



ADUR & WORTHING  
COUNCILS

Joint Governance Committee  
25 September 2018  
Agenda Item 13

Key Decision : No

Ward(s) Affected: All

**Governance of Partnership working between Adur District Council & Worthing Borough Council: The Joint Committee Agreement**

**Report by the Monitoring Officer**

**Executive Summary**

**1. Purpose**

- 1.1. The agreement between ADC & WBC has been reviewed and there are proposed amendments for the Joint Governance Committee to consider and make appropriate recommendations to each Council.
- 1.2. It is important that the agreement between the two authorities regarding their Joint working is kept up to date and fit for purpose to ensure good governance arrangements are in place thereby affording protection to each Council, and ensuring swift and agile decision making in relation to joint services.

**2. Recommendations**

- 2.1. The Joint Governance Committee is asked to:  
consider the proposed draft agreement attached at appendix 1 to this report and to recommend its approval to Adur District Council and Worthing Borough Council.

### **3. Background**

- 3.1. On 27th July 2007 Adur District Council and Worthing Borough Council entered into an agreement to govern their commitment to work in partnership with one another to deliver functions and services jointly.
- 3.2. The strategic purpose to jointly delivering services through a Joint Committee and by a Joint Officer Structure was to optimise the availability of skills and resources available to the two Councils, to achieve best value in the delivery of services, to secure the most economic, efficient and effective use of resources, to maximise funding opportunities, to promote a customer orientated approach to service delivery and to secure the reduction of operational costs.
- 3.3. The agreement established a Joint Officer Structure and a Joint Committee Structure to achieve the strategic purposes identified. A joint committee was established to determine all delegated Executive functions on behalf of the two Councils and a joint decision making process in respect of all delegated Individual Executive Member decisions. Further joint committees were established to deal with staffing matters relating to senior Officers and to determine non-Executive staffing matters; a Joint Overview and Scrutiny Committee was established to exercise the scrutiny function relating to joint Executive matters; a Joint Governance and Audit Committee was established to deal with all non Executive functions not reserved to other Committees or Council.
- 3.4. One single joint Officer structure was established to deliver all Council services whether separately or jointly.
- 3.5. The agreement has been amended, with each Council's approval, several times over the years to reflect the gradual evolution of Joint working between the two authorities. A further review has been carried out recently and this proposed amended version of the agreement reflects changes that have been introduced in the Council's practices and procedures to ensure that the contractual agreement between the parties reflects the Council's agreed and adopted procedures for partnership working.

#### **4. Issues for consideration**

4.1. The proposed revised agreement is set out at appendix 1 to this report. A copy of the current existing agreement can be found in part 9 of the Council's constitutions. The proposed amendments are summarised below:

- Reference has been removed from paragraph 1.3 to the staffing committees role to hear staff appeals including disciplinary and grievance matters as such matters are no longer in the remit of the Joint Staff Committee.
- References to the Joint Governance and Audit Committee have been amended to the Joint Governance Committee to reflect the change in name of this Committee.
- References to the Joint Planning Committee have been removed as this Committee no longer exists.
- References to the Joint Members Appointment Committee has been removed as this Committee no longer exists.
- References to the Contract Standing Orders and Financial Regulations of Worthing Borough Council have been amended to be the Joint Contract Standing Orders and the Joint Financial Regulations of both Councils.
- Reference to Executive Heads of Service have been amended to Heads of Service and references to Strategic Directors have been amended to Directors to reflect changes to the titles of these posts.
- Dates of Council resolutions and subsequent amendments have been updated to ensure accuracy.
- The format of paragraph 4 has been amended to improve clarity relating to governance arrangements for each Joint Committee. Those governance arrangements have been amended to ensure changes made to joint working arrangements are accurately reflected in the agreement, and for completeness.
- Amendments have been made to strengthen the understanding in the agreement that the joint committees are not bodies corporate and that

the Councils remain separate legal entities with there being no intention to create a legal partnership between them.

- The agreement has been amended to ensure that reference to the terms of reference for Joint Committees, the Local Choice functions, the Individual Executive Member decision procedure, the Officer Employment Procedure Rules, and the Joint Overview and Scrutiny Procedure Rules refer to those set out in each Council's constitution to ensure consistency and avoid repetition which runs the risk of error over time.
- Amendments have been made to provide clarity as to the Chairing of any Joint Committee meeting; that the Chairman for the Committee from the Council where the meeting is due to be held will be the Chairman for that joint Committee meeting, that in his absence the Vice Chairman for the Committee from that Council will act as Chairman, and that in the absence of both, the Chairman for the Committee from the other Council will act as Chairman.
- Amendments have been made to the wording surrounding substitute Members to provide clarity to the statutory provision that a substitute Member cannot be made to the Executive, and therefore not to a meeting of the Joint Strategic Committee.
- Wording has been expanded to ensure clarity around voting rights of Members at Joint Committees; that the Chairman of the Joint Strategic Committee, the Joint Overview and Scrutiny Committee and the Joint Governance Committee do not have a casting vote. If this leads to an 'unresolved decision' due to a Committee being unable to reach a decision by way of a majority vote, procedures already exist for resolution of the matter: an unresolved decision of JSC is referred to the respective Leaders either for a decision or for discussion and referral back to JSC; an unresolved decision of JOSOC is not referred on but simply recorded; an unresolved decision of JGC will either be referred to the next meeting of JGC or to each full Council for decision.
- The agreement previously provided that the rules of procedure of Worthing Borough Council applied to Joint Committees. This has been amended as the rules of procedure applicable to Joint Committees have been streamlined and are now the same for each Council.

- No amendments have been made to the provisions relating to decisions relating to a single Council. It remains the position that all members of a Joint Committee may join the debate and exercise their vote in such circumstances and that the decision is made by a majority vote provided that includes the majority vote of the Members of the Committee of the Council to whom the matter relates.
- Amendments have been made to schedule 1 of the Joint Committee agreement which had set out the services which were to be provided jointly in 2007. All services are now provided jointly by the Councils and therefore schedule 1 sets out the matters which are reserved to each Council's Executive rather than being dealt with in the joint arena; these are the Local Plan for each Council, the budget for each Council, and for Adur, budget matters and rent setting relating to Adur Homes property and the Housing Revenue Account (but not service delivery and operational matters).
- Several schedules to the agreement have been deleted where they relate to Committees that no longer exist, or repeat provisions within the body of the agreement.
- The previous agreement had provision for decisions where there is no unanimity. For example, where a decision made by a Joint Committee was not unanimous and the number of members representing each Council who voted in favour of the decision did not constitute a majority of those entitled to attend and vote, there was provision for the decision to be referred for review. It is proposed that this provision be removed from the amended agreement as it seems to duplicate the role of the call in procedure where decisions may be called in for scrutiny prior to implementation.

## **5. Engagement**

- 5.1. Engagement has taken place with Council Officers involved in the democratic process and in particular the Democratic Services Manager.
- 5.2. This report asks members of the Joint Governance Committee to consider the proposals and make recommendations to each Council.
- 5.3. The agreement forms part of each Council's constitution and the Monitoring Officer has a duty to ensure the constitution is up to date

and fit for purpose. The constitution, including the Joint Committee Agreement, is publically available via the Councils' website.

- 5.4. All changes agreed by each Council will only take effect upon the completion and sealing of a formal amending Agreement, which shall be executed by the Monitoring Officer and Deputy Monitoring Officer in accordance with their existing delegations.

## **6. Financial Implications**

- 6.1. There are no financial implications arising from this report.

