

# East Surrey Building Control Shared Service

## Business Plan 2016/17 Draft v17

<b>VERSION CONTROL</b>			
<b>V</b>	<b>Date</b>	<b>Comments</b>	<b>Author</b>
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V14	3.8.16	Includes PM comments and updated structure chart	SP

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V16	5.9.16	With revised finance content and updated HR	SP
V17	12.9.16	Revised timeline and updated ICT costing	SP

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## Executive Summary

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## Background

### Strategic Context and Drivers for Change

The Building Control service is responsible for delivery of safe, healthy, accessible and sustainable buildings. The service is unique within local government in that it faces direct competition from Approved Inspectors (AIs) in the private sector. Nationally, standalone building control services teams are struggling to maintain staffing levels that provide specialist skills and knowledge that can deliver a high quality, customer focussed service. East Surrey is no exception. Continued loss of market share is a key risk coupled with a national shortage of qualified staff. All three councils are finding it difficult to compete with AIs for a finite resource. Use of consultancy staff is driving up costs in some councils and, for example, RBBC has few qualified permanent staff. The risk of service failure is high. Service resilience is at risk.

All three Councils are committed to partnership working. Following the consideration of an outline business case the Councils agreed in principle to the development of a business plan for a shared service. Alternative options for status quo, outsourcing and establishing a trading company were ruled out at this stage. The outline business case established that loss of market share, recruitment shortages and risk of service failure were key drivers of change and that although minor efficiency savings were possible that was not the key driver.

This business plan sets out a proposal for a shared service to create critical mass, target efficiencies and actively seek to maximise income generation to ensure the survival of the service. The business plan also focuses on a model that gives flexibility to staff and opportunities to grow our own talent. It is considered that this will assist in reversing recruitment difficulties and allow the service to compete in a recruitment environment that is currently dominated by AIs and the flexible arrangement and greater remuneration that they offer. Governance arrangements for development of this proposal comprised an Implementation team and Project Board – terms of reference are in Appendix A. The proposed governance arrangements following the launch of the shared service are set out in Appendix D.

### Current Provision of Building Control Services

Currently, each of the three Councils in East Surrey Mole Valley District Council (MV), Reigate & Banstead Borough Council (RBBC) and Tandridge District Council (TDC) undertakes its own building control service.

Ways of working and establishment structures are different. For example, RBBC and TDC currently share a manager. Calls are taken within the services. MV shares an administrative resource with their planning department. All officers are based at their relevant town hall office with some hot desking and mobile working at RBBC and TDC. An analysis of worktype has identified considerable similarity between the work undertaken at each Council. The split between commercial and domestic work is similar being heavily dominated by domestic applications. The key difference between the Councils is the focus on partnering and account management at TDC where a dedicated resource focusses on building client relationships and growing business. The success of this approach is apparent in the partnering numbers shown in Figure 2 below together with success at Local Authority Building Control (LABC) awards. As will be seen later this is a key element of the proposed future model for the shared service.

The current establishments, including vacancies, are set out below in figure 1:

	<b>MV</b>	<b>RBBC</b>	<b>TDC</b>
<b>Manager</b>	1	0.3	0.3
<b>Team Leader/ Principal Surveyor</b>	2	2	1
<b>Senior Surveyor</b>		3	3
<b>Surveyor</b>	2	2	2
<b>Structural Engineer</b>			1
<b>Assistant/Apprentice</b>	1		1
<b>Technician</b>		1	
<b>Admin support</b>	1.5 (shared)	2	3
<b>Business Development</b>			0.6
<b>Total:</b>	<b>7.5 fte</b>	<b>10.3 fte</b>	<b>11.9 fte</b>

Figure 1: Current establishment

The volume of work at each Council varies. Figure 2 gives a flavour of workflow and type:

	<b>MV</b>	<b>RBBC</b>	<b>TDC</b>
<b>No. charge earning new applications</b>	798	867	765
<b>Initial notice applications</b>	264	444	180
<b>Competent person scheme submissions</b>	4237	8742	6592
<b>No. applications checked as a partner authority under partnering scheme</b>	62	9	167

Figure 2: examples of work volume 2014/15

## The Shared Service Vision

### Vision

The vision for the shared service is to create a **modern, resilient, commercial service delivering high quality customer focussed building control services for the 21<sup>st</sup> century.**

### Functions and scope of service

The proposed scope of the shared service is:

- Building control;
- Technical and administrative support;
- Marketing and business development;
- Customer call handling.

The shared service will be responsible for all the building control services functions currently exercised by the three individual councils. A full list appears in Appendix B.

### Assumptions

It is assumed that:

- I. Following executive/committee agreement and subject to consultation with staff and representative bodies within each Council in accordance with its constitutional processes the shared service would be implemented with effect from the date that an Inter Authority Agreement is signed by the Councils. The current estimate is February 2017.
- II. Council service departments shall not individually procure external private bodies to provide building control services on council land or development and shall procure services of the shared service;
- III. During any period awaiting implementation of new ICT partner councils will enable continued use of existing systems ;
- IV. Following the creation of the shared service there will be an examination of organisational structure to ensure that it is fit for purpose.

### Aims and objectives

#### Improved value for Customers

A 21<sup>st</sup> century service needs to be driven by customer needs. Client relationship management will focus on meeting customer need and ensure that the shared service delivers a service that is tailored to meet the needs of customers attracting increased market share and repeat business.

#### Great place to work

The shared service seeks to improve resilience and staff retention by introducing new agile ways of working, including greater flexibility, enhanced ICT and more agile and mobile patterns of work. This will in turn provide staff with greater development opportunities via the promotion of in-house complementary services developing specialist and technical expertise, greater breadth and depth of service. Engaging staff in the development of the shared service and supporting staff through change will be critical to making the service a great place to work.

#### Efficient ways of working

Reducing duplication across three council areas will drive down costs and improve the customer experience. Streamlining business processes and maximising use of ICT will provide opportunities for efficiencies and alignment of best practice. A stronger focus on performance management will provide clear tracking of progress.

## Income Generation

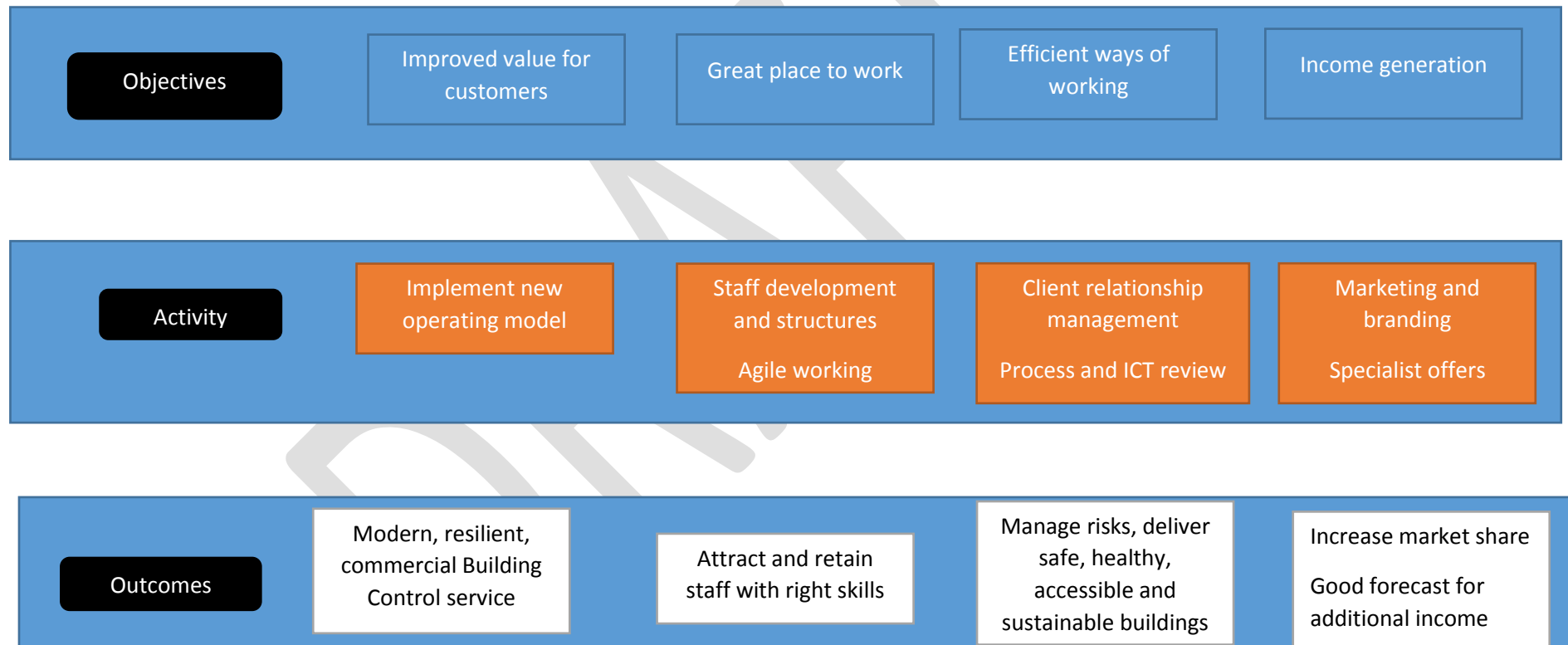
Developing the business to respond to customer demand provides opportunities for additional income generation. The shared service will maximise such opportunities.

A diagram showing how the vision will translate through objectives and activity into improved outcomes is shown in Figure 3 overleaf.

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**Vision : modern, resilient commercial service delivering high quality customer focussed building control services for the 21<sup>st</sup> century.**



## Delivery Vehicle and TUPE lead authority model

Options for outsourcing and setting up a company as a new legal entity for the shared service have been reviewed in the outline business case and discounted at this stage. However, consideration of setting up a company as soon as practical following successful implementation of the shared service is a key aim to release the service from the prescriptive requirements of the local authority charging regime. But at this stage this business plan proposes a shared service delivery model.

Various options for a shared service model have been reviewed:

- The least integrated model - making no or limited change to organisational structures but increasing informal collaboration and information sharing;
- Joint management employed by a lead authority (TUPE or secondment may be required), staff at each council used as a pooled resource but no or limited change to (non management) organisational structures;
- A host authority model where one council manages delivery on behalf of the other authorities and relationships /service levels are set out in a contract (SLA or IAA) , staff are seconded into the lead authority;
- The most integrated model - A host authority model as above but staff TUPE into the lead authority.

This business plan strongly supports the most integrated option – a TUPE lead authority model. This option maximises integration enabling a ‘one service’ approach. The agreed lead authority is Tandridge District Council. Following a TUPE transfer staff at the other two councils who wholly or mainly deliver building control services will transfer to TDC as the employing authority on their existing terms and conditions of employment.

## Location and Accommodation

The proposal is for staff (excluding admin support) to operate from two locations – namely, the existing offices in Oxted (TDC) and Pippbrook (MV). A move to a single hub is not recommended at this stage. These two locations have been identified as they align best with the locations of current demand and as officers spend a majority of their time on site the locations offer the best geographic spread across a wide area. The introduction of agile working as described later will mean that the need for office accommodation will be reduced and it is intended that accommodation consists of hot desk facilities and the ability to book meeting space. Moving to two location will help build resilience. Bringing staff together will be a key part of building a new culture and implementing new ways of working. Two hubs will facilitate this and reduce staff travel time. Hot desking facilities (providing power, wifi access, desk space and meeting rooms if available) at other locations will remain available to staff (subject to availability) to increase efficiency potential.

Administrative support is a largely electronic function. The location of staff is therefore not dependent on customer spread. The proposal is for admin support staff to operate from one location creating a central admin hub. This will assist the process re-design needed to streamline existing services and create consistency and the implementation of a single ICT platform. The proposal is that the location for the admin hub sits with the lead authority at Oxted.

## Workforce planning & organisational change

### Organisational Structure

The proposed structure for the shared service is shown overleaf.

The structure includes posts for all staff in the TUPE pool. Vacancies will be the subject of a recruitment campaign led by JobsGopublic that will raise the profile of the shared service.

In order to provide capacity during the set up phase the structure includes an Interim Implementation Manager and an ICT post but these posts will be temporary and are not intended to be part of the permanent establishment. Overall strategic responsibility for the shared service will fall to the Head of Service at TDC who will report to the Joint Partnership Board as set out in the governance arrangements.

