

Invitation to tender: Establishment and provision of public panel services

Overview

1. The Legal Services Board (LSB) and Legal Services Consumer Panel (LSCP) are jointly commissioning the establishment of a standing panel of members of the public to help inform the development of policy in relation to legal services regulation.
2. The submission deadline for bids is 12:00 on 16 March 2020.
3. This public panel should be set up in Q1 of 2020-21 and the first piece of research should be delivered by the end of June 2020.

About the LSB and LSCP

4. The LSB is the oversight regulator of legal services in England and Wales. Its vision is for legal services that everyone can access and trust. The LSB's strategic plan for 2018-21 sets out its approach to achieving this vision, taking into account the trends and drivers affecting the legal services market.¹
5. The Legal Services Act 2007 outlines the LSB's role and responsibilities.² These include, but are not limited to:
 - Providing oversight of the nine frontline regulatory bodies of legal services³, the Office for Legal Complaints (which is responsible for administering the Legal Ombudsman scheme)⁴ and the Solicitors Disciplinary Tribunal⁵
 - Making statutory decisions (e.g. about proposed new rules and regulations, practising fees, or applications from regulators to regulate new areas)
 - Publishing research findings, best practice recommendations and guidance
6. The LSCP is an independent arm of the LSB and was also established by the Legal Services Act 2007. The Panel consists of (currently nine) non-lawyers and its remit is to represent the interests of legal services consumers including small businesses and charities. Panel members have a range of expertise, including in regulation and consumer issues.

¹ [https://www.legalservicesboard.org.uk/news_publications/publications/pdf/2018/LSB_Strategic_Plan_2018-21_\(final\).pdf](https://www.legalservicesboard.org.uk/news_publications/publications/pdf/2018/LSB_Strategic_Plan_2018-21_(final).pdf)

² <http://www.legislation.gov.uk/ukpga/2007/29/contents>

³ Solicitors Regulation Authority, Bar Standards Board, CILEx Regulation, Council for Licensed Conveyancers, Intellectual Property Regulation Board, Costs Lawyer Standards Board, Master of the Faculties, Association of Certified and Chartered Accountants, Institute of Chartered Accountants of England and Wales - <https://www.legalservicesboard.org.uk/about-us/approved-regulators>

