

Mary Brooksbank School

Procedures for the provision of externally funded services at school

Name of relevant Department policy or policies:

Externally funded service providers delivering health, disability, wellbeing and behaviour support services to students; Information for principals, information for providers and information for parents and carers

Purpose/Rationale for procedure:

Provide relevant guidelines to the whole school community when externally funded therapy providers deliver a service at school

Audience:

Whole school community

Date of Procedure:

21st November, 2018

Reviewed: 10th August, 2020

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Procedure Writing Team:

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Objectives

All stakeholders involved with externally funded service providers delivering health, disability, wellbeing and behaviour support services to students need to comply with the contents of the following documents:

- Information for principals
- Information for providers and
- Information for parents and carers

These Procedures have been designed to ensure consistency in the understanding and delivery of external services to students at Mary Brooksbank School.

Audience and applicability

This Procedure applies to all staff at Mary Brooksbank School, parents of students at the school receiving externally funded therapy at school and external providers providing the externally funded service at school.

Context

This procedure is supported by the Externally funded service providers delivering health, disability, wellbeing, and behaviour support services to students; Information for principals, Information for providers and Information for parents and carers (2017 NSW Department of Education).

Responsibilities and delegations

The Principal, parents and carers and external providers are responsible for ensuring each stakeholder complies with these Procedures.

Contact

For further information or clarification, please contact Mary Brooksbank School for a copy of the following documents:

- Information for principals
- Information for providers and
- Information for parents and carers

INFORMATION FOR SCHOOLS

Access to the school by an externally funded service provider is determined by the principal

- The principal has discretion to decide whether or not an external service provider can enter the school and how arrangements will be managed.
- Decisions should be made on a case-by-case basis considering the individual circumstances of the student and taking into consideration the educational needs and priorities of the student including access to the curriculum, the impact on student's learning programs, the school's operational context and duty of care obligations towards all students and staff.

Providers do not have an automatic right of access to a school

- External providers do not have an automatic right of access even if the provider is already delivering a service to another student at the same school, or the provider has been granted access to another school.

Services funded through the National Disability Insurance Scheme (NDIS)

Some external providers seeking access to schools will be funded by money that has come through an NDIS package.

- The NDIS Operational Guidelines state that: "NDIS-funded...therapy services should generally not be delivered at school... Nor should children or young people be taken out of school to receive these supports."

Requests must come from parents or carers

- Any request for access to a student by an external provider funded by the NDIS (or other scheme that provides funding to individuals) must come from the student's parent or carer.
- A meeting should take place between school staff, the parent or carer and the service provider to discuss service delivery arrangements.
- The provision of services by an external provider on school premises is at the principal's sole discretion.
- A written record of these discussions should be retained on the student's file.

The principal determines whether the service can be provided in the school

The principal will consider the following key considerations:

Disability Standards for Education

- Therapy services may align with or complement the reasonable adjustments being provided by the school to facilitate the student's access to education.

Impact of the service on a student's access to the curriculum

- An externally funded service delivered in school should support the student's participation in education and access to the curriculum.
- Where the service does not link with the student's learning needs or enhance access to education, the service should be delivered outside of school time.

Principals need to consider:

- The relationship between the externally funded service and the student's personalised learning and support provisions and other educational adjustments
- The impact of the student being withdrawn from the classroom to access the service and the impact this will have on their access to the curriculum and their educational program
- Whether the service needs to be delivered over a long period of time or at a particular time of day
- Whether provision of the service at school is for the benefit of the student or more for the convenience of the provider and
- Whether denial of access within the school setting will result in a student not receiving necessary services

Impact of the service on other students

If the service provision is to occur in class, principals need to consider:

- The potential impact of additional adults in the classroom environment, in particular the impact on delivery of the curriculum to other students
- If the provision of the service to one student is likely to interfere with the learning of other students

Ability to maintain the ordinary running of the school for the benefit of all students

Principals need to consider:

- Whether the externally funded service can be delivered in a way that does not interfere with the running of the school
- Whether the school has a suitable space where the service can be provided
- Whether the provision can be adequately supervised or observed, and
- The provider's need to use school equipment or facilities

Capacity to observe or supervise the delivery of the service

- Service provision should take place in the student's classroom or provided in a space that is readily accessible and can be observed, either directly or through a window or doorway.
- Services that specifically require confidentiality or discretion in their delivery, such as counselling or psychology services, are an exception. Rooms set aside for these types of services should be in an active area of the school

Providers must meet all legal and policy requirements before they can operate in the school

- If a principal has determined that a provider can deliver the service, the school will enter into an agreement with the provider, and the provider must demonstrate that it has all of the necessary checks, protections and training in place.
- Prior to delivering a service at the school, the relevant provider staff must participate in a site induction.

For further guidance, refer to the following documents:

- Principal checklist
- School induction checklist

Schools may withdraw external provider access approvals

Schools may withdraw external provider access to a school where the service is no longer in the student's educational interest.

Possible reasons for principals to consider withdrawing provider access approvals include:

- The service is no longer compatible with the student's educational needs.
- Unintended adverse consequences for other students, staff, and the general running of the school.
- High turnover of external providers or their staff delivering a service to a student.
- Unreliable service provision.
- Significant concerns about the quality-of-service provision.
- Services not being delivered according to the External Provider Engagement Agreement.
- Services not being delivered according to the Mary Brooksbank School Procedures for the provision of externally funded services at school.
- Inappropriate conduct by the provider.

