

**DATED**

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**AGREEMENT**

**GOVERNANCE ARRANGEMENTS FOR MID KENT SERVICES**

between

**MAIDSTONE BOROUGH COUNCIL**

And

**SWALE BOROUGH COUNCIL**

And

**TUNBRIDGE WELLS BOROUGH COUNCIL**

**THIS AGREEMENT** is dated

**PARTIES**

- (1) Maidstone Borough Council of Maidstone House, Kings Street, Maidstone ME15 6JQ. (“MBC”).
- (2) Swale Borough Council of Swale House East Street, Sittingbourne, Kent ME10 3HT (“SBC”).
- (3) Tunbridge Wells Borough Council of Civic Building, Mount Pleasant Road, Royal Tunbridge Wells, Kent TN1 1RS (“TWBC”).

Collectively known as “The Authorities”

**1 BACKGROUND**

These arrangements are made pursuant to the Local Government Act 1972, the Local Government Act 2000 and the Localism Act 2011. The Authorities have agreed to work together as Mid Kent Services. Each Authority determined by resolution to establish a collaborative partnership to become effective from September 2008 for the purposes of developing shared services across their administrative areas.

- 1.1 The arrangements were originally established as the Mid Kent Improvement Partnership (MKIP) and operated for an initial period of four years. The arrangements were revised and extended for four years in 2012. With effect from the date of this Agreement, the arrangements will be known as “Mid Kent Services” (MKS).
- 1.2 The Authorities wish to record the basis on which they collaborate with each other. This Agreement sets out:
  - (a) the key objectives of Mid Kent Services and
  - (b) the governance structures of Mid Kent Services, and
- 1.3 This Agreement supersedes all previous agreements

**2 DEFINITIONS**

- 2.1 Administrative Area’ means the local government areas of the Authorities.
- 2.2 “Agreement” means this Agreement and its appendices.
- 2.3 “Authority” means each individual local council which has signed this Agreement. “Authorities” means the collective group of local councils.
- 2.4 “Collaboration Agreement” means the individual Agreement which governs each Service

- 2.5 'Decision' means a decision taken by each Authority under its individual constitutional arrangements.
- 2.6 "Financial Principles" means the management of finances both within and outside the annual budget setting timetable of each Authority as set out in Appendix B
- 2.7 'Joint Service' is one where each of the Authorities employs its own staff but the service is provided jointly by all the Authorities or by two or more Authorities.
- 2.7 "Lead Authority" means the Authority appointed by the Parties under these arrangements to administer MKS.
- 2.8 'MKS Board' means the Leaders and Chief Executives of each of the Authorities.
- 2.9 "Party" and Parties" means a party or parties to this Agreement
- 2.10 'Proposal' means a business case to be developed for consideration by each of the Authorities.
- 2.11 'Recommendation' means a matter agreed by the MKS Board and put forward for Decision by each Authority individually.
- 2.12 'Shared Service' means a service delivering functions as agreed by two or more of the Authorities where all or part of the service is managed (and employed) by a single Authority.
- 2.13 "Shared Service Board" means the Board appointed by the MKS Board to manage each Service.
- 2.14 "Service" means a Joint or Shared Service.

### **3 OBJECTIVES AND STRATEGIC PRIORITIES**

#### **3.1 The objectives of MKS are as follows:**

A To improve the quality of service to communities

B To improve the resilience of service delivery

C To deliver efficiency savings in the procurement, management and delivery of services

#### **3.2 The strategic priorities of MKS are as follows:**

A To explore opportunities for income generation

B To promote cross-organisation working

C To promote digital transformation of services

## 4 GOVERNANCE

### 4.1 MKS Board Membership

The MKS Board provides overall strategic oversight and direction to the Services. The MKS Board group will consist of:

**MBC:** Leader of the Authority and the Chief Executive. Director(s) will be invited as required. Substitute for the Leader will be the Vice Chairman of Policy and Resources Committee

**SBC:** Leader of the Authority and Chief Executive. Director(s) will be invited as required. Substitute for the Leader will be the relevant Cabinet member.

**TWBC:** Leader of the Authority and Chief Executive. Director(s) will be invited as required. Substitute for the Leader will be the relevant Cabinet member.

