

DATED THE

DAY OF

2022

(1) HARBOROUGH DISTRICT COUNCIL

AND

(2) MELTON BOROUGH COUNCIL

DRAFT

**MEMORANDUM OF AGREEMENT TO
ENTER INTO A STRATEGIC PARTNERSHIP
AND PLACE OFFICERS FROM EACH COUNCIL
AT THE DISPOSAL OF THE OTHER COUNCIL
PURSUANT TO SECTION 113 OF THE
LOCAL GOVERNMENT ACT 1972**

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Agreement

Dated the day of December 2022

BETWEEN:

- (i) **Harborough District Council** whose principal office is at The Symington Building, Adam and Eve Street, Market Harborough, Leicestershire, LE16 7AG ("HBC")

and

- (ii) **Melton Borough Council** whose principal office is at Parkside, Burton Street, Melton Mowbray LE13 1GH ("MBC")

RECITALS:

- A. Section 113 (1) of the Local Government Act 1972 provides that a local authority may enter into an agreement with another local authority for placing at the disposal of the latter for the purposes of their functions, on such terms as may be provided by the agreement, the services and [the](#) officers employed by the former. An officer placed by one local authority at the disposal of another remains employed by the first local authority.
- B. The Councils are desirous of securing further benefit for their local communities by establishing a strategic partnership and propose to apportion the costs of, and subsequently benefit from, the potential efficiency savings that may be secured through such a strategic relationship.
- C. Each Council has approved the sharing of the role of Chief Executive and other senior officer roles under Section 113 of the Local Government Act 1972 with a view to:
- a. Enhancement of the ability to address common issues and challenges for the benefit of residents, communities and business, through a common purpose, whilst maintaining democratic accountability;
 - b. Maximised influence, reach and impact on a local, regional and national basis particularly in relation to shared opportunities and challenges;
 - c. Facilitating greater financial sustainability, improved resilience and maximising opportunities to secure external funding;
 - d. Attracting and retaining workforce talent through the opportunities for shared learning, job enrichment, new experiences and progression;

- e. Effectively and equitably deploying senior resources;
 - f. Considering and embracing future collaboration opportunities and options and to review and evaluate existing arrangements;
- D. The Councils have resolved to at all times co-operate with each other in the operation of the Strategic Partnership and in doing so shall observe the following key principles:
- a. trust, transparency, integrity, and respect;
 - b. effective working relationships;
 - c. co-operation, collaboration, and information-sharing whilst respecting the confidentiality of the other Council;
 - d. accountability to their council taxpayers and each other;
 - e. openness to change, including the addition of further partners;
 - f. to recognise the values and behaviours of each partner's culture;
 - g. systematic and outcome focused in their approach to working together; and
 - h. sensitivity to the fact each council operates in a political environment.

PROVIDED ALWAYS that:

- E. The sovereignty of each Council is retained absolutely;
- F. Lines of officer accountability are clear and maintained;
- G. The costs of the strategic partnership are shared between the Councils on a fair, equitable and proportionate basis.

NOW IT IS HEREBY AGREED as follows:

1. Definitions

In this Agreement the following terms shall have the following meanings:

Term	Meaning
Chief Executive	The officer appointed by each Council as Chief Executive of the Council
Clause	A Clause in this Agreement
Commencement Date	The date the Agreement takes effect
Council	Harborough District Council or Melton Borough Council as the case may be
Councils	Harborough District Council and Melton Borough Council

Cabinet	The Cabinet of Harborough District Council or Melton Borough Council as the case may be, appointed in accordance with Part 1A Chapter 2 of the Local Government Act 2000
Cabinets	The Cabinet of Harborough District Council and the Cabinet of Melton Borough Council
Deputy Chief Executive	The officer appointed by as Deputy Chief Executive of Harborough District Council or Melton Borough Council as the case may be
Executive Arrangements	Construed in accordance with Part 1A Chapter 2 of the Local Government Act 2000
Head of Paid Service	The officer appointed by each Council under Section 4 of the Local Government and Housing Act 1989
Intellectual Property Rights	All patents, rights to inventions, copyright and related rights, trademarks and service marks, business names and domain names, rights in get-up, goodwill, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world
Leader of the Council	Leader of Harborough District Council or Leader of Melton Borough Council as the case may be
Leaders of the Councils	Leader of Harborough District Council and the Leader of Melton Borough Council
Monitoring Officer	The officer appointed by each Council under Section 5 of the Local Government and Housing Act 1989
Remaining Council	The Council upon which the Withdrawing Council has served notice of intention to withdraw from either the Strategic Partnership or a service level agreement
Resolutions	The resolutions of Harborough District Council on 19 December 2022 and Melton Borough Council on 20 December 2022 to: <ul style="list-style-type: none"> - Endorse the business case and enter into a Strategic Partnership; - appoint a Shared Chief Executive; - appoint the Shared Chief Executive as the Head of Paid Service;

