

ANNEX 1

Date

2012

**Hampshire County Council**

**And**

**Oxfordshire County Council**

**And**

**[name of other authority]**

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Shared Services Agreement  
for the Joint Discharge of Functions  
under Section 101(5)  
Local Government Act 1972

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**This Agreement** is made this

day of

**2012**

Between

- (1) **HAMPSHIRE COUNTY COUNCIL** of the Castle Winchester, Hampshire, SO23 8UJ; and
- (2) **OXFORDSHIRE COUNTY COUNCIL** of County Hall, Oxford OX1 1ND; and
- (3) [Name and address of any further partner authority].

Recitals

1. Section 101(5) Local Government Act 1972 provides that two or more local authorities may discharge any of their functions jointly.
2. The Parties recognise that combining to jointly discharge certain functions in relation to each party's Information Technology services has the potential to make a significant contribution towards their ongoing search for service improvements and the delivery of efficiency savings.
3. The Parties therefore wish to establish arrangements for the joint discharge of those functions. This Agreement sets out those arrangements.

Operative Part

**1. Definitions and Interpretation**

"Annual Review" has the meaning given in Clause 6.2

"Approved Budget" means the budget for a Service agreed by the Parties further to Clauses 7.1 and 7.4.

"Commencement Date" means the date referred to in Clause 2 and Paragraph 1 of the Schedule.

“Financial Year” means the period 1<sup>st</sup> April to 31<sup>st</sup> March

“Joint Board” means the body established under Clause 5

“Key Decision” means [any change to Staffing Structure, any sub-contracting to third parties, any extension of Service to third parties] and in relation to a Service any decision identified as a Key Decision in the Proposal relating to such Service

“Lead Officer” means the officer designated further to Clause 9

“Prohibited Act” means the following acts:

(a) offering (directly or indirectly), promising or giving any person working for or engaged by a Party a financial or other advantage to: (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity;

(b) requesting (directly or indirectly), agreeing to receive or accepting any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Agreement;

(c) committing any offence: (i) under the Bribery Act 2010; (ii) under any enactment creating offences concerning fraudulent acts; (c) at common law concerning fraudulent acts relating to this Agreement or any other contract with a Party; or

(d) defrauding, attempting to defraud or conspiring to defraud a Party; “Proposal” means a final, detailed proposal for the joint discharge of an Information Technology related service on behalf of the Parties prepared by one or more officers of the Parties

“Quorate” means, in relation to a meeting of the Joint Board, that the entire membership[, or duly appointed substitutes,] of the Joint Board, as specified in Clause 5.2, is present at the meeting

“Schedule” means the schedule to this Agreement.

“Service” has the meaning given in Clause 4.

“Standards of Service” has the meaning given in Clause 8 .

“Strategic Plan” means the plan developed further to Clause 6.1

- 1.1. Reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended or re-enacted.
- 1.2. Words importing the singular include the plural; words importing any gender include every gender; words importing persons include bodies corporate, and unincorporated, and in each case vice versa.
- 1.3. Reference to Clauses, the Schedule and paragraphs in the Schedule are references to clauses, the schedule and an paragraphs in the schedule.

## **2. Commencement**

- 2.1. This Agreement shall take effect on the date specified in Paragraph 1 of the Schedule (“the Commencement Date”).

## **3. Duration and Extension**

- 3.1. This Agreement shall continue in effect for the period specified in Paragraph 2 of the Schedule.
- 3.2. Where the Parties agree that this Agreement may be extended for a further period, the maximum period of that extension is specified in Paragraph 3 of the Schedule.

## **4. Functions**

- 4.1. The Parties agree that they will from time to time consider Proposals in relation to Information Technology related services that might be provided to the parties on a joint basis and will, where the Joint Board has decided, in accordance with Clause 5, to proceed with such a Proposal, jointly discharge those functions specified in the relevant Proposal (in relation to a Proposal, a “Service”).

## **5. Joint Board**

- 5.1. The Joint Board is established, with responsibilities as follows:
  - (a) To consider any request for approval of a Proposal in relation to a Service.
  - (b) To develop the Strategic Plan for each Service.

