

MINDFUL EMPLOYER Plus: Employee Assistance Programme

GENERAL TERMS AND CONDITIONS

21 November 2024

BACKGROUND:

These Terms and Conditions govern the use and administration of the MINDFUL EMPLOYER Plus Employee Assistance Programme provided by Vivup (“**Provider**”) on behalf of MINDFUL EMPLOYER and Devon Partnership NHS Trust (“**Broker**”).

DEFINITIONS:

In these Terms and Conditions, unless otherwise specified, the following expressions shall mean:

- **“Confidential Information”** Any information in whatever form (written, oral, or otherwise) relating to the business, products, affairs, and finances of the disclosing party, including any and all personal data as defined in the Data Protection Legislation, that is collected or processed as a result of or in connection with the supply of the Service.
- **“Data Protection Legislation”** All UK laws and regulations relating to the processing, privacy, and use of Personal Data, including but not limited to the Data Protection Act 2018 and the Privacy and Electronic Communications Regulations 2003.
- **“Employee”** Any person over the age of 16 who is employed by an Employer under a contract of services or a contract of employment and will have access to the products provided under the Service.
- **“Employer”** An employer who is a prospective or active customer of the Service.
- **“Service”** The products and services supplied by the Provider to Employers on behalf of the Broker as part of the MINDFUL EMPLOYER Plus Employee Assistance Programme as outlined in Clause 1.
- **“Service Charge”** The charge for the Service as specified in accordance with Clause 3.1.
- **“Term”** The length of Service as agreed between the Broker and the Employer.

1. SERVICES TO BE PROVIDED

- 1.1. The Service offers employee assistance, including 24-hour telephone support, telephone counselling, an online wellbeing hub, and access to Vivup's "Your Care" wellbeing platform, to the Employer's Employees.
- 1.2. Employees may access the Service to seek support for work-related, personal, and emotional issues. This includes, but is not limited to, support for anxiety, bereavements, depression, finances, family difficulties, relationships, stress, and trauma.

1.3. 24-Hour Telephone Support Line:

- 1.3.1. The Broker will provide the Employer with details of the 24-hour, 365-day-a-year telephone support line to enable Employees and other designated people to contact the service in respect of any personal, lifestyle, or emotional matter that is causing worry, stress, or trauma.
- 1.3.2. The Provider's telephone support operators will establish the initial needs of the caller and either provide information to support the Employee or escalate the call to other members of the team. In the event of an escalation being required, the service levels on response are as follows: Urgent matters will be addressed within 4 hours, while non-urgent concerns will receive attention within 24 hours.
- 1.3.3. All telephone-based support will be provided by a specialist team based in the UK. The team will have relevant and specific training and experience to provide the Service.
- 1.3.4. There are no limits to when or how often an Employee may call the support line, and calling the support line is free for anyone whose inclusive call minutes include 0330 numbers.

1.4. Telephone Counselling:

- 1.4.1. Following initial contact or referral into the Service, Employees requiring access to counselling will be triaged, risk assessed, supported, and provided with any relevant support material while awaiting an appointment.
- 1.4.2. The Provider will structure the telephone counselling in up to six sessions of short-term counselling. For all counselling, the first session will include a 30-minute assessment and the initial formulation of the agreed-upon counselling plan, usually a further five 30-minute counselling sessions.
- 1.4.3. The Provider will ensure all counselling sessions will be conducted by experienced clinicians holding the relevant industry qualifications.
- 1.4.4. When an Employee client fails to attend or gives less than 24 hours' notice of non-attendance, the counselling time will be deemed a contact for the purpose of the Service.

1.5. Online Wellbeing Hub:

- 1.5.1. The Broker will provide the Employer with details to access a tailored support website, providing Employees with access to a range of information and advice.
- 1.5.2. The website will provide Employees with information on the support available to them through the Service, including the 24/7 telephone support line and telephone counselling, as well as provide links to additional resources, such as self-help materials, blog posts, and podcasts.
- 1.5.3. The Provider will provide access to online cognitive behavioural therapy workbooks and resources that the Employee can access at home, at work, or via downloadable apps (this does not include cognitive behavioural therapy sessions with a specialist counsellor).