	<ul style="list-style-type: none"> - Appoint the Deputy Chief Executive as a Shared Deputy Chief Executive and place at the disposal of the other Council - Delegate to the Monitoring Officer the ability to make amendments to the Constitution to give effect to the Memorandum of Agreement
Section 151 Officer	The officer appointed by each Council under Section 151 of the Local Government Act 1972
Shared Chief Executive	The officer appointed to the role of Shared Chief Executive / Head of Paid Service and placed at the disposal of the other Council in accordance with this agreement as the case may be
Shared Deputy Chief Executive	The officer(s) appointed to the role(s) of Shared Deputy Chief Executive and placed at the disposal of the other Council in accordance with this agreement as the case may be
Shared Chief Officers	The officers appointed to the roles of Shared Chief Executive and Shared Deputy Chief Executive and placed at the disposal of another Council in accordance with this agreement as the case may be
Shared Chief Officer Employment Panel	The advisory body established with the terms of reference set out at Schedule 1
Shared Management Team (SMT)	The management team of shared officers, determined and chaired by the Shared Chief Executive
Shared Officers	The officers of a Council placed at the disposal of the other Council as the case may be under a section 113 agreement in accordance with Schedule 4 of this agreement.
Shared Senior Officers	The officer(s) appointed to the role(s) of Shared Chief Executive and Shared Deputy Chief Executive and placed at the disposal of the other Council in accordance with this agreement as the case may be
Shared Officer Structure	The management and reporting arrangements by which the Shared Chief Executive will manage the Strategic Partnership
Shared Strategy Board	The advisory body established with the terms of reference set out at Schedule 3 consisting of the Executive members of both Councils and the Shared Chief Executive
Shared Stakeholder Group	The advisory body established with the terms of reference set out at Schedule 2 consisting of the Leader and Deputy Leader of Harborough

	District Council, the Leader and Deputy Leader of Melton Borough Council and the Statutory Officers.
Statutory Officers	The collective name for the statutory officers of each Council, that is: <ul style="list-style-type: none"> - the Head of Paid Service; - the Section 151 Officer; and - the Monitoring Officer.
Strategic Partnership	The mechanism by which each Council will place their officers at the disposal of the other Council, as set out in this agreement
Termination Date	The date upon which a Notice of Termination takes effect ending the Strategic Partnership or Service Legal Agreement as may be the case
Withdrawing Council	The Council which has served on the Remaining Council notice of intention to withdraw from either the Strategic Partnership or a service level agreement

2. Preliminary

2.1 This Agreement is made pursuant to:

- (a) Sections 101 and 102 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities);
- (b) Section 112 of the Local Government Act 1972 (duty to appoint officers);
- (c) Section 113 of the Local Government Act 1972 (power to place staff at the disposal of other local authorities);
- (d) Section 1 of the Localism Act 2011 (local authorities' general power of competence);
- (e) Sections 9EA and 9EB of the Local Government Act 2000 (discharge of functions);
- (f) The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012/1019 (joint arrangements for the exercise of executive functions); and
- (g) The resolution of Harborough District Council on **19 December 2022** and Melton Borough Council on **20 December 2022**.

2.2 This Agreement shall commence on the Commencement Date and subject to Clause 6 (Termination and Review) shall continue in full force and effect unless and until the Councils agree to terminate it.

- 2.3 Each Council shall use reasonable endeavours to support the purposes of this Agreement as set out in the Recitals, including in its contractual relationships with third parties.

3. Shared Chief Officer Employment Panel, Strategy Board and Stakeholder Group

- 3.1 The Councils have, by the Resolutions, agreed to establish a **Shared Chief Officer Employment Panel** which shall not be a joint committee within the meaning of the Local Government Acts unless and until otherwise resolved by the Councils. It shall comprise, meet, operate, and be serviced in accordance with Schedule 1 to this agreement.
- 3.2 The Shared Chief Officer Employment Panel may make recommendations to the Council employing the Chief Officer concerned only. Any decision to be taken in relation to the employment of a Chief Officer will be made by the Council that employs them.
- 3.3 The Councils will establish a **Shared Stakeholder Group** which shall not be a formal joint committee within the meaning of the Local Government Acts. It shall comprise, meet, operate, and be serviced in accordance with Schedule 2 of this agreement.
- 3.4 The Councils will establish a **Shared Strategy Board** which shall not be a shared formal joint committee within the meaning of the Local Government Acts unless and until resolved otherwise by each Council. It shall comprise, meet, operate, and be serviced in accordance with Schedule 3 of this agreement.
- 3.5 The Shared Strategy Board may make recommendations to the Councils but decisions affecting the Councils shall be taken by each Council as appropriate.
- 3.6 Notwithstanding Clause 7 below each Council shall meet any cost that it incurs as a result of a meeting of the Shared Chief Officer Employment Panel, Shared Stakeholder Group or the Shared Strategy Board, or any other joint committee or group created to support the operation of the Strategic Partnership.

4. Shared Officers

Chief Executive

- 4.1 In accordance with the Resolutions, each Council shall appoint a Shared Chief Executive. The Shared Chief Executive is responsible for the development, implementation and oversight of the Strategic Partnership, including the Shared Officer Structure.

4.2 The Shared Chief Executive is appointed as the Head of Paid Service in respect of the workforce of the Councils as a consequence of the Resolutions.

4.3 The Shared Chief Executive shall:

- (a) Lead the senior management team of each Council;
- (b) Determine the constitution of the Shared Management Team for the Strategic Partnership

Attendance at, and frequency of, meetings, the terms of reference and other matters relating to the management teams shall be at the discretion of the Shared Chief Executive.