- (c) To agree on the initial Approved Budget for each Service.
- (d) To oversee performance against the targets and actions included in the Strategic Plan, and to ensure that such action as it considers necessary is taken for the objectives of the Strategic Plan to be achieved.
- (e) To carry out the Annual Review.
- (f) Prior to the commencement of each Financial Year, to consider and recommend to the Parties a draft budget for each Service for that coming Financial Year, such budget to be accompanied by the Strategic Plan and most recent Annual Review.
- (g) Consider and respond to any comments or concerns expressed by any of the Parties in relation to the recommended budget and/or Strategic Plan.
- (h) Oversee the delivery of the objectives in the Strategic Plan within the Approved Budget.
- (i) Approve any Key Decision in relation to a Service

5.2. The membership of the Joint Board is as specified in Part 4 of the Schedule.

5.3. All meetings of the Joint Board shall be Quorate.

5.4. All decisions of the Joint Board shall be unanimous.

## **6. Strategic Plan**

6.1. The Strategic Plan for a Service shall include the following:

- (a) The objectives which the Parties intend shall be achieved in the performance of the Service during the term of this Agreement.
- (b) The targets and performance indicators against which progress towards achievement of the Strategic Plan objectives can be assessed.

6.2. The Annual Review of the Strategic Plan shall constitute an assessment of the progress made against achievement of objectives in the previous Financial Year, and the key actions towards achievement of those objectives in the next Financial Year.

## **7. Budget and Funding Arrangements**

- 7.1. The Approved Budget in relation to a Service is the budget for the Service agreed by the Joint Board in accordance with Clause 5.
- 7.2. Prior to the commencement of the second and each subsequent Financial Year, the Joint Board shall consider and recommend to the Parties a draft budget for the Joint Service for that coming Financial Year, such budget to be accompanied by the Strategic Plan and most recent Annual Review.
- 7.3. Each of the Parties shall arrange for the Joint Board's recommended budget to be considered for approval at the appropriate level within its own internal decision making arrangements. Any concerns or disagreements shall be referred back to the Joint Board for further consideration and, where appropriate, the submission of a revised recommended budget to the Parties for approval.
- 7.4. Once the budget for the next Financial Year for each Service has been approved by all the Parties, this becomes the Approved Budget for that Service for that Financial Year.
- 7.5. Each party shall contribute to the Approved Budget [in the proportion set out at Paragraph 5 of the Schedule], such contribution to be due and payable on 1<sup>st</sup> April in each Financial Year, on receipt of invoice issued by the relevant Lead Officer.

## **8. Standards of Service**

- 8.1. The standards to which a Service shall be carried out are specified in the proposal in relation to that Service approved by the Joint Board (the Standards of Service”).

## **9. Lead Officer**

- 9.1. In relation to each Service, one of the officers of one of the Parties is to be designated as “Lead Officer” in the relevant Proposal. The Lead Officer has delegated authority on behalf of all the Parties to carry out the following responsibilities in relation to the relevant Service:
  - (a) To lead, manage and co-ordinate the officers and resources of the Parties (and any integrated staffing structure under Clause 10) so that the requirements of the Strategic Plan are achieved within the Approved Budget, and the Standards of Service maintained at all times.
  - (b) To take all necessary decisions and take all actions as may be required to achieve Strategic Plan objectives within the Approved Budget.

- (c) To report regularly to the Joint Board on the performance of the Service against Strategic Plan objectives.
- (d) To advise the Joint Board on any matter relating to the Service.
- (e) To identify and implement service improvements and efficiencies.
- (f) To act as the representative of the Service in any discussions, negotiations or correspondence with third parties.
- (g) To ensure that best practice is observed.
- (h) To perform the role of accounting officer for the Service, ensuring that all proper banking and accounting requirements are observed.
- (i) To ensure that the Parties' contributions to the Approved Budget are received promptly, and to bring to the attention of the Joint Board any issues in this respect.
- (j) To take all steps necessary to select and appoint sufficiently skilled, experienced and competent suppliers where required to achieve Service Plan objectives

Provided that any Key Decision must have the prior approval of the Joint Board.

