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## **ESSEX COUNTYWIDE TRAVELLER UNIT – GOVERNANCE AGREEMENT**

### **1 PURPOSE OF REPORT**

- 1.1 This report seeks approval for the arrangements for the Joint Committee that manages the Essex Countywide Traveller Unit (ECTU) in accordance with the provisions contained in sections 101 and 102 of the Local Government Act 1972, section 20 of the Local Government Act 2000, the Local Authorities (Committee System) (England) Regulations 2012 (as amended) and any other enabling legislation.

### **2 INTRODUCTION**

- 2.1 The ECTU was set up in 2012 to provide a joined up, positive approach to dealing with Gypsy and Traveller communities in the county, improving outcomes for these communities and at the same time managing risks for local authorities and generating resource efficiencies. ECTU is hosted at Essex County Council and is managed by a Joint Committee which comprises local authorities from across the county, including this Council.

### **3 BACKGROUND TO THE ECTU**

- 3.1 The ECTU project is intended to improve the outcomes experienced by the Gypsy and Traveller communities in Essex and reduce the costs incurred by the public sector in dealing with Gypsy and Traveller issues.
- 3.2 The original Joint Committee Agreement was refreshed in 2015 and it is now proposed to renew the Agreement on like terms for a further three years to continue to provide an operational unit to discharge its functions in respect of Gypsy and Traveller issues.
- 3.3 The effective and efficient delivery of policy objectives will be achieved through the continuation of an integrated service that works towards creating a sustainable environment throughout Essex in which the rights and responsibilities of both Travellers and the settled community are respected.
- 3.4 The overarching objective is to deliver a sustainable service to co-ordinate and, where appropriate, undertake or contract for, work relating to Gypsy and Traveller issues throughout Essex, including fire safety on sites, improving education outcomes, health and social care, management of local authority sites and management of unauthorised encampments.
- 3.5 In summary the key areas of activity for ECTU include:
- Fire safety on sites;
  - Improving education outcomes;

- Health and social care;
- Management of local authority sites;
- Unauthorised encampments; and
- Unauthorised developments.

3.6 With regard to unauthorised developments, the intention is to work with planning authorities and communities to help prevent new unauthorised developments and to facilitate the resolution of existing ones and to process serving on behalf of planning authorities.

3.7 The intention is also for ECTU to be proactive in working with Gypsy and Traveller communities to improve education outcomes and to address health and social care issues. Such an approach will, over time, impact positively on the likelihood of unauthorised encampments and development from occurring.

3.8 The agreement sets out the arrangements for delegating responsibility for taking decisions on traveller issues within the remit of the unit and how the partner authorities work together as the Essex Countywide Traveller Committee.

#### **4 RISK IMPLICATIONS**

4.1 There are two components of risk to consider. In the short term there is the immediate risk of unauthorised encampments and developments for the Council to deal with. Resolving unauthorised encampments and developments is resource intensive, both in terms of manpower and money. ECTU provides additional resources on the ground which enables appropriate action to be taken in a timely manner by people with the right skills and expertise.

4.2 In the longer term there is a risk of not fully engaging with Gypsy and Traveller communities and addressing education, health and social care needs. If progress can be made in these areas by the ECTU, risk of unauthorised activities will diminish and a better understanding will develop between travelling and settled communities.

#### **5 CRIME AND DISORDER IMPLICATIONS**

5.1 In broad terms, the aim of the ECTU will be to reduce the likelihood of unauthorised encampments and development and foster greater understanding and tolerance between travelling communities.

#### **6 ENVIRONMENTAL IMPLICATIONS**

6.1 Unauthorised encampments and developments can have a significant environmental impact on an area and the commitment by the ECTU to deal

with issues in a timely way and over time to reduce the likelihood of infringements will have positive environmental benefits.

## **7 RESOURCE IMPLICATIONS**

- 7.1 The 2019/20 subscription costs for the ECTU is £8,229 and this has been budgeted for within the MTFS.

## **8 LEGAL IMPLICATIONS**

- 8.1 None other than those already detailed within the report.

## **9 EQUALITY AND DIVERSITY IMPLICATIONS**

- 9.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- 9.2 To eliminate unlawful discrimination, harassment and victimisation
- 9.3 To advance equality of opportunity between people who share a protected characteristic and those who do not
- 9.4 To foster good relations between those who share a protected characteristic and those who do not
- 9.5 The protected characteristics are age, disability, gender, race, sexual orientation, religion, gender reassignment, marriage/civil partnerships, pregnancy/maternity.
- 9.6 The Equality Impact Assessment (EIA) indicates that the proposal in this report will not have a disproportionately adverse impact on any people with a particular characteristic.
- 9.7 National planning policy and guidance for gypsy and travellers is set out in circular 01/2006 and circular 04/2007 for planning of sites and making decisions about planning applications for traveller sites. Local Government is required to deal with housing issues for the gypsy and traveller community and apply planning policy in the same way that it does for the settled community.

## **10 RECOMMENDATION**

- 10.1 It is proposed that Council **RESOLVES**

That the management arrangements for the Essex Countywide Traveller Unit be accepted and the Essex Countywide Traveller Committee Agreement 2019, which will run for three years, be signed.



