

BERRI.org.uk Terms of Use

Last updated: 23 May 2023

Welcome to BERRI.org.uk, a questionnaire and set of online tools designed to help assess and support the psychological needs of children and young people. These Terms of Use are intended to explain our obligations as a service provider and Your obligations as a customer. Please read them carefully.

These Terms are binding on any use of the Service and apply to You from the time that BERRI.org.uk provides You with access to the Service.

Purpose of the BERRI tools

The primary purpose of BERRI Limited is to improve the health and wellbeing of children and young people by applying the knowledge of HCPC registered clinical psychologists. We aim to help you to do this through a combination of the BERRI.org.uk Service and clinical psychology consultancy services delivered by our HCPC registered clinical psychologists. The BERRI tools are constantly updated and informed by the research undertaken by our team and the clinical knowledge of our psychologists, so that they can assist you effectively in supporting the psychological needs of the children in your care.

BERRI.org.uk contains a set of tools to help measure and visualise the needs of children and young people. The BERRI questionnaire is a checklist of concerns that include:

- **Behaviour**
- **Emotional Wellbeing** (including mental health)
- **Relationships** (including attachment)
- **Risk** (to self and others)
- **Indicators of neurodevelopmental or psychiatric conditions**

The web tools on BERRI.org.uk allow users to enter the data into the questionnaire, score it, produce an automated report feeding back those scores, produce graphs to visualise the scores, and to track changes to the scores over time. Individual concerns can be identified to target and track over time (eg daily or weekly). Graphs of this data can be produced to show change over time and to help professionals identify patterns.

The tools are designed to inform professional judgement when considering how to support the mental health and psychological wellbeing of particular individuals, but it is important to note that they are dependent on the data that is entered, and that they

do not replace the need for professional assessment, formulation or decision making. That is, the tools can show patterns in the child's needs across different domains and over time, which can then be interpreted and acted upon by professionals involved in the child's care. BERRI.org.uk should not be confused with psychological assessments or individual professional advice. Similarly, BERRI.org.uk should not be relied upon when managing risk or making decisions about placements. Such professional judgements should include multiple sources of information, including observation and knowledge of the child's history, and be informed by professional training and the evidence base.

The BERRI.org.uk Service will evolve over time based on user feedback. These Terms are not intended to answer every question or address every issue raised by the use of the BERRI.org.uk Service. BERRI.org.uk reserves the right to change these terms at any time, effective upon the posting of modified terms. We will make every effort to communicate these changes to You via email or notification via the Website. It is likely the terms of use will change over time. It is Your obligation to ensure that You have read, understood and agree to the most recent terms available on the Website.

By registering to use the Service you acknowledge that You have read and understood these Terms and have the authority to act on behalf of any person for whom You are using the Service. You are deemed to have agreed to these Terms on behalf of any entity for whom you use the Service.

Compliance

The BERRI system is compliant with the General Data Protection Regulations as we do not collect "personal data" as defined by the Data Protection Act. Although You will create an encryption key to identify specific records, the BERRI records in our database are anonymous, and staff at BERRI Ltd cannot identify individual children. The encryption keys are generated from the child's initials and date of birth, so You can use this data to identify which record is which (amongst records which You have permission to view), but the encryption key cannot be reverse engineered to reveal any child data.

Reports produced from the BERRI system are sent to Your local computer. This means they can be customised to contain the child's name, date of birth or care plan, but must be treated as part of Your confidential records. After a report is produced it is not stored in our database. No personal data about children or young people is kept on our servers.

All of our servers are situated in the UK. They are backed up overnight at the server, and periodically to an offsite archive. We keep the BERRI code in a repository. This means that downtime is minimised and even in event of server failure, data loss will be minimised. To date our uptime has exceeded 99.6%, including all planned updates to the service.

We are committed to accessibility, and our website and tools are regularly updated to comply with the latest Web Content Accessibility Guidelines (WCAG 2.1).

We have no modern slavery in our supply chain, as we have personal knowledge of all individuals involved in production and support of BERRI. All our staff earn a living wage.