The Area Manager and Business Support Manager posts within the structure do not replicate existing posts. It is proposed that these posts be the subject of a recruitment process ring fenced to existing staff before the shared service goes live. Once appointed managers will assist the smooth transition of all other staff on existing terms and conditions. The structure proposes two area teams, east and west, and the assignment of staff to individual areas will be a matter for individual discussions. In the event that managers do not choose to apply for these posts or are unsuccessful the structure has adequate flexibility to enable impacted individuals to revert to their substantive roles and transfer to similar roles to the substantive positions with terms and conditions protected to those posts.

A due diligence exercise to assess the compatibility of the proposed ways of working with existing terms and conditions is currently being undertaken. Full consultation with staff by TDC as employer authority will commence following the agreement of Councils to the proposal and prior to any staff transfer. A detailed consultation plan is being developed across all authorities involving the relevant managers and HR teams.

After an appropriate period of time it will be necessary to examine the structure to ensure it is delivering the vision and to consider whether any economic, technical or organisational reasons justify changes to staff terms and conditions. Any such changes will be subject to appropriate consultation with staff.

### Agile Working

Agile working is considered an essential component of delivering the vision. The introduction of mobile working as the preferred option will be critical to success as it will deliver great customer service and flexibility for staff. This needs to be coupled with ICT that enables staff to work remotely and with the minimum need for paper. This proposal strongly supports the introduction of working practices and ICT that minimise the need for hard copy documents (although it is recognised that in a small number of cases hard copy plans may be needed but this will be the exception and monitored in accordance with a clear protocol). Staff will use mobile technology that reduces the need to attend a static location thus increasing efficiency and reducing the need for accommodation.

### Business Development Approach

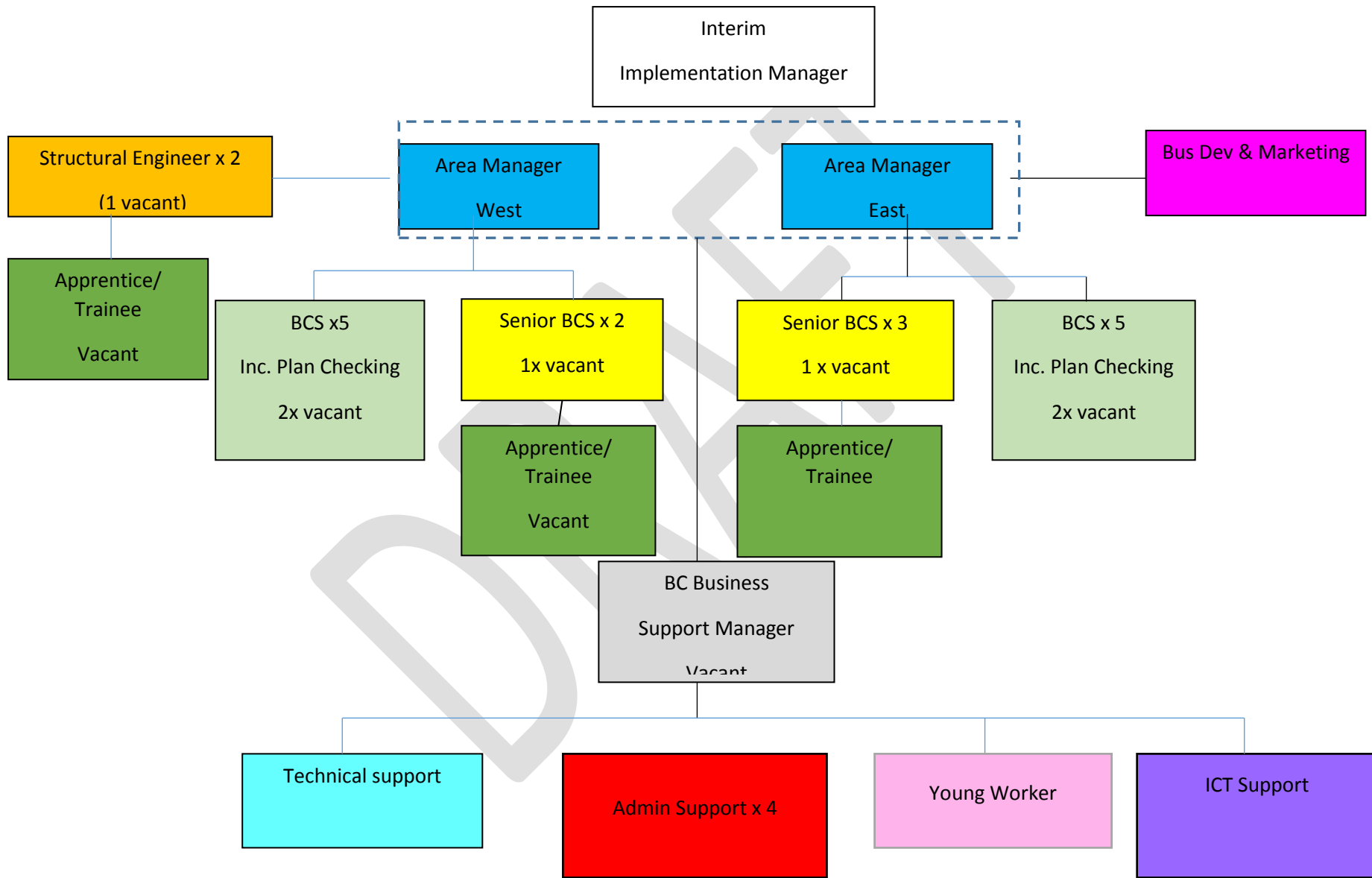
The guiding principles and agile working approach for the shared service will create a team that aspires to offer to the market a new and different proposition than is currently offered by the individual Councils or Approved Inspectors. This offer will be customer led and its unique selling point will be a local public service offering a first class service that is tailored and proportionate and promotes excellent standards not a one size fits all approach.

Key to growth will be a strategy focussed on business development through **partnering**. Partners are agents or developers who work with a particular building control team to plan check applications (projects) outside the geographic boundaries of the relevant district anywhere in England and Wales.

In TDC a strategic focus on partnering has resulted in a year on year increase in partner income. The shared service proposes to adopt this strategy and develop partnering into an **account management service** whereby clients are allocated to a specific account manager and partnering becomes a key focus for the business. In this way client relationship management will be key to future working.

By focussing on business development the shared service will create a brand to launch its business, raise its profile amongst existing and potential customers, enable a better understanding of the market to inform a targeted marketing strategy, encourage client retention and focus the service on customers. The proposed structure enables staff to focus on future business opportunities and provides a dedicated business development and marketing role to implement the proposed approach to business development.

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## ICT

A summary of the proposed ICT solution is attached as an Appendix to this business plan. It is proposed that the shared services operates under a single supplier cloud based software solution operating a single, agreed system with a common process based workflow. A single case management and document management system will enable single process flow for the new team coupled with portal operation through a website so that customers shift transactions online. Hardware will enable mobile and home working to support agile working methods. Migration of historic data and archiving will be informed by an evaluation of risk and individual Councils will be able to take individual decisions about retention beyond the agreed thresholds.

The cost estimate for the proposed ICT are shown in the financial section of this plan. A 6 month lead in period for procurement is anticipated. It is proposed that the transfer of staff is not delayed to await procurement but that a staged implementation plan be put into place to encourage shared learning by staff and ensure sufficient support is in place.

## Outcomes & Operational performance

Establishing a culture where measures of performance drive improvement will be a key aspect of the management of the shared service. Performance measures currently used by the three council services vary and do not provide a comprehensive picture of performance in any council.

National performance for building control services is stipulated by the Building Control Performance Standards Advisory Group (BCPSAG).

Developing one set of agreed measures will be key. This business plan proposes a dashboard type approach. This would comprise defining a high level set of key performance indicators for reporting to the management and partnership boards and beneath this a more detailed set of operational measures that inform day to day management.

It is proposed that the following areas of focus inform SMART key performance indicators (KPIs) which are reported to the shared service partnership :

<b>Finance</b> Increase market share Increase number of partners Savings targets met Income targets met	<b>Customer</b> Improve satisfaction levels
<b>Staff</b> Do not exceed set vacancy and turnover rates	<b>Efficiency</b> Target turnaround times met

A list of potential day to day operational indicators appears in Appendix C.

## Finance and budget

### Financial business case

The overriding financial principle in developing this proposal has been to seek to ensure that no individual authority takes an unfair financial contribution. The financial model being proposed is based on the following principles:

- The IAA proposes an agreed percentage financial apportionment for future net income (or net cost) between the three participating Councils, which is over and above the current level. The agreed split is MVDC 30%, TDC 35%, R&BBC 35% and this has been calculated based on the average current split of employee and transport costs, and income.
- Support services will be provided by TDC at reasonable cost. A reasonable cost has subsequently been determined to equate to the current support service cost that TDC charges its own Building Control service. The new shared service will therefore receive a substantially lower charge for support services than hitherto. Instead of being charged the equivalent of the total of all three authorities support services costs, it will only be charged the current cost of the TDC support services. TDC will provide the support services required to the partnership within this estimated cost envelope.
- Mole Valley will make a support service charge for the provision of accommodation for broadly ½ the staffing establishment.
- Other than as set out above, authorities will therefore have to retain as a cost, the value of the support services which it had previously charged to its own Building Control service. Each authority will determine the implication on itself of this approach. The financial model however ensures that this retained support service cost is offset by the resulting reduced cost of the new shared Building Control service.

### Implementation costs

In the development stage of this project the main implementation costs have been: commissioning an external outline business case, implementation review, project management and developing a future recruitment campaign. Excluding officer time these costs are estimated at around £100k. It is proposed that of these costs around £60k be repaid to TDC once net income from the shared service is sufficient to pay this sum after payment of the agreed split. The remaining £40k represents SOLACE costs which have been shared by Reigate & Banstead and Tandridge.

### Shared service initial budget

The initial budget for the shared service is shown in the table below:

	First Full Year £'000	Charge-able £'000	Non-Charge-able £'000	Second Full Year £'000	Charge-able £'000	Non-Charge-able £'000	Third Full Year £'000	Charge-able £'000	Non-Charge-able £'000
Employee costs	1,185	888	297	1,241	929	312	1,207	904	303
Running expenses	242	216	26	183	157	26	186	159	27
Central services charge (Tandridge and Mole)	215	161	54	218	164	54	222	167	55
<b>Total Expenditure</b>	<b>1,642</b>	<b>1,265</b>	<b>377</b>	<b>1,642</b>	<b>1,250</b>	<b>392</b>	<b>1,615</b>	<b>1,230</b>	<b>385</b>
Building control fees	(1,528)	(1,528)	0	(1,528)	(1,528)	0	(1,528)	(1,528)	0
<b>Total income</b>	<b>(1,528)</b>	<b>(1,528)</b>	<b>0</b>	<b>(1,528)</b>	<b>(1,528)</b>	<b>0</b>	<b>(1,528)</b>	<b>(1,528)</b>	<b>0</b>

<b>Net cost</b>	<b>114</b>	<b>(263)</b>	<b>377</b>	<b>114</b>	<b>(278)</b>	<b>392</b>	<b>87</b>	<b>(298)</b>	<b>385</b>
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It is proposed that in the first financial year (which will likely be a part year) that the above budget and the contributions/net income of each authority be split pro rata. The business is expected to generate additional net income in the third year after fixed-term staff costs fall out. Fee scales and income are assumed to be unchanged across the three year period.

Although the share of income across the three authorities on the chargeable element largely offsets the cost of the non-chargeable overall, the Building (Local Authority Charging) Regulations 2010 (SI 2010/404) indicates that the joint service would be unable to use income in this way. CIPFA's Local Authority Building Control Accounting guidance states it is implicit that authorities need to demonstrate charges levied are equal, as far as practical, to actual costs 'taking one financial year with another'. These requirements would not be applicable to a fully independent company arrangement and hence to move to this type of structure would be the prime objective over the next few years in order to realise the full financial potential of the new shared service. In the meantime each authority would need to demonstrate compliance with this regulation itself, for example by identifying retained costs which would offset the identified share of income.

The financial model has ensured that whilst the new shared service will pay to TDC and MVDC a charge for the support services provided, this income for these 2 authorities is then offset by increasing the level of financial contribution that they pay for the new shared service. This ensures that the net cost of the new shared service represents a nil change in the overall cost for each authority. In light of the fact that TDC and MVDC therefore do not actually receive any net benefit from the income payable from the new service for central service costs, it is proposed that if the new service at some time in the future were not to require any or all the central services, then the reduced income would be shared between all the authorities in the same proportions, as discussed above, as applies to net cost or net income.

Implementation and on-going costs will be incurred in relation to IT hardware/software/web design/data migration, which will be funded by the shared service from the outset. The estimate for these costs is £140k in the first year, and this sum is included in the first full year budget discussed above, of which £80k will be ongoing

#### **Consequential costs to non-host authorities**

Non-host authorities are likely to incur minor ICT costs in relation to the need for access to the shared service data by other council functions (e.g. Local Land Charges) and consequential costs such as termination of existing licences. These costs have been estimated to be in the region of £10k across all three authorities.

