquired consent to share their contact information.

**1.13 Integrity and Self Promotion**

WME works with the Consultant Talent Bank so that a long-term relationship is built up with individuals who are highly qualified and respected in their field of expertise. WME operates a ‘relationship of trust and respect’ with Clients and WME wishes to have the same relationship with Consultants.

Consultants are required to declare any unspent criminal convictions on the appropriate Declaration Form. This would preclude an individual from being onboarded into the WME Talent Bank.

WME will comply with the Rehabilitation of Offenders Act 1974 and the Rehabilitation of Offenders Act 1974 (Exception) Order 1975 as amended, which means that associate consultants will not be treated unfavourably because they have a spent conviction.

WME may also choose to carry out Standard or Enhanced DBS checks where service provision relates to Children, Education or Adult Services or any other Senior Leadership position where an eligibility check determines it is required.

While inclusion in the WME Consultant Talent Bank is indicative of a potential offer of engagement on an on-going basis, **WME does not make any guarantee in respect of the quantity of commissions offered to the Consultant**, as engagement will be based on service demand as well as Client choice in the selection of the Consultant.

Acceptance into the WME Consultant Talent Bank will mean that WME will treat the Consultant as a ‘preferred supplier’ when responding to any client tender processes or in meeting any internal WME requirement for consultancy support.

**If the Consultant is approached directly by WME Clients for follow-up services as a direct result of delivering services on behalf of WME,** **the Consultant must immediately refer the Client back to WME to make the necessary engagement arrangements**. This approach will clearly demonstrate to Clients the strong association between WME and its Consultant and strengthens trust and respect amongst all parties.

**The Consultant should not directly market themselves to Clients whilst delivering services on behalf of WME.** If WME is made aware or there is any evidence of this type of activity the Consultant will be considered in breach of these terms and conditions; no fee will be paid by WME to the Consultant for that particular service commission and the Consultant will be removed from the Consultant Talent Bank. This applies to both verbal and written marketing activities where evidence has been received.

From time to time, WME may offer a Consultant the opportunity to engage with a Client directly to deliver a particular service. WME may wish to negotiate an ‘introduction fee’ for this type of service referral.

**1.14 Materials**

The Consultant must ensure that the service and any materials used are of the highest quality. The Consultant is expected to provide all necessary materials for the delivery of their service, unless agreed in writing that WME will provide materials for the delivery of WME development programmes.

The Consultant is responsible for producing all materials required to deliver their service (i.e. training materials, presentations, case studies etc.). The first time that materials are used in the delivery of a WME service, a copy should be sent at least 10 days before the service provision toinfo@wmemployers.org.uk for quality assurance.

All materials produced/used must be available in a format compliant with relevant legislative requirements, including the Equality Act 2010.

In exceptional cases, WME and/or the Client may be able to assist with printing/copying but cost will be passed on to the Consultant. This will not affect the ownership or copyright of the materials.

**All training materials produced by the Consultant must include both Parties logos.**

**1.15 Tax & VAT Liabilities**

Any engagement with the Consultant is a contract for services and WME will make payments in respect of an agreed fee for services plus VAT (where the Consultant is VAT registered) at the prevailing rate.

The Consultant is responsible for all Income Tax and National Insurance liabilities in respect of their fees. The Consultant indemnifies WME from any claims that may be made by Clients against WME in respect of Income Tax and/or National Insurance or other fees relating to the Consultant and their employees.

IR35 Off Payroll Working

If the service commission falls within scope of IR35 regulations for off payroll working, WME will process payment of the Consultant’s invoices through payroll making the necessary PAYE deductions for tax and NI as required in law. Payment of VAT applied to the Consultant’s invoice will be processed separately and paid by WME. (See Appendix B)

Both parties are responsible for ensuring they meet their legal obligations as a worker and intermediary in relation to IR35 legislation. <https://www.gov.uk/guidance/understanding-off-payroll-working-ir35>

**1.16 Confidentiality, Data Protection and GDPR**

The Consultant will maintain confidentiality at all times in relation to the provision of consultancy services, especially when dealing with client data.

**The Consultant will ensure that they are compliant with all relevant Data Protection requirements when delivering services on behalf of WME and specifically in the way they handle personal data.** Data Protection Legislation includes all applicable date protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018)(and Regulations thereunder) and the Privacy Electronic Communications Regulations 2003 (SI2003/2426) as amended and the Guidance and Codes of Practice issued by the Information Commission or other relevant regulatory authority where applicable to the Parties.

