



# Sunshine Support

---

**TERMS OF ENGAGEMENT**

---

**THIS AGREEMENT is made**

**BETWEEN**

**(1) SEN Support Ltd (Company Number 14212237)**

(2) Suite 6 Chatsworth House, Aspen Drive, Derby DE21 7SR

**And**

**Jointly “the Parties”**

## **1. SCOPE / LEVEL OF SERVICES**

- 1.1. The Company has agreed to provide the Client with ongoing special educational needs advocacy, training, consultancy and support services for a fee of £102.00 per hour plus VAT. All work and communication undertaken on your case is chargeable at this rate.
- 1.2. For the purpose of this Agreement “special educational needs advocacy and support services” means those services set out in Schedule 1 to this Agreement.

## **2. DELIVERY OF SERVICES, PROGRESS AND TIMESCALES**

- 2.1. The Company has agreed to provide you with special educational needs advocacy and/or training and/or support services. The elements of this service that we must provide are outlined in Schedule One and shall be provided at the earliest possibility. Any work to be undertaken thereafter, including the deadline by which it shall be completed, shall be agreed in writing between us in advance of the work being undertaken and your instructions sought to proceed with the same.
- 2.2. The Company shall deliver any products of its service to the Client via email and via the client access area of the confidential online filing system.
- 2.3. The Company shall keep the Client updated regularly on the progress of the matter or at any specific intervals as agreed in writing between the Parties.
- 2.4. For settings and provisions – any work paid for will be carried out and undertaken within 12 months. If this has not been delivered within the 12 months of payment being received the booking will have to be re-made again along with payment in full.

### **3. JOINT INSTRUCTION**

- 3.1. If the Company is jointly instructed by the Client in conjunction with an additional person (for example, a co-parent) to act in a matter, the Company will assume that either the Client or that additional person is authorised to give instructions, unless advised otherwise. Where there is a conflict in instructions, we shall follow the instructions of the person with whom this Agreement is made.

### **4. PROVISION OF INFORMATION**

- 4.1. The Client will use their best endeavours to ensure that all information provided to the Company is complete, accurate and up to date. The Client will notify the Company of any changes or variations to any information that it has given to the Company.
- 4.2. Through the duration of this Agreement, the Client will notify the Company promptly of any new information that might be relevant to the work the Company is undertaking.

### **5. CHARGES, PAYMENT AND BILLING**

- 5.1. Subject to the below variations and/or unless otherwise agreed, all work undertaken by the Company will be charged at the rate stated at clause 1 above. VAT is currently charged at 20% however, will always be charged at the rate set by the Government.
- 5.2. The Company will provide the Client with a cost estimate in advance of undertaking any work.
- 5.3. Whilst it is often not possible to fully estimate all charges in advance, it is open to you to notify us of any financial limit which you wish to impose on our charges after which further reference will be made to you. We will advise you when it appears that any cost estimates or limits are close to being exceeded. The final bill will be a product of the amount of time the Company spends on the matter; any estimates provided are neither intended to be a cap nor a target billing figure.
- 5.4. The Company reserves the right to request that the Client pay either a refundable or a non-refundable deposit (at the Company's sole discretion) in relation to the Company's fees or any disbursements or third party charges, prior to any work being undertaken or fees/disbursements being incurred.

- 5.5. The Client becomes liable to pay the Company's fees upon the rendering of an invoice. The invoice may offset any deposit against any monies owing to the Company for services provided. All fees must be paid to the Company by way of BACS (or another electronic transfer method) within 7 days (excluding bank holidays) of delivery of the invoice to the Client. Invoices will be delivered either electronically or through postal mail.
- 5.6. In entering into this Agreement you acknowledge that the Company may use all lawful means at its disposal, including pursuing court action against you, should you refuse to pay any invoices within the time specified. Should we have to pursue court action against you for recovery of our fees, you shall be liable for the legal costs associated with the same.
- 5.7. We reserve the right to request an advance payment for work forthcoming.
- 5.8. We reserve the right to charge a late payment administration fee of £25.00 per week (inclusive of VAT) for invoices that are more than 7 days overdue. We may also add a statutory interest of 8% plus the Bank of England base rate.

