

DATED            day of            2018

Agreement  
between  
(1) Cherwell District Council  
and  
(2) Oxfordshire County Council

An inter authority agreement under section 113 of the Local Government Act 1972 for the sharing of a Chief Executive (Head of Paid Service) and arrangements for exploring closer collaboration between the councils including potential employment by the Councils of a shared senior management team, and the identification of potential areas of joint service delivery and for the placing at the disposal of the one Council of officers employed by the other for the purposes of their functions

James Doble  
Assistant Director Law and  
Governance  
Cherwell District Council  
Bodicote  
House  
Bodicote  
Banbury  
Oxfordshire  
OX15 4AA

Nick Graham  
Director of Law and Governance and  
Monitoring Officer  
Oxfordshire County Council  
County Hall  
Oxford OX1 1ND

## CONTENTS

Clause	Description	Page
1.	Background	3
2.	Definitions	3
3.	Preliminary	4
4.	Governance Arrangements	5
5.	Shared Senior Management Team and Shared Staff	6
6.	Expenses	9
7.	Termination and Review	10
8.	Chief Executive	11
9.	Chief Executive: Supplementary	12
10.	Dispute Resolution	12
11.	No Fetter of Discretion	13
12.	Liabilities	13
13.	Intellectual Property Rights	14
14.	Notices	14
15.	Rights and Duties Reserved	14
16.	Legal and other Fees	14
17.	Provision of Statistical Information Accounts and other Documents etc.	14
18.	Audit	15
19.	No Partnership etc.	15
20.	Anti-Corruption	15
21.	Discrimination	16
22.	Human Rights	16
23.	Freedom of Information, Data Protection and Confidential Information	16
24.	Survival of this Agreement	17
25.	Whole Agreement	17
26.	Waiver	18
27.	Severance	18
28.	Headings	18
29.	Governing Law	18
30.	Contracts (Rights of Third Parties) Act 1999	18
31.	Non-assignment	18
32.	Disruption	18
33.	Health and Safety	18

THIS AGREEMENT is made on the 31<sup>st</sup> day of August 2018  
BETWEEN

- (1) Cherwell District Council whose principal office is at Bodicote House  
Bodicote Banbury Oxfordshire OX15 4AA (“Cherwell”)

and

- (2) Oxfordshire County Council whose principal office is at County Hall, Oxford  
OX1 1ND (“Oxfordshire”)

## 1. Background

- 1.1 Section 113 (1) of the Local Government Act 1972 provides that a local authority may enter into an agreement with another local authority for the placing at the disposal of the latter for the purposes of their functions, on such terms as may be provided by the agreement, of the services of officers employed by the former.
- 1.2 At their respective Executive and Cabinet meetings on 4 June 2018 and the Councils decided by various resolutions to appoint a shared Chief Executive and explore the creation of a shared senior management team for Cherwell District Council and Oxfordshire County Council including the appointment of a joint Chief Executive.1.3

NOW IT IS HEREBY AGREED as follows

## 2. Definitions

In this Agreement the following terms shall have the following meanings

Term	Meaning
Chief Executive	the Head of Paid Service of the Councils, initially to be appointed pursuant to sub clause 5.1
Clause	a Clause in this Agreement
Commencement Date	[the date hereof]
Council	Cherwell or Oxfordshire as the case may be
Councils	both Cherwell and Oxfordshire
Executive Arrangements	shall be construed in accordance with Part II of the Local Government Act 2000
Expenses	shall be interpreted in accordance with Clause 6
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 trademarks 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

The Partnership Working Group	the Joint Partnership Working Group established by the Executive at Cherwell and the Cabinet at Oxfordshire on 4 June 2018 to explore the creation of a shared management team and possible areas of shared services
The Joint Committees	The Partnership Working Group and any Joint committees which are established pursuant to this agreement.
Legal Adviser	the Assistant Director Law and Governance of Cherwell and the Director of Law and Governance of Oxfordshire
Monitoring Officer	the officer or officers appointed under section 5 of the Local Government and Housing Act 1989
Senior Officers	the Senior Officers employed within the Shared Senior Management Team
Shared Senior Management Team	the Shared Senior Management Team as may be established in accordance with Clause 5
Shared Services	any service which the Councils decide to provide jointly in accordance with sub-clause 5.2 below
Section 151 Officer	the officer appointed under Section 151 of the Local Government Act 1972

