

**OFFICE OF THE POLICE AND CRIME COMMISSIONER
FOR HUMBERSIDE
DECISION RECORD**

Decision Record Number: 162019

Title: **Joint Health & Safety Service**

Executive Summary: Following a health and safety review in Humberside Police (HP) in early 2018, there has been significant activity to establish a recovery plan, address key risks, provide visible senior leadership and start to develop a health and safety culture in force. Humberside Fire and Rescue Service (HFRS) have been instrumental to progressing this work to date in HP.

In keeping with the duty placed on Emergency Services within the Act to review further opportunities for collaboration, the intention is to enter into a Collaboration Agreement between HFRS and HP under Section 1 of the Policing and Crime Act 2017 to commence on 1st April 2019.

Whereas the force is the lead for estates, it is proposed that HFRS will lead the health and safety collaboration and form a Joint Health & Safety Service.

Commissioner Comments:

Decision: That the Collaboration Agreement between Humberside Fire & Rescue Service and Humberside Police for the provision of a Joint Health and Safety Service be signed.

Background Report: Open

Police and Crime Commissioner for Humberside

I confirm I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with my code of conduct.

Any such interests are recorded below.

The above decision has my approval.

Signature



Date 03.04.19

DATED

2019

COLLABORATING PARTNERS:

(1) THE POLICE AND CRIME COMMISSIONER FOR HUMBERSIDE

(2) THE CHIEF CONSTABLE OF HUMBERSIDE POLICE

(3) HUMBERSIDE FIRE AUTHORITY

COLLABORATION AGREEMENT FOR THE PROVISION OF

A JOINT HEALTH AND SAFETY SERVICE

Table of Content

1	SECTION 1: THE LEGAL CONTEXT	4
2	SECTION 2: INTERPRETATION.....	5
3	SECTION 3 THE PURPOSE OF THIS AGREEMENT	5
4	SECTION 4: OBJECTIVES OF THE JHSS.....	5
5	SECTION 5: OBLIGATIONS OF THE PARTIES.....	6
6	SECTION 6: COMMENCEMENT AND DURATION.....	7
7	SECTION 7: GOVERNANCE.....	7
8	SECTION 8: REVIEW.....	8
9	SECTION 9: AMENDMENT TO COLLABORATION AGREEMENT	8
10	SECTION 10: TERMINATION	8
11	SECTION 11 CONSEQUENCES OF TERMINATION	8
12	SECTION 12: LEAD ORGANISATION	10
13	SECTION 13: TRANSITIONAL ARRANGEMENTS AND ASSET TRANSFERS ..	11
14	SECTION 14: DATA PROTECTION LEGISLATION	11
15	SECTION 15: AUDITS.....	13
16	SECTION 16: CONTRACTS AND PROCUREMENT.....	13
17	SECTION 17: PROPERTY ACCESS AND LICENCES.....	13
18	SECTION 18: SHARING OF COSTS	14
19	SECTION 19: STRATEGY ONLY	16
20	SECTION 20: RISK MANAGEMENT	16
21	SECTION 21: GENERAL LIABILITIES	16
22	SECTION 22: DISPUTE RESOLUTION	19
23	SECTION 23:CONFIDENTIALITY	19
24	SECTION 24: INFORMATION MANAGEMENT/FREEDOM OF INFORMATION.	20
25	SECTION 25: VETTING	20
26	SECTION 26: VAT	20
27	SECTION 27: INTELLECTUAL PROPERTY RIGHTS	21
28	SECTION 28: FURTHER ASSURANCE	21
29	SECTION 29: NO AGENCY OR PARTNERSHIP	21
30	SECTION 30: STATUTORY POWERS.....	21

31	SECTION 31: CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999	22
32	SECTION 32: ASSIGNMENT	22
33	SECTION 33: BINDING NATURE OF THIS AGREEMENT	22
34	SECTION 34: ILLEGAL/UNENFORCEABLE PROVISIONS	22
35	SECTION 35: WAIVER OF RIGHTS.....	22
36	SECTION 36: COUNTERPARTS	22
37	SECTION 37: LEGALLY BINDING	22
38	SECTION 38: GOVERNING LAW AND JURISDICTION	23
	SCHEDULE 1 DEFINITIONS AND INTERPRETATION.....	25
	SCHEDULE 2: SERVICES.....	28
	SCHEDULE 3: PERFORMANCE STANDARD.....	30

BETWEEN:-

- (1) **POLICE AND CRIME COMMISSIONER FOR HUMBERSIDE** of The Lawns, Harland Way, Cottingham, HU16 5SN ("PCC")
- (2) **THE CHIEF CONSTABLE OF HUMBERSIDE POLICE** of Police Headquarters, Priory Road, Hull, HU5 5SF ("HP")
- (3) **HUMBERSIDE FIRE AUTHORITY** of Summergroves Way, Hessle, HU4 7BB ("HFA")

each hereinafter a "Party" and together the "Parties".