**If a consultant has access to personal information such as an individual’s contact details or other materials containing personal data provided to them by the client, they must ensure they observe WME rules for Data Protection Compliance as set out in Appendix A.**

WME will assume that the Consultant has acquired or is providing the necessary consent for any personal data being used or shared with WME.

WME has established a process for supporting Consultants with Data Protection compliance in the handling and security of data which is set out in detail in Appendix A.

**1.17 Complaints**

We undertake to handle any complaint in accordance with our Comments, Compliments and Complaints Policy which is available on our website<https://wmemployers.org.uk/wp-content/uploads/2021/05/WME-Comments-Compliments-and-Complaints-2021.pdf>**.** If you wish to make a complaint to WME about how we administer and/or engage with you as a Consultant you should do so at the earliest opportunity in writing initially by email to our Business & Corporate Services Team info@wmemployers.org.uk or by visiting our website.

**1.18 Breach of Agreement**

Any breach of these terms and conditions may result in the Consultant being removed from the WME Consultant Talent Bank and all further and future engagements will be cancelled at no cost to WME.

**1.19 Laws and Jurisdiction**

These terms and conditions in respect of an agreement to contract with the Consultant for services shall be governed and construed in accordance with the Laws of England and Wales.

**1.20 Working with WME Partnership Principles**

In addition to our contractual Terms & Conditions, WME is keen to set out how we want to work with our Clients and our Consultants as our service providers in terms of our values and relationships. Please read Appendix C – Working with WME, Partnership Principles.

**2. Specific Terms & Conditions for Interim Placements**

**2.1 Off Payroll Working**

WME is responsible for operating the tax rules that apply to off payroll working when engaging a Consultant to deliver interim services to a client.

WME will process payments (of invoices) to the Consultant via our payroll service provided by Staffordshire County Council; deducting PAYE Tax and National Insurance as if the Consultant was being employed directly by the client authority. For more details refer to Appendix B on Off Payroll Working.

**2.2 Service End Date**

The nature of interim services means that the length of service provision may not always be certain at the point of commission. WME, the Consultant and the Client may agree an open-ended commission to enable the end date to be determined at a later stage during the service provision. For extended periods of service provision (over 30 days), WME will agree a monthly invoicing and payment arrangement with both the Consultant and the Client.

The Consultant is required to notify WME in writing at the point when any end date is discussed or agreed with the Client.

**2.3 Hours of Work**

Where a Consultant is working in an Interim placement, they will work 8 hours per day (to include a 30 minute lunch break). The number of days per week and working pattern will be agreed with WME and the Client before the service commences and detailed in an appropriate engagement document.

Any variation to the agreed interim working pattern requested either by the Client or the Consultant must be confirmed to WME immediately in writing.

**2.4 Notice of Termination of Services**

All parties will be required to provide a minimum of one month’s notice in writing to the other parties to terminate an interim service; unless otherwise agreed at the point of commission or where there is a defined service end date.

**2.5 Time Recording**

For the purposes of evidencing and monitoring time commitments, the Consultant will be required to complete a WME time sheet to record the hours of work delivered by the Consultant and secure sign off by the client before submission to WME. This will support efficient authorisation of invoices for payment by WME and the Client.

**2.6 Evaluation and Feedback**

On completion of an interim service WME will seek feedback from the Client to determine their overall level of satisfaction. If the engagement is for a prolonged period, this feedback may be sought periodically throughout the period of commission. WME also reserves the right to conduct quality checks at any point during the service provision. Feedback will be provided to the Consultant.

On completion of a consultancy engagement, WME may also request a de-briefing session with the Consultant to get their feedback and other helpful information that may assist WME to improve its service provision and understanding of its client’s needs.

**2.7** **Commission/Client Specific Terms and Conditions**

From time to time, WME may be required to accept terms set by the Client for the provision of a service. WME will share any specific Client terms with the Consultant. In accepting the commission from WME, the Consultant will be agreeing to the commission specific terms and conditions of the Client. Any issues or concerns about these specific Client terms must be raised at this time.

When working as an interim, the Consultant will be expected to observe all local policies and procedural requirements as the Client would require of any employee.