External providers are subject to the same code of conduct and complaints processes and requirements as school staff when they are at the school.

Service delivery arrangements are documented

- Written consent for the service delivery arrangements from the parent/carer is placed on the student's file
- Parent/carer to notify the school if the parent/carer terminates the provider's services.
- Staff to notify the service provider if other activities at school mean that therapy cannot take place. For example, sports carnivals or excursions

Duty of Care

- All external providers owe a duty of care towards the students
- When determining externally funded service provider access to the school, the principal needs to consider whether this access is compatible with their obligations of duty of care.

Child Protection

- Service providers seeking access to the school must be able to demonstrate valid Working with Children Checks.
- Service providers will need to undertake child protection training and be made aware of the need to report any child safety concerns to the Principal.

Privacy

Privacy obligations apply to information sought by a provider from the school. Schools should only disclose information to a provider that is directly related to services being delivered to that student. Privacy obligations also apply to information shared with school staff by a provider.

Health and Safety

Principals remain responsible for the health and safety of all people on school grounds.

INFORMATION FOR PARENTS AND CARERS

There are four key steps for parents and carers who want NDIS-funded services delivered in school:

1. Ask the school in writing
2. Meet with school staff to discuss details
3. The principal considers your request taking into account the needs of your child, other students and the operations of the school
4. If agreed, the service needs to enter into an agreement with the school and meet important legal requirements.

Some children and young people may benefit from allied health and specialist therapies for disability related needs, such as physiotherapy, speech pathology and occupational therapy.

The NSW Department of Education and the National Disability Insurance Agency recommend that therapy services for children's needs funded through a NDIS support plan are best delivered outside of school time. This allows the school to focus on teaching your child and all other students and ensures your child does not miss out on important learning time. However, in some cases, it may be suitable for these services to be provided at school. Principals must also make sure that the school is able to run to benefit all students without undue disruption to learning.

How to request the service for your child is provided at school

- 1) Put your request to the principal in writing so that it is clear what you are asking and there is a record of your request (*Appendix 1*).
- 2) Organise to meet with school staff:
 - a) Meet with the class staff at your child's Personalised Learning and Support Plan meeting(s). The therapy provider must attend this meeting. Note: Schools will not meet any costs for providers to attend meetings at school.
 - b) Bring all relevant documents and information to the meeting. This may include reports from specialists, external providers or your child's NDIS support plan.
 - c) The meeting will help the principal to consider whether providing the service at school will fit with your child's personalised learning and support provisions and the operational arrangements at the school. This might include discussion of the times when the service would be provided.
- 3) The principal will then need time to consider your request. A service provider will not be able to work in a school before approval has been given by the principal.
- 4) If the principal agrees to the service being delivered at school, the school will let you know and will enter into a written agreement with the therapy service provider.

The principal will consider a number of important matters

The principal will consider:

- the school's duty of care to all students and staff
- how the service relates to your child's personalised learning needs and agreed educational adjustments or supports.
- impacts on your child if he or she needs to leave the classroom to receive therapy

- arrangements to ensure that your child is adequately supervised when receiving the service
- effects on other students if the service needs to be provided in the classroom
- whether the service needs to be delivered at a particular time of the day.

The school will enter into an agreement with the provider

Before starting work in a school, the service provider will be asked to show that they comply with certain legal requirements. This includes a Working with Children Check clearance for all provider staff working in the school. The school will give providers information about these requirements.

Providers will be asked to sign a written agreement with the school. This agreement sets out how they will work in the school, including the agreed times and days for the service to be delivered. The provider will need to record the details of the services that they will provide to your child in the school. You can request a copy of the agreement between the school and the provider, including information that relates to your child.

The school has the right to stop a provider's access if:

- the provider breaches their agreement with the school
- the principal decides the service does not support your child's educational needs or goals
- the service impacts on school operations.

The principal will contact you before they take this step. If you are unhappy with this decision, you should discuss it with the principal.

Your ongoing role

Under your child's NDIS plan, you will have a service agreement with the provider you have chosen for your child's therapy support. This means you will continue to have a role when it is agreed that the service will be delivered at school. This includes:

- Letting the therapy provider know that the school has agreed to them working with your child at school at the agreed times and any other conditions. This information will be included in the written agreement with the school.
- Telling the therapy provider as soon as possible if your child is absent from school on a day when the provider is supposed to go to the school.
- Telling the service provider if other activities at school mean that therapy cannot take place. For example, when sports carnivals, excursions, or special events or assemblies are scheduled.
- Telling the school if you stop using the service or change providers.
- Meeting or talking regularly with school staff to review your child's personalised learning and support plan and talking about how the service is going.

Schools will not assess providers

Schools will not assess the professional skills of therapy providers or evaluate their accreditation.

However, if the school has concerns about the service being delivered to your child, the school will discuss these concerns with you.