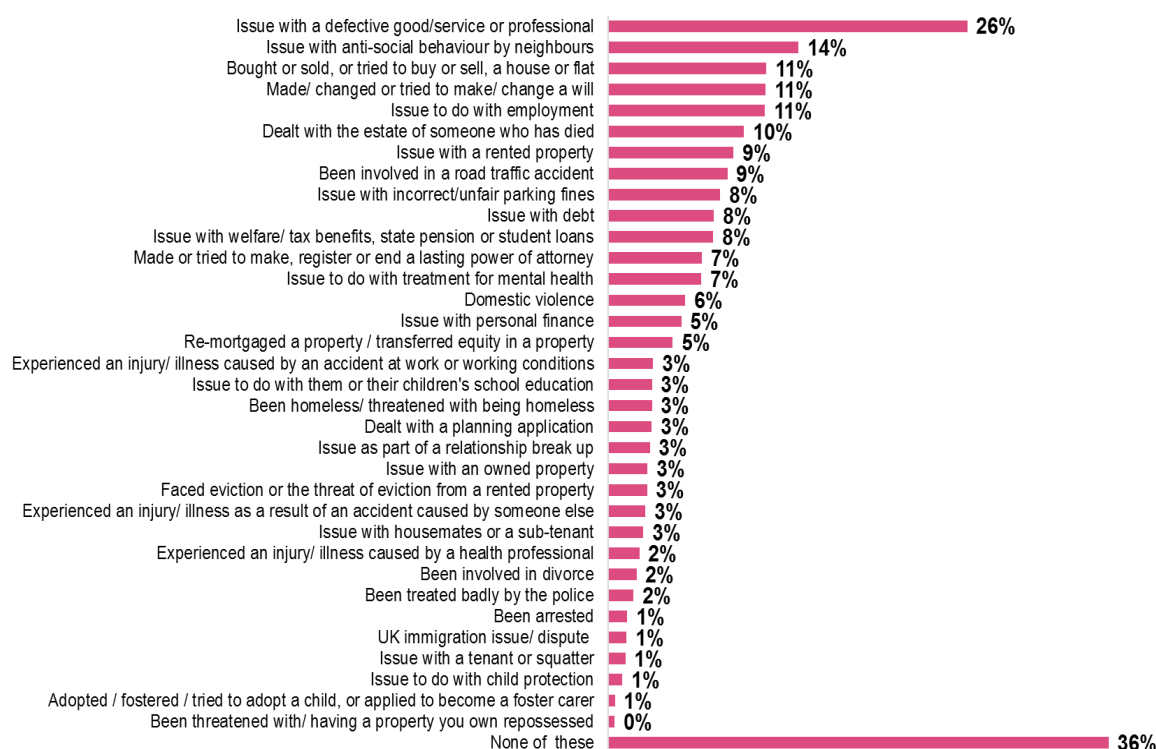
⁴ <https://www.legalombudsman.org.uk/>

⁵ <https://www.solicitortribunal.org.uk/>

About the legal services market

7. Legal services represent a significant part of the UK economy, with turnover of £35.2bn in 2017-18. Moreover, legal services underpin a successful wider economy and a well-functioning society. It is a diverse market ranging from magic circle law firms serving the world's largest corporations to high-street solicitors, barristers and other types of lawyer serving citizens, small businesses and charities.
8. The focus of the public panel will be on issues that citizens encounter in their lives. Research conducted in 2019 shows that 64% of adults based in England and Wales experienced a legal issue in the last four years⁶. Figure 1 shows the incidence of 34 different types of legal issue.

Figure 1: Proportion of adults in England and Wales who have experienced each legal issue over the past four years (detailed)



Aim and objectives

9. The aim of the public panel is to provide a direct, responsive and cost-effective channel for the voice of the public (as citizens, consumers or potential consumers) to inform legal services regulation, at operational and strategic levels.

⁶ P. 8. YouGov. 2020. "Legal needs of Individuals in England and Wales". Technical Report. Available at: <https://www.legalservicesboard.org.uk/online-survey-of-individuals-handling-of-legal-issues-in-england-and-wales-2019>

10. Specific objectives of the public panel are to:

- a. Provide views and qualitative insight to guide the choice of organisational strategic priorities and inform decision making on specific issues
- b. Provide feedback based on informed understanding of specific issues and of members' own lived experience and knowledge
- c. Bring public perceptions and views to life in the minds of legal services regulators and wider stakeholders

11. Based on our discussions with organisations that already operate public panels, some of the specific advantages include that the members develop knowledge of legal services, which allows a richer conversation and more informed set of insights. This approach may also help to build consensus or find a middle way on issues where stakeholder opinion is polarised. We anticipate that the public panel may not only provide a consultative role but also work with LSB, LSCP (and others) in the coproduction of regulatory policy – an approach in which members are clearly heard in a systematic way and able to effectively influence legal services regulation.

12. We also recognise some of the potential limitations of this model, including that the public panel is unlikely to enable us to easily access the most hard-to-reach consumers. We also accept that as members gain understanding of legal services they will become less representative of the population they are drawn from.

Public panel scope and intended use

13. The LSB and LSCP already carry out a significant body of large-scale quantitative research⁷. We also carry out in depth qualitative studies with groups of vulnerable consumers.⁸ We intend that the public panel will complement current research approaches by using qualitative research methodologies (and small scale surveys).

Enabling external organisations to access the public panel

14. The nine regulatory bodies subject to LSB oversight vary in size from hundreds of staff and large research teams to fewer than ten staff with no employed researchers. While we expect all the regulators to be evidence-led, many of them face constraints in commissioning primary research of their own.

15. Therefore, we would like to explore a mechanism which allows the regulatory bodies (and the Legal Ombudsman) to make use of the public panel, either singly or jointly. While LSB would meet the set up and annual maintenance costs of the public panel, any external organisations would need to meet all costs relating to their specific project. We envisage these organisations would make a request to LSB to access the

⁷ These include large scale cyclical surveys and routine data collection (<https://research.legalservicesboard.org.uk/>) as well as smaller scale tracker surveys and desk research (<https://www.legalservicesconsumerpanel.org.uk/what-we-do/research-and-reports>).

⁸ Insert references to LSB and LSCP recent studies on mental health, dementia, learning disabilities etc.

public panel on a project-by-project basis, well in advance of the proposed work starting. While we do not wish to constrain the ability of these bodies to determine their own research priorities, LSB would need to satisfy itself that the proposed projects were consistent with the purposes of the public panel and be able to manage the overall flow of work.