## **6. STORAGE OF DOCUMENTS**

- 6.1. The Company is entitled to hold and store any documentation in hard or soft copy provided by the Client to the Company for the purpose of the fulfilment of the services provided under this Agreement.
- 6.2. At the end of the matter, we will be entitled to keep possession of your file while there is still money owed to us for fees and/or expenses.
- 6.3. Following the ending of this Agreement, we will store your file for a reasonable period of time and in any event six years from the date of delivery of the service/goods outlined at clause 1 above. Your file may be stored electronically.
- 6.4. We reserve our right to destroy your file after a reasonable period, without prior notice to you, unless we receive a written request from you during this period. At your request we will return any papers or property belonging to you which are not subject to a lien or otherwise being stored for safe keeping.

## **7. INTELLECTUAL PROPERTY RIGHTS**

- 7.1. Unless otherwise agreed, all intellectual property rights in any materials or documentation prepared by the Company for the Client in the provision of services under this Agreement are transferred to the Client upon payment by the Client of the invoice rendered in respect of the service provided.

## **8. PROFESSIONAL INDEMNITY**

- 8.1. The Company possesses professional indemnity insurance to cover the services provided to the Client under this Agreement whether provided by the Company directly, or a self employed contractor acting on the Company's behalf.

## **9. CONFIDENTIALITY**

- 9.1. The Company shall keep confidential all information and documentation shared with it by the Client unless otherwise agreed. This obligation extends beyond the ending of this Agreement.
- 9.2. For the avoidance of doubt, nothing in clause 11 below prohibits us from sharing information or documentation regarding your case to other professionals involved with, or to whom speculative enquiries for assistance are made in relation to, your case.

## **10. DATA PROTECTION AND PRIVACY NOTICE**

- 10.1. We are registered as a Data Controller with the Information Commissioners Office. We will use the information that you give us to provide you with our services. We will only use it for the purpose(s) for which it was provided or as is permitted in law.
- 10.2. We currently collect and process the following information:
  - 10.2.1. Personal identifiers, contacts and characteristics (for example, name and contact details);
  - 10.2.2. Personal identifiers, contacts and characteristics of your family (for example, your child's name and details of their special educational needs).

- 10.3. Most of the personal information we process is provided to us directly by you to allow us to conduct case work on your behalf or to otherwise provide the service you have requested we provide to you.
- 10.4. In some cases your advocate will be an approved self employed contractor. We pass your personal information onto your advocate to allow them to undertake and perform our obligations under this Agreement. In entering into this Agreement you consent to us providing your personal data to our case workers. If you wish to request a copy of the advocate's data policy please do so.
- 10.5. During the course of our work we may advise you to instruct experts who are separate from the Company, for instance, solicitors, barristers, therapists. It may be that as a result we receive personal information from those sources in such circumstances.
- 10.6. Under the General Data Protection Regulation, the lawful bases we rely on for processing this information are:
- 10.6.1. Your consent. You are able to remove your consent at any time by contacting [enquiries@sunshine-support.org.uk](mailto:enquiries@sunshine-support.org.uk) or your caseworker; and
- 10.6.2. We have a contractual obligation.
- 10.7. We use the information you or others provide to us in order to assist carry out the services we are engaged to provide, as well as to provide information about marketing events we may carry out, for instance, webinars.
- 10.8. In most circumstances we endeavour to seek authorisation from you before sharing your personal information. An example of such data sharing is when the Client requests a referral to a solicitor's firm, barrister or expert witness. At that point the Client can request the privacy and data notice of the relevant organisation/individual.
- 10.9. Occasions where we may not seek your authorisation to share your personal data pertains to situations that meet our threshold for safeguarding concerns. A copy of our safeguarding policy can be available upon request.
- 10.10. Your information is securely stored electronically on Microsoft SharePoint You remain the legal owner of all information uploaded to your Microsoft Sharepoint area.

10.11. We will store your information for a reasonable period of time and in any event six years from the date of delivery of the service/goods outlined at clause 1 above. Your file may be stored electronically. After that period we reserve the right to securely destroy your information without further recourse to you.

10.12. Under data protection law you have rights including:

10.12.1. **Your right of access** - You have the right to ask us for copies of your personal information.