SPECIFIC INFORMATION FOR PARENTS AND CARERS AT MARY BROOKSBANK SCHOOL

- Goals from external providers must align with Personalised Learning and Support Plan (PLSP) goals, otherwise therapy cannot take place at school
- The maximum number of external providers delivering therapy to each student is one per week. If more than one type of therapy is required at school, they will occur fortnightly, three weekly, monthly, etc. depending on the number, rotating between the different disciplines
- Classroom teachers or other class staff will not manage student behaviours during therapy sessions. If an external provider cannot manage a student's behaviour, the current therapy session will cease. In this case the external provider will need to advise the parent or carer
- Some meetings between external providers and the school may occur outside of normal therapy session times, hence may impact on funds in an NDIS package

INFORMATION FOR EXTERNAL SERVICE PROVIDERS

Requesting access to students and agreements with schools

The primary purpose of schools, under the Education Act 1990, is to deliver the curriculum to all students.

Decisions around whether to provide access to externally funded providers are a matter for the school principal, based on whether it is in the best educational interests of the student, and considering the school's duty of care towards all staff and students.

Principals have the discretion to grant or not grant school access to an external provider, taking a range of important factors into consideration. These considerations include:

- The impact of the service on curriculum requirements and the student's participation in teaching and learning activities,
- The extent to which the service supports the student's learning needs or enhances access to education,
- The impact of the service on other students and/or the operations of the school.

Before a provider can deliver a service to students in a school, the provider must demonstrate that it has the necessary checks, protections and training in place. Please refer to *Appendix 2* for mandatory requirements and WWCC declaration, providers need to complete before a school will consider any request.

An External Provider Engagement Agreement will be entered into with the school (*Appendix 3*).

Separate Service Schedules (one schedule per student) with specific details relating to the delivery of services to each individual student must be completed (*Appendix 4*).

Induction requirements

- Following the provider signing the External Provider Engagement Agreement and before services are delivered, all provider staff involved in delivering services within a school must participate in a school-based induction program
- Schools will not be liable for provider costs associated with attending/participating in school induction.

Code of Conduct and child protection responsibilities

The External Provider Engagement Agreement makes compliance with the department's Code of Conduct a condition of the continuation of that Agreement. Conduct assessed as being a serious breach of the Code of Conduct may result in the arrangement being terminated and/or a decision being made to place the provider on the department's not to be employed list, thereby denying access to any school sites in the future.

In NSW, a person who in the course of his or her professional work or other paid employment delivers health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children, has a mandatory reporting responsibility under the Children and Young Persons (Care and Protection) Act 1998. This responsibility is to report behaviour where the person suspects that a child is at risk of significant harm.

Externally funded providers engaged to deliver services to students are mandatory reporters when they working in schools. They must disclose any such reports directly to the principal, or to the Child Protection Helpline if the child is at risk of significant harm. External providers are to inform the principal of any allegations of a child protection nature made about a Department of Education employee.

Child protection-related allegations may also require mandatory reports to external bodies such as the Department of Communities and Justice, NSW Police, the NSW Ombudsman or the Office of the Children's Guardian. Risk management and sustained allegations may result in the contract or arrangement being suspended, terminated and/or a decision being made to not permit the individual access to any school sites in the future (i.e. being placed on the not to be employed list).

SPECIFIC INFORMATION FOR EXTERNAL SERVICE PROVIDERS AT MARY BROOKSBANK SCHOOL

- Therapy will not take place until all paperwork required by the Department of Education is received by the school and all checks are carried out
- Attendance at the annual Personalised Learning and Support Plan (PLSP) meeting held in term 1
- For external providers who do not attend the annual PLSP meeting: meet with the classroom teacher to discuss student goals formulated during PLSP meeting before service can begin
- Attend any subsequent Personalised Learning and Support Plan (PLSP) meetings held during the current year
- Goals from external providers must align with Personalised Learning and Support Plan (PLSP) goals, otherwise therapy cannot take place at school
- Prepare a Plan for therapy: A Plan that documents intended learning outcomes (in line with the PLSP goals) and strategies to meet these goals must be given to the classroom teacher by week 2 of term 2 and at any subsequent time that the plan changes.
- A Report that details what goals are being worked on, the impact of the therapy and what the student has achieved during the semester must be given to the classroom teacher by the end of the school holidays after term 2 and by week 8 in term 4, otherwise therapy will be suspended until this is received.
- The maximum number of external providers delivering therapy to each student is one per week. If more than one type of therapy is required at school, they will occur fortnightly, three weekly, monthly, etc depending on the number, rotating between the different disciplines
- Classroom teachers or other class staff will not manage student behaviours during therapy sessions. If a student's behaviour cannot be managed by an external provider, the current therapy session will cease. In this case the external provider will need to advise the parent or carer
- It may not be possible for school staff to implement suggested therapy practices during school time.

- Classroom teacher will determine the day and time therapy will be delivered
- Some meetings between external providers and the school may occur outside of normal therapy session times, hence may impact on funds in an NDIS package.

Appendix 1

REQUEST FOR EXTERNALLY FUNDED SERVICES TO BE DELIVERED AT MARY BROOKSBANK SCHOOL

(A separate questionnaire needs to be filled in for each service you are requesting).

To: Mary Brooksbank School

Childs' name.....

Child's class.....

Name of therapist.....

Organisation the therapist works for.....

Phone number of therapist.....

Email address of therapist.....

Briefly, what are you expecting from the therapy, what are the outcomes you want for your child?