16. Tenders should address the governance and other practical arrangements that the supplier would need to put in place to enable such a system to work effectively.
17. Our thinking on the potential early uses of the public panel is still developing, but we highlight some possible opportunities to engage it in the first 12 months:
 - **Developing a strategy for legal services regulation** - 2020-21 will mark the final year of the LSB's current three-year corporate strategy. During the year ahead we will embark on an ambitious plan to develop a new strategy for legal services regulation. This will define a broad agenda for change and identify how a wide range of organisations can advance this, as well as provide a practical framework for the LSB's work. We want to engage with the public panel in two stages: initially, to understand the issues, concerns and priorities of the public; and, secondly, once the strategy is developed in draft form, to road-test our ideas.
 - **Technology** – technology is starting to transform the delivery of legal services, although concern about ethical and practical issues is holding back wide use by practitioners. Further, the LSCP's research shows that nearly half of consumers view lack of trust as a barrier to using services provided through AI-type technologies. We would like to engage the public panel to test the social acceptability of potential uses of technology in legal services, to learn what people find acceptable and identify what practices would cross any 'red lines'.
 - **Ongoing competence** – Consumers should be able to trust that practitioners have the necessary skills and knowledge to provide good quality legal services and that they are kept up to date and relevant over time. However, unlike other professional services environments, eg healthcare and teaching there is no regular, formal assessment of legal practitioners during their careers beyond general requirements for continuing professional development. We are considering whether this status quo is sustainable, if it is effective in protecting consumers' and the public interest, and what strengths and weaknesses it has compared with other potential approaches. As part of this work we would like to find out public expectations and to test our proposals as they develop.
 - **Quality indicators** – The CMA Report of 2016⁹ made a number of recommendations about the need for a range of information to be made available to users and potential users of legal services to enable them to make informed choices about providers. Some progress has been made to make a limited set of price information available, but very little has been achieved to establish or disseminate a useful set of quality indicators, without which the price information is of very little use. We would like to find out what types of information, and in what format, would be most useful to consumers.

⁹ CMA. 2016. "Legal services market study: Final report". Available at: <https://www.gov.uk/cma-cases/legal-services-market-study#final-report>

Approach

18. The successful agency will be responsible for recruiting members of the public who should be based in England and Wales (reflecting LSB's jurisdiction). Bids should advise on size of the public panel taking account of the qualitative focus of the projects, demographic mix (see below) and incidence rates (see Figure 1). We are looking to exclude individuals who are, or have previously been, legal professionals.
19. We appreciate that as a qualitative tool, the public panel will not be nationally representative of the population of adults based in England and Wales. We appreciate that as a qualitative tool, the public panel will not be nationally representative of the population of adults in England and Wales. Rather, we are looking for a mix of adults (18+) who give (in rough priority order) representation of:
 - a. Having or having not experienced a legal issue in the last four years (with a mix across some if not all of the categories of legal issues listed above)
 - b. Different age groups (18-29, 30-49, 50-64, 65+)
 - c. Sex, gender and sexual orientation
 - d. Ethnicity (BAME, white British)
 - e. Religion or belief
 - f. Disability and health
 - g. Low (£32,000 or less), medium (£33,000-£59,000), and high (£60,000+) household incomes
 - h. Education level
 - i. Low, medium and high legal capability¹⁰
 - j. Employed, self-employed, unemployed, not working
 - k. Married, unmarried, separated
 - l. With or without dependent children
 - m. Different geographies across England and Wales (urban, rural, coastal)
20. We are interested in the views of individuals who are vulnerable (taking vulnerability in its widest sense). There is an important distinction between 'market-specific vulnerability', which can affect any of us in certain contexts, and 'vulnerability associated with personal characteristics', which captures the idea that individuals with certain characteristics may face particularly severe, persistent problems across a range of markets.¹¹ We recognise that the most vulnerable may not be able to participate in an informed manner even with accommodations. We welcome bidders' views and suggestions on including vulnerable members of the public.

¹⁰ See P.23. YouGov. 2020. "Legal needs of Individuals in England and Wales". Technical Report.

¹¹ See the CMA's work:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/782542/CMA-Vulnerable_People_Accessible.pdf.