### **3. Preliminary**

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 112 of the Local Government Act 1972 (duty to appoint officers);
- (c) Section 113 of the Local Government Act 1972 (power to place staff at the disposal of other local authorities);
- (d) Section 3 of the Local Government Act 1999 (duty to secure best value);
- (e) Section 2 of the Local Government Act 2000 (power to promote economic social and environmental wellbeing)

(f) Sections 9EA, 9EB, 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)

(g) Section 1 Localism Act 2011

and all other enabling powers.

3.2 This Agreement has been entered into by the Councils by virtue of the resolution of the Councils of the 10 July 2018 (Oxfordshire) and 16 July 2018 (Cherwell).

3.3 This Agreement shall commence on the Commencement Date and shall only be terminated pursuant to the provisions of Clause 7.

#### **4. Governance Arrangements**

4.1 The Councils have established a Partnership Working Group.

4.2 The Partnership Working Group shall not be a formal joint committee within the meaning of the Local Government Acts unless and until resolved otherwise. It shall have the terms of reference agreed by the Assistant Director Law and Governance in consultation with the Leader at Cherwell and the Director Law and Governance in consultation with the Leader at Oxfordshire on 31 August 2018

4.3 The Councils shall establish such formal joint committees to facilitate joint appointments working as agreed by the two councils on the recommendation of the Partnership Working Group.

4.4 The governance of joint working arrangements shall be serviced by officers as agreed in writing between the Councils and where there is any conflict with the terms of this Agreement then this Agreement shall prevail. The ongoing arrangements for the management and administration of the Joint Committees will be considered as part of the first review referred to in sub-clause 7.9 below.

4.5 Notwithstanding Clause 6 (Expenses) below each Council shall meet any cost that they incur arising from meetings of the Joint Committees.

4.6 The Joint Committees shall take into account advice from the Statutory Officers, Senior Officers and officers of the Councils.

4.7 The Partnership Working Group shall meet on at least four occasions a year. One of those meetings shall be scheduled to ensure that any proposed salary budgets can be properly and fully considered by each of the Councils as part of their respective budget-making processes.

4.12 Where decisions are taken by such Joint Committees as are established the following principles and conditions shall apply:

(a) the Joint Committees shall have proper regard to any relevant resolution of one Council provided that such resolution is not to the detriment of the other Council;

- (b) the Joint Committees shall satisfy themselves that any inter Council consultation has been carried out;
  - (c) the taking of decisions shall be subject to there being appropriate and adequate budgetary provision by the Councils;
  - (d) any decision which could have legal implications shall be taken in consultation with the respective Legal Adviser;
  - (e) any decision which could have financial implications shall be taken in consultation with the Section 151 Officer;
  - (f) 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.
- 4.13 Such Joint Committees shall not be bodies corporate or have the functions of acquiring or holding assets employing staff or entering into contracts.

## **5. The Shared Senior Management Team, Shared Staff and the application of section 113 of the Local Government Act 1972**