INTRODUCTION

1 SECTION 1: THE LEGAL CONTEXT

- 1.1 The Parties wish to enter into a Collaboration Agreement pursuant to Section 1 of the Policing and Crime Act 2017 for the provision of a joint health and safety service serving both Humberside Police and Humberside Fire Service.
- 1.2 This Collaboration Agreement is made pursuant to the Framework Agreement for collaborative working in the provision of Police and Fire Services, Support Functions and Co-location made between the parties on 29th of March 2018 ("the Framework Agreement") whose terms and provisions are adopted and confirmed for the purposes of this Collaboration Agreement as if the same were repeated and incorporated herein.
- 1.3 This Collaboration Agreement constitutes a specific collaboration agreement as contemplated within the Framework Agreement.
- 1.4 If any Party wishes to seek an amendment to the terms of this Collaboration Agreement, they shall send that request to the Transformation Board who shall consider the request and any proposed amendments shall be included within a revised draft within 6 months following agreement of such amendments in accordance with section 7.1.
- 1.5 The Parties consider that this Collaboration Agreement is in the interests of the efficiency or effectiveness of their collective services and as such the Parties recognise the duty to collaborate pursuant to the Policing and Crime Act 2017.
- 1.6 Where there is any inconsistency or conflict between the Framework Agreement and this Collaboration Agreement, the provisions of this Collaboration Agreement shall be preferred and shall prevail.

2 **SECTION 2: INTERPRETATION**

2.1 The definitions and rules of interpretation set out in Schedule 1 shall apply to this Collaboration Agreement.

3 **SECTION 3 THE PURPOSE OF THIS AGREEMENT**

3.1 The Parties have agreed to establish a joint health and safety service (“JHSS”) that has the potential to generate a safer working environment as well as delivering a number of benefits in the public interest such as:

3.1.1 improved efficiency and effectiveness resulting in reduced level of risk;

3.1.2 increased business resilience by sharing resources, systems, software and training;

3.1.3 reduced revenue costs linked to a reduction in overheads, accidents and time lost in addition to reducing potential for litigation;

3.1.4 proactive approach to safety, managing risk more effectively; and

3.1.5 increased productivity due to lower absence and increased productivity due to healthier, happier and better motivated employees.

3.2 The Parties have concluded that the JHSS can be best provided by the establishment of a “lead organisation” model whereby the provision of the service will be led by HFA.

3.3 This document constitutes a Collaboration Agreement made between the Parties pursuant to Section 1 of the Policing and Crime Act 2017.

4 **SECTION 4: OBJECTIVES OF THE JHSS**

4.1 The Parties agree that the JHSS shall comprise the Services (being those services listed in Part 1 of Schedule 2 of this Collaboration Agreement) and shall include the following core areas:

4.1.1 maintain legal compliance linked to H&S legislation;

4.1.2 professional health and safety advice;

4.1.3 maintenance of the health and safety management system HSG65;

4.1.4 monitoring and review of safety reporting and investigations; and

4.1.5 monitoring and review of health and safety policy and procedures.

4.2 The Parties agree that the Services relating to HP and PCC shall not include the services listed in Part 2 of Schedule 2, unless agreed at JHSB.

4.3 The parties agree that the Services provided pursuant to the JHSS shall:

4.3.1 be provided in accordance with the specification of the Services set out in Schedule 2 and this Section 4;

4.3.2 conform in all respects with those standards and performance requirements as are agreed by the parties from time to time in accordance with Schedule 3;

4.3.3 be performed with care, skill and diligence and in accordance with best practice for the provision of health and safety services in the emergency services.