21. On recruitment we expect the successful agency to profile each public panel member by the above so that this information is available for selecting public panel members for participation in different activities.
22. As part of the public panel management, we will expect the successful agency to top up numbers as members drop out, to maintain the mix described above. Broadly, we regard a public panel with more members as preferable to one with fewer. In terms of overall number of members, we are open to recommendations based on the incidence rates of legal issues (para 8), the mix of characteristics within the panel (para 19) and, the size of budget that will enable both establishment and operation with four main activities in the first year. We are open to initial recruitment in year one, to a minimum viable number, and additional recruitment to achieve the final public panel size in year two.
23. We expect the successful agency to provide all software/platforms and physical facilities required to run the public panel, including for telephone or face to face interviews, online surveys, online community activity, focus groups and workshops.
24. The successful agency will also be responsible for designing and administering incentives to the public panel members.
25. We anticipate running approximately four main activities a year (for LSB or LSCP), which may be supplemented by other activities (e.g. members may wish to attend LSB events). This excludes activities commissioned by regulators. We also want flexibility to commission additional activities ourselves. We are interested in bidders' plans to maintain the public panel members' engagement throughout the year, particularly between specific projects. We are also interested in bidders' suggestions on balancing pre-planned (proactive) and *ad hoc* (reactive) projects to maintain optimal engagement/workload throughout each year.
26. LSB will support but rely on the successful agency to brief public panel members during the set-up phase and on specific topics so that they are able to give more informed perspectives. The nature of that briefing will depend on the activity and topic. We will rely on the successful agency to identify (amongst the public panel) members who will be confident in putting forward their views and conversing with legal service professionals. We will also expect the successful agency to write briefings or create stimuli for public panel activities as required.
27. The successful agency will be responsible for collecting and analysing data from each public panel event and providing reports.

Ethics and Data protection

28. Setup and operation of the public panel will require the successful agency to collect and process personal data. It may on occasion require public panel members' identities and personal data to be shared with LSB or other organisations. As mentioned below (paragraph 29) at the end of the contract we may wish to port

panel data and membership to a new provider. It may also raise ethical issues particularly when facilitating face to face interaction at workshops, conferences or similar events. Please detail:

- a. How you will ensure that the public panel members' personal data is handled in compliance with the GDPR and other applicable data protection laws
- b. The ethical and wellbeing issues you have identified and how you will address these to ensure the safety and wellbeing of public panel members
- c. Any other quality or ethical standards or processes you will be using.

Contractual arrangement

29. We anticipate using a framework contract lasting two years which will cover the setup and maintenance of the public panel. It will then enable the commissioning of specific projects by LSB and LSCP (such as those listed in paragraph 17) via written work orders. Other organisations using the public panel will use separate contractual arrangements with the successful agency. Although we expect that these will be priced comparably to equivalent work orders. At the end of the contract, should the agency change, we would like to be able to port public panel data and membership, including personal data, to the new agency.

Invoicing and payment

30. Invoices will be accepted for payment on acceptance of deliverables or key milestones.
31. When points are raised on a draft deliverable, these must be addressed prior to acceptance.

Budget

32. We have allocated a budget for setup and operation for two years (including for four activities in the first year and four in the second year). The budget size, for the two years, is over £100,000 but clearly below the threshold for procurement via the OJEU (£189,330) and includes VAT.
33. Please provide a breakdown of costs for recruiting and setting up the public panel (excluding VAT) based on a range of sizes of public panel membership.
34. Please provide a breakdown of costs for maintaining the public panel during the remainder of the first year of operation and then for the second year of operation.
35. The public panel should operate in a flexible way deploying a range of methodologies to suit the needs of individual projects. We would welcome hearing your ideas on the sorts of approaches that could be used for the initial list of projects in paragraph 17. As a guide, please provide indicative costs for the following public

panel activities, which should include research design, analysis and report writing for each project type:

- a. Setup and moderation of a five day long online forum/community activity on a specific issue, delivering a short thematic report
- b. Setup and moderation of a one day workshop or deliberative event with public panel members, delivering a short thematic report
- c. Recruiting (from the public panel membership) and briefing for four public panel members to participate in a one day conference including a conference panel discussion session
- d. A short ('pulse') online survey (max 6 multiple choice questions plus 3 short open response questions delivering a headline report, that includes coding and basic analysis of open response questions and basic cross breaks)

36. If you wish to recommend any optional extras beyond our core requirements but that would enhance the achievement the LSB's objectives, please include them as optional extras with clear costs (excluding VAT) and clearly outline their benefits.