#### **Transferring Staff – Pensions**

Surrey County Pension scheme have advised us it is assumed staff will transfer to Tandridge on a fully-funded basis in line with standard practice, with net assets / liabilities remaining with transferor authorities.

#### **Current and future cost of new shared service**

The current estimated cost of the building control service for the three authorities amounts to a net £679k. The estimated net cost of the new shared service including the retained support service costs



has been modelled to come to the same net cost, in line with the principle of authorities being 'no worse off'. This is shown in the following tables.

**Table 1: Current estimated cost of existing service for all authorities**

	<b>2016-17 Estimate- total £'000</b>	<b>Chargeable £'000</b>	<b>Non- chargeable £'000</b>	<b>Mole £'000</b>	<b>Reigate £'000</b>	<b>Tandridge £'000</b>
Building control expenditure	2,207	1,617	590	642	793	772
Building control income	(1,528)	(1,528)	0	(458)	(490)	(580)
<b>Net Cost</b>	<b>679</b>	<b>89</b>	<b>590</b>	<b>184</b>	<b>303</b>	<b>192</b>

**Table 2: Projected costs for all authorities once new shared service in operation**

	<b>2016-17 Estimate- total £'000</b>	<b>Chargeable £'000</b>	<b>Non- chargeable £'000</b>	<b>Mole £'000</b>	<b>Reigate £'000</b>	<b>Tandridge £'000</b>
Charge/income for new joint service	114	(329)	443	(73)	(5)	192
Retained central services charge	778	589	189	310	308	159
Income to Mole and Tandridge for central services (from budget of new joint service)	(213)	(171)	(42)	(53)	0	(159)
<b>Net Cost</b>	<b>679</b>	<b>89</b>	<b>590</b>	<b>184</b>	<b>303</b>	<b>192</b>

As can be seen from the above tables, the current estimated cost of the building control service equates both in total and for each individual authority to the estimated cost of the new shared service.

The distribution of the £114k net cost of across the three authorities based on the combined 2016/17 budgets is as follows, split between the chargeable and non-chargeable elements:

<b>Authority</b>	<b>Total £'000</b>	<b>Chargeable £'000</b>	<b>Non- Chargeable £'000</b>
Mole Valley	(73)	(188)	115
Reigate & Banstead	(5)	(141)	136
Tandridge	192	0	192
<b>Total</b>	<b>114</b>	<b>(329)</b>	<b>443</b>

## Governance & decision making

It is proposed that the governance arrangements for the shared service once in place comprise a Joint Partnership Management Board to ensure appropriate elected member oversight and Partnership Management Team to focus on day to day operational delivery. In the period prior to the launch of the service it is proposed that implementation governance arrangements continue.

Terms of reference for the Joint Partnership Board and Management Team are at Appendix D and set out in the IAA.

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## Key risks

During implementation the Project Board has maintained a register of risk. Key risks to the set up of the shared service following Council sign off are set out below:

Risk	Mitigation
Staff resistance to changes in ways of working	Early and ongoing communication (including through face to face dialogue and central newsletters), commitment to staff development.
Loss of business/market share	Ensure smooth transition. Clear messages to customers. Marketing and business development strategy for shared service. Clear performance measures regularly monitored.
One or more councils pull out or failure to agree key issue	Early identification of concerns. Regular feedback reporting. Clear exit arrangements in Inter Authority Agreement. The shared service is viable with a minimum of TDC and MV as partners.
Slippage in launch date	Clear agreed timescales and processes including manager recruitment and TUPE transfers
Lack of capacity from BC managers to lead development of operating model	Early identification of resource and allocation of responsibilities
Loss of democratic support	Engagement of elected members in governance structure
ICT costs exceed estimate or procurement/implementation problems arise	ICT workstream lead provides clear reporting line and any slippage identified early.
Failure to comply with charges regulations	Agreed financial model that takes account of legal advice
Slower than expected move to a company model	Project management and reporting of progress to Board

## Implementation

Following sign off to the set up the shared service by Council committees and executives a number of key steps will need to be implemented before the launch of the partnership service. These steps include:

- Recruitment to manager posts;
- Consultation in accordance with Council policies and TUPE;
- Vacancy recruitment;
- TUPE transfers of staff to lead authority;
- ICT migration/procurement;
- Set up of financial trading accounts;
- Service plan and operating guidelines for shared service, including 5 year plan; Marketing and branding , website set up
- Launch of shared service.

It is estimated that councils will consider the proposal and agree to the setup of the shared service at their meetings in October 2016 and that launch of the service will take place in February 2017.

## Marketing Strategy

### **Responsibility**

It will be the responsibility of the business development and marketing manager to oversee all marketing activities. This will include reviewing the marketing plan on a regular basis, evaluating market conditions and competitor offerings and carrying out market/customer research.

### **Branding**

Southern Building Control Partnership (SBCP) is suggested as the new business name as it is not geographically restrictive and it portrays the business as a larger, professional organisation - especially important when establishing relationships with larger contractors/businesses. The name is also suitable should the service join forces with additional building control teams in the future. A new business logo will be created but the three LA/LABC logos may be retained within the overall branding.

### **Marketing goals**

To maintain current market share in East Surrey in the short term followed by growth through targeted marketing and specialist/account management services to the SE construction industry and property owners. Size and combined expertise within SBCP will enable exploitation of additional opportunities not possible for smaller teams.

### **Approach**

Size will rank the shared service above any other building control service in Surrey and possibly the South East. The service's unique selling points will include breadth of expertise, capacity to manage larger workloads and ability to provide the highest level of service and work electronically with clients.

Success will be measured through improved marketing, introduction of an account management service for new and existing clients in the SE, upskilling team members to enable development of additional specialist income streams , standardisation of service levels; efficiencies presented from economies of scale and promoting the service.

### **Target markets**

Target markets will focus on architectural practices in the SE, housing developers, commercial building contractors, property owners, County Councils, schools, HAs, FMB members.

### **Key areas for growth**

**Account management** - Increasingly agents/developers find it more practical and cost/time efficient to work with one BC service for plans submission however most BC teams do not have the capacity to offer this type of service due to resourcing issues and lack of experience. Tandridge currently successfully “Partners” with more than 35 agents and we will build on this knowledge to develop an account management service to attract new high net worth clients.

**Additional specialist services** -By upskilling team members we can promote in-house complementary services to help build buy in, (particularly from larger clients) to the core BC service, giving us an advantage over many BC services; fire risk assessment, party wall/structural warranty surveyors, Part P inspections, structural design service.

**Training and CPD** -Tandridge’s experience has shown the most effective/efficient way to build new/retain existing client relationships on a large scale has been through hosting in-house training/CPD events. There is a lack of local good quality building regulations training in Surrey and we can provide this through buying in training consultants/training up in-house as well as offering free regular CPD training at no cost to ourselves.

### **Other considerations**

Development of a CRM system and Partnership microsite offering standardised e-application/e-payment will be essential for launch as is ensuring the Jobs Go Public website is live, promoting working in the Partnership and capturing potential candidates for future vacancies.

## APPENDIX A: Implementation Governance Arrangements

<b>Project Board</b>	<b>Implementation Team</b>
Purpose: direction and management of project to create shared building control service	Purpose: Design of shared service business operating model
Meeting frequency: monthly or as appropriate	Meeting frequency: Monthly and as necessary
Led by: Project Sponsor (Piers Mason)	Led by: Building Control Implementation Manager
Comprises: Essential: Heads of Service from the local authorities Optional: Appointed members and/or Chief Executives from each local authority.	Comprises: Building Control Implementation Manager (Chris ApSimon) Building Control representatives (Mike Hill, Andrew Winton, Rob Villiers) Project sponsor (Piers Mason) Project Manager (Sandra Prail) HR representative (Seanne Giddy) Legal representative (James Hitchcock) Finance representative (Alistair Montgomery) ICT representative (Stuart Mitchenall) Customer services/marketing representative (Sue Daly)
To provide strategic direction for the project and monitor progress To provide effective delegation and commitment of resource. To facilitate cross council working. To act as an informal sounding board for the Implementation Team. The Board shall be a forum for consultation, discussion, resolution of issues etc To make recommendations to each Council on the implementation of a shared service including risk, issue and change management	To design, develop and implement the project including a project plan and risk register. Ensure project plans and proposals are feasible and realistic. Ensure delivery of and monitoring of progress against project objectives and deliverables. Report progress to project Board including assessment of risks and performances against the timetable.
To review reports from the Implementation Team; helping ensure links are made to other Council Services and helping to break down barriers that inhibit performance and delivery of the partnership.	
To be consulted on the Business Plan, including priorities and measures	To assess options and develop a business plan setting out costed business operating model.
Project assurance and quality control	
Ensuring timely and effective communications within the project, within Councils and with external stakeholders	Identify communication messages
Ensure project deliverable, reliable, sustainable and can be maintained efficiently	

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## APPENDIX B: Functions

### Chargeable Activities (fee earning):

- Passing or rejecting plans of proposed work deposited in accordance with section 16 Building Act 1984;
- Site inspection of building work in connection with plans which have been deposited in accordance with the Building Regulations 2010;
- Site inspections in connection with building work for which a building notice has been given to the local authority in accordance with Building Regulations 2010;
- Consideration of building work reverting to local authority control from an Approved Inspector;
- Consideration of an application for a regularisation certificate for work carried out without the benefit of approval under Regulation 18 of the Building Regulations 2010 and the inspection of any building work to which that application applied
- Giving substantive pre-building regulation advice (of more than 1 hour of an officer's time) on specific chargeable functions regarding the requirements of the building regulations and associated legislation
- Correspondence with lawyers
- Access to archived plans.

### Non chargeable activities (non fee earning):

- Liaison with fire authority and other statutory authorities including other Council departments;
- Enforcement relating to building regulations;
- Inspections to identify unauthorised works;
- General advice;
- Reg 4 Building (Local Authority Charges ) Regs 2010;
- First hour of officer advice on pre-building regulation advice on specific chargeable functions.

### Other BC services (non fee earning):

- Dangerous building;
- Admin of AI regulations (excluding work resulting from reversions);
- Issuing conditions relating to demolition of buildings;
- Advice to other authorities;
- Advice to Safety Advisory groups in respect of safety at sports ground legislation;
- Work associated with admin and enforcement of competent persons scheme
- Providing information as part of local land charges searches;
- Enforcement of local or national legislation;
- FOI requests;
- Fee quotes;
- Section 32 rescinds;
- Section 52(5) cancellation of initial notices.



## APPENDIX C: Operational Performance Measures (draft)

### 1. Full Plans & Building Notice Application Processing.

2 working days to process an application and make contact with applicant/agent if not valid (eg no payment)

2 working days to validate an application and register as live.

3 weeks to check and make contact with applicant/agent for 90% of Full Plans applications.

5 working days to check any information or plans provided with a Building Notice application. Exception for structural calculations and details.

Statistics to be provided **monthly**.

### 2. Response to Site Inspection Requests.

Same day inspections (Monday to Friday, except Bank Holidays) for all inspections telephoned in to office received before 10am. Final inspections and Drain & SVP tests not included.

2 days notice for Final Inspections.

24hours notice for drain and SVP tests. Recommend contact and arrangements made with specific case Surveyor.

Statistics to be provided **weekly**.

### 3. Structural calculation checks.

Detailed check and a response if required returned to applicant/agent within 10 working days.

Returning amendments to queries raised checked within 7 days.

Statistics to be provided **monthly**.

### 4. Staff training and Continual Professional Development Training.

To maintain RICS qualification 20 hours are required annually.

To maintain ABE qualification 35 hours are required annually.

*Any Other Bodies.*

The aim is to provide 35 hours CPD training to all qualified and non qualified surveyors. This can be a mix of both formal and non-formal training.

As part of annual performance and development reviews of individuals, which are reviewed half way through a year, identification of training needs and appropriate courses or subjects can be highlighted and identified and planned into the year.

Statistics to be provided **6 monthly**.

#### **5. Customer Satisfaction.**

Responses could be broken down to work type (domestic or non-domestic), home owner or agent.

Feedback to be requested on chain of events from, web site, registration ease & speed, plan checking, structural calculation check, site inspections etc etc.

An ACTION PLAN to be provided to remedy any areas of concern and to congratulate any successes.

Agents that use an alternative BC body should also be written to, after a reasonable period under the protocol, to find the cause and win them back.

Statistics to be provided **quarterly**.