10.12.2. **Your right to rectification** - You have the right to ask us to rectify information you think is inaccurate. You also have the right to ask us to complete information you think is incomplete.

10.12.3. **Your right to erasure** - You have the right to ask us to erase your personal information in certain circumstances.

10.12.4. **Your right to restriction of processing** - You have the right to ask us to restrict the processing of your information in certain circumstances.

10.12.5. **Your right to object to processing** - You have the the right to object to the processing of your personal data in certain circumstances.

10.12.6. **Your right to data portability** - You have the right to ask that we transfer the information you gave us to another organisation, or to you, in certain circumstances.

10.13. You are not required to pay any charge for exercising your rights. If you make a request, we have one month to respond to you.

10.14. Please contact us at [enquiries@sunshine-support.org.uk](mailto:enquiries@sunshine-support.org.uk) if you wish to make a request.

10.15. You can also complain to the ICO if you are unhappy with how we have used your data. The ICO helpline number is 0303 123 1113 and their address is:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow

Cheshire  
SK9 5AF

## 11. CYBER CRIME AND FRAUD

- 11.1. It is unfortunate that Cybercrime and email fraud targeted at businesses and their clients is on the increase. Fraudsters are using very sophisticated methods to manipulate IT and intercept communications.
- 11.2. Our bank account details will be confirmed to you at the outset of the matter. We will not be changing our bank account details during the course of dealing with your matter so the account details we confirm will stay the same.
- 11.3. **It is very important that you are aware that we will not notify you of changes to our bank account details by email.** We will only notify you of changes to bank account details, in official correspondence which will be sent by postal mail.
- 11.4. If you ever receive any other communication purporting to come from us and which purports to change our bank account details or to request that you send funds to another account, please do not rely on this and immediately contact us by telephone. Even if the request appears to have come from us, you must never send funds to another account unless you have verified this with us.
- 11.5. We cannot take any responsibility for any losses where funds are transferred to other accounts that have not been verified by us.
- 11.6. Prior to transferring any funds to our account, we recommend you contact us by telephone or in person to verify our account details. Wherever possible, you should contact us by telephone.
- 11.7. We may not agree to send any funds to you unless it is to a pre-agreed bank account which we have verified.
- 11.8. You must take care to protect your own data and bank account details. Confirming your bank details by email should be avoided.
- 11.9. We will not transfer any funds to you unless you have confirmed your bank account details to us by telephone.

11.10. If you are a long-standing client or a client to whom we have previously transferred funds and you have not notified us that your bank account details have changed we will rely on our previous transactions rather than contact you via telephone for verification unless circumstances exist which increase the level of risk or we otherwise consider it appropriate to do so.

## **12. MONEY LAUNDERING**

12.1. The Company is not one which is required to be registered with the Revenue for the purposes of anti - money laundering legislation. However, if the Company believes that its services are being used as a vehicle for money laundering, it shall contact the police and/or any other organisation that it deems appropriate.

12.2. The Client confirms that they understand that where the Company has concerns regarding money laundering, the Company will make any such disclosure without notifying you to ensure it does not fall foul of the prohibition against 'tipping off'.

## **13. CONFLICT OF INTEREST**

13.1. Whilst unlikely, an actual or potential conflict of interest may arise between the interests of the Client and another of the Company's clients during the course of the Client's instruction. If such a situation arises, the Company shall notify the Client of the actual or potential conflict within 5 days of becoming aware of the conflict and discuss the Client's options with them.

## **14. LIMITATION OF LIABILITY**

14.1. Nothing in this clause (clause 15 as a whole) is designed to, or should be construed as an attempt to, limit or exclude the Company's liability to the Client for:

14.1.1. death or personal injury caused by the Company's negligence;

14.1.2. loss caused by the Company's committal of fraud;

14.1.3. loss caused by fraudulent misrepresentations made by the Company;