**2.8 Confidentiality and Data Protection**

In addition to 1.16 the Consultant will maintain confidentiality at all times in relation to the provision of consultancy services as an interim working within a client organisation, especially when dealing with highly sensitive or personal data. The Consultant will be required to observe any client regulations and processes for handling personal data and meeting Data Protection requirements.

If it is necessary for the Consultant to share any information with WME pertaining to their interim role, WME requires the Consultant to accept and observe the specific Data Protection conditions outlined in Appendix A.

**3. Specific Terms & Conditions for Coaching and Mentoring**

**(excluding the WM Coaching & Mentoring Pool)**

[**Please note**: Consultants may offer coaching and mentoring services which WME may call upon outside of the WM Coaching & Mentoring Pool which works with volunteer coaches/mentors and has separate processes and regulations. These terms and conditions apply to WME’s general coaching and mentoring services]

**3.1 Qualifications and Experience**

Coaching and Mentoring provides the time to review current and future work, giving the opportunity to assess focus, influences, challenges and aspirations. A coach will help people do this through skilled questioning and facilitation and a mentor does this through sharing their experience and expertise.

**Coaching:**

To be commissioned to work as a coach on behalf WME the Consultant must hold a Level 5 (or higher) qualification in performance, leadership, or executive coaching, recognised as part of the Qualifications & Credit Framework (QCF).

The qualification must be:

- Certificate level or higher

- focussed on the practical application of coaching in the workplace

Ideally participants will have prior experience of people management or have experience of working within an HR environment.

**The Consultant will be required to provide a copy of their certificate before WME can assign any coaching commissions.**

**Mentoring:**

Mentoring engagements will be aimed at supporting those looking to step into a senior leadership role or very specific area of expertise. To be considered for mentoring engagements the Consultant must be able to clearly demonstrate their suitability and provide examples of successful mentoring relationships.

**3.2 Ongoing development and supervision**

Coaches and mentors must be able to demonstrate that they actively engage in regular ongoing professional development and supervision.

**3.3 Profile and References**

The Consultant must provide WME with an updated Coaching and/or Mentoring Profile periodically together with refreshed references and renewed consent to use their personal data to promote their services. Details of supervision and ongoing professional development should be included in the profile.

When responding to Client coaching and mentoring requests WME will generally offer a number of Consultant CVs for the Client to consider and select from. Ensuring your latest information is held on file at WME will improve your opportunities for selection.

Please note that at any point the ‘references’ you provided may be taken up by either WME or a potential Client. It is important you ensure your referees are recent and relevant to the services you are offering and that you have acquired consent to share their contact information.

**3.4 Fees**

The level of experience of coaches and mentors will undoubtedly vary and WME will sort Consultant coaches into two categories of experience: level A and level B.

The Level A coach/mentor will have a significant level of experience within people management or have a particular expertise and will have a minimum number of hours of coaching/mentoring experience. The Level A coach/mentor will generally be working at an executive level.

The Level B coach/mentor will have the required qualification and be able to demonstrate successful relationships but no minimum requirement in terms of hours of experience.

Coach/Mentor Consultants working on behalf of WME will be paid a standard fee per session based on between 1.5 to 2 hours. If WME commissions a Consultant to deliver a block booking of 5 sessions (with one or more Clients) WME may request a discount on the cost where more than 5 sessions are commissioned.

If shorter sessions are required (i.e., MS Teams, telephone, Zoom), then a lower fee will be agreed with the Consultant. The applicable fees and discounts will be confirmed with the Consultant at the point of engagement.

WME will pay a different fee for coaching and mentoring provided as a Level A and Level B service.

**3.5**  **Services**

Consultants delivering coaching and mentoring services are expected to confirm arrangements and ‘service’ with the client using the WME coaching/ mentoring contract documentation provided.

3-way contracting with the Client’s sponsor should be carried out in all coaching and mentoring relationships unless otherwise agreed with WME.

**3.6 Other complementary services**

If the Consultant considers it is necessary to utilise additional tools and resources to support the delivery of the coaching/mentoring service (i.e., profiling tools, 360 feedback, psychometrics), they must agree this in advance with the Client’s sponsor organisation and confirm any Client agreement in writing to WME using the contract or session confirmation forms.

Fees for other related services must be agreed with WME prior to service delivery. WME will charge the Client for any additional services.

**4. WME Standard Service Fees**

**4.1 Setting a pricing policy**

WME is a not-for-profit service owned by subscribing councils in the West Midlands and working across the public sector. Our ethos is to provide quality services at a ‘best value’ price for the public purse; rewarding subscribing authorities to WME with prices discounted for membership.