#### **6. Partner Applications.**

Attracting more partners to the business is seen as the best way to grow the business and increase market share.

A dedicated Business Development Officer will endeavour to attract new partners that use Southern Building Control for all their plan checking work.

It is expected that new partners will increase by xxxxx year on year for the next xxxx years with application numbers increasing by %%% a year for the next xxx years.

Statistics to be provided **quarterly**.

## APPENDIX D: Governance arrangements

<b>Joint Partnership Board</b>	<b>Joint Management Team</b>
Purpose: Advisory	Purpose: Delivery & Operational Decisions
Meeting frequency: as necessary	Meeting frequency: Monthly
Led by: Senior Officers	Led by: Head of Service
Comprises: 1 member per partner Council plus Head of Service and Interim Implementation Manager	Comprises: Head of Service; BC Area Managers; Interim Implementation Manager
To act as an informal sounding board for the Service. The Board shall be a forum for consultation, discussion and resolution of issues on all aspects of delivery of the Service, To oversee performance	Day to day management of the Service, including providing statutory returns; monitoring day to day performance of the Service and teams; responding to information needs identified by the Joint Partnership Board
To review reports from the Joint Management Team to work collaboratively with the Service to improve overall performance, helping ensure links are made to other Council Services and helping to break down barriers that inhibit performance.	Production of reports to be considered by Joint Management Board including: An annual report on delivery of the Business Plan; Proposed charges; Performance against key measures (which may include statutory returns); HR issues; and Resource issues where relevant
To be consulted on the draft Business Plan, including priorities and measures	Production of a draft Business Plan for the coming financial year, including service priorities and anticipated performance measures
To quarterly review the budget monitoring information	Monitor the budget, approve spend in accordance with Standing Orders for financial processes. Provide budget monitoring reports to the Joint Partnership Board.
To provide support and guidance to the Joint Management Team to	To provide annual reports to the Joint Partnership Board on delivery of the

assist achievement of delivering the Business Case	business case.
To suggest alternatives for the Joint Management Team to develop and to provide constructive challenge to ideas	To provide comprehensive information on possible ways to spend any additional surplus income / savings or underspend, including a consideration of the impact of any such spend.
To identify defaults against the Inter Authority Agreement and resolve these to the satisfaction of both Councils.	

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## Appendix E: Summary ICT specification

### ICT Proposal (Summary)

This proposal summarises a more detailed ICT specification that has been agreed across the three partner councils as providing a viable suite of ICT solutions to enable the future shared service to meet its business needs.

#### Back Ground

##### Existing BC systems and environment

Tandridge	Arcus salesforce BC	(installed 2013)
Reigate and Banstead	IDocs based system	(installed N/A)
Mole Valley	APAS (Swift LG) system	(installed 1992)

The three authorities have existing and unique systems supporting Building Control, integrated with other council systems to a varying degree. The authorities use different document management and supporting technology, but share a Microsoft environment for office productivity and operating systems platforms.

What none of the installations represents is a system that meets the business needs of the future East Surrey shared service.

The premise of the partnership proposal is to be commercially competitive with businesses competing for service provision outside of local authority operation. It aims to offer a Local Authority based Building Control service as the offer of choice for professional and domestic clients. This requirement needs to be customer focussed, designed to deliver rapid quality service to applicants and to maintain necessary compliance and best practice in its interaction with the parent authorities.

#### Requirements Summary

Based on business need the following minimal system requirements are recommended:

Building control software functions to replace those currently operated by all 3 boroughs (Arcus (Force.com), iDocs(2), and APAS.) operating a single, agreed system with a common process based workflow;

Document management to replace the three separate document management systems currently utilised;

An office productivity suite (e.g. Office 365, google docs) which is suitable for document and other office preparation. It should be able to support basic data analysis and to be widely accessible. Documents should reflect the share ability of cloud based services enabling the co-operative production of documents;

Communications and collaboration facilities support office communication (email / exchange / SharePoint or alternatives), together with maintenance of the office environment and its security using such as active directory;

Scaled measurement software to integrate with the BC software / document library and enable accurate calculation of dimensions and areas.;

Customer / Contact Management functions to support case management and identify repeated contact;

Data transfer facilities to allow the provision of the processed case information to the Boroughs and Districts; this will assume that the requirement for information provision is limited to that required of best practice commercial building control services;

A portal operation through a website (capable of supporting Competent Person and Approved Completions records). This will support the making of applications, the promotion of the business, and the conduct of inspection. The portal will form the preferred future route to engagement with customers and business.

A telephony system able to operate with separate Customer Relationship Management (CRM) functions, and to integrate with the software and hardware utilised by the building control service. In the office, this needs to support desk based phones, but the integration of mobile telephony into the standard telephone support system will assist a mobile and flexible workforce.

As support services are to be provided by Tandridge the proposal also covers financial software for management of accounts, procurement, charging functions, payroll and HR functions which interface with TDC systems.

The BC solution should be accessed through a single sign-on and be available from any designated site; in particular it should operate efficiently over lower bandwidth wireless connections (e.g. 4G) at an acceptable performance, and key elements of the system be accessible off-line using (preferably) tablet or portable technology.

Whilst Tandridge is used as the home base for the partnership, scanning and printing operations will be required to be supported at the Tandridge site.

### Cost Estimate

The cost estimate for the provision of the proposed solution is:

- £60k Cloud access – annual charge for software as a service based on £250 per user per month that is not significantly different from current aggregate costs of software licensing;
- £50k Data conversion – one-off cost
- £10k Website development – one-off cost
- £10k Residual costs – est annual charge (this depends on Councils' requirements);
- £10k Depreciation – annual charge based on £50k hardware cost.

A total estimate of £140k appears in the proposed budget. Consequential costs to non-host councils depend on their individual requirements for archiving and interface with other council systems.

### Risks

The detailed risk assessment identifies various key risks that will require management and mitigation. As with any ICT procurement risks include lack of combined process agreement, withdrawal of partners, slippage and changes in cost estimates or requirements. ICT leads at the three councils are confident in the proposed solution and will monitor progress closely. The

coherence of a singular approach will significantly mitigate risks and the identification of an appropriate procurement route will assist rapid implementation of a flexible solution.

### **Implementation timetable**

From procurement to implementation is likely to comprise a period of 6 months. An implementation plan would guide the staged introduction of ICT once staff had transferred to the shared service.

### **Conclusion**

Although many costs require confirmation, the proposed development costs come from experience of the implementation of similar systems at Tandridge and should give some confidence. Project management will be important, as will the management of variable solutions in the differing authorities.

The system proposed will provide overall lower costs of operation with flexibility and mobility. It is designed to enable citizens to self help and reduce the administrative burden on the service, whilst enabling the service to deliver at the point of customer interaction.

The investment in the right systems in both resources and time will stand the Building Control Service in good stead for many years to come, and the proposed system is recommended as appropriate for a clientele which is increasingly demanding in its flexibility and demands for service quality.

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**Dated**

**2016**

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**THE DISTRICT COUNCIL OF TANDRIDGE**

**AND**

**REIGATE & BANSTEAD BOROUGH COUNCIL**

**AND**

**MOLE VALLEY DISTRICT COUNCIL**

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**INTER AUTHORITY AGREEMENT  
in relation to  
Building Control Services**

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**THIS AGREEMENT** is made on

day of

2016

**BETWEEN:**

- (1) **THE DISTRICT COUNCIL OF TANDRIDGE** of Council Offices, Station Road East, Oxted, Surrey RH8 0BT (“Tandridge”)
- (2) **REIGATE AND BANSTEAD BOROUGH COUNCIL** of Town Hall, Castlefield Road, Reigate, Surrey RH2 0SH (“Reigate and Banstead”)
- (3) **MOLE VALLEY DISTRICT COUNCIL** of Pippbrook, Dorking, Surrey RH14 1SJ (“Mole Valley”)

Together known as the “Councils” to this Agreement and each as a “Council”.

**BACKGROUND**

- (A) The Councils have recognised that there are significant potential gains to be made by working together in delivering building control services in Partnership in terms of securing the future of local authority building control services in East Surrey and in terms of increasing market share and market value, increasing resilience and increasing the attractiveness of local authority building control services.
- (B) To facilitate this and other partnership working, the Councils have agreed to create an East Surrey Partnership (the Partnership) whereby Reigate and Banstead and Mole Valley will delegate the Relevant Functions to Tandridge. This Agreement shall regulate the Partnership and the relationship between the Councils.
- (C) Tandridge has therefore resolved that it should discharge Reigate and Banstead and Mole Valley’s Relevant Functions through the Partnership under the provisions of Sections 101(1)(b) of the Local Government Act 1972, sections 9E and 9EA of the Local Government Act 2000 and the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012.
- (D) Reigate and Banstead has therefore resolved that Tandridge should discharge Reigate and Banstead’s Relevant Functions through the Partnership under the provisions of Sections 101(1)(b) of the Local Government Act 1972, Sections 9E and 9EA of the Local Government Act 2000 and the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012.
- (E) Mole Valley has therefore resolved that Tandridge should discharge Mole Valley’s Relevant Functions through the Partnership under the provisions of Sections 101(1)(b) of the Local Government Act 1972, Sections 9E and 9EA of the Local Government Act 2000 and the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012.
- (F) This Agreement sets out the terms on which the Relevant Functions will be discharged.

**IT IS AGREED** as follows:

**1 DEFINITIONS AND INTERPRETATION**

1.1 In this Agreement, unless the context requires otherwise:

**Agreed Percentages** means the percentages as agreed for the relevant Financial Year in accordance with Schedule 4.

**Agreement** means the agreement between the Councils in relation to the Partnership and the Services it shall provide as contained in this document.

**Bribery Act:** the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.

**Commencement Date** means

**Confidential Information** means any information, data and/or material of any nature which has been designated as confidential by any Council in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which relates to the business, affairs, properties, assets, trading practices, services, developments, trade secrets, Intellectual Property Rights, know-how, Staff and other personnel, Service Users and suppliers of any Council and all personal data and sensitive personal data within the meaning of the Data Protection Act 1998.

**Councils** means the District Council of Tandridge, Reigate & Banstead Borough Council and Mole Valley District Council and their successors and permitted assignees.

**Default** means any breach of the Agreement which does not amount to a Fundamental Breach.

**Direct Losses** means all damages, losses, liabilities, claims, actions, costs, expenses (including the cost of legal or professional services, legal costs being on an indemnity basis), proceedings, demands and charges whether arising under statute, contract or at common law.

**DPA** means the Data Protection Act 1998.

**EIR** means the Environmental Information Regulations 2004 and any subordinate legislation made under the Regulations from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation

**Employees** means those employees highlighted in yellow in Schedule 6.

**Employment Claim** means any claim (whether in contract, tort, under statute, pursuant to European law or otherwise) relating to a person's employment including, without limitation, any claim for unfair dismissal, wrongful dismissal, a redundancy payment, breach of contract, unlawful deduction from wages, discrimination on the grounds of sex, race, disability, age, sexual orientation, religion or religious belief, personal injury, a protective award or a claim or demand of any other nature relating to a person's employment.

**Exit Plan** has the meaning given at Clause 15.

**Financial Year** means each financial accounting period of 12 months ending on the 31 March of each year.

**FOIA** means the Freedom of Information Act 2000 and any subordinate legislation made under the Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.

**Fundamental Breach** means

- a) three or more Defaults in a six month period;
- b) a default which is not capable of remedy in accordance with Clause 15 (Defaults) and which has or will have a material adverse impact on the Service Users.

**Host Authority** means Tandridge

**Information** means any recorded information held in whatever form by the Councils or by the Partnership relating to the Service including (without prejudice to the generality of the foregoing) information about the finances of the Service, the Staff employed in providing the Service and the customers of the Service

**Initial Term** means the period of three years starting with the Commencement Date and ending on the third anniversary of the Commencement Date.

**Intellectual Property Rights** means any and all patents, inventions, trademarks, logos, service marks, domain names, registered designs, utility models, copyright, moral rights, rights in design, know-how, confidential information and all or any other intellectual or individual property rights whether or not registered or capable of registration and whether or in future residing in the United Kingdom or any other part of the world together with all or any goodwill and accrued rights of action.

**Non-Host Authorities** means Reigate and Banstead and Mole Valley

**Notice of Termination** has the meaning given at Clause 15

**Partnership** means the Southern Building Control Partnership which is not a separate legal entity in its own right.

**Partnership Materials** has the meaning given at Clause 10

**Premises** means any office address in the administrative area of any of the Councils from which the Partnership operates or to which it requires access from time to time. At the Commencement Date this includes the Council Offices, Station Road East, Oxted, Surrey RH8 0BT, the Town Hall, Castlefield Road, Reigate, Surrey RH2 0SH and Pippbrook, Dorking, Surrey RH14 1SJ

**Prohibited Act:** the following constitute Prohibited Acts:

(a) to directly or indirectly offer, promise or give any person working for or engaged by the Councils 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) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement;

(c) committing any offence:

(i) under the Bribery Act 2010;

(ii) under legislation or common law concerning fraudulent acts;

(iii) defrauding, attempting to defraud or conspiring to defraud the Councils.

(d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK.

**Procurement Agent** means the Council responsible under Clause 12 for procuring contracts for the provision of goods and services on behalf of the Councils for the purposes of the Partnership.

**Redundancy Payment** means in respect of any Employees:

- (a) any statutory redundancy payment entitlement; and
- (b) any contractual enhancements of the entitlement referred to in (a) above to which they are entitled at the Commencement Date; and
- (c) any notice payments or payments in lieu of notice,
- (d) pension strain, where applicable

payable by the Host Authority to the Employees on or after the Commencement Date, but excluding for the avoidance of doubt, all other costs incurred by the Host Authority relating to any such redundancy process such as, without prejudice to the generality of the foregoing:

- (i) management and HR costs in dealing with any such redundancy process; and
- (ii) any Direct Losses in relation to any employment tribunal claims or other litigation or claims arising from any such redundancy process.

**Relevant Functions** means those functions as set out in Schedule 2.

**Service** means the provision of building control services as more particularly set out in Schedule 5. For the purposes of the Agreement any reference to Services has the same meaning as Service.

**Service User** means a person receiving the Service as defined in the Schedule 5.

**Staff** means those employees (including the Employees) engaged by the Host Authority in the delivery of the Service.

**Sub-Contract** means any contract or agreement, or proposed contract or agreement between a Council and any third party whereby that third party agrees to provide to that Council the Services or any part of the Services.

**Sub-Contractor** means a third party that enters into a Sub-Contract with a Council.

**TUPE** means the Transfer of Undertakings (Protection of Employment) Regulations 2006

**Unexpected Event** means an event or circumstance which is both beyond the control of whichever Council is affected and which could not have been prevented by acting prudently, diligently or with reasonable foresight and only affects the delivery of the Service in one Council's administrative area.

1.2 In this Agreement, unless the context requires otherwise:

1.2.1 references to clauses, paragraphs, recitals and Schedules are references to clauses and paragraphs of, and recitals and schedules to, this Agreement. The Schedules form part of this Agreement and shall have the same force and effect as if expressly set out in the body of this Agreement, and any reference to this Agreement shall include the Schedules. The recitals and headings to clauses and Schedules are for convenience only and shall not affect the construction or interpretation of this Agreement;

1.2.2 a reference to a statute or a statutory provision includes a reference to:

- (a) the statute or statutory provision as modified or re-enacted or both from time to time (whether before or after the date of this Agreement); and

- (b) any subordinate legislation made under the statute or statutory provision (whether before or after the date of this Agreement),

provided that any such modification, re-enactment or legislation made after the date of this Agreement does not materially change the relevant provision;

- 1.2.3 references to a **person** shall be construed so as to include any individual, firm, corporation, government, state or agency of a state or any joint venture, trust, association or Partnership (whether or not having separate legal personality);
- 1.2.4 references to any gender shall include every gender, and the singular shall include the plural and vice versa;
- 1.2.5 a person shall be deemed to be **connected** with another if that person is connected with that other within the meaning of section 1122 Corporation Tax Act;
- 1.2.6 words and expressions defined in the Companies Acts shall have the same meanings when used in this Agreement;
- 1.2.7 references to writing or written shall include any mode of reproducing words in a legible and non-transitory form;
- 1.2.8 references to a **party** or the **Councils** are to a party or the Councils to this Agreement from time to time and any person who agrees to be bound by the provisions of this Agreement from time to time but, for the avoidance of doubt, shall not refer to any person who has ceased to have any obligations under this Agreement from time to time;
- 1.2.9 in construing this Agreement, the rule known as the ejusdem generis rule shall not apply nor shall any similar rule or approach to the construction of this Agreement and accordingly general words introduced or followed by the word(s) **other** or **including** or **in particular** shall not be given a restrictive meaning because they are followed or preceded (as the case may be) by particular examples intended to fall within the meaning of the general words;
- 1.2.10 references to a **month** shall be construed as a reference to a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month or, if there is no numerically corresponding day in the next calendar month, the last day in the next calendar month;
- 1.2.11 any requirement upon a Member to procure a particular matter or thing shall be deemed to include an obligation to exercise its powers, and to use its reasonable endeavours to procure that any Director appointed by it shall (subject to his fiduciary and other legal duties owed to the Company) exercise his powers as a director, to procure such matter or thing;
- 1.2.12 references to a document in the **agreed form** are to a document in a form agreed by the Members and initialled by or on behalf of each of them for the purpose of identification; and

## **TERM**

- 2.1 Subject to Clause 2.2 this Agreement will start on the Commencement Date and shall continue for the Initial Term.



- 2.2 The Agreement shall automatically extend ad infinitum ("the Extended Term"), on the same terms of this Agreement, at the end of the Initial Term unless notice is provided in accordance with Clause 16 (Termination).

### **GENERAL PRINCIPLES**

- 3.1 This Agreement has been entered into by the Councils to establish and effect provisions for performance of the Partnership and to clarify the Councils' responsibilities in respect thereof and to each other.
- 3.2 The Councils will work together in good faith and in an open, co-operative and collaborative manner for the duration of this Agreement.
- 3.3 Each of the Councils hereby represents to the others that it has obtained all necessary consents sufficient to ensure the delegation of the Relevant Functions provided for by this Agreement.
- 3.4 The Councils shall use all reasonable endeavours to procure that their respective members and officers who are involved in the Joint Committee shall at all times act in the best interests of the Partnership.

### **4. HOST AUTHORITY**

- 4.1 Tandridge will act as the Host Authority from the Commencement Date in respect of all aspects of the delivery of the Services unless stated otherwise in this Agreement.
- 4.2 All legal rights and obligations of the Host Authority shall be held on behalf of the Councils and shall be exercised in accordance with the terms of this Agreement.

## **5 GOVERNANCE**

- 5.1 The Councils confirm that the Service shall be delivered by the Host Authority under the terms of this Agreement.
- 5.2 The Councils confirm that subject to the terms of this Agreement the delivery of the Service and the expenditure of the costs directed to the provision of the Services shall be the responsibility of the Host Authority. The Councils will establish a Joint Partnership Board with the overall purpose of advising the Host Authority to enable it to carry out its role as effectively as possible.
- 5.3 The Joint Partnership Board will have the membership and terms of reference as set out at Schedule 1 of this Agreement provided always that the Councils may agree at any time to amend the membership and/or terms of reference of the Joint Partnership Board .
- 5.4 The Councils will establish a Joint Management Team, which will have the membership and terms of reference as set out at Schedule 1 of this Agreement provided always that the Councils may agree at any time to amend the membership and/or terms of reference of the Joint Management Team.
- 5.5 The Councils agree that they shall seek to operate this Agreement through consensus wherever possible and shall use the Joint Partnership Board as a forum for discussing and seeking to resolve any issues, concerns or complaints arising in relation to the operation of this Agreement.

## **6 BUDGET SETTING AND SUPPORT COSTS**

- 6.1 The budget setting process for the Partnership is as set out in Schedule 4.
- 6.2 All support costs or liabilities necessarily incurred by any Council in connection with the operation of the Partnership will be borne:
- 6.2.1 jointly by the Councils in the Agreed Percentages; or
  - 6.2.2 as expressly set out elsewhere within this Agreement; or
  - 6.2.3 as agreed between the Councils in such specific or unusual circumstances as may arise from time to time.

## **7 OBJECTIVES AND PARTNERSHIP WORKING**

- 7.1 The Councils shall establish, develop and implement their relationship with the objectives of:
- 7.1.1 implementing the Service from the Commencement Date and within the budgets set out in Schedule 4;
  - 7.1.2 developing increased internal resilience and thereby reducing dependence on external expertise;
  - 7.1.3 delivering long term savings and benefits to the Councils;
  - 7.1.4 commitment to people including staff and Service Users; and
  - 7.1.5 developing enhanced access to external funding and developmental opportunities.

## **8 MONITORING OF THE SERVICES**

- 8.1 The Service will be monitored by the Joint Partnership Board and the Joint Management Team, in accordance with the responsibilities for each as set out in Schedule 1 Appendix 1.

## **9 EQUIPMENT AND INFORMATION TECHNOLOGY**

- 9.1 Each Council undertakes to the others to license the Partnership and its Staff (insofar as it is able legally and contractually to do so) to access free of charge its data systems, records, information technology systems, computer systems, telephone and other systems to the extent that may be necessary from time to time to deliver the Service; and to allow and facilitate free of charge (insofar as it is able legally and contractually to do so) the transfer of such necessary data records and Information as may be held by that Council to the Partnership for the purposes of the delivery of the Service.
- 9.2 The Partnership will allow and facilitate free of charge (insofar as it is able legally and contractually to do so) the transfer of such necessary data records and Information as may be held by the Partnership to any of the Councils for the purposes of any of the functions of that Council

## **INTELLECTUAL PROPERTY**

- 10.1 Each Council grants to the others for the duration of this agreement an irrevocable, non-exclusive, royalty free licence to copy and use in connection with the Partnership any IT systems or materials ("Partnership Materials") in which it has exclusive Intellectual Property Rights but this licence is not to extend to:

- 10.1.1 copying or using those IT systems other than in connection with the Partnership and the Services;
  - 10.1.2 granting any other person the right to copy or to use those IT systems;
  - 10.1.3 selling, transferring or otherwise disposing of or granting rights in those IT systems; or
  - 10.1.4 any IT systems in which it does not own the Intellectual Property Rights.
- 10.2 A Council which makes available IT systems to the Partnership under clause 10.1 shall indemnify and hold harmless the Councils to which those materials are supplied against any liability or damages (including costs) that may be awarded or agreed to be paid to any third party because of a claim or action that the normal operation, possession or use of the Partnership Materials by that Council under Clause 10.1 infringes the Intellectual Property Rights of that third party.
- 10.3 All Intellectual Property Rights in any Partnership Materials or any other materials which are produced or developed for or in connection with the Partnership and the Services are to belong to the Councils jointly.
- 10.4 Each Council agrees to co-operate with the others in the protection of the Intellectual Property Rights in the Partnership Materials and in connection with this to take all action reasonably required by the Council which has the Intellectual Property Rights (subject to being reimbursed for all costs reasonably incurred).
- 10.5 Each Council agrees promptly to notify the others in writing of any infringement or potential infringement of that Council's Intellectual Property Rights in connection with this Partnership and the Services of which it becomes aware.

## **STAFFING**

- 11.1 The Councils acknowledge and agree that the provision of the Service through the Partnership from the Commencement Date shall, with respect to each of the Employees, constitute a relevant transfer to the Host Authority for the purposes of TUPE and that the Employees will transfer to the Host Authority on a fully-funded basis in line with standard practice, with net assets and liabilities remaining with the Non-Host Authorities.. The Councils further agree that as a consequence of that transfer the contracts of employment made between the Non-Host Authorities and the Employees shall have effect from and after the Commencement Date as if originally made between the Host Authority and the Employees.
- 11.2 The Non-Host Authorities have supplied to the Host Authority Information which is contained in Schedule 6 in relation to the Employees and the Host Authority shall warrant that such Information is complete and accurate as far as it is aware or should reasonably be aware as at the date of this Agreement. The Non-Host Authorities shall indemnify and keep indemnified the Host Authority against any losses caused to the Host Authority by any inaccuracy or incompleteness in such Information.
- 11.3 The Non-Host Authorities shall indemnify the Host Authority against all costs, claims, liabilities and expenses (including reasonable legal expenses) incurred by the Host Authority in connection with or as a result of any Employment Claim or demand by any employee of the Non-Host Authorities, in each case arising directly or indirectly from any act, fault or omission of the Non-Host Authorities in respect of any employee in the period before the Commencement Date.
- 11.4 The Host Authority shall indemnify the Non-Host Authorities against all costs, claims, liabilities and expenses (including reasonable legal expenses) incurred by the Non-Host Authorities in connection with or as a result of any claim or demand by any of its employees (whether in contract, tort, under statute, pursuant to European law or otherwise) including, without limitation, any Employment Claims in each case arising directly or indirectly from any act, fault

or omission of the Host Authority in respect of any such employee in the period before the Commencement Date.

- 11.5 The Councils shall share in the Agreed Percentages all costs, claims, liabilities and expenses (including reasonable legal expenses) incurred by the Host Authority in connection with or as a result of any claim or demand by any Staff (whether in contract, tort, under statute, pursuant to European law or otherwise) including, without limitation, any Employment Claims in each case arising directly or indirectly from any act, fault or omission of either Council in respect of any such Staff on or after the Commencement Date.

#### *Redundancy Costs*

- 11.6 The Councils acknowledge and agree that in relation to any redundancy or reorganisation process following the Commencement Date, the provisions of this Clause 11.6 shall apply:
- 11.6.1 The Host Authority shall no later than twenty-one (21) days prior to the potential termination of the employment of any Staff notify the Non-Host Authorities in writing of the reasons for such redundancy in connection with such redundancy or reorganisation process together with, on an open book basis, confirmation of any Redundancy Payment it is obliged to pay to such Staff in the event that their employment is terminated by reason of redundancy;
  - 11.6.2 The Councils shall use reasonable endeavours to mitigate any costs incurred in relation to any potential redundancy and shall, as far as reasonably practical, seek to redeploy any potentially redundant employees to other roles within the Councils;
  - 11.6.3 where the Councils have complied with the requirements of Clauses 11.6.1 and 11.6.2 and they have been unable to redeploy such employees in order to avoid the redundancy, the costs in relation to the Redundancy Payment incurred in relation to any Staff following the Commencement Date which arise as a result of any redundancy or reorganisation process shall be borne in the Agreed Percentages.

## **12 PROCUREMENT PROCESS**

- 12.1 The Host Authority shall act as Procurement Agent for any procurement of a contract in relation to the Services.
- 12.2 Any procurement by the Procurement Agent shall adhere to the constitution for the Council acting as Procurement Agent, including which officers are authorised to enter into contracts.
- 12.3 Where the Procurement Agent enters into any contract or communications with any prospective supplier in relation to the Services, it shall make it clear in any such contract or communication that it is doing so on behalf of the Councils.

## **ACCOMMODATION**

- 13.1 The Councils agree that the Partnership is to be hosted in such locations as shall be agreed between them and accordingly undertake to make available all necessary accommodation, working space, and associated facilities and services, including (without prejudice to the generality of the foregoing) IT facilities, internet access and telephone facilities, as shall be necessary to host the Partnership unless otherwise agreed by the Councils.
- 13.2 The Councils hereby license all appropriately authorised employees engaged in the delivery of the Service to enter their premises for the purposes of the performance of the Service and

to utilise free of charge such associated services and facilities as shall be provided by the Councils for the purposes of the Service from time to time.

- 13.3 The Councils shall use reasonable endeavours to avoid or minimise any disruption to the other Councils' operations for the duration of the Agreement.

## **DEFAULTS**

- 14.1 If any Council commits a Default then it shall as soon as reasonably practicable notify the other Councils in writing and take such steps as are necessary to rectify the Default.
- 14.2 If the Default has not been rectified within thirty (30) working days to the reasonable satisfaction of the other Councils or of any of them then the matter shall be referred to the Joint Partnership Board unless the Councils agree a longer period.
- 14.3 The Councils shall use reasonable endeavours to resolve the Default through the Joint Partnership Board.
- 14.4 If the Councils cannot resolve the Default through the Joint Partnership Board within a reasonable time either of the Councils can escalate the matter for resolution, in accordance with Clause 17.

## **15 TERMINATION OF THIS AGREEMENT**

- 15.1 Any Council may give at least twelve (12) months' notice to terminate ("Notice of Termination") to the other Councils, such Notice of Termination to expire at the end of the Initial Term or at any time after this, as the case may be. Once a Notice of Termination has been served the Councils shall within 6 months make all reasonable endeavours to sign off an agreed Exit Plan in accordance with clauses 15.5, 15.6 and 15.7.
- 15.2 Any Council may terminate this Agreement by serving notice immediately at any time upon another Council committing a Fundamental Breach of this Agreement. Such notice can only be served when the process set out in Clause 18 has been exhausted.
- 15.3 This Agreement may be terminated upon the mutual consent of the Councils by giving Notice of Termination, such Notice of Termination to expire at the end of the Initial Term or at any time after this.
- 15.4 Where by reason of any change in law or other reason not attributable to the fault of the Councils prohibits or prevents one of the Councils from giving effect to their obligations under this Agreement, either Council to this Agreement may terminate this Agreement so as to avoid the Council from breaching legislative or otherwise binding obligations upon it by written notice effective on receipt to the other Council, provided that the terminating Council has first entered into discussion in good faith with the other Council and used all reasonable endeavours to negotiate a solution with the other Council, whereby the intent and purpose of this Agreement may be fulfilled by another mechanism.
- 15.5 If a Notice of Termination is served the Councils shall cooperate in good faith to agree an 'Exit Plan' setting out how the arrangements considered in this Agreement will be ended.
- 15.6 The agreed principles of the Exit Plan shall be:
- 15.6.1 that continuation and quality of service delivery are paramount and options should be assessed in this light; and
  - 15.6.2 assets and liabilities relating to the Services shall be, in the absence of specific agreed alternatives or provision in this Agreement, borne by the Councils in accordance with the Agreed Percentages.

- 15.7 The heads of terms of the Exit Plan will include:
- 15.7.1 Implementation;
  - 15.7.2 Exit management resource;
  - 15.7.3 Due diligence;
  - 15.7.4 Process management;
  - 15.7.5 Mitigation of service delivery;
  - 15.7.6 Handover process;
  - 15.7.7 Employees

### **CONSEQUENCES OF TERMINATION**

- 16.1 All liabilities under clause 24 shall survive the termination of this Agreement.
- 16.2 The Council which exercises its right to terminate under Clause 15.1 shall indemnify the other Councils against all Direct Losses (which the other Councils shall take all reasonable steps to mitigate) arising out of such termination.
- 16.3 In the event of termination of this Agreement under Clause 15.2 any Direct Losses to the Councils arising out of such termination shall be borne by the Council that has committed the Fundamental Breach of this Agreement.
- 16.4 In the event of termination of this Agreement under Clause 15.2 the Council terminating this Agreement and the other Councils which have not committed the Fundamental Breach of this Agreement shall also be at liberty to pursue all remedies available to them at law.
- 16.5 In the event of termination of this Agreement under Clause, 15.4 each Council shall bear its own losses, provided however that if the terminating Council has not entered into discussions in good faith with the other Councils and/or has not used all reasonable endeavours to negotiate a solution with the other Councils, whereby the intent and purpose of this Agreement may be fulfilled by another mechanism, the terminating Council shall indemnify the other Councils against all Direct Losses (which the other Council shall take all reasonable steps to mitigate) incurred by the other Councils as a result of such termination.

### **DISPUTES**

- 17.1 If there is a dispute between the Councils concerning the interpretation or operation of this Agreement and it cannot be resolved informally, then any Council may notify the others in writing that it wishes the dispute to be referred to the relevant strategic directors of the Councils to resolve, negotiating on the basis of good faith.
- 17.2 If the dispute cannot be amicably resolved by the strategic directors within a reasonable time-frame, then any Council may escalate the dispute to the Joint Partnership Board by notice in writing to the other Councils. The Joint Partnership Board shall not make any decision until twenty-eight (28) days have lapsed since the notice of the dispute was received.
- 17.3 Only if the dispute has not been resolved in accordance with Clause 17.2, any Council may notify the others that it wishes the dispute to be referred to arbitration in accordance with clause 17.4.
- 17.4 The following provisions shall apply to any such reference to arbitration:

17.4.1 The arbitration shall be governed by both the Arbitration Act 1996 and the Controlled Cost Rules of the Chartered Institute of Arbitrators (2000), or amendments thereof, which Rules are deemed to be incorporated by reference into this clause.

17.4.2 The seat of the arbitration shall be England and Wales

17.5 Without prejudice to any rights to seek redress in court, the Host Authority shall continue to provide the Services and to perform its obligations under this Agreement notwithstanding any Dispute or the implementation of the procedures set out in this Clause 18.

## **COMPLAINTS**

18.1 The Councils will agree and implement a process whereby the Partnership can log any complaints or any complimentary feedback received from any Service User or member of the public with regard to the Services provided under this Agreement.

18.2 The Joint Management Team will report the data obtained by the logging process to the Councils by means of a quarterly report or more frequently if requested by the Councils. The data must be sent in accordance with the Councils' policies and procedures in place and as updated.

18.3 All complaints from Service Users should be dealt with and resolved by each of the Councils in relation to their own administrative areas.

## **19 ASSIGNMENT AND SUB-CONTRACTING**

19.1 This Agreement is personal to the Councils and no Council shall assign, transfer, subcontract or deal in any other manner with any of its rights and obligations under this Agreement. Each Council hereby undertakes and represents to the other Councils that it is entering into this Agreement only for its own benefit.

19.2 This Agreement shall be binding on and shall endure for the benefit of each Council's successors.

## **20 BRANDING**

20.1 Joint branding will be deployed across all publications relating to the Partnership and the Services it provides, unless agreed otherwise in writing between the Councils.

## **21 REMEDIES AND WAIVERS**

21.1 No delay by any Council in exercising, or failure by any Council to exercise, any right, power or remedy provided by law or under this Agreement or any document referred to in it shall:

21.1.1 operate as a waiver of that or any other right, power or remedy; or

21.1.2 affect the other terms of this Agreement or any document referred to in it.

21.2 The single or partial exercise of any right, power or remedy provided by law or under this Agreement or any document referred to in it shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

21.3 A waiver of any breach of or default under this Agreement or any document referred to in it shall not constitute a waiver of any other breach or default and will not prevent a Council from subsequently requiring compliance with the waived obligation.

- 21.4 The rights, powers and remedies provided in this Agreement or any document referred to in it are in addition to and (subject as otherwise provided in this Agreement) not exclusive of any rights, powers and remedies provided by law.

## **22 INSURANCE**

- 22.1 The Host Authority shall take out and maintain or procure the taking out and maintenance of the following insurances and any other insurance as may be required by law to cover the activities of the Partnership:

22.1.1 Public liability insurance; and

22.1.2 Employer's liability insurance.

If there is an increased cost to this insurance because it relates to the Partnership, the additional costs shall be borne by the Partnership in the Agreed Percentages.

- 22.2 The Host Authority shall also ensure that any of its Sub-Contractors who are providing any or all of the Services on its behalf take out and maintain equivalent insurance to levels of cover agreed by the Councils.

- 22.3 Each Council shall, at its own cost, take out and maintain or procure the taking out and maintenance of insurance to cover any Premises which it occupies.

- 22.4 All Council assets, including any new assets, shall be insured by the Council which provided them.

- 22.5 No Council shall take any action or fail to take any reasonable action or (insofar as it is reasonably within its power) allow anything to occur (including a failure to disclose any fact) which would entitle any insurer to refuse to pay any claim under an insurance policy in which that Council is assured, a co-insured or an additional person or which may make such a claim wholly or partly repayable.

- 22.6 Each Council shall provide to the others on request:

22.6.1 Copies on request of insurance policies required to be maintained under this clause22; and

22.6.2 Evidence that the premiums under all insurances have been paid and that the insurance are in full force and effect in accordance with the requirements of this clause22.

## **23 INDEMNITIES AND LIABILITIES**

- 23.1 Each Council ("Indemnifying Council") shall be wholly liable for any loss suffered by another Council ("Benefiting Council") in relation to the operation of the building control department of the Indemnifying Council prior to the Commencement Date (except any accrued redundancy liabilities) and shall indemnify the Benefiting Council against any loss suffered by the Benefiting Council to the extent such loss relates to the operation of the Indemnifying Council's building control department prior to the Commencement Date.

- 23.2 Notwithstanding the provisions of clause 23.3 and subject to clause 23.1 any loss or costs suffered by any Council arising from or relating to the operation of the Services and the terms of this Agreement shall be shared between the Councils in accordance with the Agreed Percentages unless and to the extent that alternative arrangements are agreed in writing by the Councils or provided for in this Agreement. The Councils acknowledge that the governance arrangements provided for in this Agreement will be the primary means by which the Councils will monitor and manage the risk of liability arising from or relating to the operation of the Partnership.



23.3 No Council limits its liability for:

- 23.3.1 death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors;
- 23.3.2 fraud by it or its employees;
- 23.3.3 breach of any obligation as to title implied by statute; or
- 23.3.4 any other act or omission, liability for which may not be limited under applicable law.

## **24 ENTIRE AGREEMENT**

24.1 This Agreement and the documents referred to in it constitute the entire agreement between the Councils relating to the delivery of the Service and supersede all previous agreements between the Councils relating to such matters.

24.2 Each of the Councils acknowledges that in agreeing to enter into this Agreement it has not relied on any representation, warranty, collateral contract or other assurance (except those set out in this Agreement and/or the documents referred to in it) made by or on behalf of any other Council before the signature of this Agreement. Each of the Councils waives:

- 24.2.1 all rights and remedies which, but for this clause 24.2.1, might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance; and
- 24.2.2 all rights and remedies, other than remedies for breach of contract available in respect of a breach of this Agreement and/or the documents referred to in it, which, but for this clause 24.2.2, might otherwise be available to it in respect of the falsity of any representation or warranty set out in this Agreement and/or the documents referred to in it,

provided that nothing in this clause 24.2 shall limit or exclude any liability for fraud or dishonesty on the part of any Council.

## **25 VARIATION**

No variation to the terms of this Agreement shall be effective unless made in writing and signed by each of the Councils subject to the provisions in Schedule 1.

## **26 WAIVER**

26.1 If any Council fails to exercise or delays in exercising any right or remedy to which it is entitled under this Agreement or at law then this shall not constitute a waiver of any such right or remedy.

26.2 No waiver shall be effective unless it is:

- 26.2.1 Expressly stated as a waiver;
- 26.2.2 In writing; and
- 26.2.3 Signed by the Council's Director of Legal Services.

## **27 SEVERANCE**

- 27.1 If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Agreement which shall remain in full force and effect.
- 27.2 If any provision of this Agreement is found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question shall apply with such deletions as may be necessary to make it valid or enforceable.
- 27.3 The Councils agree, in the circumstances referred to in Clause 27.1 and if Clause 27.2 does not apply, to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid or unenforceable provision but for such invalidity or unenforceability.

## **28 CONFIDENTIALITY**

- 28.1 The Councils will use all reasonable endeavours to ensure that subject to Clauses 29 and 30 they (and any person employed or engaged by them in connection with the provision of the Service in the course of such employment or engagement) will:
- i) only use Confidential Information for the purposes of this Agreement; and
  - ii) not disclose any Confidential Information to any third party without the prior written consent of the Council which has indicated that the information be regarded as confidential (which consent that Council shall be entitled to refuse without giving any reason).
- 28.2 Notwithstanding the provisions of Clause 28.1 above all Councils shall be allowed to disclose any Confidential Information to any permitted Sub-Contractor or other person properly engaged by any other Council in connection with this Agreement or the provision of the Service provided that in each such case the Sub-Contractor or person concerned has signed a confidentiality undertaking on substantially the same terms as set out in this Clause 28.
- 28.3 Further, the restrictions in Clause 28.1 above shall not prevent any Council disclosing to any other Council (or to any other person) Confidential Information about a Service User where this is in the best interests of the Service User concerned or such disclosure is necessary so as to protect the health, safety or welfare of the Service User or other Service Users.
- 28.4 The restrictions in Clauses 28.1 above shall continue to apply after the Agreement has come to an end or, if it takes place earlier, termination of this Agreement but they shall not apply (whether whilst this Agreement is in force or after) to information which:
- i) is in, or comes into, the public domain (except if this is as a result of a breach by any Council of this Clause);
  - ii) is required to be disclosed by law;
  - iii) was already in any Council's possession without any restriction as to its use; or
  - iv) subsequently lawfully comes into any Council's possession from a third party; or
  - v) is required to be disclosed by any regulatory body or governmental body.

## **29 DATA PROTECTION**

- 29.1 The terms 'Data Controller', 'Data Processor', 'Data Subject', 'Process', 'Processing' and 'Personal Data' have the meanings designated to them by the DPA.
- 29.2 All Councils agree that in relation to any Personal Data they hold in relation to this Agreement they will comply, as a Data Controller if necessary, with the DPA including but not limited to:
- 29.2.1 the eight data protection principles listed in Part 1 of Schedule 1 to the DPA;
  - 29.2.2 requests from Data Subjects for access to Personal Data held them it; and
  - 29.2.3 the requirements relating to notification to the Information Commissioner by Data Controllers under Part III of the DPA.
- 29.3 Each Council agrees that where it acts as Data Processor on behalf of any of the other Councils in connection with this Agreement it will:
- 29.3.1 maintain a valid and up to date registration or notification under the DPA which covers all Processing of such Personal Data which it undertakes;
  - 29.3.2 only undertake processing of such Personal Data where it is reasonably required in connection with the performance of its obligations under this Agreement or otherwise as agreed by the other Council as Data Controller;
  - 29.3.3 not disclose such Personal Data to any third party other than:
    - (a) a disclosure on terms substantially the same as and no less stringent than those required by this Clause, to its employees, agents and contractors to whom such disclosure is reasonably necessary in connection with the performance of its obligations under this Agreement; or
    - (b) as required by court order;
  - 29.3.4 bring into effect and maintain all technical and organisational measures to prevent unauthorised or unlawful Processing of Personal Data and accidental loss or destruction of, or damage to, Personal Data including taking reasonable steps to ensure the reliability of staff having access to the Personal Data (this includes the requirement that all employees processing Data understand the importance of protecting Personal and confidential Data, that they comply with the relevant security policy and procedures relating to the Data, and have received appropriate training);
  - 29.3.5 not transfer any such Personal Data to any country outside the UK without the express prior written consent of the Data Controller;
  - 29.3.6 ensure that it complies with the Data Controller's records management and retention policies; and
  - 29.3.7 indemnify the other Councils against any loss or liability whatsoever and howsoever arising from any breach of the DPA it causes.
- 29.4 Nothing in this Agreement requires any Council to disclose any information to another party if that Council considers that to do so would be in breach of the DPA.
- 29.5 Following the Commencement Date:

- 29.5.1 The Host Authority shall be the Data Controller for any Personal Data relating to the Staff;
- 29.5.2 Each Council will be the Data Controller for any other Personal Data relating to matters being dealt with in its own administrative area, and
- 29.5.3 Any alleged breach of the DPA will be dealt with by the Data Controller responsible for the relevant Personal Data.

### **30 FREEDOM OF INFORMATION**

- 30.1 All Councils acknowledge that each Council is subject to the requirements of the FOIA and the EIR and the Councils shall, where reasonable, assist and co-operate (at their own expense) with requests for information to enable each Council to comply with these information disclosure obligations.
- 30.2 Where any Council receives a request for information under either the FOIA or the EIR in relation to information relating to any of the other Councils and pertaining to the Service, it shall:
  - 30.2.1 transfer the request for information in accordance with the Code of Practice Issued under Section 45 of the FOIA to the Council to which the information relates as soon as practicable after receipt and in any event within two (2) working days (as defined by the FOIA or the EIR) of receiving a request for information;
  - 30.2.2 provide the Council to which the information relates with a copy of all information in its possession or power in the form that the other Council reasonably requires within eight (8) working days (as defined by the FOIA or the EIR or such longer period as the other Council may specify) of the other Council requesting that information; and
  - 30.2.3 provide all necessary assistance as reasonably requested by the other Council for it to respond to a request for information within the time for compliance set out in the FOIA or the EIR.
- 30.3 Each Council shall be responsible for determining at its absolute discretion whether any information it holds:
  - 30.3.1 is exempt from disclosure in accordance with the provisions of the FOIA or the EIR; or
  - 30.3.2 is to be disclosed in response to a request for information;

And in no event shall a Council respond directly to a request for information, relating to another Council's area, unless expressly authorised to do so by that other Council.

### **31 NOTICES**

- 31.1 Any notice or other communication to be served under this Agreement shall be delivered or sent by first class post, facsimile transmission or electronic communication to the nominated representative at the Council to be served at its address, facsimile number or email address.
- 31.2 Subject to clause 31.3 and in the absence of earlier receipt, any notice or communication shall be deemed to have been served:
  - 31.2.1 if delivered personally, at the time of delivery;
  - 31.2.2 if sent by first class post, two (2) working days after the date of posting;

31.2.3 if sent by facsimile transmission, at the time of transmission; and

31.2.4 if sent by email, forty eight (48) hours after the time of sending

31.3 Any notice or communication served under this Agreement after 4.30pm in the place to which it is addressed shall be deemed not to have been served until the start of the next working day in such place.

31.4 In proving service of a notice or communication, it shall be sufficient to prove that delivery was made or that the envelope containing the notice or communication was properly addressed and posted as a prepaid first class letter, that the facsimile message was transmitted to the facsimile number of the recipient, or in the case of electronic communication, that it was sent in accordance with the guidance issued by the Institute of Chartered Secretaries and Administrators.

## **32 COUNTERPARTS**

32.1 This Agreement may be executed in any number of counterparts, and by the Councils on separate counterparts, but shall not be effective until each person who is a party at the date hereof has executed at least one counterpart.

32.2 Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute but one and the same instrument.

## **33 FORCE MAJEURE AND NON-PERFORMANCE**

33.1 If an event of Force Majeure occurs then the Councils shall meet to discuss how best to provide the Service until the Force Majeure event ceases.

33.2 If any Council fails to carry out its respective obligations under this Agreement as a result of Force Majeure then whichever Council is affected shall not be liable under this Agreement for any such failure.

33.3 In this Clause Force Majeure means:

33.3.1 acts of war;

33.3.2 acts of God;

33.3.3 decrees of Government;

33.3.4 riots; and

33.3.5 civil commotion

33.4 Force Majeure shall not include any labour dispute between the Host Authority and the Staff, any other staffing problem or the failure to provide the Service by any of the Councils' sub-contractors.

33.5 In the event that a Council is prevented from carrying out its obligations under the Agreement by any act of Force Majeure which continues for a period of thirty (30) days, any other Council may terminate the Agreement by notice in writing giving fourteen (14) Days' notice.

33.6 The Councils shall at all times following an act of Force Majeure use all reasonable endeavours to mitigate the effects of the event of Force Majeure and facilitate the continued performance of this Agreement.

33.7 If an Unexpected Event occurs the Joint Partnership Board shall meet within 3 working days of the event being notified to them to discuss the delivery of the Service, unless agreed otherwise. If an Unexpected Event occurs:

33.7.1 The Council to which the event relates to shall be wholly liable for any additional liability and costs arising out of the Unexpected Event unless agreed otherwise between the Councils;

33.7.2 The Council to which the Unexpected Event does not relate shall use its reasonable endeavours to facilitate the delivery of the Services.

**34 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

The Councils to this Agreement do not intend that any of its terms should be enforceable, by virtue of the Contracts (Rights of Third Parties) Act 1999, by any person who is not a party to this Agreement.

**35 GOVERNING LAW AND JURISDICTION**

This Agreement is governed by and shall be construed in accordance with the laws of England and each Council submits to the exclusive jurisdiction of the courts of England for all purposes relating to this Agreement.

**IN WITNESS** hereof the parties hereto have executed this Agreement as a Deed the day and year first written

**The Common Seal of** )  
**The District Council of Tandridge** )  
was affixed to this Deed in the presence of: )

Authorised Signatory

**The Common Seal of** )  
**Reigate & Banstead Borough Council** ) )  
was affixed to this Deed in the )  
presence of: )

Authorised Signatory

**The Common Seal of** )  
**Mole Valley District Council** )  
was affixed to this Deed in the )  
presence of: )

Authorised Signatory

## SCHEDULE 1 GOVERNANCE

The Councils shall set up the following governance arrangements.

### **1 Interpretation**

- 1.1 Unless expressly stated otherwise the expressions within this Schedule 1 will have the same meaning as in the main body of this Agreement.

### **2 Role of the Joint Partnership Board**

- 2.1 The Joint Partnership Board shall be a senior level forum for advice, consultation, discussion, resolution of issues and recommendations back to the Councils on all aspects of the delivery of the Service.
- 2.2 The membership of the Joint Partnership Board shall be: One Councillor from each of the Councils plus the Head of Service and the Assistant Head of Service
- 2.2.1
- 2.3 The terms of reference for the Joint Partnership Board are as set out in the Responsibilities in Appendix 1 to this Schedule
- 2.4 The Joint Partnership Board will whenever necessary as agreed between the Councils

### **3 Joint Management Team**

- 3.1 A Joint Management Team, comprising such professional and practitioner officers as determined by the Joint Partnership Board, meeting as required, shall oversee the general operation of the Service, as set out in the Responsibilities in Appendix 1 to this Schedule.

### **4 Additional councils**

- ~~4.1 The Partnership shall be able to provide the Services to any councils ("Additional Council") in addition to Epsom & Ewell, Mole Valley, Reigate & Banstead and Tandridge subject to the provisions of this paragraph 9 and provided that the engagement of an Additional Council shall not create any detriment to the cost and quality of the services provided to Epsom & Ewell, Mole Valley, Reigate & Banstead and Tandridge nor otherwise be injurious to any Council's interests.~~
- ~~4.2 It is agreed by the Councils that requests from Additional Councils to join the Partnership will be actively considered by the Joint Partnerships Committee. The Joint Partnerships Committee will discuss any such requests taking into account:~~
- ~~4.2.1 Whether the enlargement of the Partnership will improve the cost effectiveness and sustainability of the Partnership~~
- ~~4.2.2 Ensuring no detriment to the level and quality of service provided to Epsom & Ewell, Mole Valley, Reigate & Banstead and Tandridge~~
- ~~4.2.3 The implications of Additional Councils joining the Partnership on this Agreement~~
- ~~4.2.4 Ensuring the Councils incur no additional costs~~
- ~~4.3 Discussions on this issue will be approached in the spirit of Partnership and good faith and the Joint Partnerships Committee will seek to agree an outcome which will be at no detriment to the cost or quality of the Service provided to Epsom & Ewell, Mole Valley, Reigate & Banstead and Tandridge.~~



~~4.4 If the admission of an Additional Council cannot be agreed by the Joint Partnerships Committee then the decision to admit Additional Council(s) shall be made by the Councils~~

**APPENDIX 1 RESPONSIBILITIES**

<b>Joint Partnership Board</b>	<b>Joint Management Team</b>
Purpose: Advisory	Purpose: Delivery & Operational Decisions
Meeting frequency: as necessary	Meeting frequency: Monthly
Led by: Councillors and Senior Officers	Led by: Head of Service
Comprises: One Councillor from each Council plus Head of Service and Assistant Head of Service	Comprises: Head of Service; Assistant Head of Service; Operations Manager; Team Managers
To act as an informal sounding board for the Service. The Board shall be a forum for consultation, discussion and resolution of issues on all aspects of delivery of the Service	Day to day management of the Service, including providing statutory returns; monitoring day to day performance of the Service and teams; responding to information needs identified by the Joint Partnership Board
To review reports from the Joint Management Team to work collaboratively with the Service to improve overall performance, helping ensure links are made to other Council Services and helping to break down barriers that inhibit performance. (Capitalising on the Board's networks)	Production of reports to be considered by Joint Partnership Board including: An annual report on delivery of the Business Plan; Proposed charges; Performance against key measures (which may include statutory returns); HR issues; and Resource issues where relevant
To be consulted on the draft Business Plan, including priorities and measures	Production of a draft Business Plan for the coming financial year, including service priorities and anticipated performance measures
To be consulted on proposed key policy changes – where relevant / necessary	To develop reports on proposed key policy changes e.g. Enforcement Policy
To be aware of the joint service policy in respect to prosecutions and other disposals.	To make prosecution and other disposal decisions
To quarterly review the budget monitoring information	Monitor the budget, approve spend in accordance with Standing Orders for financial processes. Provide budget monitoring reports to the Joint Partnership Board .
To provide support and guidance to the Joint Management Team to assist achievement of delivering the Business Case	To provide annual reports to the Joint Partnership Board on delivery of the business case.
<b>Joint Partnership Board</b>	<b>Joint Management Team</b>
To suggest alternatives for the Joint Management Team to develop and to provide constructive challenge to ideas	To provide comprehensive information on possible ways to spend any additional surplus income / savings or underspend,

	including a consideration of the impact of any such spend.
To identify defaults against the Inter Authority Agreement and resolve these to the satisfaction of both Councils.	

## SCHEDULE 2 RELEVANT FUNCTIONS

### 1 Relevant Functions

1.1 The Relevant Functions shall be those functions set out in the following schedule of legislation ("the statutes") together with:

1.2 Any amendments, modifications or replacements to the statutes

- (a) Any new legislation relating to the building control functions of local authorities or in other ways related to the statutes
- (b) Any subsidiary legislation or statutory guidance made under the statutes or under provisions in (a) and (b) above and
- (c) Any other function of a local authority calculated to facilitate or conductive or incidental to the functions in the statutes or any provisions in (a), (b) and (c) above.

1.2 The Statutes are:

Building Act 1984
Local Government (Miscellaneous Provisions) Act 1976
Party Walls Act 1996
Safety of Sports Grounds Act 1975

a) any Orders or Regulations made there-under or relating to any of the foregoing or having effect by virtue of the European Communities Act 1972; and

b) any offence under any legislation, or at common law, which is of a similar nature or related to the foregoing including offences of aiding, abetting, counselling and procuring, incitement, conspiracy, perverting the course of justice and criminal attempts; and

c) any modification or re-enactment to the foregoing.

## **SCHEDULE 3BRANDING**

The Partnership may, but is not obliged to, make use of the logos of all three Councils.

## SCHEDULE 4 AGREED PERCENTAGES AND BUDGET SETTING

### Definitions

**Budget** means the total monies allocated to the Partnership for each Financial Year by the Councils from time to time.

**Initial Budget** means the forecast Budget for the Financial Year.

**Major Adjustment** means an increase or decrease in the contributions paid by the Councils which amounts to a change of 2.5% or more of the total Budget for that Financial Year.

**Minor Adjustment** means an increase or decrease in the contributions paid by the Councils which amounts to a change of less than 2.5% of the total Budget for that Financial Year.

**Submission Date** means 30 November or such other date agreed between the Councils from time to time.

**Threshold Limit** means the amount of £50,000 or such other sum as agreed between the Councils from time to time.

**Unbudgeted Expenditure** means an expense that is unaccounted for in the Budget for that Financial Year.

**Year End Reconciliation** means an annual reconciliation undertaken by the Host Authority of the actual expenditure of the Partnership against the Budget and contributions made by the Councils during that Financial Year.

### First Financial Year

The Initial Budget of the Partnership shall be a net cost of one hundred and fourteen thousand pounds (£114,000) comprising annual contributions as follows:

to Mole Valley                      £73,000 (£18,250 quarterly)

to Reigate & Banstead    £5,000 (£1,250 quarterly)

from Tandridge                      £192,000 (£48,000 quarterly)

Where outturn differs from the net cost of £114,000, the variation in net income or cost shall be apportioned in line with the Agreed Percentages which shall be:

Mole Valley- 30%

Reigate & Banstead- 35%

Tandridge- 35%

Tandridge will bill the Partnership £158,000 annually (corresponding to £39,250 quarterly) for support service charges; Mole Valley will bill the Partnership £53,000 annually (corresponding to £13,250 quarterly) being charges for accommodation and for the services described in Clause 13.1 of this Agreement and provided to those employees of the Partnership who are based in Mole Valley's premises at Pippbrook, Dorking.

If at some time in the future the Partnership ceases to require provision of support services and accommodation, then the reduced income will be borne by all authorities in line with the Agreed Percentages set out above. This is because the income to Tandridge and Mole Valley is illusory inasmuch as the net income or charge for the new service has been adjusted to take account of this income so the net cost to each authority remains the same as the combined 2016/17 budgets.

Amounts due will be settled quarterly in advance on the first day of the quarter.

In addition to the Agreed Percentage payment a sum to be agreed between the parties shall be paid to Tandridge as a contribution to development costs at such time as the parties agree that it would be prudent to do so in terms of budget forecasting.

### **Future Financial Years**

The recommended Budget and Agreed Percentage figures for the Partnership for each subsequent Financial Year shall be prepared by the Joint Partnership Board and sent to the Councils for consideration by the Submission Date during the immediately preceding Financial Year.

In preparing its recommended Budget and Agreed Percentage figures, the Joint Partnership Board shall specifically consider:

- The previous **income and** expenditure of the Partnership and levels of service achieved;
- Any proposals for the development of the Partnership or the services it offers;
- Any material changes in the activities provided by the Partnership to any Council or any requests by any Council to make material changes in the following Financial Year; and
- Any other matters of relevance from time to time.

The Councils shall consider the recommendations as part of their internal budget setting processes and the Joint Partnerships Committee shall provide such assistance and response as is necessary to meet financial challenges or alternative proposals that may be put forward by any Council.

The final Budget for the forthcoming Financial Year shall be approved by each Council by no later than the 28 February in the immediately preceding Financial Year.

### **Payments**

The Non-host Authorities shall pay **or receive** their Agreed Percentage of the **outturn variance against** Budget for any given Financial Year to the Host Authority in twelve equal instalments each month in arrears by regular BACS transfer. The first such payment is to be made no later than 1 month after close of accounts and for the avoidance of doubt no invoice shall be raised.

Any additional payments due **to or from** the Non-host Authorities to the Host Authority in accordance with the following provisions of this Schedule shall be made within 30 days of notification.

The Host Authority shall allocate any monies received by the Non-host Authorities for the purpose of the Partnership to the budget code of the Partnership within 15 days of receipt and shall allocate to the Partnership such contributions as it is required to make within 30 days of notification.

### **Monitoring and Adjustments**

The actual [income and expenditure](#) of the Partnership against its Budget for each Financial Year shall be monitored by [the Host Authority](#) throughout the year and formally reviewed at the 6 month point by the Joint Partnership Board. The Joint Partnership Board shall then determine whether any action is necessary to ensure the forecast spend closely aligns with the Budget for that Financial Year or if an adjustment to the contributions allocated by the Councils is appropriate to meet the forecasted year end position:

- If a Minor Adjustment is necessary this shall be implemented from the 6 month period until the end of the Financial Year to which it applies;
- If a Major Adjustment is necessary this shall be referred back to the Councils for consideration and to agree a resolution within 60 days.

### **Unbudgeted Costs**

In the event that the Partnership incurs Unbudgeted Expenditure this shall be reviewed by the Joint Partnership Board for appropriate action:

- If the Unbudgeted Expenditure exceeds the Threshold Limit, the Joint Partnership Board shall submit this sum to the Councils for payment as a one-off cost, split between them in the Agreed Percentages for that Financial Year. The Joint Partnership Board shall also issue a report to the Councils detailing why the cost occurred and any actions that may be necessary to avoid a similar situation in the future;
- If the Unbudgeted Expenditure does not exceed the Threshold Limit, the Joint Partnership Board shall authorise the payment out of the existing Budget for that Financial Year and deal with any shortfall by way of the Minor Adjustment or Year End Reconciliation processes;
- If the Unbudgeted Expenditure arises as a result of a request from one Council and relates wholly to that Council, then the cost shall be borne by that Council alone.

### **Year End Reconciliation**

The Host Authority shall conduct a Year End Reconciliation within 30 days of the end of the Financial Year. The result of this reconciliation shall be reported to the Joint Partnership Board and in the event that:

- A [net income position arises](#), then the Host Authority shall make payments to the Non-Host Authorities in the Agreed Percentages for that Financial Year as are necessary to clear the [position to the £114,000 net cost benchmark](#);
- A [net cost position arises](#) then the Non-Host Authorities shall make payments to the Host Authority in the Agreed Percentages for that Financial Year as are necessary to clear the [position to the £114,000 net cost benchmark](#);
- The [net income or cost](#) is de minimis then it shall be written off without further payments being due. The de minimis figure shall be agreed between the Councils from time to time.





## SCHEDULE 5 SERVICE SPECIFICATION

In addition to enforcing the legislation assigned to all local Building Control Authorities from time to time (and as set out in Schedule 2), the Partnership will:

- 
- Provide service which aligns with the Vision set out in the Business Case
- Align its work to achieve the aims set out in the Business Case (given below);

At the time of the Agreement, the agreed vision for the shared service is to create a **modern, resilient, commercial service delivering high quality customer focussed building control services for the 21<sup>st</sup> century.**

**Aims** of the Service set out in the Business Case:

### **Improved value for Customers**

A 21<sup>st</sup> century service needs to be driven by customer needs. Client relationship management will focus on meeting customer need and ensure that the shared service delivers a service that is tailored to meet the needs of customers attracting increased market share and repeat business.

### **Great place to work**

The shared service seeks to improve resilience and staff retention by introducing new agile ways of working, including greater flexibility, enhanced ICT and more agile and mobile patterns of work. This will in turn provide staff with greater development opportunities for specialist and technical expertise enabling the offer of a greater breadth and depth of service.

### **Efficient ways of working**

Reducing duplication across three council areas will drive down costs and improve the customer experience. Streamlining business processes and maximising use of ICT will provide opportunities for efficiencies and alignment of best practice. A stronger focus on performance management will provide clear tracking of progress.

### **Income Generation**

Developing the business to respond to customer demand provides opportunities for additional income generation. The shared service will maximise such opportunities.

**Performance Indicators** for the Partnership in:

1. Increase market share
2. Increase number of partners
3. Meet savings targets
4. Meet income targets
5. Improve satisfaction levels
6. Meet target turnaround times
7. Do not exceed agreed vacancy and turnover rates

APPENDIX 6 Staff Structure