Deputy Chief Executives

4.4 In accordance with the Resolutions, each Council shall appoint a Deputy Chief Executive to the post of Shared Deputy Chief Executive. The Shared Deputy Chief Executives will be responsible for such functions of the Strategic Partnership as are delegated to them by the Shared Chief Executive from time to time.

Statutory Officers

4.5 Each Council shall identify and designate its statutory officers.

4.6 The Statutory Officers shall monitor the operation of the Strategic Partnership in compliance with their statutory obligations.

Other Shared Officers

4.7 Save for short term temporary arrangements, no officer shall be added to the Shared Officer Structure until:

- (a) a draft business case in respect of the proposed service and officer(s) has been endorsed by the Shared Strategy Board;
- (b) the Portfolio Holder, Cabinet or other relevant body at each Council endorse a complete business case, taking account of any feedback from the Shared Strategy Board, for the sharing of additional officers in accordance with the provisions of Section 113 of the Local Government Act 1972 including the appropriate apportionment levying of costs for any proposed change;
- (c) the Council employing the officer(s) proposed to be shared complies with all employment law requirements including but not limited to consultation with officers proposed to be shared; and
- (d) the Councils execute an appropriate ~~service level~~ agreement (~~in the forms~~ set out at Schedule 4) confirming the terms of the arrangement,

the agreed legal basis for the arrangement and the financial arrangements relating thereto.

- 4.8 Short term temporary arrangements for sharing an officer or officers may be authorised by the Shared Chief Executive provided that written confirmation of the same is sent to the Leaders of the Councils within 7 days of the decision to enter into temporary arrangements being made.
- 4.9 The Council which employs a Shared Officer who is part of the Shared Officer Structure shall, upon that officer leaving the shared role, recruit and employ the replacement officer unless otherwise agreed between the parties.
- 4.10 Shared Officers within the Shared Officer Structure may be employed by either Council and shall be placed at the disposal of the non-employing Council.
- 4.11 Shared Officers shall be authorised to act for both Councils in accordance with the Constitution of the Councils and shall not display bias in favour of either Council. Whilst it is acknowledged that an employee owes their employer a fiduciary duty, any Shared Officer is required to provide the same full and objective advice to each council on any partnership matter.
- 4.12 So far as is reasonably possible, Shared Officers who are part of the Shared Officer Structure shall divide their time fairly and reasonably between the Councils in accordance with the reasonable direction of the Shared Chief Executive.

Pension

- 4.13 For superannuation purposes, service rendered by a Shared Officer to the non-employing Council, in pursuance of section 113 of the Local Government Act 1972 and in accordance with this Agreement, is service rendered to the employing Council.
- 4.14 The Councils shall agree in writing financial arrangements as to the allocation of pension contributions, including those relating to payments due in respect of the pension deficits of the Councils in respect of any s.113 arrangement upon the transfer, appointment to or employment of staff within the Shared Officer Structure, when and if this becomes necessary.

5. Finance

- 5.1 The costs of employing Shared Officers within the Shared Officer Structure Senior Officers, including training, redundancy and associated pension on costs, shall be apportioned levied between the Councils equally unless otherwise agreed between the Councils in writing. For the avoidance of doubt, equally shall mean 50% met by Harborough District Council and

50% met by Melton Borough Council.

- 5.2 The Section 151 Officer(s) may, with the prior written agreement of the Shared Chief Executive and the Leaders of the Councils, adjust the apportionment of any on-going costs attributable to the Strategic Partnership, provided that the adjusted apportionment is approved by the Councils as appropriate.
- 5.3 Where business cases are developed and consideration is given to the sharing of officers or services the Section 151 Officer(s) shall determine which of the following rationales shall be utilised:-
- (a) Population Rationale – 65% HDC and 35% MBC;
 - (b) Council Tax Base Rationale – 66% HDC and 34% MBC;
 - (c) Geographic Rationale – 69% HDC and 31% MBC; or
 - (d) Service Specific Rationale – split to be agreed on a case by case basis.
- 5.4 The Councils will review the apportionment of costs total charge of the Strategic Partnership as and when new data becomes available and in any event within one year of the commencement of the Strategic Partnership to ensure the costs are a fair and reasonable reflection of the time spent by Shared Officers on the business and functions of each Council.
- 5.5 The Section 151 Officer(s) shall account to the Councils for the costs and or savings of the Strategic Partnership within 90 days of the end of each financial year, in accordance with all relevant law, statutory and CIPFA guidance. This annual financial report on the Strategic Partnership to the Councils shall include assurance from the Monitoring Officer(s) and Section 151 Officer(s) as to the ongoing lawfulness of the Strategic Partnership.
- 5.6 After the expiry of the first year of the Strategic Partnership, the Section 151 Officer(s) will submit an interim report to the Shared Strategy Board on a six-monthly basis.
- 5.7 Costs incurred upon termination shall be apportioned in accordance with clause 6 below.