Contract

1. Definitions

- 1.1. **"Agreement"** means these Terms of Use.
- 1.2. **"Access Fee"** means the monthly fee (excluding any taxes and duties) payable by You (which BERRI.org.uk may change from time to time on notice to You). The fee is determined in accordance with the service we have agreed to provide to you and the number of children you wish to input data about on the system. We reserve the right to increase the Access Fee payable under this agreement in line with RPI in accordance with the Schedule to this agreement.
- 1.3. **"Confidential Information"** includes all information exchanged between the parties to this Agreement, whether in writing, electronically or orally, including the Service but does not include information which is, or becomes, publicly available other than through unauthorised disclosure by the other party.
- 1.4. **"Data"** means any data inputted by You or with Your authority into the Website.
- 1.5. **"Intellectual Property Right"** means any patent, trade mark, service mark, copyright, moral right, right in a design, know-how and any other intellectual or industrial property rights, anywhere in the world whether or not registered.
- 1.6. **"Service"** means the online outcome measurement services made available via the Website.
- 1.7. **"Website"** means the Internet site at the domain www.BERRI.org.uk or any other site operated by BERRI Ltd for the provision of BERRI.
- 1.8. **"BERRI"** means the psychological needs questionnaire and associated tools provided by BERRI.org.uk via the Website or paper form.
- 1.9. **"BERRI.org.uk"** is the website and Service currently provided by BERRI Limited. This term also refers to any future similar service provided by BERRI Limited or any associated company.
- 1.10. **"Invited User"** means any person or entity, other than the Subscriber, that uses the Service with the authorisation of the Subscriber from time to time.

- 1.11. **"Subscriber"** means the person who registers to use the Service, and, where the context permits, includes any entity on whose behalf that person registers to use the Service.
- 1.12. **"You"** means the Subscriber, and where the context permits, an Invited User. "Your" has a corresponding meaning.
- 1.13. **"Us"** means BERRI Limited, who provide BERRI and the Services at BERRI.org.uk for Subscribers to use. "Our" and "We" have corresponding meanings.

2. Use of Software

2.1. We grant You the right to access and use the Service via the Website with the particular user roles available to You according to Your subscription type. This right is non-exclusive, non-transferable, and limited by and subject to this Agreement. You acknowledge and agree that, subject to any applicable written agreement between the Subscriber and the Invited Users, or any other applicable laws:

- 2.1.1. the Subscriber determines who is an Invited User and what level of user role access to the relevant organisation and Service that Invited User has;
- 2.1.2. the Subscriber is responsible for all Invited Users' use of the Service;
- 2.1.3. the Subscriber controls each Invited User's level of access to the relevant organisation and Service at all times and can revoke or change an Invited User's access, or level of access, at any time and for any reason, in which case that person or entity will cease to be an Invited User or shall have that different level of access, as the case may be;
- 2.1.4. if there is any dispute between a Subscriber and an Invited User regarding access to any organisation or Service, the Subscriber shall decide what access or level of access to the relevant Data or Service that Invited User shall have, if any.

3. Your Obligations

3.1. Payment obligations:

- 3.1.1. The minimum subscription term is 12 months. An invoice for the Access Fee will be issued every three months (quarterly) starting from the date You added Your first organisation to Your BERRI.org.uk account. All invoices will include the Access Fee for the subsequent 3 months of use. BERRI.org.uk will continue invoicing You quarterly until this Agreement is terminated in accordance with clause 8.

3.1.2. All BERRI.org.uk invoices will be sent to You, or to the name or address you have advised us of whose details are provided by You, by email. You must pay or arrange payment of all amounts specified in any invoice by the due date for payment. Any account that is 30 days in arrears will cease to have access to BERRI.org.uk until payment is made, along with any associated interest at the rate of 5% above the base rate from the date the payment became due. Subscription charges will continue to apply until the Agreement is terminated in accordance with clause 8.

3.1.3. You are responsible for payment of all applicable taxes and duties in addition to the Access Fee.

3.2. General obligations:

3.2.1. You must only use the Service and Website for Your own lawful internal business purposes, in accordance with these Terms and any notice sent by BERRI.org.uk or condition posted on the Website. You may use the Service and Website on behalf of others or in order to provide services to others but if You do so you must ensure that You are authorised to do so and that all persons for whom or to whom services are provided comply with and accept all terms of this Agreement that apply to You.