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.....

I request that the service described above be undertaken at Mary Brooksbank School during school hours.

I also consent to Mary Brooksbank School and the above-mentioned external provider exchanging information relevant to the services provided as outlined in Requesting Information under Chapter 16A.

Parent signature

date

The Contractor may receive Personal Information (as defined in the Privacy Act 1988(Cth) and the Privacy and Personal Information Act 1998 (NSW) from the school. The contractor must comply, in respect of such Personal Information, with the

- 1. Australian Privacy Principle under the Privacy Act 1988 (Cth); and*
- 2. Principles under the Privacy and Personal Information Protection Act 19998 (NSW) – as if it is a ‘public sector agency’.*

Appendix 2

Before a provider can deliver a service to students in a school, the provider must demonstrate that it has the necessary checks, protections and training in place. These include completing in the last year the department's Mandatory Child Protection Training, or a suitable alternative training program delivered by the provider for its staff.

How to access the department's child protection training

The department's [Mandatory Child Protection Training](#) is free and available publicly on the MyPL page of the department's website. External provider staff first need to [register](#) as a 'community member' on MyPL and create a login ID and password to access the training.

Once successfully registered on MyPL, select the 'browse learning' tab, and use the search facility to locate 'child protection' training. A certificate is awarded upon completion of the training, which can be provided as evidence that the training has been undertaken.

For providers on the Specialist Allied Health and Behaviour Support Provider Scheme, completion of child protection training is a contractual requirement under the Scheme. The school may request evidence of completion before services begin.

A school may also require provider staff to have completed specific health training based on the nature of the service, the level of direct supervision of the provider's activities at the school or where relevant to the child or young person's specific health care needs (e.g. first aid, CPR, ASCIA anaphylaxis training).

Attached is a checklist of mandatory requirements providers need to address before a school will consider any request.

Once the provider has satisfied these mandatory requirements, the school will discuss with the student's parents or carers the proposed service delivery arrangements. Schools will not be liable for any provider costs associated with participating in these discussions.

Unless an External Provider Engagement Agreement already exists with the school, the school will enter into an agreement with the provider (one agreement for each school where the provider delivers services), setting out the responsibilities of each party. Only one agreement is required per school.

All provider staff must have their WWCC status screened by the department before they can deliver services at a NSW public school. Provider staff who have never delivered services in a school before need to provide the school with:

- a completed [Declaration for Child Related Workers](#)
 - Working With Children Check (WWCC) clearance details
- [Proof of identity](#) documentation

Externally Funded Service Providers

Guidance to Schools and Contractors

Guidance for using the Agreement (“Agreement”) between the Department and the Contractor to enable the Contractor to provide services to students at School.

Insurances

1. The required insurances must be in the name of the Contractor (the Department will not accept insurance policies in the name of the individual therapists engaged by the Contractor).
2. Workers compensation insurance or equivalent: if workers compensation insurance is not required under law (e.g., the Contractor is a sole trader), the School should undertake a risk assessment of the activity to be undertaken by the provider.
 - a. where the activity is deemed by the school as low risk, the Contractor must provide income protection insurance
 - b. where the activity is deemed by the school as high risk, the Contractor must provide personal accident insurance or injury insurance which needs to cover ‘non-permanent’ injuries (cover beyond only death or permanent disability).
3. Public liability insurance policy for at least \$20 million for any single occurrence and in the aggregate, and professional indemnity insurance for at least \$2 million for any single occurrence and in the aggregate.

Execution (signing) of the Agreement

1. Ensure that the correct Contractor is named in the Agreement. This means that the correct legal name of the Contractor must be inserted, as well as the corresponding ABN (the ABN can be looked up at: <https://abr.business.gov.au/>).
2. The Agreement must be signed by the Principal on behalf of the Department.
3. The person(s) signing on behalf of the Contractor must have authority to bind the Contractor.
4. If the Agreement is being signed electronically, this must be done by DocuSign, Adobe or some other software designed for electronic execution. If this cannot be done, then there needs to be a wet-ink signature.

Externally Funded Service Providers

Engagement Agreement for providers engaged by parents/carers to provide services to students at school

Agreement between the Department and the Contractor to enable the Contractor to provide services (“Services”) to students at School	
[Insert Provider / Company name] (“Contractor”)	The Crown in right of the State of New South Wales acting through the Department of Education (“Department”)
A.B.N: [Insert Contractor’s ABN]	School: [Insert School name] (“School”)
Address [Insert]	Principal:
Email [Insert]	Address [Insert]
Phone [Insert]	Email [Insert]
	Phone [Insert]
End Date: [Insert]	
Fee payable: \$1 per annum, if demanded	
<p>Additional terms</p> <p><i>For providers delivering services through online mode:</i></p> <ol style="list-style-type: none"> a. The School and the Provider agree that, as at the date of this Agreement, the Services will not be able to be delivered at the School and will be delivered fully online. b. If during the term of this Agreement delivery of the Services at the School becomes permissible, the School may require the Provider to deliver the Services at the School by not less than 10 Business Days written notice. c. The terms and conditions in this Agreement apply to provision of the Services irrespective of the delivery method. <p>(refer to additional pages if required)</p> <p>[Drafting Note: This section is used to include any separately negotiated terms that are unique to the particular arrangement. For example, if the Contractor will be charged a fee to use any school facilities then please include details here. If there are no ‘additional terms’, then please specify ‘Not applicable – there are no additional terms’.]</p>	

For office use only – please check that the following have been sighted and copies have been appropriately filed:

- Workers compensation insurance (or equivalent) in the Contractor’s name
- Public Liability insurance covering minimum \$20 million for each claim in the Contractor’s name
- Professional Indemnity insurance covering minimum \$2 million for each claim in the Contractor’s name
- All relevant Working With Children Check documentation

Specific services to be delivered to individual students should be attached in separate schedules to this Agreement. The Service Schedule form is attached at the end of this document.