6. Termination and Review

- 6.1 This Agreement shall continue unless terminated in accordance with the provisions of this Clause 6.
- 6.2 Any Council wishing to withdraw from the Strategic Partnership within 67 months of this agreement being executed shall comply with the provisions of Schedule ~~XX~~5 to this agreement.
- 6.3 A Council may withdraw from either the Strategic Partnership in its entirety

or a Service Level Agreement entered into in accordance with this agreement provided that not less than 76 months has elapsed from the date of execution of this Agreement and:-

- (a) The decision to withdraw has been approved by the full Council; and
- (b) Not less than twelve months written notice of the intention to withdraw has been given by the Withdrawing Council to the Remaining Council and to the Shared Chief Executive; and
- (c) The Shared Chief Executive has submitted to the Shared Strategy Board, following consultation with the Shared eDeputy eChief eExecutive of each Council, a report setting out the implications of the withdrawal for the Strategic Partnership; and
- (d) The Shared Chief Executive has liaised with the Withdrawing Council to plan for an orderly withdrawal from the Strategic Partnership; and
- (e) The Shared Chief Executive has consulted the Remaining Council in respect of:
 - i. any financial consequences of the withdrawal, such as loss of funding, clawback of funding, potential liability, damage claim or expense; and
 - ii. potential service delivery implications and implications for staff and reputational damage; and
- (f) an exit plan has been prepared to deal with the allocation of resources, assets and staff, in conjunction with appropriate consultation and communication with staff and stakeholders within 6 months of notice being served; and
- (g) An agreement has been reached between the Councils in respect of the allocation of assets and resources, staffing implications and the implementation of the exit plan prepared pursuant to sub-clause (f); and
- (h) Each employee will revert to their substantive post in the employing Council as per the section 113 arrangements, unless otherwise agreed. The employing Council shall deal with any consequential changes to contract terms and conditions; and
- (i) The Withdrawing Council undertakes to make, prior to withdrawal, such reasonable payment or payments as fairly reflect the actual losses caused by or anticipated as a result of the withdrawal, as shall be determined by the Remaining Council. No notice of withdrawal shall take effect until such payment has been agreed by the other Council; and

- (j) The Withdrawing Council shall between the date of the Notice of Withdrawal being issued and the Termination Date, provide reasonable assistance to the Remaining Council to enable the transfer of functions to the Remaining Council. The Councils shall take all steps as may be reasonably necessary to enable the continuation of activities and functions with minimum interference and inconvenience to the Councils or service users; and
- (k) Each Council reserves the right to recover from the other Council the costs of any claims, costs, expenses, losses or liabilities of any nature which have been caused by any act or omission of a Council and which are discovered following withdrawal of a Council from this Agreement.

6.4 Where all the Councils jointly agree to terminate or withdraw from this Agreement they shall do so by each giving the other not less than 12 months' prior written notice and such a decision to terminate or withdraw may only be made by all of the Councils acting by a decision of their full Council.

6.5 In the event of a termination for any reason the Councils shall:

- (a) establish arrangements to maintain effective operational activity in accordance with the s.113 arrangements during the transition period;
- (b) balance the interests of the ongoing relationship between the Councils and the interests of their local communities to minimise the detrimental impact of termination for either;
- (c) co-operate in terminating, modifying, restructuring, assigning or novating contractual arrangements entered into to mutual advantage, and properly and timeously execute any documents necessary;
- (d) not rule out any option of mutual service delivery to give each Council the widest range of options for consideration post termination;
- (e) use reasonable endeavours to secure an amicable and equitable financial settlement in respect of the termination costs;
- (f) facilitate each employee reverting to their substantive post in the employing Council as per the section 113 arrangements, unless otherwise agreed. The employing Council shall deal with any consequential changes to contract terms and conditions;
- (g) as soon as possible, and in any event within three months of the Termination Date, transfer or return any property including data belonging to the other Council; and
- (h) where a Council has a materially disproportionate number of shared

officers at the Termination Date compared to the proportions at the Commencement Date, ensure that each Council is allocated a fair and reasonable proportion of the members of the Shared Officer Team, subject to any necessary actions being taken as required by employment law or by the policies of the transferring council so that:

- i. each Council can maintain continuity in the provision of its services at a reasonable level of effectiveness and efficiency after the Termination Date;
- ii. the officers become employed by the Council to which they are transferred.

- 6.6 In the event of any dispute which cannot be resolved in respect of any matter referred to under Clause 6.45, Clause 8 shall apply.
- 6.7 The costs consequential upon termination of this agreement, including oncosts of recruitment selection, termination costs, administration but not salary costs, shall, after the Termination Date, subject always to clauses 5.1 - 5.3-, be apportioned between the Councils as agreed.
- 6.8 Each Council shall indemnify, and keep indemnified, the other Council in respect of any actions, claims, demands, proceedings, damages, losses, costs, charges and expenses arising from, or in connection with, the termination of this agreement or withdrawal from a service level agreement. The indemnity shall continue for a period of 12 years after the Termination Date.
- 6.9 The Councils will undertake an annual review of the Strategic Partnership which will assess:
- (a) the effectiveness of the Strategic Partnership; and
 - (b) opportunities for further development of the Strategic Partnership; and
 - (c) the Recitals set out at C.