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**Background Papers:-**

Essex Countywide Traveller Agreement 2019

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**EXTRACT OF JOINT COMMITTEE**

**AGREEMENT 2019**

## 1. Definitions and Interpretation

**“the Council”** means Essex County Council;

**“the Operational Period”** means the period set out in paragraph 3.1;

**“Partner Authorities”** means:

- (1) Basildon Borough Council;
- (2) Braintree District Council;
- (3) Brentwood Borough Council;
- (4) Castle Point Borough Council;
- (5) Chelmsford City Council;
- (6) Colchester Borough Council;
- (7) Essex County Council;
- (8) Essex County Fire and Rescue Service;
- (9) Maldon District Council;
- (10) Rochford District Council;
- (11) Tendring District Council;
- (12) Thurrock Council;
- (13) Uttlesford District Council;

## 2. The Joint Committee

- 2.1 The Partner Authorities previously agreed to form a Joint Committee under the terms of the Joint Committee Agreement 2015 to manage the ECTU in accordance with the provisions contained in sections 101 and 102 of the Local Government Act 1972, section 20 of the Local Government Act 2000, the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012; the Local Authorities (Committee System) (England) Regulations 2012 (as amended) and any other enabling legislation. This Agreement is continuation of those arrangements between the Partner Authorities.
- 2.2 The Partner Authorities shall continue to delegate to the Joint Committee the responsibility for the Functions within the Operational Area and the management of the same.
- 2.3 The Joint Committee shall continue to operate under the name “Essex Countywide Traveller Committee” (or such other name as may from time to time be decided on by the Joint Committee).
- 2.4 The Chief Constable shall, subject to paragraph 5.5, 7.7 and 22.1, continue to be a party to the Joint Committee, but shall not be required to delegate to the Joint Committee any of their statutory functions

exercisable in the management of Traveller encampments within the Operational Area, which shall be retained by them alone.

### **3. The Term**

- 3.1 The Joint Committee shall be operational for a period of three years commencing on the Commencement Date unless the Operational Period is renewed for an additional three years, in accordance with the provisions set out in paragraph 3.2 – 3.4.
- 3.2 The decision to extend the Operational Period shall be taken by the Partner Authorities and the Chief Constable not less than 6 months before the end of the Operational Period.
- 3.3 In circumstances where the decision has been taken to extend the Operational Period the consent of all participating parties must be obtained in writing to the proposed extension and shall be delivered to the Council not less than 6 months before the end of the Operational Period.
- 3.4 Upon receipt of the consent of all participating parties, the Council shall decide whether or not to approve the proposed extension and shall notify all Parties not less than 4 months before the end of the Operational Period. Such approval shall not be unreasonably withheld and shall have regard to, but shall not be limited to;
  - 3.4.1 the number of participating parties; and
  - 3.4.2 the financial wellbeing of the ECTU and the projected financial wellbeing of the ECTU.
- 3.5 Those Parties not consenting to the extension shall have regard to the provisions of Paragraph 36 and shall cease to be a member of the Joint Committee at the expiry of the Operational Period.

### **4. Service Level**

- 4.1 The vision and aim of the Joint Committee will be to provide a sustainable service that will result in a merging of services to provide a single, flexible enterprise providing services for a large group of Partner Authorities. It will be run from a central office, with potential outstations providing bases for local operations. There will be a common operating model, adopting best practices, innovation and easy decision-making.

### **5. Membership of the Joint Committee**

- 5.1 The Joint Committee shall consist of fourteen members of the Partner Authorities and the Chief Constable, appointed by those authorities in accordance with this Paragraph. The Council shall appoint two members, one to discharge its health functions and one to discharge its non-health functions. For the avoidance of doubt these members are included in the fourteen referred to above and shall be entitled to vote.

- 5.2 Subject to Paragraphs 5.1, 5.4 and 5.5, each of the Partner Authorities shall appoint one of its Members to be a member of the Joint Committee save that the Council shall appoint two members.
- 5.3 The Chief Constable shall appoint no more than one Relevant Officer whose responsibilities includes Traveller issues.
- 5.4 Each Partner Authority and the Chief Constable may change its appointed Committee Member or Relevant Officer at any time provided that written notice of any such change is given to the clerk to the Joint Committee, taking effect upon receipt. Such written notice may be given by electronic mail.
- 5.5 Each Partner Authority and the Chief Constable may send up to one appropriate officer to meetings of the Joint Committee (or any Sub-Committee) to support their Committee Member or Relevant Officer in attendance at that meeting.
- 5.6 For the avoidance of doubt decisions relating to the Functions concerning those borough, districts, and Unitary authorities within the Operational Area shall be taken by the Joint Committee only, save and except where provided within this Agreement and without prejudice to the provisions of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.
- 5.7 Each Partner Authority and the Chief Constable will identify a key contact who will be the first point of contact for communications regarding this Agreement and Functions relating to the Joint Committee and shall be identified in Appendix 2, this Appendix will be kept updated as changes occur.
- 5.8 Any borough, city, district or unitary council responsible for an administrative area within Essex, not forming part of the Joint Committee from 1 April 2019, may be joined as a member at a later date provided;
- 5.8.1 all governance processes have been adhered to for the relevant authority;
- 5.8.2 the Joint Committee agrees to their membership; and
- 5.8.3 the authority's membership is on the basis of this Agreement, and shall not be varied, save for acknowledgement of the new membership, whose signatories shall form a new appendix and shall be signed by the Joint Committee.
- 5.9 A Member of any borough, city, district or Unitary council not party to this Agreement may be able to attend any meeting of the Joint Committee, or sub-committee, provided consent to do so has been given by the Chairman of the Joint Committee and may take part in any discussions, but may not vote.