## **10. Staffing Structure**

- 10.1. Where, in relation to a Service, the parties have agreed to the establishment of an integrated staffing structure for the performance of the Service, ~~is~~ the relevant Proposal will set out the following:
  - (a) A diagram of the staffing structure for the Service.
  - (b) The job title of each role in the structure and statement of the key accountabilities for that role.
- 10.2. Arrangements for the appointment of staff to each role in the structure shall be for agreement between the Parties.
- 10.3. Line management responsibility shall be as shown in the staffing diagram. Subject to this, any member of staff of any of the Parties who is appointed to any role in the structure shall remain employed by that Party for all purposes connected with legal requirements regarding employment and pensions.

## **11. Dispute Resolution**

- 11.1. The Parties shall use their best endeavours to discuss and resolve any dispute arising in relation to this Agreement. Any dispute which cannot be so resolved shall be referred to the Joint Board for resolution.

## **12. Termination**

- 12.1. Due to the commitment of the Parties to taking joint action and working in a collaborative way to achieve service improvements and efficiencies, it is anticipated that termination of the Agreement, or the withdrawal of individual Parties, is unlikely to take effect. However, it is recognised that unforeseen circumstances may arise where this is considered by any of the Parties to be in their best overall interests.
- 12.2. Any Party may terminate its interest in this Agreement by giving six months' written notice of withdrawal to the other Parties, taking effect on the 31<sup>st</sup> March next arising. Withdrawal shall not affect the liability of that Party to make contributions to the Approved Budget, and any other payments properly due under the terms of this Agreement, in respect of the period prior to withdrawal taking effect.
- 12.3. Where a Party gives notice under Clause 12.2, the other Parties shall consider, as soon as practicable, the impact of this on the continuation of each Service. Where those Parties decide that a Service shall continue, the Agreement shall continue in full force and effect in relation to such Service. Where they decide a Service cannot continue, they shall agree that this Agreement shall terminate in relation to such Service on the 31<sup>st</sup> March next arising.
- 12.4. The Parties shall use their best endeavours to put in place successor arrangements for each Service having regard to the interests of Service users and other stakeholders, and available resources.

## **13. Indemnities and Insurance**

- 13.1. Subject to Clause 13.2, any liability incurred in the course of the performance of a Service, and all costs and expenses relating thereto, shall be borne by the Parties in the same proportion as they contribute towards the relevant Approved Budget. This includes any liability incurred as a direct result of actions taken or decisions made by the Lead Officer in the proper exercise of his/her delegated functions.



- 13.2. Where a liability is incurred as a direct result of the act or omission of one of the Parties only, that liability, and all costs and expenses relating thereto, shall be borne by that Party solely.
- 13.3. Each Party indemnifies the other against all liability, loss, claim, cost, expense and other proceeding whatsoever arising under statute or common law in respect of personal injury to, or death of any person and in respect of any injury or damage to any property real or personal, where and to the extent that such injury, death or damage is caused by any act or omission of that Party, its employees or agents, during the performance of this Agreement.
- 13.4. The Parties shall ensure that they each have in place adequate insurance arrangements in respect of liabilities which may arise under this Agreement.

#### **14. Health and Safety**

- 14.1. The parties shall be responsible at all times for, and take all such precautions as are necessary, to protect the health and safety of all staff, contractors, service users and other persons involved in the performance of a Service, and shall comply with the requirements of legislation relating to health and safety.

#### **15. Information Management**

- 15.1. The relevant Lead Officer shall ensure that such action as necessary is taken to comply with requests received under the Freedom of Information Act, Environmental Information Regulations and Data Protection Act, so that these are responded to in accordance with statutory requirements.
- 15.2. The relevant Lead Officer shall ensure that processes are in place to ensure that any personal information held in relation to the performance of a Service is managed in accordance with the requirements of the Data Protection Act.
- 15.3. The Parties shall provide each Lead Officer with all reasonable assistance and co-operation in complying with Clauses 15.1 and 15.2.

#### **16. Propriety**

- 16.1. Arrangements made for the performance of a Service, including procurement of any contracts, shall be governed by the Standing Orders of the Party which is the employer of the relevant Lead Officer.

16.2. Any Party (the “Terminating Party”) may terminate the Agreement by notice in writing to the other Parties, such notice to have effect from the date specified in it, and recover from the relevant Party (the “Defaulting Party”) the amount of any loss resulting from such termination if the Defaulting Party or any of its staff (in all cases whether or not acting with the Defaulting Party’s knowledge):

16.2.1 commit a Prohibited Act in connection with the Agreement, or

16.2.2 give any financial or other advantage to any person working for or engaged by the Terminating Party in connection with the Agreement.