7. Head of Paid Service

- 7.1 The Councils shall provide, the Shared Chief Executive, as Head of Paid Service appointed in accordance with Section 4 of the Local Government and Housing Act 1989, such staff accommodation and other resources as required to discharge the duties of the post.
- 7.2 The Shared Chief Executive shall ensure, as the Head of Paid Service for the Councils, that the Councillors of each Council have reasonable access to, and support from, that Council's officers, particularly the Statutory Officers and the Shared Management Team.
- 7.3 In addition to reporting to each Council the reports required pursuant to

section 4 of the Local Government and Housing Act 1989 in respect of that Council's staffing structure, the Shared Chief Executive shall also advise the full Council and Cabinet of each Council as to the:

- (a) arrangements for the Shared Management Team of the Strategic Partnership;
- (b) structure of the Shared Officer Structure of the Councils;
- (c) identity of the employing Council for each post in the Shared Officer Structure; and
- (d) performance management arrangements for the Shared Officer Structure.

8. Dispute Resolution

- 8.1 Any dispute concerning the construction or effect of this Agreement must be referred to the **Shared Strategy Board** for consideration. The Shared Strategy Board shall take all reasonable steps to conciliate and resolve such dispute or difference whether by negotiation, mediation or any other form of dispute resolution procedure (with a view to resolution by discussion and negotiation).
- 8.2 In the event that a matter in dispute cannot be resolved under Clause 8.1 above the matter shall (unless the Councils agree otherwise in writing) be referred to an arbitrator under Clause 8.3 below.
- 8.3 The arbitrator shall be appointed with the agreement of the Councils. In the event that agreement cannot be reached, the President or other chief officer of the Chartered Institute of Arbitrators, or such other professional body appropriate to the matter in dispute (such body to be determined by the [Shared](#) Chief Executive), shall be appointed. The costs of arbitration shall be borne equally by the Councils unless agreed otherwise by the Councils.
- 8.4 For the avoidance of doubt, and to allow the Councils to resolve matters in dispute, this Clause shall remain in effect after the termination or expiry of this Agreement.

9. Liabilities

- 9.1 The Councils shall be jointly and severally liable to any third parties in respect of all actions and causes of action, claims, demands, proceedings, damages, losses, costs, charges and expenses directly arising from the Strategic Partnership.
- 9.2 Each Council shall indemnify, and keep indemnified, the other Council in respect of any actions, claims, demands, proceedings, damages, losses, costs, charges and expenses arising from, or in connection with, liability to

any third party arising from the Strategic Partnership or this Agreement. The indemnity shall continue beyond the Termination Date of the Strategic Partnership.

- 9.3 Each Council shall maintain policies of insurance relating to public liability, employee liability, professional indemnity and Member indemnity in respect of any liabilities arising from the Strategic Partnership.
- 9.4 Officers placed at the disposal of a Council shall, when acting on its behalf, be insured under that Council's public liability, employee liability and professional indemnity insurances notwithstanding the fact that such officers may be employed by the other Council.
- 9.5 Where a claim is brought that is, may be or may become, a liability of the Strategic Partnership, the Council receiving the claim shall notify its insurers in accordance with any relevant insurance policy in addition to the other Council forthwith.
- 9.6 The cost of any claim arising from or in connection with the Strategic Partnership shall be shared except where only one of the Councils is at fault, in which case the at fault Council shall bear the cost and shall indemnify and keep indemnified the non-fault Council from and against the extent of the at fault Council's liability.
- 9.7 Neither Council shall take any action which would result in any claim being refused by its insurers or the other Councils' insurers in respect of any liability arising in connection with this Strategic Partnership.

10. Intellectual Property Rights

- 10.1 Each Council shall retain the ownership of all Intellectual Property Rights it owns as at the Commencement Date in any materials which it has created or the creation of which was undertaken by a third party which it commissioned to create those materials.
- 10.2 Any new material created jointly by the Councils in the course of provision of the Shared Officer Team shall belong to the Councils jointly unless otherwise agreed in writing.
- 10.3 Each Council hereby grants a license to the other to use its Intellectual Property Rights incorporated in or appearing from the materials referred to in clauses 10.1 and 10.2 for the purposes of the Strategic Partnership and the delivery of all services by the Councils.

11. Notices

Any notice to be served under this Agreement shall be valid and effective if it is addressed to the Shared Chief Executive and delivered by email, prepaid recorded delivery post, or delivered by hand to the

other Councils' principal office.

12. Rights and Duties Reserved

- 12.1 Nothing in this Agreement shall prejudice or fetter the proper exercise of any function by the Councils or the officers they employ.
- 12.2 No deletion from, addition to, or modification of this Agreement shall be valid unless agreed in writing and sealed by the Councils.

13. Legal and other Fees

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

14. Provision of Statistical Information, Accounts and other Documents etc.

- 14.1 Each Council shall make available to the other such statistical information as each Council may from time to time reasonably require. The Councils shall produce or provide copies of documents as and when required and where possible in the form requested.
- 14.2 The Councils shall supply each other with such assistance and information as each Council may require to enable it to allocate such expenditure as each Council may incur under this Agreement including but not limited to accounts, invoices, orders, contracts, receipts, statistics and other information or documents relating to this Agreement or the Councils' participation in the Strategic Partnership.