- 5.1 The Councils will, in the Partnership Working Group, consider the possibility of establishing a Shared Senior Management Team and shared services. Senior Officers shall be statutory non-statutory or deputy chief officers within the meaning of section 2 of the Local Government and Housing Act 1989 PROVIDED ALWAYS that the Councils may also appoint deputy chief officers who are not members of the Shared Senior Management Team. The Partnership Working Group will report to each Council on its findings and recommendations in relation to the establishment of a Shared Senior Management Team no later than six months after the date hereof.
- 5.2 The Councils will, in the Partnership Working Group, consider the possibility, on a service by service basis, of joint working by the Councils.
- 5.3 As part of any such proposed arrangements referred to in sub-clauses 5.1 and 5.2 above, the Senior Officers and any officers employed in relation to the relevant Shared Services may be employed by either one of the Councils and having been so employed shall forthwith be placed at the disposal of the Council who is not their employer.
- 5.3 For superannuation purposes service rendered by an officer of one of the Councils whose services are placed at the disposal of the other in pursuance of section 113 of the Local Government Act 1972 and hence in pursuance of this Agreement is service rendered to the Council by whom he is employed but any such officer shall be treated for the purposes of any enactment relating to the discharge of functions as an officer of the other Council and Senior Officers may act and shall have powers to act under the constitutions of the Councils.
- 5.4 The Senior Officers shall divide their time fairly and reasonably between the Councils and shall not show bias towards one Council vis-à-vis the other. The Chief Executive will use reasonable endeavours to achieve in as timely a way

as is practicable a position where each Senior Officer's time is divided between the Councils in accordance with the proposals of the Partnership Working Group.

- 5.5 The Chief Executive shall be the shared Head of Paid Service in respect of the workforce of the Councils. Where the Chief Executive is employed by one Council and, in accordance with sub-clause 5.3, is placed at the disposal of the other Council, the non-employing Council shall, six months after the Chief Executive's appointment as chief executive and Head of Paid Service of the non-employing Council, having reviewed the arrangements, have the option, exercisable at its sole discretion, to bring such arrangement to an end so that the Chief Executive shall revert to simply being the chief executive of the employing Council. Such option shall be exercised by service of written notice on the employing Council and shall take effect immediately upon receipt.
- 5.6 The councils shall establish protocols to deal with (1) conflicts of interests of individual officers in the Shared Senior Management Team and (2) the roles of individual officers in the Shared Senior Management Team in providing advice to the Councils jointly and separately (3) Chief Executive and (4) Data Sharing by no later than six months after the Commencement Date.

## **6. Expenses**

- 6.1 The one-off costs including redundancy and associated pension costs, arising from the creation of the Shared Senior Management Team and any Shared Service shall be apportioned in such ratio as may be agreed by the Councils on the recommendation of the Partnership Working Group and which reflects the maximum financial risk to which each Council is exposed.
- 6.2 The salary costs, on-costs, superannuation, training, travel, benefits payable to employees or dependents, professional fees, payments to third parties, support costs, development or welfare costs and incidental costs of the Shared Senior Management Team, any Shared Service and the costs incurred in managing the Joint Committees shall be apportioned in such ratio as may be agreed by the Councils on the recommendation of the Partnership Working Group.
- 6.3 The Section 151 Officers shall account to each of the Councils annually regarding the expenses of the Shared Senior Management Team and the Shared Services by not later than 30 June following the end of the relevant financial year and shall render valid VAT invoices accordingly.
- 6.4 Costs incurred in the event of termination shall be apportioned in accordance with Clause 7 below.

## **7. Termination and Review**

- 7.1 This Agreement shall continue unless terminated in accordance with this Clause 7 PROVIDED ALWAYS THAT the provisions of this Clause 7 shall be subject to any other provision of this Agreement extending financial liability beyond termination.
- 7.2 Subject always to the other sub paragraphs of this Clause 7 this Agreement may be terminated either:

(a) unilaterally by one Council: or

(b) by agreement by both Councils on the recommendation of one of the Joint Committees.

