
AGREEMENT FOR PLACING STAFF
AT THE DISPOSAL OF ANOTHER
LOCAL AUTHORITY FOR
CROSS-BORDER ENFORCEMENT FOR
ENVIRONMENTAL HEALTH,
TRADING STANDARDS AND
LICENSING FUNCTIONS

This AGREEMENT is made the day of 2012

BETWEEN WREXHAM COUNTY BOROUGH COUNCIL

THE GUILDHALL, WREXHAM, LL11 1AY

- AND -

FLINTSHIRE COUNTY COUNCIL

COUNTY HALL, MOLD, FLINTSHIRE, CH7 6NB (“the Parties”)

IT IS HEREBY agreed as follows:

1. BACKGROUND

- 1.1 The Parties are Regulatory Authorities and as such discharge statutory Functions relating to the carrying out of inspections and interventions in residential and business premises, providing advice to residents, businesses and consumers, investigating breaches of the relevant legislation from time to time enforced by the Parties in their capacities as trading standards, licensing and environmental health authorities, processing approvals and licence applications. The relevant legislation includes all statutes that have been delegated to Authorised Officers enforcing Environmental Health, Trading Standards and Licensing legislation.
- 1.2 The Parties employ officers with expertise to carry out Functions under relevant legislation.
- 1.3 The Parties agree where practicable to share that expertise by deploying their officers and knowledge in the discharge of the Functions within the Parties’ boundaries to ensure business continuity and effective provision of services and enforcement across their borders in accordance with this Agreement.

1.4 The Agreement is for the placement of Environmental Health, Trading Standards and Licensing staff employed by the Employing Authority at the disposal of the Recipient Authority for the purposes of performing the Recipient Authorities' statutory Functions that have been delegated to the relevant Head of Service or Director. This will occur on a proactive and reactive basis, that is to say, when the need arises, and is subject to the Employing Authority having the capacity at the time to offer assistance to the Recipient Authority. Both the Employing Authority and the Recipient Authority will satisfy themselves that the respective officer is competent to carry out the activity to an acceptable standard. This Agreement sets out the fundamental terms on which such staff will be shared, the intentions of the Parties and makes reference to the Management Arrangement. The cost of each member of Staff will need to be agreed and confirmed between the Employing Authority and the Recipient Authority at the time that member of Staff is agreed to be shared pursuant to this Agreement.

1.5 This Agreement is made in accordance with the following powers and all other powers enabling the Parties to do so:

The Local Government Act 1972 Sections 111 and 113
The Local Authorities (Goods and Services) Act 1970 Section 1

1.6 The Parties have agreed that they will work together in accordance with this Agreement.

1.7 The key joint objectives are:

- The creation of a real and effective joint working arrangement between authorities, protecting the values of local determination and decision making
- The opportunities and learning achievable across programmes and teams, providing efficiencies for participating authorities
- The establishment and development of a mature way of working that both reflects and respects collaborative working;
- The demonstration of best practice to both the public and private sector

2. INTERPRETATION

2.1 In this Agreement unless the context otherwise requires the following expressions shall have the following meanings:

"the Authorised Officer" means the officer appointed by each Party in accordance with clause 6.2

"Commencement Date" means 1 July 2013

"Confidential Information" means save for information already in the public domain any written and confidential information acquired by the recipient Authority or its Staff in or in connection with the sharing of services pursuant to this Agreement concerning the Employing Authority its premises its business its Staff or its procedures

“the Employing Authority” means the Authority/ies who is/are the employer of the officer(s)

“Functions” means the statutory functions enforcing Environmental Health Trading Standards and Licensing legislation including but not limited to the legislation detailed in the Schedule hereto

“Intellectual Property Rights” means copyrights trade marks design rights database rights moral rights knowhow and all other intellectual property rights

“Management Arrangement” means the detailed arrangements agreed between the Employing Authority and the Recipient Authority in respect of the sharing of particular Staff for particular purposes from time to time which shall be recorded in writing and signed by the Authorised Officers for the respective Employing Authority and Recipient Authority

“Party or Parties” means respectively an individual council or a combination of the same

“Recipient Authority” means the other local authority/ies being Parties hereto who wish to engage officer(s) of the Employing Authority to carry out enforcement activities within their administrative boundaries

“Service(s)” means the Environmental Health Trading Standards and Licensing functions carried out by the parties in their capacity as local authorities

“Staff” means those officers of the Employing Authority who will perform the Functions on behalf of the Recipient Authority in accordance with this Agreement

- 2.2 Reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended extended or re-enacted.
- 2.3 Words importing the singular include the plural; words importing any gender include every gender; the words importing persons include bodies corporate and unincorporated; and (in each case) vice versa.
- 2.4 Reference to Clauses are references to Clauses of this Agreement and any reference to a sub provision is unless otherwise stated a reference to a sub provision of the provision in which the reference appears.
- 2.5 The Clause and paragraph headings and titles appearing in this Agreement are for reference only and shall not affect its construction or interpretation.