15. Audit

- 15.1 Each Council's external and internal auditors shall have the powers set out in the Local Audit and Accountability Act 2014 and any subsequent amending repealing and superseding legislation.
- 15.2 Each Council shall facilitate access to, copying and removal of documents, records and information in the possession or control of the Council, upon reasonable request, which in any way relates to, are or were used in connection with this Agreement and the Strategic Partnership including (but without limitation) any of each Council's data and any such information stored on a computer system operated by a contractor servant or agent of the Council. This obligation shall continue beyond the termination, for whatever reason, of this Agreement.
- 15.3 Each Council will provide all practicable co-operation and afford all appropriate access to personnel and records in order to assist the requesting Council in carrying out any investigations which are already

under way at the Commencement Date and any investigations which are carried out after the termination or expiry of this Agreement but which relate to any period during which the Shared Management Team and or Shared Officer Structure was in effect.

16. No Partnership

Nothing in this Agreement shall be construed as establishing or implying any legal partnership or joint venture between the Councils. Any future partnership or joint venture by the Councils shall only be effective if approved by each Council in accordance with its constitution and confirmed in a deed sealed by each Council.

17. Anti-Corruption

A Council may ~~cancel~~terminate this Agreement in accordance with Clause 6 at any time and recover from the other Council the amount of any loss resulting from such ~~cancellation~~termination if the other Council or its agents or contractors shall during the term of this agreement fail to comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (Relevant Requirements).

18. Discrimination

The Councils shall not unlawfully discriminate within the meaning and scope of the provisions of the Equality Act 2010 and any other legislation prohibiting discrimination on any grounds whatsoever. The Councils shall take all reasonable steps to secure the observance of these provisions and any statutory provisions amending or replacing the same by its employees in the performance of the Agreement.

19. Human Rights

The Councils in the performance of this Agreement shall comply with the provisions of the Human Rights Act 1998. The Councils shall indemnify and keep indemnified one another against all actions and causes of action, claims, demands, proceedings, damages, losses, costs, charges, and expenses whatsoever in respect of any breach of this Clause and such indemnity shall continue after the termination of this Agreement.

20. Information Governance

The Councils are subject to the provisions of the Freedom of Information Act 2000, Provision of Environmental Information Regulations 2004 and data protection legislation. The Councils shall assist each other to comply with the statutory obligations

thereunder.

21. Variation

21.1 Except as otherwise expressly provided by this Agreement, any requirement for a variation to this Agreement shall be agreed by Parties in writing.

21.22. Survival of this Agreement

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

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

22.23. Whole Agreement

22.23.1 This Agreement constitutes the whole agreement between the Councils. and understanding of the Councils as to its subject matter.

22.23.2 This Agreement expressly acknowledges that any prior agreements made by the Councils shall continue under those prior agreements. Unless the contrary is specifically indicated, this agreement is not intended to supersede those prior agreements or amend or replace any matters existing or agreed within them.

23.24. Waiver

Failure by either Council at any time to enforce any provision of this Agreement, or to require performance by the other or others of any of the provisions of this Agreement, shall not be construed as a waiver of any such provisions and shall not affect the validity of this Agreement or any part of it or the right of that Council to enforce any term or provision of this Agreement.

24.25. Severance

If any term or provision of this Agreement shall in whole or in part become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way such invalidity or unenforceability shall in no way impair or affect any other term or

provision all of which shall remain in full force and effect.

25-26. Headings

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

26-27. Governing Law

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

27-28. Contracts (Rights of Third Parties) Act 1999

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

28-29. Non-assignment

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

29-30. Disruption

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

30-31. Health and Safety

30-431.1 Each Council shall promptly notify the other Council of any health and safety hazards which may arise in connection with the performance of this Agreement and shall promptly notify each of the others of any health and safety hazards which may exist or arise at a Council's premises and which may affect the Strategic Partnership.

30-231.2 Shared Officers shall comply with any health and safety measures implemented by the Council whose premises they are visiting.

30-331.3 Each Council shall notify the other immediately of any incident occurring in the performance of this Agreement on the Council's premises where that incident causes any personal injury or damage to property which could give rise to personal injury.

30-431.4 The Councils shall comply with the requirements of the Health

and Safety at Work etc. Act 1974 and any other acts, orders, regulations, and codes of practice relating to health and safety, which may apply to employees and other persons working on Council premises under the Strategic Partnership.

~~30.5~~31.5 The Councils shall ensure that their health and safety policy statements (as required by the Health and Safety at Work etc. Act 1974) are made available to each other on request.

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

**The Common Seal of
Harborough District Council
was fixed here in the
presence of:**

Authorised Officer

~~The Common Seal of Melton
Borough Council was fixed
here
in the presence of:~~

~~Authorised Officer~~ **EXECUTED AS A DEED)**

~~by affixing the common seal of~~ _____ ~~)~~ **[Seal]**

~~MELTON BOROUGH COUNCIL~~ _____ ~~)~~

~~hereto affixed in the presence of:-~~ _____ ~~)~~

[\[Sign here\]](#)

[Chief Executive – Edd de Coverly* \[*Delete as appropriate\]](#)

[Monitoring Officer – Kieran Stockley* \[*Delete as appropriate\]](#)

[\(Authorised Officer\)](#)

Draft Cabinet MoA

SCHEDULE 1

SHARED CHIEF OFFICER EMPLOYMENT PANEL

Quorum

1. The quorum of shall be 4 members comprising one Cabinet member from each Council and one non-cabinet member from each Council.