## **6. Tenure of office and casual vacancies**

- 6.1 A Committee Member will hold office until one of the following occurs;
- 6.1.1 they resign in writing and deliver such resignation to the Chairman of the Joint Committee, who shall forthwith notify such resignation to the Chief Executive of the relevant Partner Authority or the Chief Constable or to his nominating body;
  - 6.1.2 they are removed or replaced by the Partner Authority or Chief Constable that appointed them;
  - 6.1.3 they are disqualified under Part 5 of the Local Government Act 1972 from being a member of a Partner Authority;
  - 6.1.4 they cease to be eligible for appointment to the Joint Committee in the capacity in which they were appointed; or
  - 6.1.5 the Partner Authority or the Chief Constable withdraws from the Joint Committee in accordance with the provisions set out in paragraph 36.
- 6.2. Such vacancies occurring under paragraph 6.1.1 – 6.1.4, shall be filled as soon as possible by the relevant Partner Authority or Chief Constable which appointed the member to the Joint Committee whose membership has ceased.

## **7. Voting**

- 7.1 Each Partner Authority shall have one vote at a meeting of the Joint Committee or any sub-committee save the Council will have two voting members. Each Committee Member, if present or the substitute member appointed in accordance with paragraph 8.1, at the meeting will cast the Partner Authority's vote(s).
- 7.2 Any question coming before the Joint Committee shall be decided by a simple majority of those present and voting.
- 7.3 All voting shall be by a show of hands, unless recorded votes have been requested by any Committee Member, and any member shall have the right to have the way he voted (or abstained) recorded in the minutes.
- 7.4 In the case of an equality of votes the Chairman or in his absence the Vice Chairman, or the person presiding over the meeting in their absence, shall have the casting vote.
- 7.5 A member of any borough, district or unitary attending a meeting of the Joint Committee or sub committee in accordance with Paragraph 5.9 above shall not be entitled to vote on any issues before the Joint Committee or sub committee.

7.6 The Relevant Officer of the Chief Constable attending a meeting of the Joint Committee or sub committee in accordance with Paragraph 5.5 above shall not be entitled to vote on any issues before the Joint Committee or sub committee.

## **8. Substitute Members**

8.1 A Partner Authority may appoint another Executive Member or Member of the Policy Committee of the same Authority and the Chief Constable may appoint another Relevant Officer (subject to paragraph 5.4 and 5.5), to be a substitute member ("Substitute Member") and attend a meeting of the Joint Committee in the absence of the Member or Relevant Officer appointed under paragraph 5.1.

8.2 In such circumstances that member shall give the clerk written notice not later than thirty minutes before the start of the meeting on the day advising that they are unable to attend and that the Substitute Member or Relevant Officer named in the notice will attend in their place. In circumstances where this notice is not possible, written authority stipulating ability to act as a Substitute Member shall be accepted by the clerk at the start of the meeting.

## **9. Chairman and Vice Chairman of the Joint Committee**

9.1 The Joint Committee shall at its annual meeting appoint a Chairman who shall be a Committee Member, who shall, unless Paragraph 6 applies, remain in office until his successor is appointed.

9.2 The Joint Committee shall at its annual meeting appoint a Vice Chairman, who shall, unless Paragraph 6 applies, remain in office until his successor is appointed.

9.3 For the avoidance of doubt the Chairman and Vice Chairman of the Joint Committee shall not be a Relevant Officer.

## **10. Functions of the Joint Committee**

10.1 The Joint Committee shall exercise the Functions. For the avoidance of doubt, the Council shall be responsible for the Functions in the first instance, unless a Partner Authority, or the Chief Constable notifies the Unit Manager either in writing (electronic or otherwise) or by telephone communications, that they shall be managing the Function.

10.2 Any Sub Committee established by any of the individual Partner Authorities may not exercise any of the Functions. Save and except where provided within this Agreement and without prejudice to the provisions of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012. Where such a sub committee is established, written notice shall be given to the Unit Manager, which shall include details of those Functions it seeks to exercise.

- 10.3 The Joint Committee may perform such other functions as the Partner Authorities may from time to time delegate to the Joint Committee with the written agreement of the Joint Committee.
- 10.4 The Joint Committee is authorised to delegate the exercising of any of its Functions to the Council, who shall be responsible for the delivery of the ECTU in accordance with Paragraph 11.1.
- 10.5 This Agreement is without prejudice to each Partner Authorities' other powers and responsibilities for their respective areas and each Partner Authority agrees that it will not exercise the Function of the Joint Committee except:
- 10.5.1 Via the Joint Committee;
- 10.5.2 Via powers delegated to an officer by the Joint Committee; or
- 10.5.3 After consulting the other Partner Authorities.
- 10.5.4 After notification that they wish to manage a Function in accordance with Paragraph 10.1.
- 10.6 Where notification is received and relates to the enforcement of unauthorised encampments, the Partner Authorities agree to follow the enforcement process set out in Appendix 1a and to use the standard templates contained within Appendix 1b.
- 10.7 For the avoidance of doubt this Agreement shall not relate to the management of travelling showman, who remain the responsibility of the respective Partner Authorities and the Chief Constable.

## **11. The Council**

- 11.1 The Council, via the Unit Manager and staff shall deliver all aspects of the Functions, including but not limited to;
- 11.1.1 Control and administration of the operation of the provisions of this Agreement;
- 11.1.2 Be empowered to manage and control the day to day operation of the Functions of the ECTU;
- 11.1.3 Be responsible for the management, control and discipline of the Employees, and any secondees;
- 11.1.4 shall be responsible in respect of all matters of policy and performance management to the Operational Group, as defined in Paragraph 20.1;
- 11.1.5 discharge the Joint Committees responsibilities in relation to health and safety, and welfare legislation;

- 11.1.6 investigate complaints about the operational functions of the Joint Committee; and
- 11.1.7 Handle and respond to Freedom of Information Act and Environmental Information Regulation requests concerning the overall functions and decisions relating to Traveller issues.