WME reserves the right to set a ‘standard fee’ that it will pay Consultants for the delivery of routine services where the service provided is of a particular format (i.e., 360o feedback, coaching sessions, etc) and/or where the fee will need to be competitive against a ‘market rate’. WME will notify the Consultant of any standard fees that are applicable to a service being commissioned.

**4.2 Consultant Rate**

The Consultant will agree a ‘standard’ rate for the provision of their services to WME when they register as a Consultant (day, half day and/or hourly). WME will seek to secure commissions based on this fee where possible but may negotiate variations on this rate with the Consultant, where it is necessary to secure an engagement or cost-effective service provision for the Client.

If the Consultant is unable or unwilling to negotiate on their standard fee, they must advise WME in writing that their fee is ‘fixed’ and non-negotiable so that this can be recorded to ensure WME does not offer the services of the Consultant for an engagement where the price would be prohibitive.

Any increase in the Consultant’s rate must be agreed in writing with WME, ideally with one months’ notice to enable new commissions to be agreed at the appropriate rate with clients.

**APPENDIX A – DATA PROTECTION ACT and UK GDPR COMPLIANCE**

**Terms and Conditions for Consultants - Processing Personal Data**

WME has established processes and rules for Consultants in relation to both personal data that you will have access to in the course of service delivery to WME and our Clients, as well as how WME will store and use your own personal data.

1. **HR Consultancy Services (excluding Interim Placements)**

As a Consultant you can be required to undertake a range of different assignments and must always operate within all relevant Data Protection regulations, ensuring the confidentiality and appropriate treatment of personal data at all times. (For a definition of ‘personal data visit <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/key-definitions/what-is-personal-data/>)

Whilst WME cannot anticipate every instance where the deployment of Consultants will have DPA implications, WME has reviewed and established processes and additional data security arrangements in respect of commissions for services most likely to require access to personal data; **independent investigations; advice and support on organisational restructuring and reviews; recruitment support services and occupational testing; and mediation**.

**Where you provide these services on behalf of WME it is your personal responsibility to ensure compliance with the following conditions to ensure your work is UK GDPR compliant.**

1. Investigations

When WME commissions the Consultant for their first investigation you will be provided with details of a **personal WME OneDrive Folder** which has restricted access, limited to you and senior staff of WME responsible for commissioning work of this nature.

You will be able to use personal IT equipment for actively gathering and recording information relating to the investigation service (e.g., interview notes) but **all documented information must be saved only to your WME OneDrive Folder,** where you should create a sub folder for each discrete client investigation/commission.

* **NEVER store any data on your own personal IT equipment** (PC’s, Laptops and Tablets).
* **NEVER store data on any removable media** (such as a memory stick or hard drive).

When you exchange e-mails, with or without attachments, with either the Client/local authority commissioning Client officers or witnesses which contain what may be considered personal data (including draft interview notes or statements) you **must ensure that the content of these emails are saved into your WME OneDrive Folder** **and the email(s) deleted from your personal e-mail account immediately.**

When developing and exchanging interview notes and draft/final reports which are to be issued to witnesses and the Client, **you** **must ensure report documents are** **password protected**. The password must be at least 8 characters and contain at least one Capital letter and a numeric. You should record the password details in the relevant WME OneDrive Folder and use a different password for each document and a password ‘pattern’ for each investigation.

**Passwords to recipient witnesses and Client lead officers should be communicated verbally or by text** and not communicated through a third party.

**Data Retention** - Upon commissioning, WME will advise the Client that all data relating to the investigation will be **permanently deleted** **six months after the date of presentation of the final report to the Client** unless ongoing matters relating to the case require an exception.

WME will advise the Client that if they wish to retain copies of final reports and related witness and other evidence a secure data transfer can be provided to the Client before deletion from WME systems. **WME will be responsible for retention and deletion not the Consultant.**

**Principle of Consent** - at the point of commissioning, WME will advise the Client that by entering into contractual services with WME to undertake an independent investigation, **WME will assume that** **the Client has secured the required consent** from employees and other witnesses to share personal data prior to commencement of the service. If you are asked about ‘consent’ by any individual prior to or during an investigation, you should indicate that consent was deemed as secured by means of contract (potentially refer them back to the Client lead officer) and notify your commissioning WME contact officer.