## **17. Contracts (Rights of Third Parties) Act 1999**

17.1. None of the provisions of this Agreement are intended to or will operate to confer any benefit pursuant to the Contracts (Rights of Third Parties) Act 1999 on a person who is not named as a party to the Agreement.

## **18. Compliance with the Law**

18.1. The Parties shall comply with all relevant legal requirements.

## **19. Assignment**

19.1. No Party shall assign their rights or sub-contract any of their responsibilities under this Agreement without the prior consent of the other Parties, such consent not to be unreasonably withheld.

## **20. Complete Agreement**

20.1. This Agreement embodies the complete agreement of the Parties in respect of each Service, and supersedes all other written understandings and agreements with respect to the matters referred to in this Agreement. Each party acknowledges that no other agreement or statement not contained in this Agreement shall be valid and binding on any Party.

## **21. No Waiver**

- 21.1. No failure by a Party to insist upon the strict performance of any condition of this Agreement or to exercise any right or remedy upon breach of any provision of it shall constitute waiver of any condition or waiver of any subsequent breach in the performance of a condition.

## **22. Amendments**

- 22.1. Any amendments to this Agreement shall be recorded in a further written agreement entered into by all the Parties.

## **23. Notices**

- 23.1. Any notice to be given under this Agreement shall be in writing, addressed to the other Parties at the address given in the headings to this Agreement, and deemed to be delivered as follows:

- (a) Where delivered by personal service, upon service being effected, ~~and~~
- (b) Where sent by recorded delivery, upon the expiry of two working days after the date of postage.
- (c) Where sent by fax, upon successful transmission unless transmission is after 4pm or on a day that is not a working day, in which case service is deemed effective on the next working day.

## **24. Severance**

- 24.1. If any part of this Agreement becomes invalid, illegal or unenforceable, that part shall be severed from the Agreement and shall not affect the validity of any other part of the Agreement.
- 24.2. If any part of the Agreement is severed in accordance with Clause 24.1 which materially alters this Agreement, the parties shall negotiate in good faith to agree the terms of a mutually satisfactory provision to be substituted which as nearly as possible gives effect to their original intentions.

## **25. Governing Law**

- 25.1. This Agreement shall be governed by and construed in accordance with, English law, and the parties submit to the exclusive jurisdiction of the English courts.

## **26. Special Conditions**

26.1. This Agreement is subject to the Special Conditions (if any) set out at Paragraph 7 of the Schedule.

## Schedule

1. Commencement Date (Clause 2.1): The Hampshire County Council and Oxfordshire County Council ICT Partnership Commencement date shall be **Monday 19<sup>th</sup> March 2012**.

1.

2. Agreement period (Clause 3.1): This Agreement shall continue in effect for the period of five years starting at 12:00 Monday 19<sup>th</sup> March 2012 until 12:00 Monday 20<sup>th</sup> March 2017

3. Maximum Period for which Extension may be agreed (Clause 3.2):

Any extension shall be for the period of two years agreed between the parties

Membership of Joint Board (Clause 5.2): : The Joint Board consists of one Director and two officers from each authority. One officer will be Head of ICT level and one ICT Programme Manager level.

4.

Hampshire County Council Board members	Oxfordshire County Council Board members
<i>HCC Director TBA</i>	Director of Environment & Economy
<i>HCC Head of Service Operations TBC</i>	OCC Head of ICT Business Delivery
<i>HCC Service Change Manager TBC</i>	OCC ICT Programme Manager

5.

6. [Budget Sharing Ratio (Clause 7.5):]

7. Special Conditions (if any)(Clause 26):



In Witness hereof the Parties have executed and delivered this Agreement as a Deed the day and year first before written

The Common Seal of Hampshire County )  
Council was hereunto affixed )  
in the presence of :- )

.....

Authorised Signatory

The Common Seal of Oxfordshire County )  
Council was hereunto affixed )  
in the presence of :- )

.....

County Solicitor/Designated  
Officer

The Common Seal of [name of Partner )  
Authority] was hereunto affixed in the )  
presence of :- )

.....

Authorised Signatory