## **12. The Partner Authorities**

12.1 The Partner Authorities agree;

- 12.1.1 any intellectual property created by or on behalf of the Joint Committee, shall be permitted to be used by the Council for the management and running of the ECTU, but for the avoidance of doubt shall remain with the respective Partner Authority;
  - 12.1.2 upon receipt of a request under the Freedom of Information Act and Environmental Information Regulations which relate to the Functions of the Joint Committee or requests for information regarding Traveller issues, shall notify and cooperate with the Council as soon as possible;
  - 12.1.3 to provide reasonable facilities within their respective areas (if so required by the Council on behalf of the Joint Committee) for the essential use by staff employed on behalf of the Joint Committee to enable them to perform their duties (including welfare and IT facilities) without any charge over and above the annual contribution, which will be reviewed annually as part of the Annual Business Plan.
- 12.2 The Partner Authorities will not have direct access to back office staff (except recourse to the Council for telephone advice if necessary).

## **13 Level of Joint Committee Decision Making**

13.1 The Joint Committee will be responsible for;

- 13.1.1 overseeing the provision of the baseline services contained in Appendix 1;
- 13.1.2 agreeing future Annual Business Plans for the Joint Committee;
- 13.1.3 agreeing all new, or revised, strategies and processes for the implementation of the Partner Authorities' and Chief Constable policies (such as enforcement);
- 13.1.4 agreeing the level of service provision through the annual budget setting process and as set out in this Agreement;
- 13.1.5 annually agreeing the level of fees and charges pertaining to the Joint Committee (to be proposed to each Partner Authority's and Chief Constables appropriate decision-making body for final approval as appropriate);

- 13.1.6 agreeing an annual budget proposal to be submitted to each Partner Authority's and Chief Constables appropriate decision making body for final approval;
- 13.1.7 making decisions relating to the use of funding of end of year deficits and surpluses; and
- 13.1.8 approving an Annual Report to be made available to the Partner Authorities and Chief Constable.
- 13.1.9 review this agreement at the annual meeting held after 1 April in any year.
- 13.2 The Joint Committee may not delegate the functions referred to in paragraph 13.1;
- 13.3 The Joint Committee will not have responsibility for staffing decisions but the Partner Authorities agree that the appointment of a replacement for the Unit Manager will be carried out in consultation between all Partner Authorities and an officer from each of the Partner Authorities shall be invited to take part in the recruitment process if they choose to do so. The appointment of the Unit Manager will be the decision of the Council.
- 13.4 Operational details will be delegated by the Joint Committee to the Unit Manager or a nominated deputy as set out in this Agreement and the Annual Business Plan as a framework within which operational implementation and decisions will be taken as appropriate by the Unit Manager or a nominated deputy.

#### **14. Operational Matters**

- 14.1 The Chief Constable will commit (subject to operational independence) a police team to the role of Gypsy, Traveller and Rural Engagement for the full period that the Chief Constable is a party to the Agreement. The Chief Constable agrees to bear the cost for the operation of this team.
- 14.2 The Joint Committee will not have the authority to insist that powers under Section 61 of the Act are exercised by the Police. However, the ECTU may refer any matter to the Chief Constable for consideration as to whether such powers are utilised. In deciding whether to exercise the powers under Section 61 of the Act, the Chief Constable shall have regard to their 'Unauthorised Encampments Policy' at all times.

#### **15. Contracts**

- 15.1 The Council shall (unless otherwise agreed) be responsible for entering into any contracts on behalf of the Joint Committee provided that they have been entered into in accordance with procedures and on terms agreed by the Joint Committee.
- 15.2 Every contract for the supply of goods and services to the Joint Committee shall comply with the Financial and Contract Procedure Rules of the Council and all such contracts shall be in the name of the Council.

## **16. Meetings of the Joint Committee**

- 16.1 The first meeting of the Joint Committee shall be the annual meeting for the year and thereafter the first meeting held after 1 April in any year shall be the annual meeting.
- 16.2 The Joint Committee shall meet at least two times in each financial year save and except that;
  - 16.2.1 the Chairman may in his discretion cancel any meeting if in his opinion there is insufficient business to be transacted; or
  - 16.2.2 a meeting may be convened at any time on the requisition of the Chairman or not less than three members of the Joint Committee delivered in writing to the Council.
- 16.3 The dates for the meetings in any year shall be agreed at the annual meeting of the Joint Committee.
- 16.4 Meetings of the Joint Committee shall, wherever possible alternate between venues in each Partner Authorities administrative areas.
- 16.5 The Council shall ensure that a printed copy of the agenda for each meeting, any relevant reports and the minutes of the previous meeting shall be despatched by the Clerk to the Joint Committee, at least five clear days before such meeting to each Committee Member and Relevant Officer, excepting that other items of urgent business may be considered with the agreement of the Chairman, at the end of business at any meetings.
- 16.6 At the same time, such papers will also be despatched to all relevant parties as notified to the clerk to the Joint Committee from time to time.
- 16.7 The agenda shall contain notice of all business, except urgent business, which is required to be brought before the Joint Committee either in the ordinary course of business, or which is brought by the Chairman, the Vice-Chairman or the clerk to the Joint Committee.
- 16.8 Meetings of the Joint Committee will be open to the public and press except where the Joint Committee resolves that the press and public be excluded (which may only be during consideration of items containing confidential or exempt information within the meaning of Schedule 12A of the Act). Each meeting will have a public question time of not exceeding 15 minutes in which members of the public may ask questions or make statements on a matter within the remit of the Joint Committee.
- 16.9 In addition to Paragraph 5.12, the Chairman in consultation with the Vice Chairman or a Partner Authority may invite any person to attend a meeting of the Joint Committee for the purpose of making a presentation, or participating in discussion, on any item relevant to the Joint Committee's functions where that person is able to provide a professional

or commercial viewpoint, which the Chairman or the Partner Authority considers would be of assistance to the Joint Committee.