1. Organisational Management Reviews and Restructuring

WME provides support to local authorities and other Clients in respect of the diagnosis, design, consultation and implementation or organisational reviews and restructuring. Consultants can provide services at any stage of this process. WME is advised that whilst WME may not be directly handling (processing) personal data (such as the name of a postholder or related information such as their salary grade), where personal data can be identified from other sources (i.e. an organisation chart or publicly available data) such is covered by the UK GDPR. Evidently, where WME staff or Consultants are directly (or indirectly) involved in consultation processes, the consultation responses (and exchanges relating thereto) will fall within scope of the UK GDPR.

**Therefore, the same principles and processes as detailed in (a) for independent investigations must also be applied to organisational reviews and restructuring. This includes data retention, communication, and deletion.**

When a Consultant is commissioned to provide services in support of organisational reviews or restructuring, you will be provided with details of a **personal WME OneDrive Folder** which has restricted access, limited to you and senior staff of WME responsible for commissioning work of this nature.

If you already have a personal WME OneDrive Folder you may use this to create a new Sub Folder in your OneDrive account for this commission.

1. Executive Recruitment and Occupational Testing

A Consultant can be commissioned to provide support at any stage of an executive recruitment process. WME will ensure that all source information which contains personal data, (which can include ‘[sensitive personal data](https://ec.europa.eu/info/law/law-topic/data-protection/reform/rules-business-and-organisations/legal-grounds-processing-data/sensitive-data/what-personal-data-considered-sensitive_en)’ such as equality monitoring data and trade union membership), is made available to the Consultant only ‘as required’ and will share such information by depositing it in the Consultant’s personal WME OneDrive Folder. This could include application forms, CVs and details regarding the output from occupational testing.

With the exception of creating password protection arrangements for documents (unless such are created by the Consultant and contain personal data) the Consultant **must apply the same principles and processes as set out in (a) and (b) where involved at any stage in the handling of personal data**.

1. Mediation

A Consultant can be commissioned by WME as a trained mediator. Due to the nature of the intervention and its level of confidentiality, it is considered unlikely that there will be a need to obtain, issue and retain any written documentation.

However, there may be occasions where you exchange details in the form of a written brief; practical arrangements for undertaking mediation session(s) (from which the identity of individuals may be possible); and matters relating to the mediation agreement itself (e.g. disputes over content). If this is the case, the Consultant **must ensure that all such exchanges communicated electronically are suitably password protected** (applying the approach set out in (a) and **retain all related documentation only within your personal WME OneDrive folder** as described in (a) and (b).

 If the Consultant does not have a personal WME OneDrive Folder we will set one up for your use.

**Data Retention** – For mediation services the data held in the WME OneDrive Folder will be **deleted after one month**, subject to any exception agreed between WME and the Client.

1. **Historic Information/Data stored by a Consultant in relation to WME Commissions undertaken prior to the creation of a personal WME OneDrive Folder**

As an active WME Consultant, if you have retained any information relating to previous services delivered on behalf of WME (excluding that relating to interim placements) you are required to **delete and destroy such information you hold in accordance with the retention principles set out in this document**. This means the **permanent deletion of data** from all personal ICT equipment and appropriate destruction of any ‘hard copy’ documentation (ideally by shredding).

If you require support with the destruction of hard copy materials, you are required to deliver materials securely to WME (by hand or recorded delivery) and WME will provide **confidential** **document shredding of this material.** To arrange delivery of material for confidential shredding please email info@wmemployers.org.uk

1. **Personal ICT Security**

Whilst data storage for WME commissions will be held in the ‘cloud’ via personal WME OneDrive accounts, there may be occasion where you use personal ICT equipment and personal email accounts for processing and communicating personal data.

**The Consultant is responsible for ensuring that appropriate data security arrangements are in place and up to date**, including laptop encryption, anti-virus and malware protection, and that standard firewalls are provided through your ‘wireless router’ and ISP provider (e.g. BT Home Hub or equivalent).

**4. Subject Access Requests (SAR)**

If the Consultant receives a subject access request for any service they are delivering or have delivered on our behalf they should notify WME immediately and pass on the request to WME to respond. WME is the contractor delivering the service to the client and it is WME who will process and respond to any Subject Access Requests in accordance with our own procedures. You must not respond to an SAR directly without having first discussed this with WME.