### 4.2 Terms of Reference

The terms of reference for the MKS Board are set out in Appendix A. The terms of reference will be reviewed annually by the MKS Board.

### 4.3 Frequency of Meetings

The MKS Board will meet quarterly at a time and place agreed by its members, who may change the frequency of meetings and call additional meetings as required.

### 4.4 Agenda Setting and Access to Meetings and Information

The agenda of the MKS Board shall be agreed by the Chairman following a briefing by officers of the Authorities. Any member of the Board may require that an item be placed on the agenda of the next available meeting for consideration, and may call for a meeting to be held.

The Parties are committed to open and transparent working. Each party will ensure proper scrutiny through the arrangements of each Authority, within each Authority's own governance arrangements. Minutes of the MKS Board and the Shared Service Boards will be published on Modern.Gov and/or on the Authorities' internet or intranet sites. MKS Board minutes will be available to view publicly. Minutes of the Shared Service Boards will be available to view internally only.

### 4.5 Chairing Meetings

The Chairman and Vice Chairman of the MKS Board will be the Leaders of the Parties appointed on the basis of the position being rotated annually, as follows:

<u>Chairman</u>	<u>Vice Chairman</u>
Tunbridge Wells	Maidstone
Maidstone	Swale
Swale	Tunbridge Wells

In the absence of the Chairman and the Vice Chairman at a meeting the meeting will elect a Chairman for that meeting who shall be a Leader.

The quorum for the MKS Board will be five with at least one person present from each of the Parties.

The MKS Board may approve rules for meetings and procedures from time to time. The Chairman will also act as the Lead Authority for MKS.

#### **4.6 Decision Making**

The MKS Board does not have decision making powers. Decisions must be referred to the individual Authorities' decision making bodies. At the date of this Agreement, these bodies are Cabinet for TWBC and SBC and Policy & Resources Committee for MBC.

Recommendations from the MKS Board will be made by consensus. Votes will normally be by way of a show of hands.

The MKS Board may develop Proposals and make Recommendations for a new Service between two or more of the Authorities. When this is the case, consensus will only be required by the Authorities setting up that Service.

The Authorities that did not take part in a Service at inception may do so at a later date subject to a Recommendation from the MKS Board and a Decision by all the Authorities involved in the Service. Any costs associated with joining later would be agreed between the Authorities and recorded by an amendment to the Collaboration Agreement.

#### **5 WORK PROGRAMME**

The MKS Work Programme shall be reviewed annually in September. The MKS Board will set the work programme he MKS Board will annually set a cycle of its meetings to fit into the annual timetable of meetings of each Authority (e.g. budget setting etc.)

#### **6 LEAD AUTHORITY**

The Authorities will appoint a Lead Authority. which is, for the time being, the Authority providing the Chairman of the MKS Board.

Any external support to develop business cases may be funded from the MKS budget with a Lead Director for each business case appointed from among the Authorities.

#### **7 BUDGETARY ARRANGEMENTS**

A dedicated budget has been established to support the work of MKS and will be overseen by the MKS Board. The day to day management of the budget will be the responsibility for the MKS Support Officer. The MKS Financial Principles are set out at appendix B

Each Authority originally made a per-head-of-population contribution to MKS. This funding was used to establish a budget to enable external advice to be sought (when required) to ensure initiatives are progressed in a timely

manner and to explore external funding. The payment will be made on (1 April) of each year.

The initial contribution to the budget was 30p per head of population per annum using the most up to date population estimates at the time. These contributions will be reviewed and updated as necessary every three years. Any funds that are not spent or committed at the year end will be returned based on the proportions outlined above or carried over, as agreed by MKS Board.

MBC will be the accountable body for MKS, will manage the financial arrangements and will hold the budget. This administration will not be funded from the MKS budget at this stage as the annual cost is expected to be minimal, but will be subject to review on an annual basis.

The cost of implementing any Recommendation, Proposal or Decision will be dealt with separately between the Authorities which are taking the initiative forward.

## **8 NEW MEMBERSHIP**

Other councils, or public bodies, may join MKS provided that the Executive, relevant Committee and/or Council of the joining Council and the Authorities are unanimously in agreement.

## **9 PROJECT BOARDS**

When developing a new Service, the MKS Board will establish a Project Board to develop it as appropriate.