Membership

2. 4 members appointed by Harborough District Council, one of which must be a Cabinet member; and
3. 4 members appointed by Melton Borough Council, one of which must be a Cabinet member; and
4. Appointments shall be made in accordance with the Local Government (Committees and Political Groups) Regulations 1990/1553;

Substitutions

5. Cabinet members may appoint another member of their Cabinet to act as substitute for them.

Terms of Reference:

6. Attending interviews with and providing feedback and representations to the employing Council in respect of the appointment of the Shared [Chief Executive](#) -/Head of the Paid Service/~~Chief Executive~~
7. Attending interviews with and providing feedback and representations to the employing Council in respect of the appointment of any statutory or non-statutory Shared Chief Officer.

N.B. The role of the Panel is only to provide feedback, given that any officer recruited (or disciplined) will have provided or will in the future provide services to the non-employing Council and it is understood and accepted that the knowledge, skills and behaviour of shared officers will have a direct impact on all of the Councils.

Decisions on recruitment and discipline may only be taken by the Council which employs the officer in question.

8. Providing feedback and representations to the employing Council on the dismissal of, or the taking of any disciplinary or performance action against any Shared Chief Officer other than a statutory Chief Officer;

N.B. Disciplinary and performance action against a statutory Chief Officer is subject to certain statutory and procedural requirements, including the appointment of an Independent Investigator. Any Independent Investigator will be informed of the shared management arrangements and will be invited to seek comments from each of the non-employing councils as part of any investigation.

Place of Meeting:

9. Meetings of the Shared Chief Officer Employment Panel may be held wherever it is considered to be most appropriate depending on the agenda for the particular meeting. The Chairman of the Shared Panel may give directions.

Training:

10. Members of the Shared Panel shall undertake appropriate training in selection and interviewing skills.

Chairing Shared Chief Officers Employment Panel:

11. Chairmanship of the Shared Panel alternates between the two Councils for each meeting.

Servicing the Shared Panel:

12. The Shared Panel may be serviced by staff from any of the Councils but meetings will usually be serviced (i.e. agenda preparation, dispatch and minuting) by the Council chairing the Panel meeting.

SCHEDULE 2

SHARED STAKEHOLDER GROUP

Quorum

1. 2 Members (one from each Council) and the identified officers

Membership

2. The Membership of the Stakeholder Group shall comprise:
 - (a) Leader and Deputy Leader of Harborough District Council
 - (b) Leader and Deputy Leader of Melton Borough Council
 - (c) Shared Chief Executive
 - (d) [Shared](#) Deputy Chief Executives
 - (e) Section 151 Officer(s)
 - (f) Monitoring Officer(s)
3. Based on the work programme of the Stakeholder Group, other members and Officers may be invited to join the meeting by the Leaders or Statutory Officers.

Substitutions

4. Leaders [and Deputy Leaders](#) may appoint another member of their Cabinet to act as substitute for them (other than the [Leader](#) / Deputy Leader).

Terms of Reference

5. To be responsible for overseeing strategic direction and assurance and monitoring of the programme across organisations, ensuring the programme delivers to agreed strategic objectives as set by the Shared Strategy Board.

N.B. The Group is not a decision making body. It can make recommendations to the Shared Chief Executive or to the Councils and can hold the Strategic Partnership or its officers to account but decisions which impact the Shared Partnership or the agreement must be taken by the sovereign Councils.

Frequency of Meetings

6. Monthly but at the discretion of Leaders and Shared Chief Executive based on the work programme of the Stakeholder Group.

Place of Meetings

7. Meetings of the Shared Stakeholder Group may be held wherever / however it is considered to be most appropriate, including remotely.

Chairing Shared Appointment Appeals Committees

8. Chairmanship alternates between the two Council Leaders at each meeting. In the event that the Leader due to chair the meeting is absent, the meeting shall be chaired by the Leader of the other Council.

Servicing the Shared Stakeholder Group

9. The Stakeholder Group may be serviced by staff from any of the Councils.
10. The Stakeholder Group may be serviced by staff from any of the Councils but meetings will usually be serviced (i.e. agenda preparation, dispatch and minuting) by the Council chairing the Panel meeting, unless agreed otherwise.

SCHEDULE 3

SHARED STRATEGY BOARD

Membership

1. All Cabinet members of each Council
2. The Shared Chief Executive
3. No substitutions to be allowed

Attendance

4. Such other officers and/or members that may be invited by the Leaders of the two Councils (who must agree any such an invitation in advance of the meeting) or by the Shared Chief Executive.