1.6. Your Care Wellbeing Platform:

- 1.6.1. The Broker will provide the Employer with a link for Employees to register for and access the Provider's health management platform, "Your Care".
- 1.6.2. Offering evidence-based interventions to support employee wellbeing via a proactive, preventative approach, the Provider's Your Care platform will provide Employees of the Employer with access to the following services:
 - A personalised dashboard offering a guided health journey by incorporating a suite of clinically validated assessments to address individual wellbeing needs.
 - A suite of clinically validated health assessment and forecasting tools covering a wide range of wellbeing factors to help the user to understand key health risks.
 - Health improvement report factors clearly highlighting the individual's key areas for lifestyle change offering relevant support and suggested goals.
 - Content and resource library containing articles, videos, and podcasts focused on all areas of lifestyle, health, and wellbeing.
- 1.7. The Service as described in Clause 1 does not extend to an Employee's family members, including those living at the same address, and will not include access to any of the Providers other employee wellbeing services, including, but not limited to, face-to-face or virtual counselling.
- 1.8. Within the scope of the current Service, neither the Broker nor the Provider are able to provide the Employer with usage data relating to the use of the Service for their individual organisation. Employers, may request to receive the combined and anonymized usage data across all members as set out in Clause 6.6.

2. JOINING, RENEWING, AND ENDING THE SERVICE

- 2.1. The Service is reserved for members of MINDFUL EMPLOYER's Charter for Employers Positive About Mental Health. Employers wishing to join or renew the Service must currently be a signatory of the Charter before submitting their application for MINDFUL EMPLOYER Plus.
- 2.2. The Broker reserves the right to withdraw applications from Employers that:
- Do not meet the requirements outlined in Clause 2.1.
 - Have not been filled out correctly as stated in the application or renewal form.
 - Do not meet the requirements of the payment terms in accordance with Clause 3.2.
- 2.3. Where reasonably possible, the Broker will seek to resolve any issues in relation to an Employer's application before withdrawing the application as outlined in Clause 2.2.
- 2.4. Eligible employers, as per Clause 2.1, may apply to join or renew the Service for 1 or 3 years at a time.
- 2.5. Access to the Service will not be renewed automatically at the end of an Employer's Term. To renew the Service, the Employer will be required to re-register for the service by completing the required renewal form.
- 2.6. Joining the Service:**
- 2.6.1. To join the Service, Employers are required to submit an application form to the Broker.
- 2.6.2. The Broker will write to the Employer to confirm receipt of the Employer's application within 2 weeks of receiving the completed form and to invoice the Employer for the Service Charge.
- 2.6.3. Once the Broker has received confirmation that the Service Charge has been paid in full, the Broker will instruct the Provider to set up the Employer's access to the Service, and the Broker will write to the Employer to inform them of the start and end dates for their current Term.
- 2.7. Renewing the Service:**
- 2.7.1. Around two months before an Employer's current Term is due to expire, the Broker will write to the Employer to inform them of their Term's end date and to invite the Employer to renew the service.
- 2.7.2. The Broker will write to the Employer to confirm receipt of the Employer's wish to renew the service within 2 weeks of receiving a completed renewal form and to invoice the Employer for the Service charge.

- 2.7.3. A four-week grace period, starting from the specified end date of the Employer's current Term, will be applied to the Employer's account to allow additional time for payments to clear.
- 2.7.4. Once the Broker has received confirmation that the Service charge has been paid in full, the Broker will instruct the Provider to extend the Employer's access to the Service, and the Broker will write to the Employer to inform them of the start and end dates for their new Term.

2.8. Ending the Service:

- 2.8.1. The Service will automatically end on the specified end date for the Employer's current Term.
- 2.8.2. Employers wishing to leave the Service early may do so by writing to the Broker to inform them of their decision to leave the service.
- 2.8.3. Upon receipt of an Employer's request to leave the Service either during or at the end of their current Term, the Broker will confirm receipt of the Employers intention to end the Service in writing before instructing the Provider to close the Employers account.