The MKS Board will agree:–

- Outline scope and timescales;
- Size and membership of the Project Board including any external advisors;
- Period of operation;
- Budget for the Project;
- Tolerances for cost, quality and timescales
- Success criteria for the Project
- Mechanisms for hosting the Project and sharing the cost amongst the Authorities involved in the Service.

The Project Board including Lead Director (or other senior officer) will develop a Business Case for the new Service for approval first by the MKS Board and by subsequent approval through Decisions taken by each Authority.

Projects will be carried out in accordance with any agreed project framework that the MKS Board has adopted. Whether in line with any adopted framework or not the MKS Board may request an update and/or take decisions relating to a project if it determines that changes need to be made or it is not satisfied with project performance. All Project Boards will consider the questions set out in the document “Ten Questions for Projects” set out in Appendix D.

## **10 SHARED SERVICE BOARDS**

For each Service a Shared Service Board shall be appointed to govern the Service.

Each Authority will nominate an officer to act as “client” and sit on the Shared Service Board.

General Terms of reference for all Shared Service Boards are set out in Appendix C

Each Service will be subject to a Collaboration Agreement, based on the model Collaboration Agreement set out at Appendix E.

## **11 ESCALATION**

In the event of one or more of the Authorities being dissatisfied with any aspect of the overarching governance arrangements of MKS or any aspect of this Agreement, the issues will first be discussed by the Heads of Paid Service.

If the issue cannot be resolved within a reasonable period of time, the matter shall be escalated to the MKS Board, which shall decide on the appropriate course of action to take.

If agreement on the matter cannot be reached between those parties or at the MKS Board meeting, the parties may appoint an external independent mediator to resolve the issue. Costs of the mediator will be shared equally between the parties.

In the event that agreement cannot be reached having followed those procedures then the arbitration clause 12 below will be followed.

Each individual Service will have its own escalation arrangements set out in the Collaboration Agreement

## **12 ARBITRATION**

Any dispute between the Authorities relating to these overarching governance arrangements of this Agreement which has not been resolved in accordance with the Escalation procedure where appropriate may on written notice from one party in the dispute to the other party(ies) in the dispute be referred to a single arbitrator to be agreed between the Parties

Where no agreement can be reached and having regard to the nature of the dispute the matter will be referred to an arbitrator nominated by the chairman of the Local Government Association and will be carried out in accordance with the provisions of the Arbitration Act 1996 as amended, modified and in force for the time being.

Each individual Service will have its own Arbitration arrangements set out in the Collaboration Agreement.

## **13 TERM AND TERMINATION**

This Agreement shall commence on the date of signature by the Parties.

The Agreement is intended as a statement of the permanent arrangements between the Authorities in respect of shared and joint working.

Any Party may terminate its participation in the Agreement at any time by giving no less than six months' notice to the other Parties.

On any Authority ceasing to be a party to this Agreement, it may continue to be a Party to any Collaboration Agreement for any Service of which it is a Party subject to consensus agreement of the Parties. If it is agreed that the Party also ceases to be a party to any Collaboration Agreement, the termination provisions in the particular Collaboration Agreement will apply.

On termination by one Party, this Agreement shall continue unless the remaining Parties take the Decision to terminate.

Termination of this Agreement may occur by consensus Decision of all the Parties, taken by a joint meeting of the Decision making bodies of each Authority. In the event of termination, the Parties will work together to disaggregate the Services. The relevant termination provisions in each Collaboration Agreement will apply to the termination of each Service.

**14 DATA PROTECTION, FREEDOM OF INFORMATION, INFORMATION SHARING AND CONFIDENTIALITY.**

Subject to the specific requirements of this clause, each of the Authorities shall comply with its legal requirements under data protection legislation, freedom of information and associated legislation, and the law relating to confidentiality.

Each Authority involved with the development of a Proposal or delivery of a Service will ensure compliance with any legislative or legal requirements.