## **17. Quorum**

17.1 The Quorum for meetings of the Joint Committee is six Committee Members present.

## **18. Minutes**

18.1 The minutes of the meeting shall be recorded as an accurate account of the meeting and circulated to all Committee Members of the Joint Committee, and shall be reviewed at the next available meeting, signed by the Chairman or in his absence the Vice Chairman or the person presiding over the meeting in their absence, confirming that they are an accurate account of that meeting.

18.2 Minutes of the Joint Committee shall (subject to the provisions of Paragraph 16.8) be available to the public and press as though they were minutes of a meeting of a Partner Authority.

## **19. Support**

19.1 The clerk to the Joint Committee shall be appointed by the Council.

19.2 The functions and responsibilities of the clerk to the Joint Committee shall be as follows;

19.2.1 to make all necessary arrangements for the convening of meetings of the Joint Committee and any Sub-Committees;

19.2.2 to provide, or where necessary, procure the provision of, all necessary advice on the technical, legal and financial implications of matters under consideration by the Joint Committee or relevant to the Joint Committee's functions;

19.2.3 to bring to the attention of the Joint Committee matters which are relevant to the Joint Committee's functions and which merit consideration by the Joint Committee;

19.2.4 to arrange for the taking and maintenance of the minutes of meetings, and circulate the agendas, notices and other communications to all members of the Joint Committee and any sub-committees and any other as notified, and ensure that the business of the Joint Committee at its meetings are conducted in accordance with legal requirements; and

19.2.5 to manage and co-ordinate the day-to-day affairs of the Joint Committee and its administrative support.

19.3 The business address for all communications relating to the administration of the Joint Committee's affairs shall be the Council's address as set out in Appendix 2.

19.4 The Clerk appointed under Paragraph 19.1 for the time being providing such support will discharge the proper officer functions under the Act that relates to the meetings of the Joint Committee.

19.5 The Partner Authorities and the Chief Constable agree that reasonable costs incurred as a result of providing the Clerk's support shall be payable from the ECTU Budget Account.

## **20. Sub Committees**

20.1 The Joint Committee may appoint such sub committees as it considers appropriate to;

20.1.1 exercise such functions as may be delegated to it by the Joint Committee and

20.1.2 advise the Joint Committee in the discharge of its Functions,

save and except that the Joint Committee may not delegate to any sub-committee the approval of the Joint Committees budget or Annual Business Plan or the fixing of the annual contributions by the Partner Authorities and Chief Constable.

20.2 The Joint Committee will determine the membership and terms of reference of the sub-committee, and the quorum for its meetings, when it is appointed.

20.3 If the Joint Committee appoints more than one sub-committee to exercise one or more of its functions then it shall ensure that the Partner Authorities allocate particular matters to a sub-committee first on the basis of the availability of the members required to constitute the sub-committee and thereafter by rotation, and summons meetings accordingly.

20.4 The sub-committee will exist only as a sub-committee for the purpose of providing advice to the Joint Committee. The Joint Committee will consider the advice of the sub-committee before making decisions.

## **21. Operational Group**

21.1 The Joint Committee may appoint such operational groups as it considers appropriate to;

21.1.1 consider the day to day issues concerning the Functions;

21.1.2 responsible for the Key Performance Indicators; and

21.1.3 advise the Joint Committee in the discharge of its Functions,

save and except that the Joint Committee may not delegate to the Operational Group the approval of the Joint Committees budget or Annual Business Plan or the fixing of the annual contributions by the Partner Authorities and the Chief Constable.



- 21.2 The Operational Group will consist of members from each Partner Authority and Essex Police and its terms of reference shall be approved by the Joint Committee.
- 21.3 The Operational Group will exist only as an Operational Group for the purpose of providing advice to the Joint Committee. The Joint Committee will consider the advice of the Operational Group before making decisions.

## **22. Finance Arrangements**

- 22.1 In consideration of the costs of providing the ECTU the Partner Authorities and Chief Constable shall contribute an annual sum as set out in Appendix 3.
- 22.2 The Council shall invoice each Partner Authority annually within three months of the Commencement Date and thereafter shall issue the annual invoice between April and June in each subsequent year.
- 22.3 Payments made in accordance with Paragraph 22.1 thereafter shall be such annual sums as represent the amount shown in Appendix 3 increased or reduced following the review of Joint Committee finances by the Joint Committee. This will be guided by any percentage increase or decrease in the Index and any changes in costs specific to the ECTU since the previous anniversary of the Commencement Date. If this Agreement shall continue after 31 March 2022 the contributions shall thereafter be a matter for further agreement between the Partner Authorities and Chief Constable. In circumstances where agreement cannot be reached the matter shall be subject to the dispute resolution process set out in Paragraph 37.
- 22.4 The discharge of the Functions on behalf of ECTU Clients and the provision of services to ECTU Clients shall be on the basis of service level agreements entered into between the Council on behalf of the Joint Committee and any ECTU Client.
- 22.5 The fees and charges to be incorporated in the service level agreements with the ECTU Clients shall be in accordance with a scale or scales to be set by the Joint Committee for each financial year or any approved variation or amendment thereof.
- 22.6 The Council shall maintain a ring fenced cost centre within its general fund for the balances for the Joint Committee.

## **23. Annual Business Plan**

- 23.1 Following approval of the detail and allocation of its budget in each year by the Joint Committee, an Annual Business Plan will be prepared by the Council and submitted to the Joint Committee not later than three months after the end of each financial year for approval, which will set out how resources (including reserves) will be managed and distributed by the Joint Committee.