## **7. Legal Implications**

- 7.1. Section 101(5) Local Government Act 1972 provides that two or more Local Authorities may discharge their functions jointly and, where arrangements are in force for them to do so, they may arrange for the discharge of those functions by a joint committee.
- 7.2. Article 11 of the Constitution provides that the Monitoring Officer is responsible for updating the Councils' constitution.

### **Background Papers**

Joint Committee Agreement 27th July 2007 as amended  
Adur District Council constitution  
Worthing Borough Council constitution

### **Officer Contact Details:-**

Susan Sale  
Monitoring Officer  
01903 221119  
[susan.sale@adur-worthing.gov.uk](mailto:susan.sale@adur-worthing.gov.uk)

## **Sustainability & Risk Assessment**

### **1. Economic**

Matter considered and no issues identified

### **2. Social**

#### **2.1 Social Value**

Matter considered and no issues identified

#### **2.2 Equality Issues**

Matter considered and no issues identified

#### **2.3 Community Safety Issues (Section 17)**

Matter considered and no issues identified

#### **2.4 Human Rights Issues**

Matter considered and no issues identified

### **3. Environmental**

Matter considered and no issues identified

### **4. Governance**

Amendments are required to ensure that the Joint Committee Agreement is aligned with other Council practices and adopted rules of procedure, to ensure the Agreement complies with statutory requirements and provides equal protection to each Council.

DATED 27<sup>th</sup> July 2007

Amended 1<sup>st</sup> May 2011

Amended 7<sup>th</sup> October 2011

Amended 17<sup>th</sup> May 2013

Amended 10<sup>th</sup> November 2016

Amended 5<sup>th</sup> November 2018

**(1) ADUR DISTRICT COUNCIL**

and

**(2) WORTHING BOROUGH COUNCIL**

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**An Agreement (1) for the employment of staff (2) to provide services jointly and (3) to establish Joint Committees for Adur District Council and Worthing Borough Council**

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Mrs Susan Sale  
Solicitor to the Council  
Adur District Council and Worthing Borough  
Council  
Town Hall  
Chapel Road  
Worthing  
West Sussex  
BN11 1HA  
DX 142960 Worthing 10

Mr Andrew Mathias  
Senior Solicitor  
Adur District Council and Worthing  
Borough Council  
Town Hall  
Chapel Road  
Worthing  
West Sussex  
BN11 1HA  
DX 142960 Worthing 10

CONTENTS

Clause	Description	Page No.
1.0	BACKGROUND .....	3
2.0	DEFINITIONS .....	5
3.0	PRELIMINARY MATTERS .....	8
4.0	THE JOINT COMMITTEES .....	9
5.0	UNRESOLVED DECISIONS .....	19
6.0	DECISIONS RELEVANT TO A SINGLE AUTHORITY .....	19
7.0	OFFICER SUPPORT .....	20
8.0	THE SERVICES .....	21
9.0	EXPENSES .....	21
10.0	EXTENSION .....	22
11.0	TERMINATION AND REVIEW .....	22
12.0	DISPUTE RESOLUTION .....	23
13.0	ASSETS.....	24
14.0	LIABILITIES.....	24
15.0	INTELLECTUAL PROPERTY RIGHTS .....	24
16.0	NOTICES.....	25
17.0	RIGHTS AND DUTIES RESERVED .....	25
18.0	LEGAL AND OTHER FEES.....	25
19.0	PROVISION OF STATISTICAL INFORMATION, ACCOUNTS AND OTHER DOCUMENTS ETC .....	25
20.0	AUDIT .....	26
21.0	STATUS.....	27
22.0	ANTI-CORRUPTION .....	27
23.0	DISCRIMINATION .....	27
24.0	HUMAN RIGHTS .....	28
25.0	FREEDOM OF INFORMATION.....	28
26.0	DATA PROTECTION.....	28
27.0	SURVIVAL OF THIS AGREEMENT .....	28
28.0	WHOLE AGREEMENT .....	28
29.0	WAIVER.....	29
30.0	SEVERANCE.....	29
31.0	CLAUSE HEADINGS.....	29
32.0	LAW .....	29
33.0	CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999 .....	29
34.0	NON-ASSIGNMENT .....	29
	SCHEDULE 1 .....	31
	SCHEDULE 2 .....	32

THIS AGREEMENT is made on the **27<sup>th</sup> of July 2007** and amended on the 1<sup>st</sup> May 2011, 7<sup>th</sup> October 2011, 17<sup>th</sup> May 2013, 10<sup>th</sup> November 2016 and 5<sup>th</sup> November 2018

BETWEEN

- (1) Adur District Council whose principal office is at c/o Town Hall, Chapel Road, Worthing BN11 1HA ('Adur')
- (2) Worthing Borough Council whose principal office is at Town Hall, Chapel Road, Worthing BN11 1HA ('Worthing')

## **1.0 BACKGROUND**

1.1 Adur and Worthing agreed in 2007 to deliver functions and services through a Joint Officer Structure and a Joint Committee Structure.

1.2 The Strategic Purposes of such a co-ordinated approach are:

- (a) to optimise the availability of skills and resources available to the two Councils;
- (b) to achieve best value in the delivery of services;
- (c) to secure the most economic, efficient and effective use of resources;
- (d) to secure the reduction of operational costs;
- (e) to maximise the opportunities for securing funding from outside bodies including Government;
- (f) to reduce reliance on outside bodies to improve bargaining power in relation to outside bodies and to increase capacity and capability within the constituent Councils;
- (g) to provide and promote a customer-orientated approach to service delivery;
- (h) to support the community strategies led by the constituent Councils and prepared from time to time to reflect the strategic direction of the organisations; and
- (i) wherever possible, to secure a joint response to strategic and other issues affecting the two Councils.

1.3 In order to achieve the Strategic Purposes set out in clause 1.2 the Councils have agreed:

- (a) to establish:
- (i) a Joint Committee to provide strategic direction for the Joint Services and determine all delegated Executive functions relating to the Joint Services on behalf of the two Councils, to be known as the Joint Strategic Committee;
  - (ii) a Joint Individual Executive Member decision-making process in respect of all Executive functions of the Joint Services delegated to Individual Executive Members, encompassed in the Executive Procedure Rules in Part 4 of the Constitution;
  - (iii) a Joint Committee to agree, and where appropriate recommend to the Councils, the appointment of and staffing matters in relation to Senior Staff, in accordance with the Officer Employment Procedure Rules in Part 4 of the Constitution, known as the Joint Senior Staff Committee;
  - (iv) a Joint Committee to determine non-Executive staff matters and to determine employment policies, known as the Joint Staff Committee.
  - (v) a Joint Overview & Scrutiny Committee to exercise the scrutiny function in relation to the Joint Services of the two Councils;
  - (vi) a Joint Governance Committee to determine or make recommendations to the Councils on all non-Executive functions that are not reserved to any other Committee, Joint Committee or Full Councils, and to establish a Joint Sub-Committee to deal with Standards matters relating to either Council;
  - (vii) a Joint Remuneration Panel, to make proposals to the Joint Governance Committee, as to Members Allowances .
- (b) to establish a Joint Officer structure to deliver all of the services of Adur and Worthing Councils jointly, subject to any other agreements made under s101 Local Government Act 1072 in respect of joint delivery of services.