- 7.3 Where one of the Councils proposes to withdraw from the Agreement pursuant to Clause 7.2(a) for whatever reason that Council shall invoke the informal dispute resolution process set out in Clause 10. If that informal process is not successful the Council wishing to withdraw shall prepare a report to the Partnership Working Group setting out its reasons. If the Partnership Working Group acting reasonably cannot remedy the problem and such remedy may include invoking Clause 10 (Dispute Resolution) below within a reasonable time to the reasonable satisfaction of the Council proposing to withdraw then the Council proposing to withdraw shall be at liberty acting always under its constitution to withdraw from this Agreement.
- 7.4. Where the reasons for the proposed withdrawal involve a proposal by an employing Council to suspend dismiss or discipline a Senior Officer and either the Joint Personnel Committee or the Joint Appeals Committee or both of them acting reasonably cannot remedy the problem within a reasonable time to the reasonable satisfaction of the Council proposing to withdraw and such remedy may include invoking Clause 10 (Dispute Resolution) below then the employing Council shall be at liberty acting always under its constitution to suspend dismiss or discipline and withdraw from this Agreement.
- 7.5 Where the reasons for the proposed withdrawal involve a proposal by a Council to suspend dismiss or discipline a particular member of the other Council's staff and the Partnership Working Group acting reasonably cannot remedy the problem within a reasonable time to the reasonable satisfaction of the Council proposing to withdraw and such remedy may include invoking Clause 10 (Dispute Resolution) then the Council so proposing shall be at liberty acting always under its constitution to withdraw from this Agreement.
- 7.6 Where either of the Councils terminates or withdraws from this Agreement it shall do so by giving to the other not less than six months' prior written notice. Provided that either Council may take measures with immediate effect pursuant to a decision of its full Council in circumstances of sudden significant strategic change such that immediate arrangements need to be made to resolve conflicts of interest within the Shared Senior Management Team.
- 7.7 In the event of a termination for any reason the Councils 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) use best endeavours to secure an amicable financial settlement;
  - (c) immediately transfer or return any property including data belonging to the other Council;
  - (d) ensure that staff return to their employing authority and through best endeavours each Council is allocated a fair and reasonable proportion of the members of the shared staff subject to any necessary actions being taken as required by employment law or



by the policies of the transferring council so that (1) each Council can maintain continuity in the provision of its services at the same level of effectiveness and efficiency as if this Agreement had not been terminated and (2) they become employed by the Council to which they are transferred.

- 7.8 In the event of a termination however and whenever occurring the costs consequential upon such termination including costs of recruitment selection administration but not salary costs after the date of termination shall be apportioned equally between the Councils and each Council shall indemnify and keep indemnified the other Council in respect of that Council's share from and against any actions and causes of action claims demands proceedings damages losses costs charges and expenses whatsoever arising from or in connection with such early termination or withdrawal and such indemnity shall continue after the termination of this Agreement.
- 7.9 The Councils may review and seek to amend this Agreement from time to time and in any event shall carry out a review as to the efficacy and relevance of its terms after the first anniversary of the Commencement Date and any changes agreed shall come into effect on the second anniversary of the Commencement Date. Thereafter the Councils shall carry out further reviews at least every five years unless otherwise agreed with the date of the next following review being fixed as part of the initial review referred to above. All changes arising upon such reviews shall only take effect upon the completion and sealing of a formal amending Agreement.
- 7.10 No deletion, addition or modification to this Agreement shall be valid unless agreed in writing and sealed by the Councils.

## **8. Chief Executive: Application of section 4 of the Local Government and Housing Act 1989**

- 8.1 The Councils shall provide the Chief Executive with such staff accommodation and other resources as are in his or her opinion sufficient to allow his or her duties to be performed.
- 8.2 It shall be the duty of the Chief Executive where he or she considers it appropriate to do so in respect of any proposals of his or hers with respect to any of the matters specified in Clause 8.3 below to prepare a report to either one or both of the Councils setting out his or her proposals.
- 8.3. These matters are:
- (a) the manner in which the discharge by either one or both of the Councils of their different functions is co-ordinated;
  - (b) the number and grades of staff required by the Councils for the discharge of their functions;
  - (c) the organisation of the staff of the Councils; and
  - (d) the appointment and proper management of the staff of the Councils.
- 8.4 It shall be the duty of the Chief Executive as soon as practicable after he or she has prepared such a report to arrange for a copy of it to be sent to each member of either one or both of the Councils as appropriate.