3. PURPOSE

The purpose of this Agreement is to define the arrangement between the Parties whereby the Employing Authority place certain of their staff at the disposal of the Recipient Authority for the purposes of the Recipient Authority’s Functions.

4. TERM

This Agreement shall commence on the Commencement Date and continue in force until terminated by all of the Parties on not less than three month's written notice ("the Term"). A Party to this Agreement may terminate its membership by giving not less than one month's written notice to all the other Parties.

5. STAFF

5.1 All Parties confirm to each other that they will not place any of their Staff at the disposal of a Recipient Authority pursuant to this agreement without first consulting each member of Staff in accordance with S113(1) of the Local Government Act 1972.

5.2 Where the Recipient Authority notifies the Employing Authority that Criminal Records Bureau (CRB) checks are required then before placing a member of its Staff at the Recipient Authority's disposal under this Agreement the Employing Authority will either produce to the Recipient Authority evidence of satisfactory checks as shall be agreed between the Parties or if new checks are required the Employing Authority will:

- i) check the names of such member of Staff as being one who will work with participants under 18 years of age against the Secretary of State for Education and Employment List 1999 and the Department of Health's Protection of Children (1999) List and
- ii) request CRB checks of criminal records of any member of Staff who will have substantial unsupervised access as a sustained or regular basis to children under the age of 16 (or those under 18 if they have special needs) and provide evidence of the results of the same to the Recipient Authority
- iii) for members of Staff covered by clauses 5.2 (i) or (ii) above, from the date it comes into force request checks on such members of Staff with the Vetting and Barring Scheme operated by the Independent Safeguarding Authority under the Safeguarding and Vulnerable Groups Act 2006

6. WORKING ARRANGEMENTS

6.1 The Employing Authority and the Recipient Authority agree that the Employing Authority will place at the Recipient Authority's disposal suitably qualified Staff which may be varied to exclude members of Staff and to include further members of staff as may be agreed between the Authorised Officers for each Party from time to time during the Term to carry out work for the Recipient Authority in performing its Functions.

6.2 Each Party shall appoint an Authorised Officer to act on its behalf in respect of this Agreement and the Functions undertaken by the Staff.

- 6.3 This Agreement shall be reviewed by the Authorised Officers at least annually and more frequently if deemed necessary, to assess whether amendments or additions need to be made to it.

7. COSTS

The Recipient Authority shall pay to the Employing Authority the direct costs of the Services provided by this Agreement, that is to say salary and associated costs and any additional home to work travel costs only.

8. STATUS OF STAFF

- 8.1 The Staff remain in the employment of the Employing Authority who are responsible for payment of their salaries, employers' national insurance contributions, PAYE, employers' pensions contribution and all other sums payable by their employer. All matters of grievance and discipline will be referred to the Employing Authority by the Recipient Authority and will be dealt with in accordance with the employment terms for the Staff.

- 8.2 Whilst performing Functions for the Recipient Authority, the Staff shall be subject to such of those of the Recipient Authority's policies and procedures including those in respect of health and safety and code of corporate communications as have been provided to the Staff. Whilst working for the Recipient Authority, instructions will be given to the Staff by the Recipient Authority's relevant manager in accordance with the working arrangement.

- 8.3 The Functions performed by the Staff will be the responsibility of the Recipient Authority who shall ensure that appropriate arrangements are in place to provide such insurance cover as it may require.

- 8.4 Each Party mutually agrees to the risk of Staff being injured whilst working for a Recipient Authority and in the event of this leading to any sick leave or ill-health retirement payments being due these will be discussed and agreed between the relevant Parties at the time of the event, then should such an injury have been caused due to the negligent acts and or omissions of the Recipient party/parties then that party should be solely liable for those payments or they should be split proportionately between the Parties found to be responsible.