Executed as an agreement:

<p>Signed for The Crown in right of the State of New South Wales acting through the Department of Education</p> <p>Principal: Date:</p>	<p>Signed for the Contractor by</p> <p>Authorised Officer 1: Date:</p>	<p>Authorised Officer 2 (if applicable): Date:</p>
<p>Name of Principal</p>	<p>Name and title of Authorised Officer 1</p>	<p>Name and title of Authorised Officer 2</p>

By entering into this Agreement, the signatories warrant that they are duly authorised to execute this Agreement on behalf of the Contractor. Evidence of your authority to sign this Agreement may be required.

Do not delete pages 4 to 9

1. Access to the School

1.1 Performance The Contractor will carry out the Services at the School according to this Agreement (and any schedules to this Agreement). The Contractor must provide the Services:

- in accordance with all applicable laws and regulatory requirements, relevant Australian industry standards, best practice and guidelines and all licences and consents;
- with due care, skill and diligence and in a proper and professional manner.

1.2 Induction The Contractor must not provide any Services until the Contractor and its personnel have completed an induction program. The School will notify the Contractor of details of the induction program.

1.3 Child protection training The Contractor must not provide any Services until the Contractor and its personnel have completed the Department's Mandatory Child Protection Training online, or a suitable alternative training program delivered by the Contractor for its staff (*see Attachment A*).

1.4 Health-related training Where required by the Department or the School, the Contractor and its personnel are to complete relevant health care training specific to a student's health care needs, including the ASCIA Schools and Childcare Anaphylaxis e-training (*see Attachment A*). Evidence of this training must be provided to the School prior to providing any Services at the School.

1.5 Provider attendance costs The Department or the School will not be liable for provider costs associated with

meetings to discuss service delivery arrangements and School induction.

1.6 Duration and ending This Agreement commences on the date that it is signed by both parties and continues for the duration set out on the cover page, unless ended earlier or extended.

1.7 Obligations on School site While on the School site, the Contractor will:

- 1.7.1 not bring upon the School site or permit to be done any act, matter or thing which may be a nuisance or inconvenience or cause damage or annoyance at the School;
- 1.7.2 not bring upon the School site or permit to be done any act, matter or thing which may breach any law or requirement of any competent authority for the time being in force with regard to the conduct of the Services from the Premises;
- 1.7.3 ensure that no part of the School is damaged or services interrupted because of their acts or omissions including in their conduct of the Services, and rectify (at their expense) any such damage;
- 1.7.4 ensure it does not leave any rubbish at the School that is not properly disposed;
- 1.7.5 take reasonable steps to report any unruly behaviour by any person which may cause damage to any person or property, provided in its reasonable opinion it is safe to do so;
- 1.7.6 ensure that they do not access parts of the School except for the areas necessary to carry out the

- Services and as agreed with the School;
- 1.7.7 park any motor vehicle at the School entirely at its own risk and only with the prior permission of the School Principal;
- 1.7.8 not attend the School on a scheduled day if the School, in its discretion, advises that its attendance on that day is dangerous or not in the best interests of the School;
- 1.7.9 not attend the School on any day that the School is closed for any reason; and
- 1.7.10 comply with any reasonable Departmental and School direction including those in relation to Health and Safety and COVID-19.

2. Fee, use of facilities and costs

2.1 Fee and use of facilities In consideration of this Agreement, the Contractor shall pay the Department the fee set out in the table on the first page of this Agreement. The School will not charge for the use of the School's facilities, unless otherwise agreed in writing.

2.2 Cost recovery for extraordinary costs If circumstances arise that generate costs that the Department or School reasonably believe were not contemplated, then the School will provide the Contractor with written notice of such costs. The parties will then, in good faith, meet to determine the allocation of these costs between the parties.

3. Conflict

The Contractor warrants that to the best of its knowledge, information and belief, no

conflict of interest exists or is likely to arise in the performance of its obligations under this Agreement.

If an actual, perceived or potential conflict arises, the Contractor will immediately notify the School Principal, in writing, fully detailing the conflict. The School will then determine how to deal with the conflict.

4. Child protection

The Contractor acknowledges that it (and its personnel) are aware of the requirements of the *Child Protection (Working with Children) Act 2012 (NSW)* and all related laws concerning child protection (**Child Protection Laws**). The Contractor will ensure that it (and its personnel) comply with the requirements of the Child Protection Laws and policies of the Department relating to child protection as notified to the Contractor from time to time.