IT IS AGREED as follows

## 2.0 DEFINITIONS

Adur:	Adur District Council
Amendment Date:	5 <sup>th</sup> November 2018
Appendix:	Appendix to this Agreement
Assets:	All assets relating to the delivery of the joint services including contracts, machinery, computers, information, materials and equipment
Chief Executive:	Chief Executive of the Councils
Clause:	Clause in this Agreement
Commencement Date:	27 <sup>th</sup> July 2007
Contract Standing Orders:	Joint Contract Standing Orders of Adur District Council and Worthing Borough Council
Costs:	Costs include income, expenditure, cashable savings and efficiency savings
Council:	One of Adur District Council or Worthing Borough Council as the case may be
Councils:	Both Adur District Council and Worthing Borough Council
Executive:	The Leader and Executive of the relevant Council(s)

Executive arrangements:	Construed in accordance with Part II of the Local Government Act 2000, as amended
Expenses:	Expenses as defined by clause 8
Financial Regulations:	The Joint Financial Regulations of Adur District Council and Worthing Borough Council
Head of Paid Service:	The Head of Paid Service under Section 4 of the Local Government and Housing Act 1989 who shall be the Chief Executive of the Councils
Intellectual Property Rights:	All rights available for the protection of any discovery, invention, name, design, process or work in which copyright or any rights in the nature of copyright subsist and all patents, copyrights, registered designs, design rights, trade marks, service marks and other forms of protection from time to time subsisting in relation to the same, including the right to apply for any such protection and trade secrets and other unpublished information
JGC:	The Joint Governance Committee established by Clause 4
Joint Committees:	the Joint Committees established by Clause 4
JOSC:	the Joint Overview & Scrutiny Committee established by Clause 4
Legal Adviser	The Solicitor to the Councils of Adur District Council and Worthing Borough Council, or his/her representative

Monitoring Officer:	The Officer appointed under Section 5 of the Local Government and Housing Act 1989, who shall be the Solicitor to the Councils of Adur District Council and Worthing Borough Council
Officers:	Officers employed within the Joint Officer Structure referred to in this Agreement
Section 151 Officer:	The Head of Financial Services of Adur District Council and Worthing Borough Council who shall be the Chief Financial Officer
Service:	Any one of the Joint Services provided by the Councils
JSC	The Joint Strategic Committee established by Clause 4
JSSC:	the Joint Senior Staff Committee established by Clause 4
The Joint Services:	All services are joint services provided by the Councils unless specifically reserved to an individual Council as specified in Schedule 1
JSfC:	the Joint Staff Committee established by Clause 4
Worthing:	Worthing Borough Council

- 2.1 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 2.2 A reference to a statute or statutory provision shall include all subordinate or secondary legislation made from time to time under the statute or statutory provisions.

IT IS AGREED as follows

### **3.0 PRELIMINARY MATTERS**

3.1 This Agreement is made pursuant to:

- (a) Sections 101 and 102 of the Local Government Act 1972 (delegation to joint committees)
- (b) Section 3 of the Local Government Act 1999 (duty to secure best value)
- (c) Section 1 of the Localism Act 2011 (general power of competence)
- (d) Sections 14 and 20 of the Local Government Act 2000 and The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000/2851 (joint arrangements for the exercise of Executive functions), as amended.

3.2 This Agreement has been entered into:

- (a) by Adur by virtue of the resolution of Adur District Council dated 23<sup>rd</sup> July 2007 and
- (b) by Worthing by virtue of the resolution of Worthing Borough Council dated 25<sup>th</sup> July 2007 and amended:
- (c) by Adur by virtue of a resolution of Adur District Council dated 7<sup>th</sup> April 2011 and
- (d) by Worthing by virtue of a resolution of Worthing Borough Council dated 12<sup>th</sup> April 2011 and
- (e) By Adur by virtue of a resolution of Adur District Council dated 6<sup>th</sup> October 2011 and
- (f) By Worthing by virtue of a resolution of Worthing Borough Council dated 4<sup>th</sup> October 2011 and
- (g) by Adur by virtue of a resolution of Adur District Council dated 20<sup>th</sup> December 2012 and
- (h) By Worthing by virtue of a resolution of Worthing Borough Council dated 18<sup>th</sup> December 2012 and
- (i) By Adur by virtue of a resolution of Adur District Council dated 24<sup>th</sup> October 2016 and

- (j) By Worthing by virtue of a resolution of Worthing Borough Council dated 25th October 2016 and
- (k) By Adur by virtue of a resolution of Adur District Council dated 1<sup>st</sup> November 2018 and
- (l) By Worthing by virtue of a resolution of Worthing Borough Council dated 30<sup>th</sup> October 2018.

3.3 This Agreement shall commence on the commencement date and shall, subject to Clause 10 (termination and review) and Clause 9 (extension) terminate on 31<sup>st</sup> March 2028.

#### **4.0 THE JOINT COMMITTEES**

The Joint Committees shall not be bodies corporate or have the functions of acquiring or holding assets, employing staff or entering into contracts. For the avoidance of doubt such functions shall be undertaken by one of the Councils as an administering Council.

A Schedule of Joint Meetings shall be agreed annually by each Council and additional meetings may be called in accordance with Council Procedure Rule 4.2. The Director for Communities shall be the Proper Officer for the signing of documents relating to the calling of meetings.

Call-in of decisions of Joint Committees exercising Executive functions are provided for in the Joint Overview and Scrutiny Procedure Rules in Part 4 of each Council's Constitution. Non-Executive decisions may not be called in and therefore the procedure does not apply to decisions of JOSc, JSSc, JSfC and JGC.

#### **4.1 Joint Strategic Committee**

The Councils shall establish a Joint Strategic Committee ("JSC") which:

- (a) shall comprise of the Executive of each Council. The Executive model adopted by each Council ensures that the Members appointed to JSC are empowered to take Executive decisions.
- (b) shall have the following terms of reference:
  - 1. To determine all matters relating to Executive functions of Joint Services, as set out in the Terms of Reference in Part 3 of the Constitution, unless specifically reserved to the Council's individual Executives as specified in Schedule 1;
  - 2. To provide strategic management of the Joint Services;

3. To provide strategic direction to both Councils in relation to all Executive functions unless specifically reserved to the Executives of the individual Councils as specified in schedule 1;
  4. To set strategic targets in respect of the Joint Services;
  5. To agree draft revenue budgets for the implementation of each Joint Service which comply with the agreed budget strategy set by the Councils and which clearly show the costs to be borne by each Council including the allocation of any resulting savings or efficiencies and to recommend them to the Councils, via the individual Executives;
  6. To annually agree draft capital budgets for the Joint Services which comply with the agreed budget strategies set by the Councils and which clearly show the costs to be borne by each Council;
  7. To receive any reports in respect of any Executive function from either Council;
  8. To determine significant changes to the nature of the Joint Services delivered to the public in one or both Council areas;
  9. To determine any matters assigned as Executive functions in accordance with the Local Choice functions set out in Part 3 of the Constitution.
- (c) If there is an inequality between the Councils as to the number of Members on each Executive, all Members of the Executive may attend and participate in meetings of the Joint Strategic Committee as full voting Members.
- (d) One representative from Adur Consultative Forum shall be a co-opted non-voting Member on the Joint Strategic Committee for any item concerning the Housing Revenue Account, terms and conditions of tenancies or leaseholds, leasehold service charges and any other matter directly affecting housing tenants or leaseholders which do not have a general effect on other residents.
- (e) In the event of a Member being unable to attend a meeting of JSC, there is no ability to appoint a Substitute Member.
- (f) The JSC shall meet on at least four occasions in any municipal year. One of those meetings shall be scheduled to ensure that any proposed budgets can properly and fully be considered by each of the Councils as part of their respective budget-making processes
- (g) The JSC shall meet during May to October of each municipal year at Worthing Town Hall and in November to April of each municipal year at

the Shoreham Centre, or such other location as the Chairman of the Committee shall agree.