14.1.4. for the provision of defective goods; and

- 14.1.5. any claim brought under the following sections of the Consumer Rights Act 2015: 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 34, 35, 36, 37, 38, 39, 40, 41, 49, 50, 51, 52.
- 14.2. Services provided under this Agreement are provided for the sole use of the Client. The Company will not accept any liability for any loss of a third party arising from third party use of services provided to the Client by the Company.
- 14.3. The Company shall not be liable to the Client for any injury, loss, damage, cost or expense caused by the negligence or wilful misconduct of the Client or by breach by the Client of their obligations under this Agreement.
- 14.4. The Company's liability to the Client shall be limited to £1,000,000 in respect of the following claims (and the Client agrees that the Company's liability is limited accordingly):
- 14.4.1. Claims howsoever arising through the Company's negligence or breach of duty (subject to clause 15.1.1 above);
  - 14.4.2. Claims howsoever arising through the Company's breach of contract;
  - 14.4.3. Infringement of intellectual property rights;
  - 14.4.4. Breach of confidentiality, invasion of privacy or violation of any other legal protections for personal information;
  - 14.4.5. Defamation (including libel, slander, trade libel, product disparagement or malicious falsehood) or any other claim for emotional distress or outrage based on harm to the Client's character or reputation;
  - 14.4.6. Dishonesty of our employees or sub-contractors or self employed freelancers directly contracted by us or under the Company's supervision;
  - 14.4.7. Breach of licence.
- 14.5. The Company shall not be liable in any circumstances to the Client for:
- 14.5.1. Reputational damage;

14.5.2. Loss of data;

14.5.3. Losses that were not foreseeable to both parties when the Agreement was formed;

14.5.4. Losses that were not caused by any contractual breach/negligence of the part of the Company.

## **15. ASSIGNMENT AND SUB-CONTRACTING**

**15.1.** You must perform all of your obligations under this Agreement yourself unless agreed in writing with the Company.

15.2. The Advocates/case workers that have the day to day conduct of your matter are self employed contractors or employed by the company who provide special educational needs advocacy services exclusively to the Company. The Company is liable to you for the actions/omissions of the self employed contractors and has insurance in place to protect you from any negligent acts or omissions by any self employed contractors utilised by the Company.

## **16. THIRD PARTY RIGHTS**

16.1. This Agreement shall not create any rights, entitlement, claims or benefits enforceable by any person that is not a party to it. Accordingly, no person, body, institution, organisation or being howsoever incorporated shall derive any benefit or have any right, entitlement or claim in relation to this Agreement by virtue of the Contracts (Rights of Third Parties) Act 1999.

## **17. HEADINGS AND SCHEDULES**

17.1. The headings used in this Agreement are for reference purposes only and should not have, or be construed as having, any effect on the interpretation of the Agreement.

17.2. The Schedules are a binding part of this Agreement.

## **18. DEEMED ACCEPTANCE**

- 18.1. The Client will be deemed to accept the provisions and terms of this Agreement unless it notifies the Company otherwise, in writing, within 14 days of the date of this Agreement.

## **19. TERMINATION AND CANCELLATION**

- 19.1. If we have not met with you then you have a right to cancel this contract within 14 working days without giving any reason, pursuant to the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. Should you wish to do so then please send us a completed copy of Schedule Two to this Agreement.

### **Sunshine Support cancellation and fee policy**

If you need to cancel your meeting with us, please notify us as soon as possible by email at [enquiries@sunshine-support.org.uk](mailto:enquiries@sunshine-support.org.uk). Cancellations requested more than 24 hours ahead of your appointment will not incur any penalty. Cancellations within the 24 hour period will be charged at the original rate of £102.00 plus VAT for the estimation of hours that was originally booked,

- 19.2. You may terminate this Agreement at any time by way of written notice. Should your matter not be carried through to completion then a charge will be made in respect of the work that has already been completed. VAT or similar taxes will be payable on that amount and you will also be billed for any disbursements incurred.
- 19.3. We may terminate this Agreement by written notice to you if you have failed to pay an invoice within 28 days of funds being due.

## **20. COMPLAINTS**

- 20.1. We aim to provide a high quality, cost effective service at all times however, if you have a complaint about some aspect of the service provided to you then please let us know as soon as possible by contacting: [concerns@sunshine-support.org.uk](mailto:concerns@sunshine-support.org.uk) who shall provide you with a copy of our Complaint's Policy as well as outline of the process.