The Contractor must, at the Contractor's expense, certify that the Contractor and the Contractor's personnel are not a prohibited person under any Child Protection Laws and undergo any other screening, such as the 'Working with Children Check', as required under Child Protection Laws or by the School or Department. Any of the Contractor's personnel that is a disqualified person under any Child Protection Laws must not be engaged in child-related work.

The Contractor is to immediately advise the Department if it becomes aware that it (or its personnel) are the subject of a reportable allegation involving children.

5. Sharing of information

The Contractor (and its personnel) must immediately notify the School of any matters it becomes aware of which may

impact the welfare or safety of a student. Such notification must be given to a person at the School in a position to take appropriate action, such as the Principal. The Contractor must then take reasonable steps to follow up and ensure that appropriate action is being considered or taken by the School.

The Contractor must also immediately notify the Department's Probity Unit via email at NTBE@det.nsw.edu.au if they receive advice from the Office of the Children's Guardian that a person in their employ has had their Working With Children Check (WWCC) clearance CLOSED, CANCELLED or BARRED.

In making the above notifications, the Contractor (and its personnel) must comply with the requirements of a 'prescribed body' as set out in chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* and its regulations.

The Contractor (and its personnel) must provide to the School information relating to, or to assist with, investigations into alleged breaches of the Code of Conduct or reportable conduct allegations.

6. Important notifications concerning serious criminal offences

The Contractor must immediately notify the School and the Department's Probity Unit (NTBE@det.nsw.edu.au) of any charges or allegations including pending court proceedings related to sexual offences and serious criminal offences in Australia or overseas as listed in Schedule 2 of the *Child Protection (Working with Children) Act 2012* concerning the Contractor or personnel.

A 'serious criminal offence' means any offence punishable by imprisonment of more than 6 months.

7. Ending

7.1 School's default The Contractor may end this Agreement if the Department breaches any of its obligations under this Agreement. If the breach is capable of remedy the Contractor must first give the Department 30 days to remedy the breach after it asks it to do so.

7.2 Department may end on notice for any or no reason The Department may end or suspend, in whole or in part, this Agreement at any time for any or no reason by notice in writing to the Contractor. If the School exercises its right under this clause, the Contractor is entitled to a total amount of compensation in the amount of \$1 (one dollar) if demanded, as a result of or in relation to such termination or suspension.

8. Indemnity

8.1 The Contractor indemnifies the Minister for Education and Early Learning and the State of New South Wales (including their officers and employees) against all claims, losses, liabilities, damages, costs and expenses of any kind suffered or incurred relating to:

- personal injury or death or property loss or damage arising out of or in connection with the Services; and
- personal injury or death or property loss or damage within or outside the School occasioned or contributed to by an act or omission by the Contractor; and
- the Contractor's (including its officers, employees, contractors and agents)

negligent, unlawful or wilful act or omission.

The Contractor's liability under this indemnity will be reduced to the extent the Department contributed to the claims, losses, liabilities, damages, costs and expenses.

9. Insurances

9.1 The Contractor will take out and maintain for the duration of this Agreement:

- 1. workers compensation insurance or equivalent:** workers compensation insurance as required under laws or, in the event the Contractor is an individual or sole trader, personal accident or such other similar insurance that will provide adequate cover in the event they are injured when providing the service;
- 2. public liability insurance:** a public liability insurance policy providing cover for not less than \$20 million for any one occurrence; and
- 3. professional indemnity insurance:** a professional indemnity insurance policy for not less than \$2 million.

9.2 The Contractor will provide to the School or Department, where appropriate, evidence of currency of all insurances. Despite any review or acceptance by the Department of a certificate of currency or other document purporting to evidence the terms or currency of an insurance policy required by this Agreement, the Contractor remains at all times responsible for complying, and must comply strictly, with the insurance provisions of this Agreement.

10. Student and School information

The Contractor (and its personnel) may receive, in connection with this Agreement, confidential and sensitive information relating to students (and their families) and the School. The Contractor must keep such information confidential and not disclose it to anyone else without the School's written approval.

The Contractor must:

1. put together and maintain effective security measures to keep the information secure; and
2. tell the School immediately on finding out about any suspected or actual unauthorised use or disclosure of such information.

11. Policies

The Contractor must ensure that it and its personnel comply with all of the Department's and School's policies that are given or referred to the Contractor by the School from time to time. This will include policies relating to conduct (including the Code of Conduct), security and safety, including those policies, procedures and guidelines referred to in Attachment A.

12. Record keeping

The Contractor must, including as required by laws and regulatory requirements, keep detailed service records and other information relevant to the services. The Contractor must keep such records until 6 years from ending of this Agreement.

The Contractor must provide to the School copies of all records relating to the Services as and when requested by the School.

13. Privacy

The Contractor (and its personnel) may receive Personal Information (as defined in the *Privacy Act 1988 (Cth)*) and the *Privacy and Personal Information Protection Act 1998 (NSW)* from the School. The Contractor must comply, in respect of such Personal Information, with the:

1. Australian Privacy Principles under the *Privacy Act 1988 (Cth)*; and
2. principles under the *Privacy and Personal Information Protection Act 1998 (NSW)* – as if it is a ‘public sector agency’.

14. Publicity and use of name

The Contractor must not disclose, distribute or otherwise communicate any media release, promotional material, advertising or publicity relating to this Agreement, their relationship or otherwise refer to the Department including the School (including use of any logos) without the School’s written approval.