Duration

37. The contract to establish and administer the public panel will be for two years (with an option to terminate at the end of year one). We anticipate that this will start in April 2020 and end in April 2022.

Deliverables

Output

38. The first deliverable will be a written profile of the public panel membership by the socio-economic and legal capability characteristics list in paragraph 19.

39. The subsequent deliverables, for LSB and LSCP, will be as commissioned via work order. The first of these will support our strategy development (as described in paragraph 17).

Project plan and risks

40. Tenders should include a project plan and time schedule for the public panel setup and then ongoing engagement/maintenance that identifies the main tasks and key milestones that will be used to monitor progress. The plan should be accompanied by a resource profile, giving a breakdown of the resources in person days allocated to each task, for each key project team member.

41. We also expect tenders to include a clear analysis of the potential risks, how you propose to reduce their likelihood and/or mitigate their impact during the project,

and the remaining residual risk. One clear risk we see is losing public panel members because their engagement with the public panel has not been maintained.

Tender Evaluation

42. All projects commissioned by the LSB are subject to our standard terms of contract. Tenders will be evaluated on MEAT – Most Economically Advantageous Tender – based on combined scores for cost (40%) and quality (60%). This will be informed by the following criteria:
- a) Overall understanding of the project requirements (10%)
 - b) Relevance of individual team member experience and expertise to the roles and tasks they will be doing in this project (**please include a copy of your organisation's diversity policy**) (10%)
 - c) Methodology – the methods used and detailing individual task responsibilities of team members and how these link to the deliverables (**please include project plan and resource profile**) for:
 - i. Public panel recruitment and profiling (15%)
 - ii. Public panel member engagement and public panel maintenance, operation and outputs/deliverables (15%)
 - d) Risks, standards and protocols – What are the main risks (including maintaining public panel member engagement) and how will you reduce their likelihood and/or mitigate their impact during the project? What standards or protocols will you have in place to ensure the public panel is setup and maintained to high ethical and quality standards? (10%)
43. Further details of the scoring process can be found in Annex A. Bids will be shortlisted in a first stage of evaluation, for a second stage presentation and interview. Both stages will be conducted by LSB and LSCP colleagues.

Timetable

44. Clarifications or queries relating to the research specification, as well as tenders, should be submitted through the Crown Commercial Service Bravo Solution platform.

Invitation to tender issued	Fri 31 January 2020
Deadline for clarification questions	12:00 Fri 21 February 2020
Deadline for submission of bids	12:00 Thu 12 March 2020
Notification of interview	Thu 19 March 2020
Interviews	Wed 25 March 2020
Notification of outcome	Mon 30 March 2020
Contract awarded	Fri 3 April 2020
Project inception meeting	Mon 6 to Fri 10 April 2020
Public panel profile delivered	By Mon 1 June 2020
Other project deliverables	As agreed by work order
Updated public panel profile dated (including summary of membership turnover)	Mon 5 April 2021
Contract end	Mon 4 April 2022

Checklist

Your tender should include all of the following:

	Summary of project requirements and assumptions made.
	Proposed team composition, expertise and management (and how this relates to their tasks and responsibilities in the project).
	Project plan and time schedule, listing deliverables together with a resource profile, giving a breakdown of the resources in person days allocated to each task, for each key project team member.
	Cost breakdowns (excluding VAT)
	Risk analysis and mitigation.
	Ethical and quality standards and protocols.
	Confirm the specified deliverables that will be provided
	A copy of your organisation's diversity policy
	Signed non-collusive tendering certificate (see Annex B)

Assessment of bids

We will use the MEAT framework – Most Economically Advantageous Tender – based on combined scores for cost and quality.

Quality

The quality criteria will be assessed based on the written responses, with the evaluation scoring breakdown detailed below. Marks achieved will then be multiplied by the quality weighting (60%) to give the overall weighted score for the quality section.

The quality criteria will be assessed based on written responses. The tender evaluation panel will be given the following guide for scoring the bids to achieve consistency across scorers.

Each criterion will be worth a maximum of 100 marks and will be scored on the following spectrum from “Unacceptable” to “Excellent”. Definitions of what constitutes these are described in more detail below.