## **21. ALTERNATIVE DISPUTE RESOLUTION**

- 21.1. The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with this Agreement.
- 21.2. Where the Parties are unable to negotiate a settlement, the Parties agree to undergo either early neutral evaluation or mediation prior to issuing court proceedings in relation to any matter, other than where the Company seeks to recover unpaid debt from the Client. The process of alternative dispute resolution shall be determined by the Company. The neutral evaluator or mediator shall be chosen jointly by the parties by the Company putting forward three individuals for final selection by the Client. The neutral evaluator or mediator shall be jointly funded by the Parties with each paying 50% of the individual's fees. Unless otherwise agreed, any legal or other fees incurred by the Parties in the facilitation or carrying out of the alternative dispute resolution process shall be borne by the Parties. All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the Parties in any further proceedings.

## **22. SEVERABILITY**

- 22.1. If any provision of the Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Agreement and rendered ineffective as far as possible without modifying the remaining provisions, or spirit, of the Agreement, and shall not in any way affect any other circumstances of, or the validity or enforcement of, this Agreement.

## **23. JURISDICTION**

- 23.1. This Agreement shall be governed by and construed in accordance with the law of England and the Parties agreed that the courts of England shall have exclusive jurisdiction over the interpretation of, and disputes concerning or arising from, this Agreement.

## **24. WHOLE AGREEMENT**

- 24.1. This Agreement contains the entire agreement and understanding of the Parties and supersedes all prior agreements, understandings or arrangements (both oral and written) relating to the subject matter of this Agreement.

24.2. Each of the Parties acknowledge that it does not enter into this Agreement on the basis of and does not rely upon any representations, warranty or other provision made or agreed to by any person (whether a party to this Agreement or not) except those expressly set out in this Agreement and, in particular, without limitation, it has not relied on any representation, warranty or provision made, given or agreed prior to the entry into of this Agreement and which is not expressly repeated in this Agreement.

## **25. VARIATION**

25.1. Any variation to the terms of this Agreement must be agreed in writing between the Parties.

## **26. COUNTERPARTS**

26.1. This Agreement may be signed in any number of counterparts, each of which when signed shall be an original and all of which together evidence the same Agreement.

## **27. NOTICES / CONTACT US**

27.1. The Company's registered address is Suite 6, Chatsworth House, Aspen Drive, Derby DE21 7SR. Any notices to be served under this Agreement should be served on this address.

27.2. The first point of contact for any enquiries should be your case worker who will provide you with their contact details at the point of instruction.

---

### SCHEDULE ONE – SERVICES TO BE PROVIDED

---

1. Where you are being provided with the special educational needs advocacy and support services we shall tailor our services to meet your needs however, as a minimum, we would provide/do the following:
  - a. Liaise with you to develop an understanding of the background to your case;
  - b. Review all documentation provided;
  - c. Take your instructions on what you want to achieve;
  - d. Work with you to devise and agree a plan of action.
  - e. Undertake the plan of action within the scope of our role.
  
2. Following the completion of the services outlined at paragraph 1 of schedule 1 above, we can undertake a variety of services for you which may include (but are not limited to):
  - i. Applying for an Education, Health and Care Plan Needs Assessment / Statutory Assessment;
  - ii. Advising on evidence to obtain;
  - iii. Drafting correspondence;
  - iv. Reviewing, advising and creating written reports with amendments on your child's Education, Health and Care Plan or Statement of Special Educational Needs;
  - v. Drafting appeals to the First Tier Tribunal / Special Educational Needs Tribunal for Wales;
  - vi. Accompanying you to annual reviews or other meetings with your local authority.
  - vii. School and LA mediation meetings.
  - viii. Preparing your case for tribunal
  - ix. Representation at tribunal
  
3. For the avoidance of doubt, the Company is not a law firm and is not regulated with the Solicitors Regulation Authority. As such, we cannot perform reserved legal activities within the meaning of

section 12 of the Legal Services Act 2007 such as conducting litigation on your behalf or exercising rights of audience.

#### **4. Cancellation Form**

-----

(Complete, detach and return this form ONLY IF YOU WISH TO CANCEL THE CONTRACT.)

To: SEN SUPPORT LTD

I/We (delete as appropriate) hereby give notice that I/we (delete as appropriate) wish to cancel my/our (delete as appropriate) contract for the supply of services.

Contract concluded on – Date on the application form