Each Authority shall:-

- (a) treat as confidential all information relating to:  
  
the business and operations of the other Authorities and/or  
the business or affairs of any legal or natural person in relation to which or to whom confidential information was held by that Party ('Confidential Information')
- (b) not disclose the Confidential Information of any other of the Parties without the owner's prior written consent

Clauses (a) and (b) shall not apply to the extent that:

such information was in the possession of the Party making the disclosure, without obligation of confidentiality, prior to its disclosure; or

such information was obtained from a third party without obligation of confidentiality; or

such information was already in the public domain at the time of disclosure otherwise than through a breach of these arrangements; or disclosure is



required by law (including under Data Protection Legislation, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004).

Publication of the information is required in the interests of transparency and openness of local government.

Subject to the clauses above, The Authorities may only disclose confidential information of another of the Authorities to staff who need to know by reason of their work. Each of the Authorities shall ensure that such staff are aware of, and comply with, these confidentiality obligations and that such information is not used other than for the purposes of MKS.

If any of the Authorities receives a request for information relating to the Services or relating to this Agreement under the Freedom of Information Act 2000, the Data Protection Act 1998 and/or the Environmental Information Regulations 2004 then the other Authorities shall (at their own expense) assist and co-operate to enable the request to be dealt with.

It shall be the Authority receiving the request that is responsible for determining at its absolute discretion how to reply to the request.

## **15 COMMUNICATIONS**

All communications about the work of MKS will be published jointly and agreed with the Chairman of the MKS Board following discussions with the Authorities. The MKS Communication Plan will be discussed and agreed by the MKS board. Any press enquiries will be circulated initially to the Chief Executives in consultation with Leaders for consideration.

## **16 EXERCISE OF STATUTORY AUTHORITY**

Without prejudice to these arrangements, nothing in these arrangements shall be construed as a fetter or restriction on the exercise by any of the Authorities of their statutory functions. The Authorities may continue to provide the whole or any part of a Service at their own cost.

## **17 CODES OF CONDUCT AND EXPENSES**

The Authorities will be required to follow their own Councillor and Officer Codes of Conduct at all times and in particular if any individual is speaking on behalf of, or representing the views of, MKS.

Any expenses incurred by an individual member of the MKS Board in undertaking their duties for Board will be met by that member's Authority.

## **18 SCRUTINY ARRANGEMENTS**

Overview and Scrutiny arrangements will be undertaken individually by each of the Authorities when the Parties consider Proposals and Recommendations from the MKS Board. In addition, each Authority may arrange for scrutiny of all or any part of the MKS arrangements either separately or jointly with the other Authorities.

**19 AMENDMENTS TO THIS AGREEMENT**

These arrangements will be reviewed on an annual basis and may be amended by a Recommendation of the MKS Board and subsequent Decision by The Authorities.

**20 GOVERNING LAW AND JURISDICTION**

This Agreement shall be governed by and construed in accordance with English law and, without affecting the Escalation procedure set out in clause 11 each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

Signed on behalf of  
**Maidstone Borough Council**

Authorised Signatory

Signed on behalf of  
**Swale Borough Council**

Authorised Signatory

Signed on behalf of  
**Tunbridge Wells Borough Council**

Authorised Signatory

## **APPENDIX A**

### **TERMS OF REFERENCE OF THE MID KENT SERVICES BOARD**

1. To define the strategy for Mid Kent Services and approve the financial envelope based on the recommendations of the Shared Service Boards.
2. To initiates shared service projects and appoint project and shared service boards
3. To join together strategic plans and form an MKS strategic plan
4. To make recommendations on overarching MKS issues and policies
5. To make recommendations to the individual Authorities about specific project/service issues outside of the remit of the project and shared service boards
6. To receive reports from the Mid Kent Services Director or Heads of Shared Services as appropriate, of any audit reviews concluding with 'weak' or 'poor' assurance rating and to be kept informed of follow-up progress.
7. To monitor MKS Performance and Finance referred to it by, and outside the remit of, the Shared Service Boards and agree actions to resolve performance and finance issues.
8. To review these arrangements from time to time and make recommendations to the Parties for improvement.