15. Contractor is a government entity

If the Contractor is a NSW government department or agency or entity, then the following clauses will not apply:

- clause [8](#) (Indemnity)
- clause [9](#) (Insurance); and
- clause [17](#) (Disputes).

16. Subcontracting

The Contractor must not subcontract any work under this Agreement in whole or part without the School’s written consent.

17. Complaints, grievances and dispute resolution

17.1 Notification of complaints The Contractor must, in the first instance, inform the School principal on becoming aware of any issue, complaint, conflict or grievance about the Contractor, the School (including its staff and students) or any school operational matters or in connection with the Contractor’s services.

The Contractor must work with the School principal to understand the School’s and the Department’s procedures for managing such incidents.

17.2 Department procedures Such issues, complaints, conflicts or grievances will be dealt with by the School principal, in consultation with the Contractor, in line with the Department’s complaints policy/procedures. To be clear, the Contractor must consult with the School principal and comply with the School principal’s reasonable directions before any issue, complaint, conflict or grievance is referred to anyone else.

17.3 Child protection related complaints Such complaints will be dealt with in line with the Department’s ‘Responding to Allegations Against Employees in the Area of Child Protection Policy’.

17.4 Disputes The parties must settle any dispute arising out of this Agreement, except where urgent relief is required, as follows:

1. a party claiming that a dispute has arisen must give a written notice to each other party giving details of the dispute;
2. after a written dispute notice has been sent the matter will be referred to each party’s senior officers who will attempt to resolve the dispute in good faith.

18. General

18.1 Additional Terms The main terms and conditions of this Agreement will take priority to the extent of any inconsistency with the Additional Terms.

18.2 Notices A notice or communication has no effect unless it is in writing and sent by email, post or delivered to the addressee.

Each party's address and email details are on page 2. A party can change its details by giving notice of it to the other party.

A notice is received: if sent by email at the time the email is sent if there is no delivery failure report; if sent by post 3 business days after posting; or if delivered when it is left at the address.

18.3 Approvals A party may give or not give an approval or consent in its absolute discretion (without reasons), unless stated otherwise.

18.4 Entire understanding This Agreement is the entire Agreement and understanding between the parties on everything connected with the subject matter of this Agreement and supersedes any prior Agreement or understanding.

18.5 Survival Clauses, [2](#), [5](#), [8](#), [10](#), [12](#), [13](#), [14](#), [17](#), [18](#) and [19](#) survive the end of this Agreement.

18.6 Severable If any clause of this Agreement is illegal or unenforceable it is to be severed. The rest of this Agreement will not be affected.

18.7 Waiver If a party has a right arising from the other's failure, the delay in

exercising that right does not waive any rights.

18.8 Change Any change to this Agreement is only effective if in writing.

18.9 Assignment The Contractor must not assign any of its rights or obligations without the School's written consent which may be given or withheld at its absolute discretion.

18.10 Governing Law and Jurisdiction The law of NSW Australia governs this Agreement. The parties submit to the exclusive jurisdiction of its courts.

18.11 Exclusion of statutes The covenants implied into licences by legislation are excluded.

18.12 Electronic execution Both parties agree that this Agreement may be electronically executed via a suitable application, and that any electronic signatures are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

19. Interpretation

In this Agreement, unless the contrary intention appears:

1. the words include, including, for example or such as when introducing an example, do not limit the meaning of the words to which the example relates to the example or examples of a similar kind;
2. a provision of this Agreement must not be construed to the disadvantage of a party merely because that party was responsible for drafting it or this Agreement.

ATTACHMENT A

DEPARTMENT OF EDUCATION POLICIES, GUIDELINES AND TRAINING REQUIREMENTS

1. Laws, regulations and policies

Applicable policies and guidelines

The Contractor and its personnel must comply with all laws, regulations and any Department policies, access requirements and restrictions, and guidelines (that the School makes it aware of) including the following policies and guidelines:

- [Code of Conduct Policy and Procedures](#)
- [Working with Children Check Policy](#)
- [Child Protection Policy: Responding to and reporting students at risk of harm](#)
- [Child Protection: Allegations against Employees](#)
- [Responding to Allegations against Employees in the Area of Child Protection](#)
- [Complaints Handling Guidelines](#)
- [Controversial Issues in Schools Policy and Procedures](#)
- [Externally funded service providers delivering health, disability and wellbeing services to students: Information for providers and provider checklist](#)
- [Restrictive Practices Reduction and Elimination Policy](#)

Restrictive practices in NSW public schools and government preschools

The department introduced a restrictive practice reduction and elimination policy in January 2023. The policy applies to all department staff, including all contractors, consultants, volunteers and visitors working with the department, including in government preschools.

The Department has adapted the definitions of “restrictive practice” that apply to registered providers under the National Disability Insurance Scheme (NDIS), so they make sense in a school context and provide clear guidance to school-based staff on the requirements for planning and using these practices safely in schools.

This means that in a school context, there are some practices that the Department has categorised as a restrictive practice, when other settings do not. This is about protecting students and staff so that these types of practices are used safely and effectively, and as they have been recommended or prescribed. Contractors must understand the Department’s definitions of restrictive practice so they can support students and school-based staff as needed, in line with the requirements set out in the policy.