3. PAYMENT TERMS

- 3.1. The Service Charge shall be that which is set out on the Broker's website at the time of the Broker receiving the Employer's application to join or renew the Service. All amounts stated are exclusive of VAT, which shall be charged at the prevailing rate.
- 3.2. Without exception, it is a condition of these Terms and Conditions that the Employer must pay all amounts due to the Broker under invoices before the Service may commence or renew.
- 3.3. Payments for the Service shall be paid in full within 30 days following the receipt of a valid VAT invoice, and all payments made by the Employer to the Broker in relation to the Service shall be non-refundable.
- 3.4. If payment is not received by the specified date, the Broker reserves the right to take appropriate actions, which may include one or more of the following:
- Instructing the Provider to suspend the Employers Service until payment has been made.
 - Terminating the Employer's application to join or renew the Service.
- 3.5. Where reasonably possible, the Broker will seek to inform Employers of any and all outstanding invoices before commencing any of the actions as stated in Clause 3.4.

4. SERVICE DELIVERY

4.1. Upon request from the Broker, the Provider will facilitate, on behalf of the Employer, the provision of the Service as specified in Clause 1 for the duration of the Employer's Term.

4.2. The Provider shall be responsible for:

4.2.1. Delivery of the Service to Employees of the Employer on behalf of the Broker.

4.2.2. Implementing appropriate technical and organisational measures to protect all Confidential Information against accidental or unlawful destruction, loss, alternation, and unauthorised disclosure or access.

4.2.3. Ensuring that if any Confidential Information is disposed of, such disposal takes place in a secure manner such as that Confidential Information is not recoverable.

4.3. The Provider will use its reasonable endeavours to ensure the availability of the Service at the times reasonably required by Employees and the Employer, but it cannot and does not guarantee that access to the Service will be uninterrupted or error free.

4.4. Complaints Process:

4.4.1. Employers may submit a complaint to the Broker in relation to the Service on behalf of the organisation, or on behalf of an individual Employee.

4.4.2. Should the Broker receive a complaint from an Employer in relation to the Service, the Broker shall notify the Provider within 72 hours of receiving the complaint. The Broker and the Provider will work together in good faith to resolve the complaint and the Broker shall provide such information and assistance as the Provider may reasonably request in relation to the complaint.

5. FORCE MAJEURE:

5.1. A Force Majeure Event refers to any circumstance not within a party's reasonable control including:

- Acts of God, flood, drought, earthquake, or other natural disasters.
- Epidemics or pandemics, or nuclear, chemical, or biological contamination.
- Collapse of buildings, fire, explosions or accidents.
- Labour or trade disputes, strikes, industrial action, or lockouts.

- 5.2. If a party is prevented, hindered, or delayed in or from performing any of its obligations under these Terms and Conditions by a Force Majeure Event, the affected party shall not be in breach of these Terms and Conditions or otherwise liable for any such failure or delay in the performance of such obligations.
- 5.3. The affected party shall, as soon as reasonably practical after the start of the Force Majeure Event, notify the other party in writing of the Force Majeure Event, including the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under these Terms and Conditions, and use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

6. DATA PROTECTION

- 6.1. Both the Broker and the Provider agree to comply with all applicable requirements of the Data Protection Legislation. This section is in addition to, and does not relieve, remove, or replace, a party's obligations or rights under the Data Protection Legislation.
- 6.2. Each party agrees to safeguard and keep confidential any and all Confidential Information. No party shall use or disclose such Confidential Information, except to the extent permitted by Clause 6.3.
- 6.3. The Broker and/or the Provider may disclose Confidential Information:
 - 6.3.1. To its employees, officers, contractors, or advisors who require such information to perform its obligations or exercise its rights under these Terms and Conditions, and each party shall ensure that any persons to whom It discloses Confidential Information comply with Clause 6.
 - 6.3.2. As may be required by law, a court of competent jurisdiction, or any governmental or regulatory authority.
- 6.4. The obligations on the Broker or the Provider set out in Clause 6.3 above will not apply to any information to the extent that such information is publicly available or becomes publicly available through no fault of either party.
- 6.5. All parties acknowledge and agree that the Provider will act as a Data Processor of Employer Personal Data on behalf of the Employer as a result of its provision of the Service for the purposes of Data Protection Legislation to which this section applies.
- 6.6. To safeguard the privacy of Employees in cases where they could otherwise be identified, the Service does not offer Employer's the option to receive usage data unique to their individual organisation. Instead, Employer's may request to receive the combined and anonymised usage data across all Service members on an ad-hoc basis by submitting their request in writing to the Broker.