## APPENDIX B

### FINANCIAL PRINCIPLES

#### 1 **Management of Financial matters which need to be addressed outside of the normal budgetary processes.**

The reporting process for Heads of Service/Shared Service Managers to raise financial matters should be as follows:

- HoS/SSM Shared Service Reporting form in the usual way, including the relevant financial performance, on a quarterly basis; the circulation list for reports will be extended to include all s.151 officers (i.e. those who are not members of the various SSBs) who will ensure that any issues relating to financial matters and that need to be brought to the attention of the SSB are identified and communicated.
- Following the Shared Service Board, in collaboration with the Mid Kent Service Director and Shared Service Board client leads, an agreed summary of financial conclusions requiring action at each individual authority will be produced by the MKS Support Officer. The s.151 Officer of the Council impacted will be consulted for his/her views.
- Each s.151 officer will then undertake necessary discussions surrounding matters arising from the Shared Service Board with his/her finance teams; and ensure that any decisions required of their authority or action required by his/her team is taken to give effect to the conclusions reached by the Shared Service Board, or raise and resolve any issue which prevents the conclusions reached by the Shared Service Board being progressed.
- The outcomes of these discussions/actions will be reported back to the Mid Kent Service Director/Head of Service/Manager by the s.151 officers.

#### 2. **Medium Term Financial Planning – for financial decision which are within the normal budget setting timetable**

The process for the MKS clients and Heads of Service should be as follows:

At the end of May/beginning of June, there will be a collective MBC/SBC/TWBC meeting with the Mid Kent Services Director whereby authorities will share their strategic planning assumptions and associated budgetary planning assumptions. Through dialogue including the advice of the Mid Kent Service Director, the authorities will identify an initial set of parameters for the future expectations and funding of Mid Kent Shared Services. The set of parameters will give an indication of the level of funding available/savings to be expected and will:

- State the overall position for each authority and the position for each of the services within MKS, to include both pooled and non-pooled budgets.
- Set out the medium-term vision (three to four years) and outline the different savings options and their consequences, including the impact on, and process for decision-making at, each authority.

- The Mid Kent Services Director will then discuss the savings options with the HoS/SSM.
- The Mid Kent Services Director will then present the responses to the savings options to the SSBs.

The outcomes will be considered and agreed through the decision making mechanisms of each authority – with the involvement of s.151 officers in the same way as described above for significant in-year budget adjustments.

### **3. MKS accountant**

It has been agreed that the MBS Head of Finance will nominate an MKS service accountant, to be appointed on a part-time basis, from one of the existing members of staff at MBC. They will coordinate between the three authorities and support the Mid Kent Services Director, to include responsibility for collating MKS financial performance information for the shared services.

## **APPENDIX C**

### **TERMS OF REFERENCE FOR ALL SHARED SERVICE BOARDS**

Membership shall comprise one director from each partner Authority (or approved representative)

The responsibilities of the Shared Service Boards shall include:

- To agree the service plan for each financial year.
- To advise on the management of the budgets for the Service in accordance with the Financial Principles set out at appendix B including approving items of savings and growth to go forward to each partner Authority to form part of their annual budgeting process and consideration in setting their budgets for the service.
- To advise the relevant Head of Paid Service (or nominee) on the appraisals of the Head of the Service
- To receive reports on and consider the finance and performance of the Service
- To provide strategic direction as required
- To provide reports to the MKS Board when requested; when the Shared Service Board wishes to raise a general MKS issue or when the service underperforms (i.e. fails to meet the majority of targets over 3 quarters); or the Shared Service Board wishes to make significant changes to the agreed Service plan

### **APPENDIX D – TEN QUESTIONS FOR PROJECTS**

1. Have we selected a clear and appropriate project methodology?
2. Do we have a detailed project plan, which includes a comprehensive task list with reasonable time allocated to each task?
3. Do we have a risk register in place consistent with the Council's policy?
4. Have we clearly identified roles and responsibilities, both for the project's management and individual tasks within the plan?
5. Is the level of responsibility and extent of role required of each individual deliverable alongside his/her wider role?
6. Have individuals with key responsibilities on the project sufficient understanding and experience in those roles?
7. Do we have the full scope of the project represented at (or reported fully into) this Board? Does that include any associated or parallel project?
8. Has anything like this project been undertaken here or elsewhere before and, if so, have we investigated and understood the lessons from that past experience?
9. Have we sought independent assurance on the project management?
10. Have we arranged a project closure report so that other projects can learn from our experience?

### **APPENDIX E – MODEL COLLABORATION AGREEMENT**