- (h) The Leader of the Council in whose area a meeting should take place shall be the Chairman of the meeting and in their absence, the Deputy Leader of that Council shall be the Chairman. In the absence of both the Leader and Deputy Leader, the Leader of the other Council shall act as Chairman of the meeting.
- (i) Each Member of JSC shall have one vote in its proceedings. The Chairman shall not have a casting vote.
- (j) The JSC may arrange for the discharge of their functions by an Officer and in doing so will set out clearly any limits upon such delegation.
- (k) The JSC may establish working groups to assist them in their work and in doing so will set clear terms of reference for them. Such working groups will not be decision-making bodies.
- (l) JSC may establish sub-committees consisting solely of the Members of one Council, to consider matters solely relating to that Council.
- (m) For a meeting of JSC to be quorate there must be at least 4 members present and: at least two Members present from each Council where the business of the Committee relates to both the District of Adur and the Borough of Worthing; or at least one Member present from each Council where the business of the Committee relates to either the District of Adur or the Borough of Worthing.

## **4.2 Individual Executive Member Decisions**

The Councils shall establish a process for the taking of decisions jointly by Individual Executive Members from each Council, encompassed in the Executive Procedure Rules in Part 4 of the Constitution, which includes:

- (a) where a decision relating to an Executive function which falls within the remit and portfolio of an Individual Executive Member from each Council and relates to a Joint Service, the relevant report shall be sent simultaneously by Democratic Services Officers to both Individual Executive Members from each Council;
- (b) the Individual Executive Members will consult with one another in an attempt to make a Joint decision;
- (c) if the two Individual Executive Members agree on the decision that is to be made, then they may make a Joint decision;

- (d) if the two Individual Executive Members do not agree on the decision that is to be made, then no decision is made, and the matter must be referred to the Joint Strategic Committee for determination.

### **4.3 Joint Senior Staff Committee**

The Councils shall establish the Joint Senior Staff Committee (“the JSSC”) which:

- (a) shall comprise three councillors from each Council (or such greater number of Councillors as the Councils may from time to time agree, providing there is equal representation from each Council) at least one of whom shall be an Executive Member and at least one of whom shall be a non-Executive Member;
- (b) shall be politically balanced for each Council in accordance with the provisions of the Local Government & Housing Act 1989;
- (c) shall have the terms of reference in respect of all staff employed in the Joint Officer structure, as set out in Part 3 of the Constitution, and shall operate in accordance with the Officer Employment Procedure Rules in Part 4 of the Constitution.
- (d) In the event of an appointed Councillor being unable to attend any meeting of the JSSC, the relevant political group Leader may appoint a substitute Member, provided that prior written notice of such substitution is given to the Director for Communities as Proper Officer for such matters.
- (e) shall meet on such occasions as is necessary to determine any business within its terms of reference.
- (f) shall meet from May to October each year at Worthing Town Hall and from November to April each year at the Shoreham Centre, or such other location as the Chairmen of the Committee shall agree.
- (g) The Chairman and Vice Chairman of the JSSC Committee shall be appointed by each Council at its Annual Council Meeting.
- (h) The Chairman of JSSC in whose area a meeting should take place shall be the Chairman of that meeting and in their absence, the Vice Chairman shall be the Chairman. In the absence of both the Chairman and Vice-Chairman, the Chairman of JSSC from the other Council shall act as Chairman of the meeting.
- (i) Each Member of JSSC shall have one vote in its proceedings, to include Substitute Members appointed in accordance with this Agreement. The Chairman of JSSC shall have a casting vote.

- (j) JSSC may arrange for the discharge of their functions by an Officer and in doing so will set out clearly any limits upon such delegation.
- (k) JSSC may establish working groups to assist them in their work and in doing so will set clear terms of reference for them. Such working groups shall not be decision-making bodies.
- (l) JSSC may establish sub-committees consisting solely of the Members of one Council, to consider matters solely relating to that Council.
- (m) For a meeting of JSSC to be quorate there must be at least 4 Members present and: at least 2 Members present from each Council where the business of the Committee relates to both the District of Adur and the Borough of Worthing; or at least one Member present from each Council where the business of the Committee relates to either the District of Adur or the Borough of Worthing.

#### **4.4 Joint Staff Committee**

The Councils shall establish the Joint Staff Committee (“JSfC”) which

- (a) shall comprise three Councillors from each Council (or such greater number of Councillors as the Councils may agree from time to time, providing there is equal representation from each Council);
- (b) shall be politically balanced from each Council in accordance with the provisions of the Local Government and Housing Act 1989;
- (c) shall have the terms of reference in respect of all staff employed in the Joint Officer structure, as set out in Part 3 of the Constitution, and shall operate in accordance with the Officer Employment Procedure Rules in Part 4 of the Constitution.
- (d) In the event of an appointed Councillor being unable to attend any meeting of the JSf C, they may nominate a Substitute Member to attend, provided that prior written notice of such substitution is given to the Director for Communities as the Proper Officer for such matters.
- e) The JSfC shall meet on such occasions as is necessary to determine any business within its terms of reference
- (e) The JSfC shall meet from May to October each year at the Worthing Town Hall and from November to April each year at the Shoreham Centre, or such other location as the Chairman of the Committee shall agree.
- (f) The Chairman and Vice Chairman of JSfC shall be appointed by the relevant Authority at its Annual Council Meeting.

- (g) The Chairman of JSfC in whose area a meeting should take place shall be the Chairman of that meeting and in their absence, the Vice Chairman shall be the Chairman. In the absence of both the Chairman and Vice-Chairman, the Chairman of JSfC from the other Council shall act as Chairman of the meeting.
- (h) Each Member of JSfC shall have one vote in its proceedings (to include Substitute Members appointed in accordance with this Agreement). The Chairman of JSfC shall have a casting vote.
- (i) JSfC may arrange for the discharge of its functions by an Officer and in doing so will set out clearly any limits upon such delegation.
- (j) JSfC may establish working groups to assist them in their work and in doing so will set clear terms of reference for them. Such working groups shall not be decision-making bodies.
- (k) JSfC may establish a Sub-Committee consisting solely of the Members of one Council to consider matters solely relating to that Council.
- (l) For a meeting of JSfC to be quorate there must be at least 4 Members present and: at least 2 Members present from each Council where the business of the Committee relates to both the District of Adur and the Borough of Worthing; or at least one Member present from each Council where the business of the Committee relates to either the District of Adur or the Borough of Worthing.