3.3. Access conditions:

3.3.1. You must ensure that all usernames and passwords required to access the Service are kept secure and confidential. You must immediately notify BERRI.org.uk of any unauthorised use of Your passwords or any other breach of security and BERRI.org.uk will reset Your password and You must take all other actions that BERRI.org.uk reasonably deems necessary to maintain or enhance the security of Our computing systems and networks and Your access to the Services.

3.4. As a condition of these Terms, when accessing and using the Services, You must:

3.4.1. not attempt to undermine the security or integrity of Our computing systems or networks or, where the Services are hosted by a third party, that third party's computing systems and networks;

3.4.2. not use, or misuse, the Services in any way which may impair the functionality of the Services or Website, or other systems used to deliver

the Services or impair the ability of any other user to use the Services or Website;

- 3.4.3. not attempt to gain unauthorised access to any materials other than those to which You have been given express permission to access or to the computer system on which the Services are hosted;
- 3.4.4. not transmit, or input into the Website, any files that may damage any other person's computing devices or software, content that may be offensive, or material or Data in violation of any law (including Data or other material protected by copyright or trade secrets which You do not have the right to use); and
- 3.4.5. not attempt to modify, copy, adapt, reproduce, disassemble, decompile or reverse engineer any computer programs used to deliver the Services or to operate the Website except as is strictly necessary to use either of them for normal operation.

3.5. Usage Limitations:

- 3.5.1. Use of the Service is subject to limitations determined by Your Subscription with us, including but not limited to the number of records for children You are permitted to make on BERRI.org.uk. Any such limitations will be advised.

3.6. Communication Conditions:

- 3.6.1. As a condition of these Terms, if You use any communication tools available through the Website (such as any forum or message facility), You agree only to use such communication tools for lawful and legitimate purposes. You must not use any such communication tool for posting or disseminating any material unrelated to the use of the Services, including (but not limited to): offers of goods or services for sale, unsolicited commercial e-mail, any matters that may be illegal or immoral, files that may damage any other person's computing devices or software, content that may be offensive to any other users of the Services or the Website, or material in violation of any law (including material that is protected by copyright or trade secrets which You do not have the right to use).
- 3.6.2. When You make any communication on the Website, You represent that You are permitted to make such communication. BERRI.org.uk is under no obligation to ensure that the communications on the Website are legitimate or that they are related only to the use of the Services. As with any other web-based forum, You must exercise caution when using the communication tools available on the Website. However,

BERRI.org.uk does reserve the right to remove any communication at any time in its sole discretion.

3.7. Indemnity:

3.7.1. You indemnify BERRI Limited and BERRI.org.uk against: all claims, costs, damage and loss arising from Your breach of any of these Terms or any obligation You may have to BERRI.org.uk, including (but not limited to) any costs relating to the recovery of any Access Fees that are due but have not been paid by You.

3.7.2. You will indemnify and keep indemnified BERRI Limited and BERRI.org.uk from any and all costs losses damages and other matters arising out of your use of BERRI, the Website or associated tools and services.

4. Confidentiality and Privacy

4.1. Confidentiality:

4.1.1. Unless the relevant party has the prior written consent of the other or unless required to do so by law, each party will preserve the confidentiality of all Confidential Information of the other obtained in connection with these Terms. Neither party will, without the prior written consent of the other, disclose or make any Confidential Information available to any person, or use the same for its own benefit, other than as contemplated by these Terms. Each party's obligations under this clause will survive termination of these Terms.

4.1.2. The provisions of the above clause shall not apply to any information which:

- is or becomes public knowledge other than by a breach of this clause;
- is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
- is in the possession of the receiving party without restriction in relation to disclosure before the date of receipt from the disclosing party; or
- is independently developed without access to the Confidential Information.

4.2. Privacy:

4.2.1. BERRI.org.uk has been developed in such a way that it does not store any personal identifying information about children, staff or the location of placements. BERRI.org.uk maintains a privacy policy that sets out the parties' obligations in respect of personal information. You should read that policy at <https://www.berri.org.uk/index.php?page=privacy>

and You will be taken to have accepted that policy when You accept these Terms.

5. Intellectual Property

5.1. General:

5.1.1. Title to, and all Intellectual Property Rights in the Services, the BERRI.org.uk Website, Logo and any documentation relating to the Services remain the property of BERRI Ltd (or its licensors).