**5. UK GDPR and Your Personal Data**

As a WME Consultant, you will provide us with your own personal data to enable us to offer your services to our Clients, to process payments to you and to comply with intermediary reporting to HMRC about commissions where you deliver services to public authorities.

WME confirms the following in relation to your personal data and GDPR regulations;

* By providing your CV and references you are giving us **consent** to use your data for the purposes of promoting your services to our Clients via the WME Consultant website and for contacting referees.
* By providing your personal data you are giving us **consent** to use it for making payments to you for contracts or services you deliver to WME, to process IR35 payroll deductions where relevant, to provide intermediary reports to HMRC and for other financial management processes.
* We will use it only for its intended **purpose** and in our business transactions with you.
* We will **store it securely** in our cloud-based system with restricted access only to authorised WME personnel.
* We will **retain** your data only for as long as we are legally required to do so to meet our financial accounting obligations; otherwise, we will delete your data when you submit your resignation as a WME Associate Consultant in writing to info@wmemployers.org.uk.
* We will **destroy** any hard copy information by confidential shredding and securely delete records from our systems at the end of any retention period.
* We will **confirm** the personal information we hold for you if you request us to do so; email your request toinfo@wmemployers.org.uk.

**To read the WME General Privacy Notice go to** <https://www.wmemployers.org.uk/privacy-policy/>

**APPENDIX B: Off Payroll Working**

WME provides services via Consultants to third parties (our local authorities and other public sector bodies) and as such, WME is an intermediary under the IR35 Off Payroll Working regulations.

This appendix provides an overview of how Off Payroll Working Regulations will impact on you as a Consultant working with West Midlands Employers.

HMRC provides an online tool to help assess services and determine those for which IR35 regulations apply. The rules pertaining to the application of IR35 regulations may be reviewed and amended by HMRC each year.

Both WME and the Consultant are responsible for following IR35 regulations in their dealings with each other, and with WME Clients and HMRC. Since April 2021 a Status Determination Statement has been required to evidence any decision as to whether IR35 applies to the engagement. If IR35 applies, then the intermediary (WME) is responsible for deducting PAYE as the body paying the worker.

*More Guidance is available on the HMRC website:*

[Understanding off-payroll working (IR35) - GOV.UK (www.gov.uk)](https://www.gov.uk/guidance/understanding-off-payroll-working-ir35)

*The HMRC online tool to check if IR35 applies or to check your employment status:*

<https://www.tax.service.gov.uk/check-employment-status-for-tax>

You should email finance@wmemployers.org.ukfor updated information and guidance on WME processes relating to the administration of IR35 regulations.

WME as an Intermediary

WME is contracting with the service recipient (client) and has a process in place to support effective administration of IR35 procedures for the services it delivers. This includes checking and confirming the IR35 status through a Status Determination Statement for each engagement.

Intermediary Reporting

WME is required to provide quarterly ‘Intermediary Reports’ to HMRC. This is a list of all PSC/workers WME has engaged in the period to deliver services direct to a client authority but for whom it has not operated PAYE (as the work was outside the scope of IR35). The report details the gross amount paid (including expenses and VAT). Our reports to HMRC will include details of all work engagements delivered by Consultants on our behalf.

To comply with HMRC legislation and reporting requirements WME will require the Consultant to:-

* Complete an Employer Intermediary Report form providing all the personal details required by WME to populate the online HMRC intermediary report.
* Provide additional information that will encompass routine ‘employment checks’ if you are engaged to deliver work within scope of IR35, so WME can appoint you to our payroll system to process PAYE.
* Submit invoices promptly at the end of each month for all work carried out whether still in progress or complete.
* Ensure invoices clearly state the first and last date of the service provision, the name of the recipient client, the net value, any expenses and the VAT where applicable.

WME processing IR35 PAYE

When a service falls within scope of IR35 WME will write to the Consultant setting out the process for administering IR35, clarifying deadlines for the submission of documents/invoices and confirming payment dates.

WME will process IR35 PAYE deductions via our payroll provider and in accordance with HMRC advice deductions at basic rate tax.

As a general guide WME anticipates that longer-term project work or interim engagements where the client is determining the nature of the work, when and where it is delivered, are likely to fall within scope of IR35 and payment of invoices will be subject to PAYE deductions.