5 **SECTION 5: OBLIGATIONS OF THE PARTIES**

5.1 The Parties shall each:

5.1.1 co-operate with the other parties in good faith in all matters relating to the Services and the JHSS;

5.1.2 grant the other party, its agents, subcontractors, consultants and personnel, access to its premises as reasonably required for the performance of the Services; and

5.1.3 provide to the other party in a timely manner all documents, information, items and materials in any form reasonably required by the other party in connection with either party's responsibility for the performance of the Services and ensure that they are accurate and complete in all material respects.

5.2 Notwithstanding the joint provision of the Services on the terms of this Collaboration Agreement the Parties acknowledge that each Party remains responsible for complying with health and safety law, (Health and Safety at Work etc Act 1974 and supporting legislation) and nothing in this agreement seeks to exclude a Party's liability for breach of the law.

5.3 In performing the Services on behalf of the JHSS the HFA shall:

5.3.1 co-operate and collaborate in good faith with HP and PCC in all matters relating to the Services;

5.3.2 observe, and procure that all of its personnel providing the Services shall observe, all health and safety rules and regulations and any other reasonable security requirements that apply at any of HP's and/or the PCC's premises when present on HP's and/or the PCC's premises for the purposes of provision of the Services; and

5.3.3 to the extent required for the provision of the Services, hold all PCC and/or HP Materials in safe custody at its own risk and in good condition until returned to the PCC or HP as appropriate, and not dispose of or use the PCC and/or HP Materials other than in accordance with the PCC's or HP's written instructions or authorisations as appropriate.

6 **SECTION 6: COMMENCEMENT AND DURATION**

6.1 The “**Effective Date**” of this Collaboration Agreement is the 1 April 2019 and this Collaboration Agreement shall continue in full force and effect until terminated in accordance with section 10 (“Termination”).

7 **SECTION 7: GOVERNANCE**

7.1 Designated chief officers from HP and HFA shall be appointed to oversee and review the effectiveness of the governance arrangements set out in this Section 7 and the Parties may agree to refine or alter these arrangements in accordance with any recommendations put forward by such chief officers with the consent of the Transformation Board.

7.2 The provision of the Services pursuant to this agreement will be subject to the governance arrangement set out within the Framework Agreement and the Programme Board for the purposes of this Collaboration Agreement shall be a Joint Health and Safety Board (“JHSB”) consisting of HFA’s Director of Service Improvement (or their deputy) and the Assistant Chief Officer for HP (or any deputy appointed by them from time to time). The responsibility for chairing and organising the JHSB will be initially undertaken by HFA’s Director for Service Improvement or their deputy or as otherwise agreed by the parties. This responsibility will then alternate between HFA and HP annually.

7.3 The JHSB will provide assurance to the Transformation Board that the key objectives and performance targets are being met and that this specific collaboration is performing within agreed boundaries.

7.4 HFA shall utilise existing structures to determine business requirements. HP shall have locality Health and Safety Boards to determine HP’s and the PCC’s business requirements. These will feed into a Joint Health and Safety Board and include HP’s heads of departments and senior representatives. HFA will be represented through the Director of Service Improvement, Head of Service Improvement and appropriate personnel deemed necessary.

8 **SECTION 8: REVIEW**

8.1 This Collaboration Agreement will be reviewed by the JHSB within six months of the Effective Date and at least once every 12 months thereafter. The purpose, methodology, form, and relevant measures of that review shall be reported into the Transformation Board.

9 **SECTION 9: AMENDMENT TO COLLABORATION AGREEMENT**

9.1 This Collaboration Agreement may be altered by written agreement between all the Parties.

10 **SECTION 10: TERMINATION**

10.1 This Collaboration Agreement may be terminated by the unanimous written agreement of all Parties.

10.2 Any Party may terminate this Collaboration Agreement by giving written notice of its intention to terminate to the other Parties (including but not limited to where, in the view of the terminating Party, this Collaboration Agreement is no longer in the interests of its efficiency or effectiveness).

10.3 Any Party seeking to terminate this Collaboration Agreement under section 10.2 above must give not less than:

10.3.1 6 months' notice in writing to expire on 31 March 2020; or

10.3.2 12 months' notice in writing expiring on any subsequent 31 March.

10.4 This Collaboration Agreement may be terminated immediately by a Party giving written notice to the other Parties if:

10.4.1 one of the other Parties is in material breach of a term or terms of this Collaboration Agreement which (a) is not capable of being remedied or (b) is not remedied within 30 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied.