## **24. Financial Statements**

- 24.1 Financial statements of the Joint Committee shall be submitted to a meeting of the Joint Committee for approval not later than three months after the end of each financial year. Unless otherwise resolved by the Joint Committee, the Joint Committee financial year-end shall be 31<sup>st</sup> March.

## **25. Audit**

- 25.1 The Partner Authorities and Chief Constable agree that any costs incurred by the Joint Committee by any audit required by the Audit Commission or any replacement body in relation to the accounting records and accounts of the Joint Committee shall be payable from the ECTU Budget Account.
- 25.2 Any approval required of the audited annual returns at the date of this Agreement is no later than the 30 September each year or the date any external auditors may be required by law to produce a separate audit certificate in relation to the accounts of the Joint Committee. A meeting of the Joint Committee will be held by September to approve the ECTU Budget Accounts.
- 25.3 Internal Audit requirements shall be determined by the Council.

## **26. Monitoring and Assessment**

- 26.1 The Joint Committee will be responsible for monitoring and assessing in terms of its:
- 26.1.1 general strategic performance as measured by a range of indicators as the Partner Authorities may agree from time to time including but not limited to, financial performance, income, national indicators, customer satisfaction levels, funding leverage and key achievements;
  - 26.1.2 performance in carrying out this Agreement; and
  - 26.1.3 progress in fulfilling the Annual Business Plan.
- 26.2 The Joint Committee will receive presentations and progress reports on key issues and notable projects from the Unit Manager.
- 26.3 The Joint Committee will issue an Annual Report of its activities, finances and performance to the Partner Authorities and other appropriate parties. The Joint Committee may decide to publish the report.

## **27. Scrutiny Arrangements**

- 27.1 The decisions made by (and, for the avoidance of doubt, not mere recommendations of) the Joint Committee may be subject to the individual scrutiny arrangements of each Partner Authority operating under executive arrangements.

27.2 Decisions or actions of the Joint Committee shall be notified to all those to whom the papers or any other relevant documents are despatched in accordance with Paragraph 16.5 within seven working days of the decision being reached or the actions being taken, as the case may be.

27.3 Committee Members and their officer advisers shall fully co-operate with the relevant scrutiny committee of any of the Partner Authorities and shall, where requested, attend any meeting of any relevant scrutiny committee.

## **28. Call in**

28.1 The provisions set out in Paragraph 28.2 – 28.14 shall apply to all relevant Partner Authorities with executive responsibility for the function to which the decision or action relates.

28.2 Those Functions delegated to the Joint Committee under paragraph 2.2 remain part of each Partner Authorities executive function, to which each Partner Authority shall apply paragraph 28.3 – 28.14 to decisions taken by their appointed members.

28.3 Any decision or other action taken of the Joint Committee may be called in for scrutiny by Members of any Partner Authority operating under executive arrangements. A decision is called in by Members of such a Partner Authority in the same way in which they would call in a decision of each Partner Authority's Executive or Committee except that;

28.1.1 decision or other action taken may not be called-in after 5pm on the 5th working day after the date upon which the decision is published; and

28.1.2 a call in of such a decision or other action taken may only be made if the decision or other action taken affects that Partner Authority whose membership wishes to call in the decision or action.

28.4 Once a decision or other action taken has been called in it may not be implemented until the scrutiny arrangements of the relevant Partner Authority whose membership has called in the decision or action has been completed. Where a relevant Scrutiny Committee (or full Council) makes recommendations to the Joint Committee, the Joint Committee shall arrange for the decision or action to be reconsidered in the light of comments made by the relevant Scrutiny Committee (or full Council) and the final decision or action of the Joint Committee shall not be subject to call in.

28.5 The call-in procedure set out in paragraph 28.1 shall not apply where the decision or action being taken by the Joint Committee is certified by the Joint Committee as urgent. (A decision will be deemed to be urgent if any delay likely to be caused by the call in procedure would prejudice the Joint Committee, the public's or a third party's interests or the decision relates to the commencement of a statutory consultation process).

28.6 A Scrutiny Committee of a Partner Authority must notify the Joint committee if it includes in its work programme any aspect of policy

development or review relating to the work or functions of the Joint Committee.

- 28.7 Where a Scrutiny Committee of a Partner Authority has formed recommendations on proposals for policy development as referred to in paragraph 27.6, a Scrutiny Committee shall prepare a formal report and submit it for consideration by the Joint Committee.
- 28.8 The Joint committee shall consider the report of a Scrutiny Committee within fifteen working days of it being submitted to the Clerk to the Joint committee and shall issue a formal response to such a report.
- 28.9 Where any Partner Authority member or officer is required to attend a Scrutiny Committee, the Chairman of that Committee will inform the Monitoring Officer (or Chief Executive as appropriate) of their own authority.
- 28.10 That Monitoring Officer (or Chief Executive as appropriate) shall inform the Partner Authority Member or officer in writing giving at least ten working days' notice of the meeting at which he is required to attend, such notice to state the nature of the item on which he is required to attend to give account and whether any papers are required to be produced for the Scrutiny Committee.
- 28.11 Where the account to be given to the Scrutiny Committee will require the production of a report, the Partner Authority member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- 28.12 Where in exceptional circumstances, the Partner Authority Member or officer is unable to attend on the required date, the Scrutiny Committee shall in consultation with the Partner Authority Member or officer arrange an alternative date for attendance which shall be as soon as practicable in relation to the original date specified.
- 28.13 If, having considered the decision or action, a Scrutiny Committee remains concerned about it, then it may refer it back to the Joint Committee for reconsideration, setting out in writing the nature of its concerns. If referred back to the Joint Committee for reconsideration the Joint Committee will have a further seven working days to consider whether to amend the original decision or revise the original action taken before reaching a final decision or taking final action.
- 28.14 The operation of the provisions relating to call-in and urgency shall be monitored annually by the clerk to the Joint Committee, and a report to the Joint Committee with proposals for review if necessary.