9. INTELLECTUAL PROPERTY

Intellectual Property Rights including copyright of all documents created by Staff or on behalf of the Employing Authority shall remain with the Employing Authority save that the Employing Authority shall grant the Recipient Authority an irrevocable royalty free licence for the maximum period permitted by law to use such documentation for any purpose in connection with the Service provided by the Staff

10. CONFIDENTIALITY AND FREEDOM OF INFORMATION

Confidentiality

- 10.1 Each Party acknowledges that section 81 of the Freedom of Information Act (FOIA) applies where the Parties are public authorities within the meaning of schedule 1 of the FOIA
- 10.2 Each Party:-
- (a) shall treat all Confidential Information belonging to the other Parties as confidential and safeguard it accordingly;
 - (b) shall not disclose any Confidential Information belonging to the other Parties to any other person without the prior written consent of the other Parties, except to such persons and to such extent as may be necessary for the performance of the Agreement or except where disclosure is otherwise expressly permitted by the provisions of this Agreement
- 10.3 The Employing Authority shall take all necessary precautions to ensure that all Confidential Information obtained from the Recipient Authority under or in connection with the Agreement:-
- (a) is given only to such of the Staff and professional advisors or consultants engaged to advise it in connection with the Agreement as is strictly necessary for the performance of the Agreement and only to the extent necessary for the performance of the Agreement;
 - (b) is treated as confidential and not disclosed (without prior approval) or used by any Staff or such professional advisors or consultants otherwise than for the purposes of the Agreement.
- 10.4 Where it is considered necessary in the opinion of the Recipient Authority, the Employing Authority shall ensure that Staff or such professional advisors or consultants sign a confidentiality undertaking before commencing work in connection with the Agreement. The Employing Authority shall ensure that Staff or its professional advisors or consultants are aware of the Employing Authority's Confidentiality obligations under this Agreement.
- 10.5 The Employing Authority shall not use any Confidential Information it receives from the Recipient Authority otherwise than for the purposes of the Agreement.
- 10.6 The provisions of Clauses 10.2 to 10.5 shall not apply to any Confidential Information received by one Party from another Party:-
- (a) which is or becomes public knowledge (otherwise than by breach of this Clause);
 - (b) which was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;

- (c) which is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
- (d) is independently developed without access to the Confidential Information; or
- (e) which must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA, the Code of Practice on Access to Government Information (2nd Edition), or the Environmental Information Regulations pursuant to this Clause 10.

10.7 Nothing in this Clause shall prevent the Recipient Authority:-

- (a) disclosing any Confidential Information for the purpose of:-
 - (i) the examination and certification of the Recipient Authority's accounts; or
 - (ii) any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Recipient Authority has used its resources; or
- (b) disclosing any Confidential Information obtained from the Employing Authority:-
 - (i) to any government department or any other contracting authority. All government departments or contracting authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other government departments or other contracting authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department or any contracting authority; or
 - (ii) to any person engaged in providing any services to the Recipient Authority for any purpose relating to or ancillary to the Agreement;

provided that in disclosing information under sub-paragraph (b) the Recipient Authority discloses only the information which is necessary for the purpose concerned and requires that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.

10.8 Nothing in this Clause shall prevent either Party from using any techniques, ideas or know-how gained during the performance of the Agreement in the course of its normal business, to the extent that this does not result in a disclosure of Confidential Information or an infringement of Intellectual Property Rights.

Freedom of Information

- 10.9 The Employing Authority recognises that the Recipient Authority is subject to legal duties which may require the release of information under the FOIA or any other applicable legislation governing access to information, and that the Recipient Authority may be under an obligation to provide information on request. Such information may include matters relating to, arising out of or under this Agreement in any way.
- 10.10 The Employing Authority will assist the Recipient Authority to enable it to comply with its obligations. In particular, it acknowledges that the Recipient Authority is entitled to any and all information relating to the performance of this Agreement or arising in the course of performing this Agreement. In the event that the Recipient Authority receives a request for information under the FOIA or any other applicable legislation governing access to information, and requests the Employing Authority's assistance in obtaining the information that is the subject of such request or otherwise, the Employing Authority will respond to any such request for assistance at its own cost and promptly, and in any event within seven days of receipt of the Recipient Authority's request.
- 10.11 The Recipient Authority shall not be liable for any loss, damage, cost, harm or other detriment however caused arising from the disclosure of information relating to this Agreement further to its duties under the FOIA or other applicable legislation governing access to information.