#### **4.5 Joint Overview and Scrutiny Committee**

The Councils shall establish the Joint Overview and Scrutiny Committee (JOSC) which:

- (a) shall comprise eight Members from each Council (or such other number of Members as the Councils may from time to time agree, providing equal representation from each Council);
- (b) shall be politically balanced for each Council in accordance with the provisions of the Local Government and Housing Act 1989;
- (c) shall have the terms of reference set out in Part 3 of each Council's Constitution and shall operate in accordance with the Joint Overview and Scrutiny Procedure Rules in Part 4 of the Constitution;
- (d) shall exercise the overview and scrutiny functions of the two Councils in relation to all matters, except those to be determined by each Council's Individual Executives as set out in schedule 1 to this Agreement;
- (e) the Councils may each establish an Overview and Scrutiny Committee (OSC) to exercise the overview and scrutiny functions of the Councils in

relation to matters reserved to each Council's individual Executive as set out in schedule 1 to this agreement;

- (f) one Member of Adur Consultative Forum shall be a co-opted non-voting Member of the Joint Overview and Scrutiny Committee for any item concerning the Housing Revenue Account, terms and conditions of tenancies or leaseholds, leasehold service charges and any other matter directly affecting housing tenants or leaseholders which do not have a general effect on other residents; the Member should not be the same Adur Consultative Forum representative who sits as a co-opted Member of JSC for the same purpose.
- (g) shall not comprise any Members of the Executive within its membership. In making its appointments to the JOSC each Council will ensure that its Members are not Members of the Executive;
- (h) In the event of an appointed Councillor being unable to attend any meeting of the JOSC, the relevant Member may appoint a Substitute Member to attend, provided that prior written notice of such substitution is given to the Director for Communities as the Proper Officer for such matters;  
  
h) The JOSC shall meet on at least four occasions in any municipal year.
- (i) The JOSC shall meet in May to October of each municipal year at the Shoreham Centre and in November to April of each municipal year in Worthing Town Hall, or such other location as the Chairman of the Committee shall agree;
- (j) The Chairman and Vice Chairman of JOSC shall be appointed by the relevant Council at its Annual Council Meeting. The Chairman of the JOSC of the Council in whose area a meeting should take place, shall be the Chairman of that meeting and in their absence, the Vice Chairman of the JOSC from the Council where the meeting should take place will be the Chairman. In the absence of both, the Chairman of JOSC from the other Council shall act as Chairman of that meeting.
- (k) Each Member of JOSC shall have one vote in its proceedings (to include Substitute Members appointed in accordance with this Agreement). The Chairman of JOSC shall not have a casting vote.
- (l) JOSC may arrange for the discharge of their functions by an Officer and in doing so will set out clearly any limits upon such delegation.
- (m) JOSC may establish working groups to assist them in their work and in doing so will set clear terms of reference for them. Such working groups shall not be decision-making bodies.
- (n) JOSC may establish sub-committees consisting solely of the Members of one Council to consider matters solely relating to that Council.

- (o) For a meeting of JOSOC to be quorate there must be at least 4 Members present and: at least 2 Members present from each Council where the business of the Committee relates to both the District of Adur and the Borough of Worthing; or at least one Member present from each Council where the business of the Committee relates to either the District of Adur or the Borough of Worthing.

#### **4.6 Joint Governance Committee**

The Councils shall establish a Joint Governance Committee (“JGC”) which shall:

- (a) comprise six Councillors from each Council (or such other number of Councillors as the Councils may from time to time agree, providing there is equal representation from each Council);
- (b) be politically balanced for each Council in accordance with the provisions of the Local Government and Housing Act 1989;
- (c) have the terms of reference set out in Part 3 of the Council’s constitution;
- (d) have no more than one Executive Member from each Council in its membership.
- (e) In the event of an appointed Councillor being unable to attend any meeting of the JGC, the relevant Member may appoint a Substitute Member to attend, provided that prior written notice of such substitution is given to the Director for Communities as the Proper Officer for such matters.
- (f) The JGC shall meet on at least four occasions in any municipal year.
- (g) The JGC shall meet from May to October each year at the Shoreham Centre and from November to April each year at Worthing Town Hall, or such other location as the Chairmen of the Committee shall agree.
- (h) The Chairman and Vice Chairman of JGC shall be appointed by each Council at its Annual Council Meeting.
- (i) The Chairman and Vice Chairman of any meeting of JGC shall be the Chairman and Vice Chairman of JGC of the Council in whose area a meeting should take place. In the absence of the Chairman and Vice-Chairman of JGC for the Council in whose area the meeting should take place, the Chairman of JGC from the other Council will act as Chairman for that meeting.

- (j) Each Member of JGC shall have one vote in its proceedings (to include Substitute Members appointed in accordance with this Agreement). The Chairman of JGC shall not have a casting vote.
- (k) JGC may arrange for the discharge of its functions by an Officer and in doing so will set out clearly any limits upon such delegation.
- (l) JGC may establish working groups to assist them in their work and in doing so will set clear terms of reference for them. Such working groups shall not be decision-making bodies.
- (m) JGC may establish sub-committees consisting solely of the Members of one Council to consider matters solely relating to that Council.
- (n) For a meeting of JGC to be quorate there must be at least 4 Members present and: at least 2 Members present from each Council where the business of the Committee relates to both the District of Adur and the Borough of Worthing; or at least one Member present from each Council where the business of the Committee relates to either the District of Adur or the Borough of Worthing.
- (o) The Councils' Independent Persons, appointed under the Localism Act 2011, will be co-opted Members of Joint Governance Committee.

#### **4.7 Joint Independent Remuneration Panel**

The Council shall establish a Joint Independent Remuneration Panel, which shall:

- (a) Comprise of four independent persons appointed in accordance with the Local Authorities (Members Allowances) (England) Regulations 2001.
- (b) carry out the functions set out in the Local Authorities (Members Allowances) (England) Regulations, 2001.

Proposals of the Joint Independent Remuneration Panel are received by the Joint Governance Committee who will make recommendations to each Council as appropriate.

#### **4.8 Officers**

The Joint Committees shall receive their legal advice from the Legal Adviser who shall also be the Monitoring Officer, or their representative.

The Joint Committees shall receive their financial advice from the Chief Financial Officer who shall also be the Section 151 Officer, or their representative.

The Joint Committees shall receive their advice (except that relating to legal, probity, and financial matters) from the Council's Officers, as appropriate.

#### **4.9 Rules of Procedure**

Rules of Procedures relating to Joint Committee structure are contained within each Council's constitution. Where there is any conflict with the terms of this Agreement and the Constitution, advice will be taken from the Monitoring Officer as to the interpretation of provisions, and her determination will be final.

#### **4.10 Administrative Expenses**

The administration expenses of the Joint Committees will be borne by the Councils in accordance with clause 8 below.

#### **4.11 Decision Making**

Where decisions are taken by a Joint Committee the following principles and conditions, in addition to those contained in Article 12 of each Council's constitution, shall apply:

- (a) powers shall be exercised in accordance with the Joint Contract Standing Orders and Joint Financial Regulations.
- (b) the Joint Committees shall have proper regard to any resolution of the Councils.
- (c) the Joint Committees shall satisfy themselves that any inter-Council consultation has been carried out.
- (d) decision making by individual Executive Members should be undertaken in accordance with the Executive Procedure Rules in Part 4 of each Council's constitution.
- (e) the taking of decisions shall be subject to there being appropriate and adequate budgetary provision
- (f) any decision which could attract legal liability shall be taken in consultation with the Legal Adviser or their representative.
- (g) any decision which has financial implications shall be taken in consultation with the Chief Financial Officer and particularly in any case where JSC is considering making recommendations which involve increased expenditure in any budget they shall receive and incorporate in any report advice from the Chief Financial Officer or their representative.
- (h) any decision which could involve the exercise by the Monitoring Officer of any of his or her powers shall be taken in consultation with him or her, or in his or her absence the Deputy Monitoring Officer

- (i) The exercise of functions by a Joint Committee shall have regard to all relevant considerations and shall not take into account irrelevant matters. In particular a Joint Committee must take proper account of the Councils' duties to promote compliance with Human Rights legislation, Social Value, Reduction of crime and disorder and promotion of Equalities.
- (j) The Joint Committees shall not authorise the entering into of obligations by or on behalf of the Councils beyond the expiry of the Term of this Agreement, unless the Councils have so agreed.