11 **SECTION 11 CONSEQUENCES OF TERMINATION**

11.1 Where the Parties agree to terminate this Collaboration Agreement under section 10.1 above, then the date of termination and a relevant exit strategy will be agreed by the relevant Parties.

- 11.2 Any Party terminating this Collaboration Agreement under Section 10.2, or the Party in material breach if this Collaboration Agreement is terminated for its material breach under Section 10.4, in each case shall be liable:
- 11.2.1 to discharge its share of any contractual obligations entered into prior to the end of the relevant notice period as part of this Collaboration Agreement; and
- 11.2.2 to fulfil all other obligations due from it to the other Parties in respect of this Collaboration Agreement prior to and during the relevant notice period.
- 11.3 Where this Collaboration Agreement is terminated under Section 10 above the Parties will be liable for all the costs and liabilities associated with the termination of the relevant Collaboration Agreement (but not including the establishment of any replacement health and safety provision), such costs to be shared between the Parties in such proportions as are determined by the JHSB (provided that if the JHSB cannot agree upon such proportions the matter shall be dealt with via the dispute resolution procedure set out in section 22 of this Collaboration Agreement).
- 11.4 In considering the applicable liability proportions in accordance with section 11.3, the JHSB shall consider what would constitute a fair distribution of the associated liabilities in the circumstances and, in considering what is fair, shall have regard to the following factors:
- a) the proportionate resource contributed by each party to the delivery of the Services;
 - b) the grounds and causation for termination including the extent to which any party is in breach of its obligations under this Collaboration Agreement;
 - c) any staff costs including redundancy costs arising to the parties or any of them as a result of termination of the Collaboration Agreement;
 - d) the contributions made by the parties to any assets purchased to deliver services together with the effect of the application of the provisions of Section 13.3; and
 - e) the value of any assets the benefit of which any party shall retain following termination.
- 11.5 The Parties shall at all times act in good faith and provide each other with all reasonable assistance to facilitate the termination of this Collaboration Agreement in accordance with the terms of this Collaboration Agreement (including but not limited to in respect of any maintenance or other relevant contracts that may be appropriate

to be assigned or novated to a Party following the termination of this Collaboration Agreement).

12 SECTION 12: LEAD ORGANISATION

- 12.1 HFA shall be the lead organisation for the delivery of the Services and shall be responsible for the performance of the Services subject to the strategic direction of the JHSB.
- 12.2 Provided that HFA shall use its reasonable endeavours to secure the agreement of the Parties prior to incurring such expenditure, HFA may recover the reasonable cost of any specialist advice which is required or other disbursements incurred which are reasonably incidental to the discharge of HFA's responsibilities as the lead organisation (up to £5,000.00 without further agreement from JHSB).
- 12.3 HFA shall cooperate with any audit or inspection of its work as it is required as the lead organisation by the JHSB on behalf of the Parties.
- 12.4 Subject to Sections 20 (Risk management) and 21 (General Liabilities), the Parties agree that HFA shall not be responsible to the other Parties to this Collaboration Agreement for any losses other than those arising through HFA's wilful default or neglect.
- 12.5 Subject to Section 19, HFA will work to and abide by its existing policies until such time as any joint health and safety policies have been agreed by the JHSB
- 12.6 Each Party shall ensure that all policies of insurance held by it provide adequate cover in respect of risks associated with the discharge of its obligations under this Collaboration Agreement and, in particular, HFA (as lead organisation) shall ensure that it has suitable professional indemnity insurance to provide the Services of not less than £5m per incident or series of connected incidents. Provided that HP shall pay to HFA any agreed uplift in insurance costs, for the first 12 months of the Collaboration Agreement, which are attributable to HFA being the lead organisation for providing the Services. Any such uplift shall be agreed by the parties on completion of the Due Diligence Exercise and any dispute as to the uplift shall be determined by the JHSB (provided that if the JHSB cannot agree upon such uplift the matter shall be dealt with via the dispute resolution procedure set out in Section 22 of this Collaboration Agreement).
- 12.7 HP and the PCC shall notify HFA as soon as reasonably practicable of any health and safety incidents or material health and safety hazards at any of their premises of which they become aware and which relate to or arise in connection with the performance of this Collaboration Agreement. HFA shall advise HP and/or PCC in relation to the

adoption of any necessary associated safety measures in order to manage any such material health and safety hazards.