Other services such as independent expertise for investigations, design and delivery of training interventions, consultancy work to deliver specific project outputs for short durations and where there is no personal obligation on the worker to provide the services or there is significant flexibility and discretion around how the service is provided, are unlikely to be classed as an employment and subject to IR35.

However, IR35 dictates who decides if IR35 applies or not and this should be confirmed via a Status Determination Statement and the reasons for the decision. Visit [www.gov.uk](http://www.gov.uk) to check the latest guidance and regulations.

IR35 – Your choice

The Consultant can reject a commission offered by WME that falls within scope of IR35 if they do not wish to provide services where their payment is processed with PAYE deductions. Ideally, the consultant should make their preference known to WME as soon as possible, so that their services are not offered to a client where the engagement is likely to be within IR35.

UK GDPR and Your Data

WME confirms the following in relation to your personal data and UK GDPR regulations.

* By providing your data to us you are giving us **consent** to use it for the purposes of making payments to you for contracts or services your deliver to WME, to process IR35 deductions via payroll where necessary and to complete and provide intermediary reports to HMRC.
* We will use it only for its intended **purpose** and in our financial management and business transactions with you.
* We will **store your financial data securely** in our cloud-based system with restricted access only to our finance personnel.
* We will **retain** your financial data only for as long as we are legally required in order to meet our financial accounting obligations (usually 6 years).
* We will **destroy** any hard copy information by confidential shredding and securely delete records from our systems at the end of any retention period.
* We will **confirm** the personal information we hold for you if requested to do so in writing to Head of Finance at WME – email finance@wmemployers.org.uk

WME has established an efficient process to enable WME to meet its legal obligations and to make it easy for Consultants to work with WME in delivering high quality services to the public sector and our Finance Team will provide support as needed throughout your contractual engagements with WME.

If you have any questions regarding IR35, intermediary reporting or UK GDPR please email them in the first instance to finance@wmemployers.org.uk**.**

**APPENDIX C: Working with WME - Partnership Principles**

**Partnership Principles for Consultants and Service Providers**

We view our Consultants and service providers as an extension of our own team. From years of experience in delivering consultancy and training services, we know that a strong sense of ‘team’ has enabled us to build longstanding relationships and a reputation for trust with both our partners, providers and the local authorities and public sector organisations that we serve. We have a clear mission statement for our clients.

***Advocating, building and championing people centred organisations for a resilient and diverse public sector workforce that benefits everyone in the West Midlands***

We have a strong set of **VALUES** and approach to service delivery, and we believe this enables us to operate and compete with and alongside commercial competitors, without losing sight of our primary purpose as a ‘not for profit’ Employers’ Organisation, serving the public sector.

We may be small in size, but we are big on ambition - through engaging high-quality Associate Consultants and partnering with leading service providers, WME is able to make a big impact and add value to our public sector client base.

We have worked hard to develop a reputation for quality and value and a level of trust that means WME is a first port of call for support amongst our councils. We expect the people we work with to share our values and have the same approach when working with us or on our behalf.



**Our Partnership Principles**

* **Open and honest in our dealings**

Openness and honesty in working relationships are pre-conditions of trust – all of which are at the heart of how we do business. We are open with our Clients about who we work with to deliver our services and we actively champion and promote the people and organisations who work with us.

WME see our Consultants and providers as an extension of our team and as such are placed in organisations to work on behalf of WME, developing strong relationships within our Client base. Therefore, as your initial connection is through WME we expect that ongoing work required by the Client is processed as a service from WME - even if they have come to you directly because you have now established a relationship with our Client.  This applies to any work the Client wishes to engage you for, regardless of whether it is directly related to what you originally delivered or not.

* **A genuine partnership approach**

At WME our relationship ethos is one of trust; we aim work in partnership to our mutual benefit. If our Consultants and providers identify an opportunity for further engagement or service provision to a client, then we are happy for them to explore the potential with the Client but would want them to then come back to WME to agree a service proposal and cost profile so that WME can put forward the offer to the Client (as per our standard Terms and Conditions).

By the same token when we are approached for support from our Client base we will promote and offer our Consultants and partners as our delivery solution.

It is essential that our Consultants and providers understand and honour the nature and intention of our relationship and way of working. We enjoy a reputation for trust and quality amongst our councils and this is what enables us to secure work for Consultants and providers, and in doing so, raises their personal profile and reputation within the West Midlands.