- 8.5 It shall be the duty of each of the Councils separately to consider any such report by the Chief Executive at a meeting held not more than three months after copies of the report are first sent to members of one or both of the Councils.
- 8.7 Any replacement Chief Executive will be appointed Head of Paid Service by the Councils at their respective meetings on such dates as may be resolved by the Councils

## **9. Chief Executive: Supplementary**

- 9.1 Without prejudice to Clause 8 above it shall be the duty of the Chief Executive to ensure that all members (and non-Executive members in particular) have such access to and support from all officers of their Council and in particular to the Chief Executive and Shared Senior Management Team as they may reasonably expect.
- 9.2 Without prejudice to Clause 8 above the duties of the Chief Executive shall include advising any Joint Committees and the respective Executive and Cabinet of each Council in respect of executive functions within the meaning of the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) or the full Council or relevant committee of each Council in respect of non-executive functions within the meaning of the said regulations and the duty of the Chief Executive to advise the Councils shall include but not be limited to providing advice on:
- (a) The structure of the Shared Senior Management Team of the Councils;
  - (b) The host employer for each post;
  - (c) Performance management of the Shared Senior Management Team.

## **10. Dispute Resolution**

- 10.1 In the event of a dispute concerning the construction or effect of this Agreement and/or one of the Councils is proposing to withdraw from this Agreement there shall initially be an informal dispute resolution process which involves reference of the matter to the respective Leaders of the Council (or Deputy Leaders in the absence of the Leader) who shall meet to try and resolve the dispute within fifteen working days of the referral. If such informal dispute resolution is unsuccessful then the dispute will be referred to the Partnership Working Group which will consider whether to make recommendations to each Council and the matter may be referred by the Partnership Working Group to the respective Leaders (or Deputy Leaders in absence) of the Councils in consultation with the Chief Executive and such other Senior Officers as are appropriate who shall take all reasonable steps to conciliate and resolve such dispute or difference whether by negotiation, mediation or any other form of dispute resolution procedures (with a view to resolution by discussion and negotiation).
- 10.2 In the event that a matter in dispute cannot be resolved under Clause 10.1 above the matter may be referred to an arbitrator under Clause 10.3 below.
- 10.3 The arbitrator shall be appointed with the agreement of the Councils or in the

event that agreement cannot be reached by the President or other chief officer of The Chartered Institute of Arbitrators or such other professional body appropriate to the matter in dispute (such body to be determined by the Chief Executive).

- 10.4 The resolution of unresolved disputes in respect of the expenses of any Joint Committee to which section 103(b) the Local Government Act 1972 applies shall be determined in accordance with that section by a single arbitrator agreed on by the Councils or in default of agreement appointed by the Secretary of State.
- 10.5 For the avoidance of doubt this Clause shall remain in effect after the termination of this Agreement to confer powers on the Councils to resolve matters remaining in dispute.

## **11. No Fetter of Discretion**

- 11.1 Nothing in this Agreement shall fetter the discretion of the Councils.

## **12. Liabilities**

- 12.1 The Councils shall be jointly and severally liable to any third parties in respect of all actions and causes of action claims demands proceedings damages losses costs charges and expenses directly arising from this Agreement.

Each Council shall indemnify and keep indemnified the other Council from and against the extent of the indemnifying Council's liability for any actions and causes of action claims demands proceedings damages losses costs charges and expenses directly arising from or in connection with this Agreement and such liability and indemnity shall continue after the termination of this Agreement.

- 12.2 Each Council shall ensure that it has all appropriate insurances relating to public liability employee liability professional indemnity and Member indemnity to cover any liabilities arising under this Agreement. The Councils will use their reasonable endeavours to ensure that their respective insurance arrangements are mutually comparable as soon after the Commencement Date as practicable.
- 12.3 Each Council shall notify its insurer or insurers of the fact that it has entered into the Agreement and shall pay such adjusted premiums as arise therefrom to ensure continuation of its prior insurance cover.
- 12.4 Any shared employees shall have statutory immunity from liability in accordance with section 39 of Local Government (Miscellaneous Provisions) Act 1976 and shall be indemnified from the general fund provided that the employee acts bona fide in the interests of the councils and does not act (nor omit to act or deliberately fail to act) in a manner that is objectively reckless, negligent or criminal.