Score	Assessment	Interpretation
81-100	Excellent	Exceeds the requirement. Exceptional demonstration by the bidder of the relevant ability, understanding, experience, skills, resource and quality measures required. Evidence identifies factors that will offer significant added value.
61-80	Good	Satisfies the requirement and offers some additional benefits. Above average demonstration by the bidder of the relevant ability, understanding, experience, skills, resource and quality measures required. Evidence identifies factors that will offer some added value.
41-60	Acceptable	Satisfies the requirement. Demonstration by the bidder of the relevant ability, understanding, experience, skills, resource and quality measures required.
21-40	Minor reservation	Satisfies the requirement with minor reservations. Some minor reservations about the bidder’s relevant ability understanding, experience, skills, resources and quality measures required.
1-20	Major Reservations	Satisfies the requirement but with major reservations. Serious concerns about the bidder’s relevant ability, understanding, experience, skills, resources and quality measures required.

Score	Assessment	Interpretation
0	Unacceptable	Does not meet the requirement. Does not comply and/or insufficient information provided to demonstrate that the bidder has the relevant ability, understanding, experience, skills, resources and quality measures required. Little or no evidence to support the response.

Tender evaluation panel members will be allowed to score anywhere between 0 and the maximum score of 100 marks for the particular question - whatever they think is most appropriate for each criterion.

Bidders must score a minimum quality score of at least 41 marks out of the possible 100 marks available for each criterion detailed in the table above to proceed in the evaluation process. Bidders who do not achieve this score will be excluded from this process. The minimum quality score ensures that all reasonably compliant bids have the chance to succeed but that a bidder cannot win even with a very competitive price if there have been some concerns established with their technical bids.

There will be an evaluation panel formed from the three project partners to determine the scoring of the bids received. Scores and supporting comments from each member of the panel will be recorded and a mediation meeting will be held to reach a consensus score for each question.

Cost

Cost will be assessed using the 'Proportion of Best' calculation. This is where the lowest priced bidder will achieve maximum points under this section and all other bids will be awarded a score based on a straightforward 'proportion of best' calculation, outlined as follows: $\text{Lowest Priced Bid} / \text{Price of tender being evaluated} \times \text{Price weighting ratio (i.e. 40\%)} = \text{SCORE}$.

- Clear separate costings for each aspect of the project including a detailed breakdown of what activities each member of the research team will conduct with a specification of the time allocated and their daily rate, and any assumptions associated with the costs.
- Potential Providers must ensure that the Pricing Schedule has been completed in full.
- Prices should be submitted in pounds Sterling and exclusive of VAT.
- It is imperative that ALL costs are accounted for as we will reserve the right to only honour payment of reasonable discrepancies and only when first agreed in advance in writing.

Tender evaluation weighting

Proposals will be evaluated by an evaluation panel using the following weightings:

Evaluation Criteria	Criteria Weighting %
Quality	60%
Price	40%
Total	100%

We reserve the right not to award a contract. There is no guarantee of any business as a result of this further competition and we will not be held accountable for any costs to the bidder as a result of this exercise. We will consider bids from consortia on the basis that we may contract with the lead partner only, who we will hold solely responsible for successful delivery of the project.

Contract for the provision of research services to the Legal Services Board
Non-collusive tendering certificate

We certify that this is a bona fide tender, and that we have not fixed or adjusted the amount of the tender by or under or in accordance with any agreement or arrangement with any other person. We also certify that we have not done and we undertake that we will not do at any time before the hour and date specified for the return of this tender any of the following acts:-

- (a) communicate to a person other than the person calling for those tenders the amount or approximate amount of the proposed tender, except where the disclosure, in confidence, of the approximate amount of the tender was necessary to obtain insurance premium quotations required for the preparation of the tender;
- (b) enter into any agreement or arrangement with any other person that he shall refrain from tendering or as to the amount of any tender to be submitted;
- (c) offer or pay or give or agree to pay or give any sum of money or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other tender or proposed tender for the said work any act or thing of the sort described above.

In this certificate, the word "person" includes any persons and any body unincorporate; and "any agreement or arrangement" includes any such transaction, formal or informal, and whether legally binding or not.

Dated this day of year

Signature

**In the capacity of (e.g.
director, secretary etc.)
(capitals)**

**Duly authorised to sign
tenders for and on behalf of**

Postal address

Telephone no

E-mail address:
