

Memorandum of Understanding

Between

Corby Borough Council

And

Kettering Borough Council

Sharing of Street Scene Services

This Agreement is dated [DATE]

Parties

The Parties to this Agreement are:

Corby Borough Council of [ADDRESS] a Local Authority

And

Kettering Borough Council of [ADDRESS] a Local Authority

1. Preamble

- 1.1 This Memorandum of Understanding (MoU) sets out the terms on which the Parties commit to work together to establish, implement and operate a shared service agreement for the provision of refuse collection, grounds maintenance and street cleansing services, collectively referred to as Street Scene Services, across the areas administered by the Parties.
- 1.2 The Parties are the statutory waste collection authorities for the Corby and Kettering Boroughs respectively. Both Parties also perform functions in relation to the care and maintenance of public spaces and street cleansing under various statutory powers. They have agreed in principle to work together with the aim of combining the delivery of Street Scene Services across the boundaries of the Parties.
- 1.3 This MoU sets out the basis on which the Parties intend to work together and establishes the key aims and principles of the partnership.

2. Basis for joint working

- 2.1 The preferred shared service model is an arrangement made under s101 of the Local Government Act 1972. A Joint Committee (JC) with councillors from both authorities will be created to oversee the performance of the shared service. The composition of the committee is to be determined by the Parties, in accordance with statutory requirements, on a basis that adheres to the starting principle of parity of control between the parties.
- 2.2 The key objectives governing the work of the JC will be;
 - To provide best value services to the joint population of the two boroughs and seek continual improvement in service delivery having regard to economy, efficiency and effectiveness, across the combined area of the two authorities.

- To facilitate genuine joint working, through a single service provided across boundaries and utilising shared resources. In particular:-
 - A single workforce, under the employ of Kettering Borough Council (KBC) as the host employer, to be deployed across the combined area according to the needs of the shared service;
 - A single fleet of vehicles and plant procured by KBC as the contracting authority capable of working across the combined area to ensure the efficient and effective use of resources;
 - Shared depot(s) in suitable location(s) to best serve the needs of the combined area

2.3 The parties will work together in; good faith, a spirit of mutual trust, an open, co-operative and collaborative manner for the duration of this Memorandum of Understanding. in order to endeavour to procure the successful implementation of the Shared Services Project and thereafter its successful ongoing operation. Both parties

- will respond in a timely manner to all relevant requests from the other party.
- to share the total costs of undertaking the Shared Services Project in a manner to be developed and agreed by both parties.

2.4 Each of the Authorities shall provide the required representatives to attend all meetings of the Joint Steering Group, Joint Project Board, Joint Project Team and Joint Committee.

3.0 Joint Steering Group (JSG) – Operates during implementation phase

3.1 The parties agree to establish a Joint Steering Group (JSG) made up of elected members and officers from both parties to oversee the planning and implementation phase of the shared service. The composition of the JSG and its purpose are set out in Appendix 1 of this document.

3.2 The JSG will be supported as required by officers from both parties with the aim of sharing equally costs associated with it. This principle will extend to the cost of external support should the JSG determine that there is a need for such support.

3.3 The role of the JSG will be to make recommendations to the parties for formal consideration via the respective normal policy making processes in place in the two authorities. The JSG will have no formal standing or decision making powers.

3.4 Prior to implementation of the shared service the JSG will be disbanded and the Joint Committee will be established.

4.0 Joint Project Board (JPB) – Operates during implementation phase

4.1 The parties agree to establish a Joint Project Board (JPB) made up of Senior Officers from both parties to oversee the planning and implementation phase of the shared service. The purpose of the board is to consider reports and work undertaken by the Joint Project Team and other work directly commissioned in line with the project implementation plan prior to consideration by the JSG. The JPB will also be responsible for providing strategic direction to the JPT and technical/legal support as

required to the JSG. The composition of the JPB is set out in Appendix 2 of this document.

5.0 Joint Project Team (JPT) – Operates during implementation phase

5.1 The parties agree to set up a Joint Project Team (JPT) made up of Service Management and Technical Lead Officers from both parties to manage, commission, undertake, monitor, review and report on the relevant work packages which form part of the shared service project implementation plan. The JPT will be responsible for providing update and progress reports and KPI information to the JPB, and in consultation with the JPB to the JSG. The composition of the JPT and its terms of reference are set out in Appendix 3.

6.0 Joint Committee (JC) – Operates post implementation

6.1 The parties agree to establish a Joint Committee (JC) made up of elected members and officers from both parties, to oversee the strategic direction and performance of the shared service post implementation. The composition of the JC and its Terms of Reference are set out in Appendix 4 of this document.

6.2 The JC will be supported by a Performance Management Board responsible for the delivery of services and day to day business activities. This will consist of the two service lead officers for both parties who will meet monthly to review performance, business/service improvement plans and progress reports submitting reports to the JC for consideration as appropriate.

7.0 Information Sharing, Intellectual Property and confidential information

7.1 The Parties undertake to share information relevant to the establishment of the shared service. Information will be subject to the normal policies and processes of the two authorities.

7.2 Any information deemed by one Party to be confidential information will be treated as such by both Parties.

Subject to Clause 11, the Authorities shall at all times use their reasonable endeavours to keep confidential and ensure that such information is used only for the purpose of the Shared Services arrangement and to procure that their respective employees, agents, consultants, contractors and sub-contractors shall keep confidential and shall use such information only for the purpose of the Shared Service arrangement and all Confidential Information concerning the Shared Service arrangement or the business and affairs of another Authority which may now or at any time hereafter be in its possession shall not disclose it except with the consent of that other Authority. Such consent is not to be unreasonably withheld

For the purpose of this MoU “Confidential Information” means any information imparted to any of the Authorities for their employees, agents, consultants, contractors or sub-contractors (“the Receiving Party”) which was imparted to the Receiving Party on the basis that it is to be kept confidential or would by its nature normally be regarded as being confidential or to the knowledge of the Receiving Party was obtained by the other Authority on the basis that it was to be kept confidential or is of commercial value in relation to the Shared Services Project but

shall not include any information which is for the time being in the public domain otherwise than by reason of its wrongful disclosure by the Receiving Party.

This Clause 10.0 shall not prevent the disclosure of any Confidential Information relating to the Shared Service arrangement which is reasonably disclosed for the furtherance of the Shared Service arrangement or the promotion of the Shared Service arrangement provided that the Authority or person disclosing the information takes all steps that are commercially practicable to preserve the confidentiality of the information and shall not prevent the disclosure of any Confidential Information where required by law.

- 7.3 Existing intellectual property rights will be preserved and respected. Any new intellectual property, pertaining to the shared service will be jointly owned by the Parties.

8.0. Term and Termination

- 8.1 This MoU shall commence once signed by both Parties and shall continue until terminated pursuant to clause 8.2 or under clause 10.3.

- 8.2 Notwithstanding Clause 10.3, either Party may only terminate the MoU with giving due regard or consideration to broader contractual commitments e.g. fleet contracts. Outside of such commitments, either party may terminate by giving at least 12 months' notice from the end of the financial year in which the notice is served. This notice must be given in writing by a suitably authorised person by either party..

9.0. Variation

- 9.1 All terms of this MoU can be varied by the written agreement of both Parties.

10.0. Dispute resolution procedure

- 10.1 Where any dispute relating to matters connected with this MoU arises which cannot be resolved at officer level, the matter shall be taken to the JPB for resolution.

- 10.2 In the event that the JPB is unable to reach agreement on any matter it will be referred to an external independent advisor for arbitration.

- 10.3 If a disputed matter cannot be resolved the Parties will independently re-consider their ongoing involvement in the development of the shared service. Should either Party decide not to continue, this MoU will terminate with immediate effect. If a disputed matter cannot be resolved post implementation of the shared service then due consideration would need to be given to broader contractual commitments in line with 8.2 above

11.0. Status of This MoU

- 11.1 This MoU is not intended to be legally binding and no legal obligations or rights shall arise from it. The Parties enter into the MoU intending to honour the principles and obligations set out herein.

- 11.2 Nothing in this MoU is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties, constitute either party as the agent of the other

party, nor authorise either of the Parties to enter into any commitments for or on behalf of the other party.

12.0. Governing Law and Jurisdiction

- 12.1 This MoU shall be governed by and construed in accordance with English law and each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

13.0 Freedom of Information Act 2000 and Environmental Information Regulations 2004

- 13.1 Each Authority acknowledges that the other Authority is subject to the requirements of the Freedom of Information Act 2000 ("FOIA") and the Environmental Information Regulations 2004 ("EIR") and each Authority shall where reasonable assist and co-operate with the other Authority (at their own expense) to enable the other Authority to comply with these information disclosure obligations.

- 13.2 Where an Authority receives a request for information under either the Freedom of information Act 2000 or the Environmental Information Regulations 2004 in relation to information which it is holding on behalf of any of the other Authority in relation to the Shared Services Project it shall (and shall procure that its sub-contractors shall):

13.2.1 transfer the request for information to the other Authority as soon as practicable after receipt and in any event within two Working Days of receiving a request for information;

13.2.2 provide the other Authority with a copy of all information in its possession or power in the form that the Authority requires within ten Working Days (or such longer period as the Authority may specify) of the Authority requesting that information; and

13.2.3 provide all necessary assistance as reasonably requested by the other Authority to enable the Authority to respond to a request for information within the time for compliance set out in the FOIA or the EIR.

- 13.3 Where an Authority receives a request for information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 which relates to this Memorandum of Understanding or the Shared Services Project, it shall inform the other Authority of the request for information as soon as practicable after receipt and in any event at least two Working Days before disclosure and shall use all reasonable endeavours to consult with the other Authority prior to disclosure and shall consider all representations made by the other Authority in relation to the decision whether or not to disclose the information requested.

- 13.4 The Authorities shall be responsible for determining in their absolute discretion whether any information requested under the Freedom of Information Act 2004 or the Environmental Information Regulations 2004:

13.4.1 is exempt from disclosure under the FOIA or the EIR;

13.4.2 is to be disclosed in response to a request for information.

13.5 Each Authority acknowledges that the other Authority may be obliged under the FOIA or the EIR to disclose information:

13.5.1 without consulting with the other Authority where it has not been practicable to achieve such consultation; or

13.5.2 following consultation with the other Authority and having taken their views into account.

14.0. Severance

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

15.0. Waiver

15.1. The failure to exercise or delay in exercising a right or remedy provided by this MoU or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies.

15.2. A waiver of a breach of any of the terms of this MoU or of a default under this MoU does not constitute a waiver of any other breach or default and shall not affect the other terms of this MoU.

15.3. A waiver of a breach of any of the terms of this MoU or of a default under this MoU will not prevent an Authority from subsequently requiring compliance with the waived obligation.

16.0. General

16.1 Nothing contained or implied herein shall prejudice or affect the Authorities' rights and powers duties and obligations in the exercise of their functions as local authorities and/or in any other capacity and all rights powers discretions duties and obligations of the Authorities under all laws may at all times be fully and effectually exercised as if the Authorities were not party to this Memorandum of Understanding and as if this MoU had not been made.

16.2. The Authorities shall only represent themselves as being an agent partner or employee of the other Authorities to the extent specified by this MoU and shall not hold themselves out as such nor as having any power or authority to incur any obligation of any nature express or implied on behalf of the other Authorities except to the extent specified in this MoU.

16.3. This MoU is personal to the Authorities and no Authority shall assign transfer or purport to assign or transfer to any other persons any of its rights or sub-contract any of its obligations under this MoU.

16.4. No person other than the Authorities shall be entitled to enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.

16.5. Any notice required or permitted to be given by an Authority to the other Authorities under this MoU shall be in writing and addressed to the Chief Executive of the other Authority at its principal office.

17.0 Signatures

Signed for and on behalf of **Corby Borough Council**

Signature

Name

Position

Date

Signed for and on behalf of **Kettering Borough Council**

Signature

Name

Position

Date

Appendix 1 Joint Steering Group (JSG)

Appendix 2 Joint Project Board (JPB)

Appendix 3 Joint Project Team (JPT)

Appendix 4 Joint Committee (JC)