## **13. Intellectual Property Rights**

- 13.1 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.

- 13.2 Any new material created jointly by the Councils in the course of provision of the Shared Senior Management Team shall belong to the Councils jointly.
- 13.3 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 13.1 and 13.2 for the purposes of the performance of this Agreement.

#### **14. Notices**

- 14.1 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 office.

#### **15. Rights and Duties Reserved**

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

#### **16. Legal and other Fees**

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

#### **17. Provision of Relevant Information**

- 17.1 Each Council shall make available to the other such information which each Council may from time to time reasonably require which is relevant to and/or improves the efficacy of this Agreement.
- 17.2 Without prejudice to any provision in this Agreement requiring the keeping of records the supply of statistics or the provision of information the Councils shall keep such other records and details of or concerning the Shared Senior Management Team or their performance as the Councils 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 this Agreement or their performance under this Agreement when and in such form as each Council may reasonably require.
- 17.3 Without prejudice to any provision in this Agreement the Councils 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.
- 17.4 The Councils 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.

#### **18. Audit**

- 18.1 Each Council's external and internal auditors (whether in house or outsourced) shall have in respect of the other Council the like powers set out

in Part II of the Audit Commission Act 1998 in so far as their exercise is relevant to this Agreement. 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 audit immediate access to and permission to copy and remove any copies of and 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 including (but without limitation) any of each Council's data and any such information stored on a computer system operated by a contractor servant or agent of the other Council.

- 18.2 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 to which this Agreement is relevant and any investigations which are carried out after the termination of this Agreement to which it is relevant.

## **19. Partnership**

- 19.1 Nothing in this Agreement shall be construed as establishing or implying any legal partnership or joint venture between the Councils.

## **20. Anti-Corruption**

- 20.1 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 sub Clause (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.

## **21. Discrimination**

- 21.1 The Councils shall not unlawfully discriminate within the meaning and scope of the provisions of the 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 and any

statutory provisions amending or replacing the same by its employees in the performance of the Agreement. The Councils shall indemnify and or keep indemnified each other against all actions and causes of action claims demands proceedings damages losses costs charges and expenses whatsoever in respect of any breach by the one Council of this Clause and such indemnity shall continue after the termination of this Agreement.

## **22. Human Rights**

22.1 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 and or keep indemnified each other against all actions and causes of action claims demands proceedings damages losses costs charges and expenses whatsoever in respect of any breach by the one Council of this Clause and such indemnity shall continue after the termination of this Agreement.

## **23. Freedom of Information, Data Protection and Confidential Information**

23.1 It is agreed that the Councils are subject to the provisions of the Freedom of Information Act 2000 ("FoIA") and the Environmental Information Regulations 2004 ("EIRs"). Each Council shall cooperate with the other and supply to the other all information properly required in connection with any request received by a Council under the FoIA or EIRs except to the extent that in the disclosing Council's opinion such information is exempt from disclosure under the relevant legislation. Where a council receives a request for information under FoIA or the EIR which relates to this Agreement or a new proposal for a shared service it shall inform the other council of the request for information as soon as practicable after receipt.

23.2 In relation to all Personal Data, each council shall at all times comply with the Data Protection Legislation (as a Data Controller and/or Data Processor as necessary) in connection with this Agreement and any new proposals.

23.3 The councils shall (and shall procure that any of their respective personnel shall) in so far as it relates to the performance of their respective obligations under this Agreement:

23.3.1 adhere to all applicable provisions of the Data Protection Legislation

23.3.2 comply with any notification requirements under Data Protection Legislation

23.3.3 to the extent applicable duly observe all their obligations under the Data Protection Legislation which arise in connection with the Agreement

23.4 Notwithstanding the general obligation in 23.3 in respect of the councils rights and obligations under this agreement the councils acknowledge and agree that they are Data Controllers in respect of the Personal Data they hold for the purposes of the Agreement

23.5 Prior to the Commencement Date each council shall notify the other of the

name and contact details of that council's Data Protection Officer (as that term is understood by reference to the Data Protection Legislation). Each council shall promptly inform the other of any change in its Data Protection Officer.