5.2. Ownership of Data:

5.2.1. Title to, and all Intellectual Property Rights in, Data about Your organisation remain Your property. However, the BERRI scores become Our Data when entered into the system. Your access to the Data is contingent on full payment of the Access Fee when due. You grant BERRI.org.uk a licence to use, copy, transmit, store, and back-up Your information and Data for the purposes of enabling You to access and use the Services. You also acknowledge that the anonymous aggregate data collected within the system can be used to improve the BERRI tools, for research to increase our understanding of children's psychological needs and for any other purpose related to provision of services to You or improvement of services for children.

5.3. Backup of Data:

5.3.1. It is your responsibility to maintain copies of all Data inputted into the Service (eg of paper BERRI questionnaires and output reports). Whilst BERRI.org.uk will make all reasonable efforts to prevent data loss, BERRI Limited and BERRI.org.uk expressly exclude liability for any loss of Data no matter how caused.

5.4. Third-party users and your Data.

5.4.1. If You enable third-party users (such as external consultants) access to your Data in conjunction with the Services, You acknowledge that BERRI.org.uk may allow those third-party users to access Your Data. BERRI.org.uk shall not be responsible for any disclosure, modification or deletion of Your Data resulting from any such access by third-party users.

5.4.2. You must not supply access to the paper BERRI or BERRI.org.uk to non-subscribing individuals or organisations without Our written consent, except via the "Third Party Invites" button, which will allow them to complete a single BERRI form for that child on the website without having any access to any other data. Where you use the paper version of BERRI, you must print the BERRI form exactly as provided on the BERRI.org.uk Website; you must not alter or amend the paper form in any way.

6. Warranties and Acknowledgements

6.1. Authority:

6.1.1. You warrant that where You have registered to use the Service on behalf of another person, You have the authority to agree to these Terms on behalf of that person and agree that by registering to use the Service You bind the person on whose behalf You act to the performance of any and all obligations that You become subject to by virtue of these Terms, without limiting Your own personal obligations under these Terms.

6.2. You acknowledge that:

6.2.1. You are authorised to use the Services and the Website and to access the information and Data that You input into the Website, including any information or Data input into the Website by any person you have authorised to use the Service. You are also authorised to access the processed information and Data that is made available to You through Your use of the Website and the Services (whether that information and Data is Your own or that of anyone else).

6.2.2. BERRI Limited and BERRI.org.uk has no responsibility to any person other than You and nothing in this Agreement confers, or purports to confer, a benefit on any person other than You. If You use the Services or access the Website on behalf of or for the benefit of anyone other than yourself (whether a body corporate or otherwise) you agree that:

- You are responsible for ensuring that You have the right to do so;
- You are responsible for authorising any person who is given access to information or Data, and you agree that We have no obligation to provide any person access to such information or Data without Your authorisation in writing and may refer any requests for information to You to address; and
- You will indemnify BERRI.org.uk against any claims or loss relating to Our refusal to provide any person access to Your information or Data

in accordance with these Terms, or conversely, Us making available information or Data to any person with Your authorisation.

6.2.3. The provision of, access to, and use of, the Services is on an "as is " basis and at Your own risk.

6.2.4. BERRI.org.uk does not warrant that the use of the Service will be uninterrupted or error free, as this partially depends on your internet connection.

6.2.5. BERRI.org.uk do not provide any psychological advice and the use of the tools on our Website does not constitute the receipt of psychological advice; the use of BERRI and or the Website and the Services is designed as an analytical tool only, it is a matter for you to interpret any reports produced by the Website or the Services to ensure they are appropriate to the individual and context. If You have any questions about the mental health or wellbeing of the children you care for, please contact a mental health professional, such as a Clinical Psychologist, or contact BERRI Limited about other services we offer.

6.2.6. It is Your sole responsibility to determine that the Services meet the needs of Your business and are suitable for the purposes for which You use them.

6.2.7. You remain solely responsible for complying with all relevant legislation about consent, record keeping, data protection and confidentiality. It is Your responsibility to check that storage of and access to your Data via the Software and the Website will comply with laws applicable to you (including any laws requiring you to retain records).