Terms of Reference

5. To consider matters of interest, opportunities for joint working and any potential further joint working of the two councils.
6. Monitoring the shared workforce arrangements
7. Considering proposals to withdraw from the arrangements (clause ~~6~~) and disputes (clause ~~xx~~8) referred to by any of the Councils
8. To identify, develop and oversee the implementation of, opportunities for the joint and mutually advantageous promotion of, and investment in, each of the authorities' areas by central and local government, other bodies and agencies (including, but not limited to the Environment Agency, the Enterprise Partnership, Historic England, Highways England, The Arts Council, Sport England and Homes England, County Council)
9. To consider and develop (if so minded) proposals for the expansion of the Strategic Partnership insofar as that would be consistent with the purposes of this Agreement
10. To identify those issues which arise and are likely to affect the future prosperity and democratic arrangements in both areas and project a joint voice in respect of such matters with the object of ensuring any change benefits to the greatest extent the Councils and their local communities
11. Advising on proposals brought forward on shared officer arrangements and other joint working between the Councils
12. To explore areas of Corporate Planning that are of mutual interest
13. To consider areas of innovation and budget efficiencies across both

Councils

14. To recommend proposals to formal decision-making bodies / individuals at each Council.

Membership/Attendance

~~15. The Shared Strategy Board will comprise:~~

- ~~(a) All Cabinet members of each Council~~
- ~~(b) The Shared Chief Executive~~
- ~~(c) No substitutions to be allowed~~

~~16. Other officers and/or members may be invited to attend meetings of the Shared Strategy Board by the Shared Chief Executive or by the Leaders of the two Councils (who must agree any such an invitation in advance of the meeting).~~

Meetings

~~17.~~15. The Shared Strategy Board will meet on at least two occasions in each year normally in March and September, but will meet as required to support effective operation of the Strategic Partnership.

~~18.~~16. The meetings will be chaired alternately by the Leader of each Council. In the event that the Leader due to chair is absent the meeting shall be chaired by the Leader of the other Council.

~~19.~~17. Administration for the meeting will be undertaken by the Democratic Services Team at each Council at the direction of the Shared Chief Executive.

~~20.~~18. Minutes of each meeting will be prepared by the Shared Chief Executive within fourteen days of the meeting and will be circulated to all members of the Shared Strategy Board. Action points will be prepared by the Shared Chief Executive and will be circulated to all shared managers.

~~21.~~19. Shared staff shall undertake all actions allocated to them or shall allocate and disseminate those actions to staff for whom they are responsible. Shared staff shall report back to the Shared Strategy Board as required by the Board.

SCHEDULE 4

~~Draft~~ Service Level Agreement or Other appropriate Agreements

Dependent on the power being used to affect the arrangement specified in any business case the following shall apply:

- (a) Sections 101 and 102 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) – **Service Level Agreement;**
- (b) Section 112 of the Local Government Act 1972 (duty to appoint officers) - **Variation to employment Contract;**
- (c) Section 113 of the Local Government Act 1972 (power to place staff at the disposal of other local authorities) – **Variation to employment Contract;**
- (d) Section 1 of the Localism Act 2011 (local authorities' general power of competence) – **Service Level Agreement;**
- (e) Sections 9EA and 9EB of the Local Government Act 2000 (discharge of functions) - **Service Level Agreement;**
- (f) The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012/1019 (joint arrangements for the exercise of executive functions) - **Service Level Agreement;**

Schedule 5

Early Exit arrangements pursuant to Clause 6.2

1. The decision to withdraw has been approved by the full Council; and
2. Written notice of the intention to withdraw has been given by the Withdrawing Council to the Remaining Council and to the Shared Chief Executive; and
3. The Shared Chief Executive has submitted to the Shared Strategy Board, following consultation with the Shared Deputy Chief Executive of each Council, a report setting out the implications of the withdrawal for the Strategic Partnership; and
4. The Shared Chief Executive has liaised with the Withdrawing Council to plan for an expedient and orderly withdrawal from the Strategic Partnership; and
5. The Shared Chief Executive has consulted the Remaining Council in respect of:
 - iii. any financial consequences of the withdrawal, such as loss of funding, clawback of funding, potential liability, damage claim or expense; and
 - iv. potential service delivery implications and implications for staff and reputational damage; and
6. An exit plan is prepared to deal with the allocation of resources, assets and staff, in conjunction with appropriate consultation and communication with staff and stakeholders; and
7. An agreement has been reached between the Councils in respect of the allocation of assets and resources, staffing implications and the implementation of the exit plan prepared pursuant to clause 6 of this schedule; and
8. Each employee is notified that they will revert to their substantive post in the employing Council as per the section 113 arrangements, unless otherwise agreed. The employing Council shall deal with any consequential changes to contract terms and conditions; and
9. The Withdrawing Council undertakes to make, prior to withdrawal, such reasonable payment or payments as fairly reflect the actual losses caused by or anticipated as a result of the withdrawal, as shall be determined by the Remaining Council. No notice of withdrawal shall take effect until such

payment has been agreed by the other Council; and

10. The Withdrawing Council shall between the date of the Notice of Withdrawal being issued and the Termination Date, provide reasonable assistance to the Remaining Council to enable the transfer of functions to the Remaining Council. The Councils shall take all steps as may be reasonably necessary to enable the continuation of activities and functions with minimum interference and inconvenience to the Councils or service users; and

11. Each Council reserves the right to recover from the other Council the costs of any claims, costs, expenses, losses or liabilities of any nature which have been caused by any act or omission of a Council and which are discovered following withdrawal of a Council from this Agreement.