- 23.6 The councils agree to provide such reasonable assistance as is necessary to each other to enable them to comply with the Data Protection Legislation and agree to enter into a Data Sharing Protocol.
- 23.7 The provisions of this Clause shall apply during the continuance of this Agreement and indefinitely after its expiry or termination or until all Personal Data is returned to the responsible Data Controller or destroyed on the responsible Data Controller's instruction.
- 23.8 Where any new proposal will include the processing of personal data and/or control of personal data then before such new proposal is agreed and finalized the councils must, depending on the data sharing arrangements and the data sharing relationship under the new proposal, undertake a Privacy Impact Assessment (PIA) where that processing is likely to result in a high risk to individuals' interests (and in any other instance as a matter of good practice) prior to entering into an appropriate data protection agreement.
- 23.9 No council shall, without the consent of the other (as appropriate depending upon the ownership of the confidential information) at any time during or after the term of this Agreement, divulge or allow to be divulged to any person any confidential information relating to the business or affairs of the other council in relation to this Agreement, any business plans or other collaboration pursuant to this agreement, except as required by this Agreement, prior consent or by law.

## **24. Survival of this Agreement**

- 24.1 In so far as any of the rights and powers of the Councils provided for in this Agreement shall or may be exercised or exercisable after the termination 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.
- 24.2 In so far as any of the obligations of the Councils provided for in this Agreement remain to be discharged after the termination of this Agreement, the provisions of this Agreement imposing such obligations shall survive and remain in full force and effect notwithstanding such termination.

## **25. Whole Agreement**

- 25.1 This Agreement constitutes the whole agreement and understanding of the Councils as to its subject matter and there are no prior or contemporaneous agreements between the Councils.

## **26. Waiver**

- 26.1 Failure by either Council 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 terms and provision of this Agreement.

## **27. Severance**

27.1 If any term or provision of this Agreement shall in whole or in part 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 term or provision all of which shall remain in full force and effect.

## **28. Headings**

28.1 Headings contained in this Agreement are for reference purposes only and shall not affect the validity or construction of this Agreement.

## **29. Governing Law**

29.1 This Agreement shall be governed by and interpreted in accordance with English law and the Councils submit to the exclusive jurisdiction of the English courts.

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

30.1 The Councils 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.

## **31. Non-assignment**

31.1 Neither of the Councils 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 Council may in its absolute discretion withhold unless such assignment is being imposed by legislation) other than to a successor body following a reorganization that transfers functions to a body that substantially performs any of the functions previously performed by that council.

## **32. Disruption**

32.1 The Councils shall take reasonable care to ensure that in the execution of this Agreement it does not disrupt the operations of the other Council its employees or any other third party.

## **33. Health and Safety**

33.1 Each Council shall promptly notify the other of any health and safety hazards which may arise in connection with the performance of this Agreement and shall promptly notify each other of any health and safety hazards which may exist or arise at a Council's premises and which may affect the performance of this Agreement.

33.2 While on the Councils' premises, the Shared Senior Management Team shall comply with any health and safety measures implemented by the relevant



Council in respect of employees and other persons working on those premises.

33.3 Each Council shall notify the other immediately in the event of any incident occurring in the performance of this Agreement on the Council's premises where that incident causes any personal injury or damage to property which could give rise to personal injury.

33.4 The Councils shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to employees and other persons working on Council premises in the performance of this Agreement.

33.5 The Councils shall ensure that their health and safety policy statements (as required by the Health and Safety at Work etc Act 1974) are made available to each other on request.

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

EXECUTED AS A DEED by affixing The  
Common Seal of Cherwell District  
Council  
in the presence of:

.....  
Assistant Director Law and Governance/ Designated Officer

THE COMMON SEAL OF  
OXFORDSHIRE COUNTY COUNCIL  
Was hereunto affixed in the presence of:

.....  
Director of Law and Governance/Designated Officer