6.3. No warranties:

6.3.1. BERRI.org.uk gives no warranty about the Services. Without limiting the foregoing, BERRI.org.uk does not warrant that the Services will meet Your requirements or that it will be suitable for Your particular purpose. To avoid doubt, all implied conditions or warranties are excluded in so far as is permitted by law, including (without limitation) warranties of merchantability, fitness for purpose, title and non-infringement.

6.4. Consumer guarantees:

6.4.1. You warrant and represent that You are acquiring the right to access and use the Services for the purposes of a business and that, to the maximum extent permitted by law, any statutory consumer guarantees or legislation intended to protect non-business consumers in any jurisdiction does not apply to the supply of the Services, the Website or these Terms.

7. Limitation of Liability

- 7.1. To the maximum extent permitted by law, We exclude all liability and responsibility to You (or any other person) in contract, tort (including negligence), or otherwise, for any loss (including loss of information, Data, profits and savings) or damage resulting, directly or indirectly, from any use of, or reliance on, the Service or Website.
- 7.2. If You suffer loss or damage as a result of Our negligence or failure to comply with these Terms, any claim by You against Us arising from Our negligence or failure will be limited in respect of any one incident, or series of connected incidents, to the Access Fees paid by You in the previous 12 months.
- 7.3. If You are not satisfied with the Service, Your sole and exclusive remedy is to terminate these Terms in accordance with Clause 8.

8. Termination

8.1. Trial policy:

- 8.1.1. When You first sign up for access to the Services You can do so with a single record in order to evaluate the Services under the defined trial usage conditions, for up to 7 days with no obligation to continue to use the Services. If You choose to continue using the Services thereafter, You will be billed for the service. If You choose not to continue using the Services, You may email us to request we delete Your organisation and any of Your data from the system.

8.2. Prepaid Subscriptions:

- 8.2.1. We will not provide any refund for any remaining prepaid period for a prepaid Access Fee subscription.

8.3. Excess records

- 8.3.1. Your subscription will specify the number of records You may use. If you exceed this number of records, we will inform You. If You are still exceeding the number of records in your subscription 30 days after being informed of this, we will charge You for the additional subscriptions in your quarterly invoice. We will then increase your ongoing subscription size to the larger number, unless you reduce the number of records and inform Us otherwise.

8.4. No-fault termination

8.4.1. These Terms will continue for the period covered by the Access Fee paid or payable under clause 3.1. At the end of each billing period these Terms will automatically continue for another period of the same duration as that period, provided You continue to pay the prescribed Access Fee when due, unless either party terminates these Terms by giving notice to the other party at least 30 days before the end of the relevant payment period. If You terminate these Terms You shall be liable to pay all relevant Access Fees to the end of the current payment period.

8.5. Breach

8.5.1. If You:

- breach any of these Terms and do not remedy the breach within 14 days after receiving notice of the breach if the breach is capable of being remedied;
- breach any of these Terms and the breach is not capable of being remedied;
- fail to make payment of Access Fees for 30 days; or
- You or Your business become insolvent or Your business goes into liquidation or has a receiver or manager appointed of any of its assets or if You become insolvent, or make any arrangement with Your creditors, or become subject to any similar insolvency event in any jurisdiction,

8.5.2. We may take any or all of the following actions, at Our sole discretion:

- Terminate this Agreement and Your use of the Services and the Website;
- Suspend for any definite or indefinite period of time, Your use of the Services and the Website;
- Suspend or terminate access to all or any Data.
- Take any of the actions in the sub-clauses of this clause in respect of any or all other persons whom You have authorised to have access to Your information or Data.

8.5.3. For the avoidance of doubt, if payment of any invoice for Access Fees due in relation to any of Your Subscriptions is not made in full by the relevant due date, BERRI.org.uk may: suspend or terminate Your use of

the Service, the authority for all or any of Your Organisations, employees, or third parties to use the Service, or Your rights of access to all or any Data.

8.6. Accrued Rights:

8.6.1. Termination of these Terms is without prejudice to any rights and obligations of the parties accrued up to and including the date of termination. On termination of this Agreement You will:

- remain liable for any accrued charges and amounts which become due for payment before or after termination; and
- immediately cease to use the Services and the Website.