WME recognises that some experienced Consultants may already have existing provider relationships with organisations in our sector; and that being the case, we are happy for Consultants and providers to let us know and continue with those established relationships, or we would be happy to encompass it within our general relationship if that is preferable for the Consultants.

* **Learning and developing together**

As a Regional Employers’ Organisation WME has a wealth of experience and connections to draw on that we are keen to share with those we work with, for the benefit of our Clients We also acknowledge that the expertise and knowledge of our partners is also what helps to keep us at the cutting edge of the services we deliver. We are keen to share learning and to work collaboratively to develop new products and services together.

* **Equity of opportunity and promotion**

WME is a well-established and trusted provider of services to the public sector and we are owned by the 32 councils that subscribe to our employer services and they all purchase a variety of other subscription based and ad hoc services from us. Some see us as an extension of their own teams and resources and therefore we receive a wide variety of direct requests for services and support. The nature of services can vary from development sessions, to large scale projects, to interim placements, shared services and sometimes clients will even ask us to deploy specific Consultants to them.

When approached to deliver short or relatively low value services and where we have a number of Consultants with the same skills (ie adhoc 360 feedback sessions) then we try to allocate based on Consultants locality to keep the travel costs low and availability based on Client deadlines.

However, for the majority of assignments we offer Clients a choice of at least three CVs of suitable Consultants and let them select the one they would like to work with. This approach has worked well in terms of offering Clients a choice, but also in allowing us to introduce and profile our talented Consultants more widely.

* **Working for mutual benefit**

Whilst WME cannot guarantee work we are committed to promoting our Consultants and placing them with our Clients whenever we can – so much so that we have invested resources in developing a part of our website to promote Consultants and enable our Client base to see the talent we have to offer. Check out www.wmemployers.org.uk

In a reciprocal manner we would hope that our Consultants are equally happy to promote WME and the services that we offer.

By working in partnership WME hopes to be able to provide an improved service to our Clients to the mutual benefit of WME and our Consultant and service partners.

We genuinely believe that our partnership principles and values play a key part in our strong and positive reputation as a high-quality service provider.

**Acceptance of WME Terms and Conditions for Associate Consultants**

**(V5 November 2022 )**

**To ensure that WME meet its obligations as a service provider and our responsibilities under UK GDPR, we require ALL Consultants to sign and return this form to indicate acceptance of the WME Terms & Conditions for Consultants working with WME.**

**WME must have this signed consent on file to be able to commission services from the Consultant**.

Please complete and return this form to info@wmemployers.org.ukand if you are a new Consultant request access to your personal WME OneDrive Folder.

We appreciate that there is a lot of information contained within these Terms & Conditions, but we also trust that you understand the importance and necessity for WME and our Consultants to have clarity in how we work together, so that we can deliver high quality services to our public sector customers, whilst ensuring we are compliant with the latest UK legislation.

Please ensure you complete the insurance and IR35 preference form below so we can update our records.

If you have any questions, please email your query toinfo@wmemployers.org.uk for the attention of the Consultant Talent Bank Manager or finance@wmemployers.org.uk

I, the undersigned, have read, understand, and confirm acceptance of the terms and conditions set out in this document in respect of the provision of services to WME as a Consultant and consent to the use of my personal data as stated.

­­­­­­­­­**SIGNED** on behalf of the Consultant:

|  |  |
| --- | --- |
| Signature |  |
| Name (print) |  |
| Company |  |
| Date |  |

Email address \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Telephone No ­ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Please submit your completed T&C Acceptance form by email to** info@wmemployers.org.uk

***(This section to be completed by the Consultant)***

**A] PROFESSIONAL INDEMNITY INSURANCE**

I hereby confirm that I have the required professional indemnity insurance required by WME.

|  |  |
| --- | --- |
| Consultant (name / company name) |  |
| Name of Insurance Provider |  |
| Policy Number |  |
| PII Cover Value(min £2m) | £ |
| Annual Renewal Date |  |
| How long have you had PII? |  |
| Have you ever had a PII claim? | *(If yes please provide details in writing to WME*.) |
| Have you ever had PII cover revoked? | *(If yes please provide details in writing to WME*.) |

**B] OFF PAYROLL WORKING (IR35)**

I wish to be considered for appropriate **Interim Roles** **that will be subject to PAYE deductions.**

YES / NO (please delete as appropriate)

I wish to be considered for any **assignments** that may be determined to fall **within scope of IR35.**

YES / NO (please delete as appropriate)