## **29. Conduct and expenses of Members**

- 29.1 All Committee Members shall observe at all times the provisions of the Code of Conduct adopted by their respective authorities.

29.2 Each Partner Authority and Chief Constable shall be responsible for meeting any expenses to which any Committee Member or officer appointed by them or Relevant Officer, as its representative, is entitled as a result of their attendance at meetings of the Joint Committee.

### **30. Liability of Committee Members**

30.1 Committee Members appointed by each of the Partner Authorities shall have the same responsibilities and liabilities as those which apply when sitting on other committees and bodies as appointed representative on behalf of their respective authorities.

30.2 Where any contractual arrangements are authorised by the Joint Committee, any liabilities arising under those arrangements will be met by the relevant Partner Authority.

30.3 Indemnification for any liabilities which arise shall be resolved as a matter between the Committee Member and their respective authority.

### **31. Expenses of the Joint Committee**

31.1 The expenses of the Joint Committee incurred in the discharge of the Functions (except the costs associated with the clerks duties covered in paragraph 19) will be paid by the Council and by any Partner Authority whose Monitoring Officer has dealt with or exercised their functions in relation to such matters.

31.2 The other Partner Authorities will make payments to the Partner Authority that has incurred expenses under paragraph 31.1, to pay them in such proportions as the Partner Authorities shall all agree or in the case of disagreement as shall be determined by a single arbitrator agreed on by the Partner Authorities, or, in default of agreement, appointed by the Secretary of State for Communities and Local Government.

31.3 In determining the allocation of expenses the Partner Authorities or any arbitrator appointed under paragraph 31.2 will have regard to the following principles:

31.3.1 the nature and purpose of the expense;

31.3.2 whether such expense relates to a particular district or borough; and

31.3.3 whether the agreement of the Joint Committee was given to the incurring of such an expense.

### **32. Employees**

32.1 The parties agree that the provisions of this Agreement do not constitute a "relevant transfer" for the purposes of TUPE and that the contracts of employment of any employees with the Partner Authorities or Chief Constable, and their rights, powers, duties and liabilities under or in connection with such contracts of employment shall not be transferred to the Council under TUPE at the Commencement Date.

- 32.3 In respect of any persons being seconded to the Council or the Joint Committee it is hereby agreed that:
- 32.3.1 The employment or office holding status (as appropriate) of such persons shall be unaffected by the secondment; and
  - 32.3.2 Working patterns and any flexible working hour's arrangements will be discussed and agreed between such persons and the Council. In case of sickness absence such person will notify the Council and will also follow their normal procedures (where different).
  - 32.3.3 Any medical certificates will be sent to the Partner Authority providing the secondee who will continue to pay the salary of such a person.

### **33. Insurance**

- 33.1 The Council shall ensure that they hold adequate insurance in respect of any liability of a kind normally insured against arising from the discharge of the Functions for the duration of this Agreement and for a period of six years after termination of this Agreement.
- 33.2 The Council shall produce copies of the policies of insurance to any of the other Partner Authority at their request.
- 33.3 The Council shall meet the cost of the premiums in respect of the relevant insurance policies as part of the Support Services (as set out in paragraph 19).

### **34. Litigation**

- 34.1 The Council shall promptly give notice to the other Partner Authorities and Chief Constable in the event that it becomes aware that any proceedings have been brought or are reasonably likely to be brought against the ECTU.

### **35. Variation**

- 35.1 Any future amendments to this Agreement will be put before a meeting of the appropriate decision making body of each of the Partner Authorities and Police and will be adopted by each Partner Authority and the Chief Constable committing that authority to membership of the Joint Committee and to the terms and conditions of this Agreement.

### **36. Termination**

- 36.1 After commencement, a minimum of one year's notice in writing is to be given by any of the Partner Authorities or the Chief Constable, to the Unit Manager, and to the Chief Executive or other nominated Officer of each other Partner Authority and the Police, of the intention of that Partner Authority or the Police to terminate their membership of the Joint Committee. Upon the expiry of one year's notice being given their

membership will cease but the Joint Committee shall continue unaffected in respect of those authorities which remain a member.

- 36.2 Any costs directly resulting from the termination of membership of the Joint Committee by any one Partner Authority or the Chief Constable including the costs of redundancy of any Employees, disposal of equipment and other associated costs shall be borne by that Partner Authority or the Police. Upon receipt of a notice of intention to withdraw from the Joint Committee as provided for in Paragraph 36.1 above the Partner Authorities remaining in the Joint Committee shall reasonably endeavour to mitigate such costs.
- 36.3 In the event of all the Partner Authorities agreeing to terminate this Agreement or not renewing this Agreement all the Partner Authorities shall use their best endeavours to redeploy the Employees employed at that time on behalf of the ECTU by the Council having regard so far as practical to the following considerations:
- 36.3.1 The initial number of Employees of each such Partner Authority or Chief Constable;
- 36.3.2 The continuing need for the performance of work relating to Travellers and Gypsies;
- 36.3.3 The special needs of the Partner Authorities or Chief Constable in terms of service skills in the performance of the Functions;
- 36.3.4 The residence and travel to work arrangements of the Employees concerned;
- 36.4 In the event of one or all the Partner Authorities agreeing to terminate or not renewing this Agreement the vacating Partner Authority hereby agrees that any costs, disposal of equipment or other is done on the following basis:
- 36.4.1 Costs shall be shared by all the Partner Authorities in the proportions as set opposite that Partner Authorities name in Appendix 3;
- 36.4.2 Any proceeds after deducting all outstanding costs and liabilities shall be shared by the Partner Authorities in the proportions as set opposite that Partner Authorities name in Appendix 3;
- 36.4.3 Redundancy costs of staff shall be shared proportionally with the vacating Partner Authority amongst all other Partner Authorities (with the exception of the Chief Constable) in the proportions as set opposite that Partner Authority's name in Appendix 3 and redundancy costs of non-local authority persons will remain the responsibility of the responsible Partner Authority or Police.
- 36.5 This Agreement shall terminate in respect of a Partner Authority or the Police who commits a material breach of this Agreement, which is incapable of remedy and is otherwise not remedied within 30 days of the Partner Authorities or Chief Constable committing the breach having been

served with notice signed by the other Partner Authorities specifying the breach and requiring its remedy.