## **5.0 UNRESOLVED DECISIONS**

- 5.1 There is an unresolved decision for the purposes of this clause if the Members of JSC, JOSC or JGC fail to reach a decision upon the matter by a majority of their votes at a meeting.
- 5.2 An unresolved decision of JSC shall be referred to the respective Leaders with a view to resolution by discussion and negotiation and thereafter either a Joint Decision Notice will be issued by them or the matter will be referred back to JSC for reconsideration and decision.
- 5.3 An unresolved decision of the JOSC shall not be referred on for resolution.
- 5.4 An unresolved decision of JGC will either be referred to the next meeting of JGC to allow a period of discussion and negotiation, or will be referred to full Council as the Committee was unable to determine the matter.
- 5.4 Where there is an unresolved decision as set out in sections 5.2 and 5.4 above, advice should be taken from the Chief Executive, the Chief Financial Officer and/or the Monitoring Officer, as appropriate, in seeking to resolve the matter.

## **6.0 DECISIONS RELEVANT TO A SINGLE AUTHORITY**

- 6.1 This Clause applies where there is a matter which is solely the province of one Council and has not been reserved to the Executive of the relevant Council. This clause does not apply to decisions of JSSC or JSfC.
- 6.2 Where there is a matter which is solely within the province of one Council, the rules will be:
  - 6.2.1 All Members of the Committee present may participate in the debate;
  - 6.2.2 All Committee Members present may participate in the vote;

6.2.3 The decision shall be made by a majority vote of those present and voting provided that the majority of those representatives of the relevant Council shall be part of that majority.

6.2.4 If the overall majority of those present and voting does not include the majority of the relevant Council, then the decision shall stand referred as follows:

- Where it is a decision of JSC, to the relevant Executive, who may hold a special meeting to determine the matter.
- Where a decision of JGC, to the next Council meeting of the relevant Council.
- Where a decision of JOS, to a meeting of OSC of the relevant Council.

## **7.0 OFFICER SUPPORT**

7.1 The Councils shall establish a joint officer structure which shall:

- (a) be employed by Adur as lead authority under this Agreement as staff are transferred, appointed or employed within the joint officer structure.
- (b) provide advice to both Councils
- (c) provide services to both Councils
- (d) not show bias towards one Council vis-à-vis the other in the provision of advice or services.

7.2 The Chief Executive shall be the Head of Paid Service in respect of the joint officer structure and workforce and for each Council.

7.3 The two Councils will appoint joint senior officers to fill the posts of Joint Chief Executive, Directors and Heads of Service within the joint officer structure serving the Councils by means of the Joint Senior Staff Committee or Officer Employment Procedure Rules, as appropriate.

7.4 The Councils shall ensure that each Council has a Head of Paid Service, a Monitoring Officer and a Chief Financial Officer (Section 151 Officer). This to be achieved by way of employment by Adur and a secondment to Worthing of each office holder for the purposes of discharging their statutory duties at both Councils.

7.5 Officers are to be empowered to act under the Scheme of Officer Delegations of each Council when providing services on behalf of that Council.

- 7.6 The Transfer of Undertakings (Protection of Employment) Regulations 2006 apply to the transfer of staff from Worthing to Adur as lead authority for employment purposes and this constitutes a relevant transfer of an undertaking pursuant to regulation 3 thereof.
- 7.7 The Councils shall agree financial arrangements as to the allocation of pension contributions including those relating to payments due in respect of the pension deficits of the two Councils upon the transfer, appointment or employment of staff within the joint officer structure.

## **8.0 THE SERVICES**

- 8.1 The services providing the joint functions through a joint service, and the services providing a function through separate provision are set out in Schedule 1 to this Agreement.
- 8.2 The costs of each joint service shall be shared by each Council in accordance with the terms of Schedule 2

## **9.0 EXPENSES**

- 9.1 The expenses of the Joint Committee shall be borne 50% by Adur and 50% by Worthing.
- 9.2 The expenses shall comprise:
- (a) the costs of and incidental to the holding of meetings of the Joint Committees,
  - (b) the costs of legal, secretarial and financial support to the Joint Committees,
  - (c) the costs of and incidental to the training of Members relating to the Joint Committees.
- 9.3 The administration of the Joint Committees shall be shared between the relevant officers of the Councils until (1) there is an Agreement to alternative effect or (2) the joint officer structure is established for particular administrative services. This shall include legal, financial, human resources and democratic services administration.
- 9.4 Income properly and solely paid for the Joint Committee (including grants) rather than to the constituent Councils individually shall be accounted for by the Chief Financial Officer and allocated if and as appropriate to the Councils

9.5 The Chief Financial Officer shall account to each of the Councils annually regarding the expenses of the Joint Committees by not later than 30<sup>th</sup> June following the end of the financial year

9.6 Payments due but not paid within 30 days of the invoice rendered pursuant to clause 8.5 shall bear interest from the date of the invoice until payment at a rate of 2% above the Cooperative Bank plc base rate

## **10.0 EXTENSION**

10.1 This agreement may be extended by agreement in writing between the parties

## **11.0 TERMINATION AND REVIEW**

11.1 This Agreement shall continue until 31<sup>st</sup> March 2028 unless terminated in accordance with this clause or extended in accordance with clause 11

11.2 Either of the parties may terminate or withdraw from this Agreement before 31<sup>st</sup> March 2028 only by giving to the other not less than two years' prior written notice to expire on 31<sup>st</sup> March in the relevant year. Such a decision to terminate or withdraw the Executive functions may only be made by the Executive of each Council, and in respect of the non-Executive functions, each Council.

11.3 In the event of termination however and whenever occurring the parties shall:

- (a) co-operate in terminating, modifying, restructuring, assigning or novating contractual arrangements entered into to mutual advantage and properly and timeously execute any documents necessary
- (b) enter into arrangements with the other party concerning the ownership and control of assets acquired, particularly where such assets may have been acquired for other parties or third parties
- (c) use reasonable endeavours to secure an amicable financial settlement
- (d) immediately transfer or return any property including data belonging to the other party
- (e) ensure that a fair and reasonable proportion of the staff within the joint officer structure are transferred promptly to the Council which is not the employer under this Agreement so that (1) each Council can maintain continuity in the provision of its services at the same level of effectiveness and efficiency as the other and (2) they become employed by the Council to which they are transferred.
- (f) The senior posts at the level of Chief Executive, Strategic Directors and Heads of Service shall be re-allocated between the two Councils so that

each has half in number of the postholders concerned (with the Monitoring Officer and Section 151 officer being allocated to different Councils) SAVE THAT the Head of Service with responsibility for Theatres shall go to Worthing and the Head of Service with responsibility for direct provision of housing shall go to Adur.

- 11.4 In the event of one party wishing to terminate or withdraw from this Agreement before 31<sup>st</sup> March 2028 and the other party confirming in writing within three months of the receipt of the notice of termination its wish to continue this Agreement then the party wishing to terminate or withdraw from this Agreement shall
- (a) pay to the other party or direct to third parties (as may be appropriate) any additional costs which the other party may properly and reasonably incur by virtue of the early termination or withdrawal together with any professional and other costs properly and reasonably incurred by the other party in consequence of such early termination or withdrawal, and
  - (b) indemnify and keep indemnified the other party from and against any claims, costs, losses and expenses arising from or in connection with such early termination or withdrawal.
- 11.5 The parties may review and seek to amend this Agreement from time to time and (1) in any event they shall carry out a review as to the efficacy and relevance of its terms upon every seventh anniversary of the commencement date and (2) all changes arising upon such reviews shall only take effect upon the completion and sealing of a formal amending Agreement.