8.7. Expiry or termination:

8.7.1. The terms of Your contract with Us stated herewith will survive the expiry or termination of the contract between us.

9. Technical Issues

9.1. Technical Problems:

9.1.1. In the case of technical problems You must make all reasonable efforts to investigate and diagnose problems before contacting Us. If You still need technical help, please check the support provided on the Website, use the link to email for technical support or failing that email us at support@BERRI.org.uk

9.2. Service availability:

9.2.1. If for any reason We have to interrupt the Services for more than 30 minutes for the purposes of planned maintenance, We will use reasonable endeavours to publish in advance details of such activity on the Website.

10. General

10.1. Entire agreement:

10.1.1. These Terms, together with the BERRI.org.uk Privacy Policy and the terms of any other notices or instructions given to You under

these Terms of Use, supersede and extinguish all prior agreements, representations (whether oral or written), and understandings and constitute the entire agreement between You and BERRI.org.uk relating to the Services and the other matters dealt with in these Terms.

10.2. Waiver:

10.2.1. If either party waives any breach of these Terms, this will not constitute a waiver of any other breach. No waiver will be effective unless made in writing.

10.3. Delays:

10.3.1. Neither party will be liable for any delay or failure in performance of its obligations under these Terms if the delay or failure is due to any cause outside its reasonable control. This clause does not apply to any obligation to pay money.

10.4. No Assignment:

10.4.1. This agreement is personal to You. You may not assign or transfer any rights to any other person without Our prior written consent.

10.5. Governing law and jurisdiction:

10.5.1. This Agreement is governed by the laws of England and Wales and You hereby submit to the exclusive jurisdiction of the courts of England and Wales for all disputes arising out of or in connection with this Agreement.

10.6. Severability:

10.6.1. If any part or provision of these Terms is invalid, unenforceable or in conflict with the law, that part or provision is replaced with a provision which, as far as possible, accomplishes the original purpose of that part or provision. The remainder of this Agreement will be binding on the parties.

10.7. Notices:

10.7.1. Any notice given under these Terms by either party to the other must be in writing by email and will be deemed to have been given on transmission. Notices to BERRI.org.uk must be sent to admin@BERRI.org.uk or to any other email address notified by email to You by BERRI.org.uk. Notices to You will be sent to the email address which You provided when setting up Your access to the Service.

10.8. Rights of Third Parties:

10.8.1. A person who is not a party to these Terms has no right to benefit under or to enforce any term of these Terms.

10.9 Changes to these terms:

10.9.1. Although most changes are likely to be minor, we may change these terms and conditions from time to time at our sole discretion. We encourage subscribers to frequently check the landing page when signing in, where all updates to BERRI (including these terms and conditions) are listed, or to look at the Terms and Conditions link on the website (<https://berri.org.uk/terms-and-conditions>), where the current version of these terms is available for download. Your continued use of BERRI after any change in the terms and conditions will constitute your acceptance of such change.

SCHEDULE THE ACCESS FEE REVIEW

1. Definitions

For all purposes of this schedule the terms defined in this paragraph 1 have the meanings specified.

1.1 'The Base Figure'

'The Base Figure' means Index figure for the January in the year preceding the relevant review period

1.2 'The Index'

'The Index' means the ' all Items' index figure of the Retail Prices Index published by the Office for National Statistics or any successor body.

1.3 'A review period'

References to 'a review period' means a period beginning on 1st January in the year preceding any review and ending on the 1st of January in the year of the relevant review

2 Ascertaining the Access Fee

2.1 The Access Fee

During any review period the Access Fee is to be a sum equal to the greater of the Access Fee payable under this Agreement immediately before the relevant review or the revised Access Fee that is ascertained in accordance with this schedule.

2.2 Determination of the revised Access Fee

The Access Fee for any review period is to be determined at the relevant review date by multiplying the Access Fee for the relevant period by the Index for the month preceding the relevant review date and dividing the result by the Base Figure.

2.3 Changes in the Index

If the reference base used to compile the Index changes after the date of this Agreement We may at our discretion designate any alternative index for purposes of calculating this review and if we do specify any new index this will then be the Index for the purposes of this schedule

2.4 Notice of the Access Fee payable

We will notify you on any increase in the Access Fee in accordance with this Schedule