- 36.6 The Partner Authorities acknowledge that the Chief Constable is subject to unique statutory duties and obligations, which cannot be compromised or otherwise affected by this Agreement. Therefore the Police reserve the right to terminate this Agreement at any time upon written notice to the Council. For the avoidance of doubt, termination by the Police shall not affect the continuation of this Agreement by the remaining Partner Authorities.
- 36.7 Subject to Paragraph 36.8 upon termination of this agreement by any Partner Authority, that member will cease to be bound by the obligations or entitled to the benefits of this agreement.
- 36.8 Paragraphs 4.2, 11, 13, 14, and 16.1 shall continue to apply to a Partner Authority following termination of this Agreement except that the indemnity paragraph 13.1 will only apply in respect of any losses, costs, claims, actions, proceedings, expenses or liabilities incurred whilst the Partner Authority was a member of the Joint Committee and not thereafter.

### **37. Arbitration**

- 37.1 Any dispute or difference shall be first referred to a meeting of each of the Partner Authorities involved in the dispute. The Partner Authorities agree to discuss and, in good faith, attempt to resolve any such dispute or difference in accordance with the spirit of partnership working. In the event that the relevant Partner Authorities are unable to resolve the dispute then the matter shall be referred to the Chief Executives of each of the Partner Authority involved in the dispute who shall try to resolve the dispute by agreement.
- 37.2 Subject as provided by Section 103 of the Local Government Act 1972 any question, dispute or difference in relation to any matter in connection with this Agreement which may occur between the Partner Authorities or any of them or between the Joint Committee and any of the Partner Authorities shall be referred to a single arbitrator to be appointed by agreement between the parties in dispute or in default of such agreement within 14 days to be nominated by the President of the time being of the British Chartered Institute of Arbitrators in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof.
- 37.3 This Agreement shall be governed by and construed in accordance with the law of England and Wales.

### **38. Sharing of information between Partner Authorities and Agencies**

- 38.1 Each Partner Authority forming part of the Joint Committee will (unless prevented by legislation or confidential obligations) provide all information and intelligence that they possess as necessary on the issues falling within the scope of the Functions to the Unit Manager in order to achieve effective provision of the Functions. All matters will be treated with



confidence and will not be used for other purposes than those contained within this Agreement.

### **39. Waiver**

39.1 The failure by any Partner Authority to exercise or delay in exercising a right or remedy provided by this Agreement or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies. A waiver of a breach of any of the terms of this Agreement or of a default under this Agreement does not constitute a waiver of any continuing breach or of any other breach or default and shall not affect the other terms of this Agreement. Any waiver, to be effective, must be in writing.

### **40. No Partnership/Agency**

40.1 Nothing in this Agreement is intended to or shall operate to:-

40.1.1 authorise any Partner Authority to act as agent for any other;

40.1.2 authorise any Partner Authority to act in the name or on behalf of or otherwise bind any other Partner Authority in any way.

40.2 Paragraphs 40.1.1 and 40.1.2 above shall not apply in respect of any acts carried out by the Council as duly authorised by the Joint Committee pursuant to this Agreement.

### **41. Assignment**

41.1 No Partner Authority or Chief Constable shall, without the prior written consent of the other Partner Authorities and Chief Constable, assign, transfer or deal in any other manner with this Agreement or any of its rights under it, nor purport to do any of the same, nor sub-contract any or all of its obligations under this Agreement.

### **42. Entire Agreement**

42.1 This Agreement, and the documents referred to in it, constitute the entire agreement and understanding of the Parties and supersedes any previous agreement between the Parties relating to the subject matter of this Agreement.

### **43. Severance**

43.1 If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Agreement which shall remain in full force and effect.

### **44. Notices**

44.1 Save for where otherwise specified in this Agreement, any notice given under this Agreement shall be in writing and shall be served by delivering it personally or sending it by pre-paid recorded delivery or first class post

to the Council at the address set out in Appendix 2 and for the attention of the relevant party (if applicable), or where required the Partner Authorities Chief Executive. Any such notice shall be deemed to have been received at the time of delivery (if delivered personally) or 2 business days after the date of posting (in the case of pre-paid recorded delivery or first class post). Provided that if deemed receipt occurs before 9am on a Business Day the notice shall be deemed to have been received at 9am on that day, and if deemed receipt occurs after 5pm on a Business Day, or on a day which is not a Business Day, the notice shall be deemed to have been received at 9am on the next Business Day.

44.2 In proving service of a notice under this Agreement it shall be sufficient to prove that the notice was sent addressed to the address of the relevant party set out in this Agreement and delivered either to that address or into the custody of the postal authorities.

44.3 For the avoidance of doubt, notices given under this Agreement shall not be validly served if sent by electronic mail unless otherwise specified in this agreement

#### **45. Rights of Third Parties**

45.1 No terms of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party, but this does not affect any rights or remedy of a third party which exists or is available apart from under that Act.