## **12.0 DISPUTE RESOLUTION**

- 12.1 In the event of a dispute concerning the construction or effect of this Agreement the matter shall be referred to the respective Leaders in consultation with the Chief Executive and such other officers as are appropriate with a view to resolution by discussion and negotiation.
- 12.2 In the event that a decision or a matter in dispute cannot be resolved under clause 13.1 the matter will be referred to an arbitrator from a professional body appropriate to the matter in dispute.
- 12.3 The arbitrator shall be appointed with the agreement of the two Councils or in the event that agreement cannot be reached by the President or other chief officer of the appropriate profession (such profession to be determined by the Chief Executive of the Councils).
- 12.4 The resolution of unresolved disputes in respect of the expenses of the Joint Committees (referred to in clause 8) shall be determined in accordance with section 103(b) of the Local Government Act 1972 namely by a single arbitrator agreed on by the Councils or, in default of agreement, appointed by the Secretary of State.

12.5 For the avoidance of doubt this clause remains in effect after the termination or expiry of this Agreement to confer powers on the parties to resolve matters remaining in dispute.

### **13.0 ASSETS**

13.1 Each Council shall draw up a register of all its assets which will be applied for the purposes of the joint services controlled by the joint committees as at 1<sup>st</sup> April 2008.

13.2 All assets acquired by the Councils for the purposes of the joint services controlled by the joint committees after 1<sup>st</sup> April 2008 shall be recorded on a register of shared assets, and incorporated into each authority's register or balance sheet at the appropriate share. Those assets shall be acquired by Worthing but held in trust for the benefit of both Councils so that each has a share in the beneficial ownership of them in accordance with the statement to be prepared for each joint service under clause 7.3 (k).

13.3 Each Council shall permit all staff employed under this Agreement reasonable use of all assets of the Councils for the purpose of discharging the joint services.

13.4 Upon termination of this agreement all assets listed on the register of shared assets shall be valued and the assets shall be divided between the Councils in accordance with the share as shown on the balance sheet of the respective Councils.

13.5 This Agreement has no application to any interests in land. Neither Council will acquire any rights or interest in land in respect of which the other Council has any right or interest.

### **14.0 LIABILITIES**

14.1 The Councils shall be equally and severally liable to any third parties in respect of all claims, costs and expenses arising from (1) the employment of staff under this Agreement (2) the provision of joint services under this Agreement and (3) the use of assets under it.

14.2 Each Council shall ensure that it has all appropriate insurances relating to public liability, employee liability, professional indemnity and Member indemnity to cover liabilities arising under clause 15.1 and (1) in relation to all functions and services provided by the joint officer structure and (2) in relation to the joint services.

### **15.0 INTELLECTUAL PROPERTY RIGHTS**

- 15.1 Each Council shall remain the owner of all intellectual property rights it owns at the date of this Agreement in any materials which it has created or the creation of which was undertaken by a third party which it commissioned to create those materials.
- 15.2 Any new material created jointly by the Councils in the course of provision of the joint services shall belong to the parties jointly.
- 15.3 Each Council hereby grants a licence to the other to use its intellectual property rights incorporated in or appearing from the materials referred to in clauses 16.1 and 16.2 for the purposes of the performance of this Agreement.

## **16.0 NOTICES**

- 16.1 Any notice to be served under this Agreement shall be valid and effective if it is addressed to the Chief Executive and delivered by e-mail, fax, prepaid recorded delivery post or delivered by hand to the other Council's principal offices.

## **17.0 RIGHTS AND DUTIES RESERVED**

- 17.1 Nothing in this Agreement shall prejudice or fetter the proper exercise of any function by the Councils or their Officers.

## **18.0 LEGAL AND OTHER FEES**

- 18.1 Each party shall bear its own legal and other fees in relation to the preparation and completion of this Agreement.

## **19.0 PROVISION OF STATISTICAL INFORMATION, ACCOUNTS AND OTHER DOCUMENTS ETC**

- 19.1 The parties shall make available to the other party such statistical information which each Council may from time to time reasonably require.
- 19.2 Without prejudice to any provision in this Agreement requiring the keeping of records, the supply of statistics or the provision of information the parties shall keep such other records and details of or concerning the joint services, supplies or work delivered pursuant to this Agreement or their performance as the parties may require and shall produce or provide to the other copies whether kept electronically or in paper format, of such accounts, invoices, orders, contracts, receipts, statistics and other information or documents touching or concerning or arising from the joint services, supplies or work delivered pursuant to this Agreement or their performance or this Agreement as, when and in such form as each Council may reasonably require.

- 19.3 Without prejudice to any provision in this Agreement the parties shall keep and maintain all necessary information and shall provide all necessary assistance to enable each Council to complete all necessary official returns or statistics related to this Agreement and the joint services, supplies or works delivered pursuant to this Agreement.
- 19.4 The parties shall supply each other with such assistance and information as each Council may require to enable it to allocate such expenditure as each Council may incur under this Agreement and in relation to joint services, supplies or works delivered pursuant to this Agreement between their various respective budget heads.

## **20.0 AUDIT**

- 20.1 Each Council's external and internal auditors shall have the like powers set out in Part II of the Audit Commission Act 1998. Each Council shall at all reasonable times (including following the termination for whatever reason of this Agreement) allow or procure for any auditor for the purposes of an external or internal or audit:
- (a) immediate access to
  - (b) permission to copy and remove any copies of and
  - (c) permission to remove the originals of
- any books, records and information in the possession or control of either Council which in any way relates to or are or were used in connection with this Agreement or the provision of the joint services supplies and works delivered pursuant to this Agreement including (but without limitation) any of each Council's data and any such information stored on a computer system operated by another Council.
- 20.2 Each Council will provide all practicable co-operation and afford all appropriate access to personnel and records in order to assist the requesting Council in carrying out any investigations which are already under way at the Commencement Date and any investigations which are carried out after the termination or expiry of this Agreement.

## **21.0 STATUS**

21.1 Nothing in this Agreement shall be construed as establishing or implying any legal partnership or joint venture between the parties.

## **22.0 ANTI-CORRUPTION**

22.1 Either Council may cancel this Agreement at any time and recover from the other the amount of any loss resulting from such cancellation if any of the following apply:-

- (a) the other Council, has offered or given or agreed to give to any person any gift or consideration as an inducement or reward (1) for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the Agreement or any other contract with the Council (2) for showing or forbearing to show favour or disfavour to any person in relation to the Agreement or any other contract with the Council.
- (b) any person employed by or acting on behalf of the other Council (whether with or without the other council's knowledge or consent) acts in a similar manner to that set out in (a) above.
- (c) in relation to any contract or potential contract with the Council the other Council or any person employed by or acting on behalf of the other Council shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916 or any amendment or replacement of them or shall have given any fee or reward the receipt of which is an offence under Sub Section (2) of Section 117 of the Local Government Act 1972.

## **23.0 DISCRIMINATION**

23.1 The Councils shall not unlawfully discriminate within the meaning and scope of the provisions of the Race Relations Act 1976, the Sex Discrimination Act 1975 and 1986 or the Disability Discrimination Act 1995, Gender Recognition Act, 2004, Equality Act, 2010 and any other legislation prohibiting discrimination on any grounds whatsoever. The Councils shall take all reasonable steps to secure the observance of these provisions by its employees in the execution of the Agreement (and any statutory provisions amending or replacing the same).