2. Training

Child Protection Training

The Contractor and its personnel must complete, on an annual basis, the Department's [Mandatory Child Protection Training](#) online (via MyPL), or a suitable alternative child protection training program delivered by the Contractor for its staff. Prior to the commencement of any services at the school, the Contractor's personnel who are engaged to provide services at the school will be required to provide the school with a copy of the certificate that is awarded upon completion of the Department's Mandatory Child Protection Training.

Where the Contractor delivers its own child protection training, the Contractor warrants, by signing this Agreement, that this training covers the following content:

- child protection mandatory reporting and professional conduct legal responsibilities
- recognising child abuse and neglect indicators
- understanding reporting processes for suspected risk of significant harm
- acceptable and unacceptable practice in:
 - care and discipline of children
 - provider – child relationships
 - interactions with children with identified needs.

A Contractor approved to deliver services under the [Specialist Allied Health Service Provider Scheme](#) (the Scheme), will have met the child protection training requirement as part of the Contractor's qualification to the Scheme. The school is not required to obtain evidence of this training for a Contractor approved under the Scheme.

Health Care Related Training

Where required by the school, the Contractor and its personnel may need to complete the [ASCIA Schools and Childcare Anaphylaxis e-training](#) or any other relevant health care related training specific to a student's health care needs, and reflecting the nature of the service being provided and the degree of supervision of the provider's activities at the school.

SERVICE SCHEDULE

Externally Funded Service Providers - Engagement Agreement – Schedule

End Date of the Engagement Agreement that this Schedule applies to:	
Calendar Year [YYYY]	
School Name: [Insert school name]	Contractor: [Insert Contractor name]
Student Name: [Insert student name]	Therapist Name(s): [Insert therapist name]
Services to be delivered to the student <i>[Drafting Note: Therapist to provide detailed description of the services]</i>	
What are the expected goals of the therapy services and how will progress be measured? <i>[Drafting Note: Therapist to describe how the goals of the therapy align with the student's learning needs, and how progress towards these goals will be measured]</i>	
Contractor personnel to deliver Services to the student <i>[Drafting Note: Names and Working With Children Check clearance details of Contractor personnel who will deliver services to the student]</i>	

Externally Funded Service Providers - Engagement Agreement – Schedule

Service delivery schedule

You may only attend the school site when delivering the Service, in accordance with the following schedule:

[Drafting Note: Day, time and session duration of services to be delivered to the student. E.g.: Tuesday, 1pm to 2pm.]

Agreed School facilities/equipment to be used during school-based service delivery

If school-based service applies: [insert details]

[Drafting Note: Details of facilities and equipment to be used by the provider as part of the provision of services, as agreed by the school.]

Where you use Departmental or School facilities / equipment, you will ensure such facilities / equipment are:

- used with reasonable care;
- remain in the same condition they were before such use (including cleaned, where appropriate);
- returned to the location from which you took them; and
- if any facilities / equipment are damaged then you will replace them at your expense.

Agreed Contractor equipment to be used during school-based service delivery

If school-based service applies: [insert details]

[Drafting Note: Details of Contractor equipment to be used as part of the provision of services, as agreed by the school.]

Include details of any maintenance and relevant training the Contractor will undertake to ensure safe operation on school premises.

Also include location of service delivery, including whether the service will be delivered during class or outside the classroom.]

Externally Funded Service Providers - Engagement Agreement – Schedule

Supervision arrangements

[Drafting Note: Details of school arrangements for the supervision of Contractor during the course of service delivery.]

Duration of service delivery

[Drafting Note: The term may be a one-off event or could involve services being provided over a period of time]

Plan and description of location of service delivery, including whether the service will be delivered during class or outside the classroom.

A copy of this Schedule is to be kept on the student's individual file by the school.

SERVICE SCHEDULE:

Externally Funded Service Providers - Engagement Agreement

School Name					
Mary Brooksbank School					
Student Name					
Services to be delivered to the student					
Physio	OT	SP	Other		
As per discussions at the PLSP meeting and the Term Plan provided to the classroom teacher by week 2 of each term.					
Provider staff to deliver services to the student					
Service delivery schedule					
<i>Day of therapy:</i>	<i>M</i>	<i>T</i>	<i>W</i>	<i>Th</i>	<i>F</i>
<i>Frequency:</i>	<i>weekly</i>	<i>fortnightly</i>	<i>monthly</i>	<i>Odd / Even weeks</i>	
<i>Start time of session:</i>					<i>Finish time of session:</i>
Agreed school facilities/equipment to be used during school-based service delivery					
Classroom, and other facilities/equipment in the school has agreed to by school staff.					

Externally Funded Service Providers - Engagement Agreement

<p>Agreed provider equipment to be used during school-based service delivery</p>
<p>The service provider will provide and use their own equipment and resources, unless negotiation has happened with the school to use school resources and equipment.</p>
<p>Supervision arrangements</p>
<p>Therapists remain under the direct supervision of the classroom teacher</p>
<p>Duration of service delivery</p> <p>The agreement will continue until terminated upon the request of the parents. The agreement will be reviewed annually at the Personalised Learning and Support Plan meeting (or earlier if required).</p>

A copy of this Schedule is to be kept on the student's individual file by the school.