11. ALTERATIONS

No omission from, addition to or variation to this Agreement shall be valid or of any effect unless it is agreed in writing and signed on behalf of the Parties by an authorised signatory.

12. ANTI-DISCRIMINATION

- 12.1 The Employing Authority and the Recipient Authority shall not practice discrimination on the grounds of age, colour, race, ethnic or national origins religion or sex or disability against any person employed by it or against any person in respect of whom the work is being carried out contrary to the Equality Act 2010 any regulations made pursuant to this Act (whether in the execution of this Agreement or otherwise) and it shall comply at all times with any Codes of Practice issued thereunder.

- 12.2 The Employing Authority and the Recipient Authority shall take all reasonable steps to secure the observance of the provisions of this Clause by the Staff.

13. DISPUTE RESOLUTION

- 13.1 The Parties will use their best efforts to negotiate in good faith and settle any dispute that may arise out of or relate to this Agreement. If any dispute cannot be settled amicably through ordinary negotiations then it shall in the first instance be referred to the Authorised Officers for the Employing

Authority and the Recipient Authority for discussion and resolution. If this cannot be resolved via this mechanism this will be referred to an independent adjudicator appointment by the Heads of Service for both Parties.

14. NOTICES

Any notice required or permitted to be given by one Party to the other under this Agreement shall be in writing and addressed to the Authorised Officer at its principal office.

15. NO PARTNERSHIP OR AGENCY

Nothing in this Agreement shall be deemed to constitute a partnership between the Parties or hold out either party as the agent of the other.

16. SAVING FOR POWERS

Nothing contained or implemented herein shall prejudice or affect the Employing Authority's or the Recipient Authority's or the Parties rights and powers and duties and obligations in the exercise of their Functions as public bodies and/or in any other capacity and all rights powers discretions duties and obligations of the Parties all public and private statutes byelaws orders and regulations and statutory instruments may at all times be fully and effectually exercised as if the Parties were not parties to this Agreement and as if this Agreement had not been made.

17. AUTHORITY TO ENTER INTO THE AGREEMENT

Each Party warrants and represents that it has full capacity and authority and all necessary consents to enter into this Agreement.

18. INDEMNITY

18.1 Data Protection

All Parties undertake to comply in all respects with the provisions of the Data Protection Act 1998 and will indemnify each other against all actions costs expenses claims proceedings and demands which may be made or brought against the other Party for breach of statutory duty under the Act which arises from the use disclosure or transfer of personal data.

18.2 All Eventualities

Each Party will indemnify it's own staff for all eventualities and deal with claims involving their staff irrespective whether they are working in Wrexham or Flintshire, this will ensure direct control over incidents/claims involving each parties staff.

19 CRIME AND DISORDER

19.1 The Parties shall comply with the provisions of Section 17 of the Crime and Disorder Act 1998 ("the Act") and will indemnify the each other against all actions costs expenses proceedings and demands which may be brought against

the any of the Parties for breach of statutory duty under the Act which arises upon acts or omissions by any of the Parties its servants or agents.

DRAFT

Schedule

Animal Health Act 1981
Building Act 1984
Clean Neighbourhoods & Environmental Act 2005
Consumer Protection Act 1987
Control of Pollution Act 1974
Copyright & Designs and Patents Act 1988
Enterprise Act 2000
Environmental Protection Act 1990
European Communities Act 1972 (and any regulations made thereunder)
Fair Trade Act
Food Act 1984
Food Safety Act 1990
Food and Environmental Protection Act 1985
Health Act 2006
Health and Safety act Work Act 1974 (including any regulations made thereunder)
Housing Act 2006
Licensing Act 2003
Local Government (Miscellaneous Provisions) Act 1982
Pet Animal Act 1951
Prevention of Damage by Pests Act 1949
Private Places of Entertainment (Licensing) Act 1967
Property Misdescriptions Act 1991
Public Health (Control of Diseases) Act 1984 (including any regulations made thereunder)
Public Health Act 1936
Shops Act 1950
Slaughterhouses Act 1974 (including any regulations made thereunder)
Sunday Trading Act 1994
Trade Marks Act 1994
Unfair Commercial Practices Directive 2008
Weights and Measures Act 1985
Young Persons (Employment) Act 1938
Any other relevant legislation enforced by the Services that are parties to this Agreement

As witness the hands of the authorised signatories of the Parties hereto.

Name Date.....

Signature..... On behalf of Wrexham County Borough Council

Name Date.....

Signature..... On behalf of Flintshire County Council