## **24.0 HUMAN RIGHTS**

24.1 The Councils in the performance of this Agreement shall comply with the provisions of the Human Rights Act 1998 in all respects as if the joint committees were public bodies within the meaning of the Act. The Councils shall indemnify or keep indemnified each other against all actions, claims, demands, proceedings, damages, losses, costs, charges and expenses whatsoever in respect of any breach by the one Council of this clause.

## **25.0 FREEDOM OF INFORMATION**

25.1 It is agreed that the Councils are subject to the provisions of the Freedom of Information Act, 2000. Each waives all claims of commercial or other confidentiality in respect of this document.

## **26.0 DATA PROTECTION**

26.1 All data relating to the services or the recipient of any services undertaken by the Joint Committee shall remain the property of the Council on whose behalf that service is provided and that Council is the Data Controller.

## **27.0 SURVIVAL OF THIS AGREEMENT**

27.1 In so far as any of the rights and powers of the parties provided for in this Agreement shall or may be exercised or exercisable after the termination or expiry of this Agreement the provisions of this Agreement conferring such rights and powers shall survive and remain in full force and effect notwithstanding such termination or expiry

27.2 In so far as any of the obligations of the parties provided for in this Agreement remain to be discharged after the termination or expiry of this Agreement the provisions of this Agreement imposing such obligations shall survive and remain in full force and effect notwithstanding such termination or expiry

## **28.0 WHOLE AGREEMENT**

28.1 This Agreement constitutes the whole agreement and understanding of the parties as to its subject matter and there are no prior or contemporaneous agreements between the parties

## **29.0 WAIVER**

29.1 Failure by any party at any time to enforce any provision of this Agreement or to require performance by the other or others of any of the provisions of this Agreement shall not be construed as a waiver of any such provisions and shall not affect the validity of this Agreement or any part or the right of that party to enforce any provision in accordance with its terms

## **30.0 SEVERANCE**

30.1 If any provision of this Agreement shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity or unenforceability shall in no way impair or affect any other provision all of which shall remain in full force and effect.

## **31.0 CLAUSE HEADINGS**

31.1 The clause headings shall not be construed as part of the clauses

## **32.0 LAW**

32.1 This Agreement shall be governed by and construed in accordance with the laws of England and the parties irrevocably submit to the jurisdiction of the English courts

## **33.0 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

33.1 The parties do not intend that any term of this Agreement should be enforceable by any third party as provided by the Contracts (Rights of Third Parties) Act 1999.

## **34.0 NON-ASSIGNMENT**

34.1 Neither of the parties shall be entitled to assign this Agreement or any of its rights and obligations under it without the written consent of the other (which consent the other party may in its absolute discretion withhold).

IN WITNESS of which this Agreement has been executed as a Deed on the first day before written

Sealed with the Common Seal of )  
Adur District Council in the )  
presence of: )

Authorised signatory

Sealed with the Common Seal of )  
Worthing Borough Council in )  
the presence of: )

Authorised signatory

## SCHEDULE 1

All services of each Council will be regarded as Joint Services, other than those listed below.

- 1.0 Services retained as a separate service by Adur District Council
- 1.1 All matters relating to the Adur District Council Local Plan.
- 1.2 All matters relating to the Adur District Council annual budget process.
- 1.3 All matters relating to rent, fees and charges, connected to the provision and maintenance of Council housing stock, garages and leasehold property.
  
- 2.0 Services retained as a separate service by Worthing Borough Council
- 2.1 All matters relating to the Worthing Borough Council Local Plan
- 2.2 All matters relating to the Worthing Borough Council annual budget process.

## SCHEDULE 2

### Cost allocation between the Councils

#### Protocol for cost allocation in the Adur/Worthing partnership:

The allocation of costs, which would appear to be an academic discussion, takes on a new importance in the context of the proposed working arrangements between the two authorities.

Previously, the allocation of costs was annually revised by each authority to reflect up-to-date information on how support services and management time are being used. This could lead to swings in the allocation of costs between services. However, within the confines of a single authority budget there are no profound ramifications to these movements, other than the need to explain why the change has happened. The reasoning behind this statement is fairly straightforward – in overall terms the cost to the authority is the total cost of the support services and management cost. Whilst the allocation of costs may change individual service costs, they do not impact on the total budget.

In future, under the proposed new joint working arrangements the allocation of costs becomes much more sensitive. Changes in allocation will affect not just individual services but could affect each authority's budget (and final accounts). A gain for one authority will be a loss to another under the proposed arrangement.

There is no possible solution to this problem which will completely alleviate the risk to both authorities if the Councils are to comply with relevant professional guidelines and codes of practice. However, there are a number of measures which would help manage the risks. This note details those measures.

1. Code directly to services where possible to minimise the amount to be allocated and consequently the amount which could be subject to controversy.
2. Within the costs to be allocated, some will relate uniquely to services provided by one or other authority (for example theatre management) and some will relate to true joint services (for example AWS management). Those costs which relate uniquely to the services provided by one or other authority can continue to be allocated as present as changes in these will not affect the other Council. For example changes to how Theatre Management costs are allocated will impact upon the cost of each of the Worthing Theatres but would have no impact upon Adur's accounts.

Those which are true joint costs will need to be subject to differing protocols. As part of this it will be sensible to review the current structure of the holding accounts and where possible separate out those groups of staff which deliver the services of one Council, from staff engaged on joint activity, again to minimise any areas of dispute.

3. At the outset of defining the new joint services, the service head will need to produce a service specification which should include the following:
- The service specification – What are we delivering, to whom, to what standard, and how frequently?
  - The existing staff structures and the proposed staffing structure required to deliver the new service.
  - The existing baseline costs of service analysed between Adur and Worthing.
  - The new cost of service which should distinguish between costs which fall directly of Worthing, those which fall on Adur, and those which will need to be allocated between the two authorities.
  - The allocation basis for the joint service. The basis chosen should reflect the nature of the service delivered (for example number of invoices paid for creditors), and should be capable of being substantiated.
  - The overall impact on each authority's budget of the new service.

This will then determine the allocation of cost in the short term.

4. Where the allocation of costs is across both Councils, the overriding principle must be one of stability. Consequently, having established a split of costs, this then should not be annually revised unless a trigger point is reached. Trigger points should include:

- The overall resources devoted to the service need to be increased to meet demand.

For example, it will be possible for the refuse and recycling service to accommodate a certain amount of growth in the number of households. However, a major development such a west Durrington may necessitate an increase to the number of refuse rounds and consequently increase the cost of refuse and recycling. At this point, the allocation of costs should be reviewed.

- The current allocation does not reflect the long-term trend in use of the service.

The allocation of costs should be reviewed each year as part of the budget cycle. If over a three (or two?) year period it transpires that the original allocation does not substantially reflect the average 3-year allocation, then the allocation should be changed. This should enable each authority to manage temporary changes to the allocations due to items such as project work. However, it may lead to the perception that one Council is getting better value than another.

- There is a major change to the service specification.
  - A review of how the costs are being allocated is requested by members through the Joint Committee or Joint OSC
5. The concept of 'no detriment' has been introduced to equalise any changes that might occur as a result of any of the above, although the actual details of such an arrangement still need to be established
  6. The cost of the joint service for household waste collection and recycling shall be shared between the two Councils upon the basis of the ratio of the numbers of properties receiving the service in each area. Paragraph 4 of this schedule shall apply to any necessary review of this allocation.
  7. All the costs incurred by the Councils in employing the joint Chief Executive, Strategic Directors and Executive Heads of Services (including tax, pension, National Insurance and miscellaneous expenses incurred) shall be shared equally by the two Councils until 1<sup>st</sup> April 2008, whereupon there shall be a review of this allocation.