13 **SECTION 13: TRANSITIONAL ARRANGEMENTS AND ASSET TRANSFERS**

- 13.1 To the extent that the Due Diligence Exercise identifies any assets required to be transferred to HFA in relation to the delivery of the Services the JHSB shall determine the terms on which those assets shall be transferred to HFA.
- 13.2 The Parties will, at the beginning of each year, agree upon the amount of (if any) asset replacement costs to be contributed to the JHSB by the parties.
- 13.3 All assets acquired for the purposes of the Services shall be held in trust by HFA on behalf of the Parties which have contributed financially to the acquisition of those assets in such proportion as those contributions bear to one another.
- 13.4 Costs of maintaining those assets acquired for the purposes of the Services including (without prejudice to the generality of this provision) repair, replacement, insurance and all relevant licenses shall be met from the budget allocated to the Services for which the asset has been acquired or otherwise as may be agreed from time to time between the Parties.
- 13.5 HFA on behalf of the JHSB shall own and keep a register of all assets held for the performance of the Services in accordance with this section and shall only dispose of any joint assets with the consent of the JHSB and, unless such assets were owned by HFA prior to the Effective Date as above or agreed to the contrary, any monies realised from the disposal of joint assets shall be deemed as joint income for the year in which the disposal took place and applied in accordance with Section 18.6 of this Collaboration Agreement.

14 **SECTION 14: DATA PROTECTION LEGISLATION**

- 14.1 As at the date of this Collaboration Agreement, the Parties do not anticipate that any Party will process Personal Data on behalf of another Party in connection with this Collaboration Agreement. However, in the event that, and if so only to the extent that, any Party (“the Processing Party”) Processes any Personal Data on behalf of another Party pursuant to this Collaboration Agreement, the Processing Party agrees to:
- 14.1.1 process such Personal Data only for the purposes of performing the Processing Party’s obligations under this Collaboration Agreement and only in accordance with that other Party’s lawful written instructions from time to time, including with regard to transfers of such Personal Data outside the European Economic Area or to an international organisation (unless required to do so by any UK, European Union or EU

member state law to which the Processing Party is subject; in such a case the Processing Party shall inform that other Party of that legal requirement before Processing, unless that law prohibits such information on important grounds of public interest);

- 14.1.2 keep such Personal Data confidential, disclose and permit access to such Personal Data only to those of the Processing Party's employees who need to have such access to perform the Processing Party's obligations in this Collaboration Agreement, and procure that such employees are subject to and abide by such confidentiality obligation;
- 14.1.3 not disclose, or sub-contract the Processing of, such Personal Data to any third party including but not limited to businesses associated with the Processing Party or any of the Processing Party's principals, without that other Party's prior written consent. Where that other Party provides such consent to disclosure or sub-contracting, the Processing Party shall first procure from such third party obligations concerning the security and processing of such Personal Data in a form acceptable to that other Party which, for the avoidance of doubt, shall include the obligations and restrictions contained in this Section 14.1. Where the Processing Party subcontracts its obligations under this Collaboration Agreement to a third party, the Processing Party shall remain fully liable to that other Party for the performance of that third party's data protection obligations;
- 14.1.4 provide that other Party with copies of such Personal Data as that other Party may reasonably request from time to time;
- 14.1.5 assist that other Party as that other Party may reasonably request from time to time, by using appropriate technical and organisational measures, insofar as that is possible, for the fulfilment of that other Party's obligations to respond to (i) requests made by Data Subjects under applicable DP Legislation; (ii) other requests for information which that other Party may receive in respect of such Personal Data; or (iii) any other request to which that other Party may be obliged to respond;
- 14.1.6 make available to that other Party all information necessary to demonstrate compliance with the obligations laid down in this Section and applicable DP Legislation, including but not limited to the sixth principle of the Data Protection Act 2018 or any equivalent provisions under applicable DP Legislation, and allow for and contribute to audits including inspections conducted by that other Party or another auditor mandated by that other Party. The Processing Party shall inform that other Party immediately if, in the Processing Party's opinion, an instruction in that regard infringes applicable DP Legislation or any other European Union or EU member state's data protection provisions to which that other Party is subject;

- 14.1.7 comply with applicable DP Legislation and take all measures, including but not limited to appropriate technical and organisational measures, required by applicable DP Legislation (including but not limited to article 32 of the GDPR) and all associated primary and secondary legislation when processing such Personal Data;
- 14.1.8 assist that other Party in ensuring compliance with that other Party's security obligations set out in applicable DP Legislation (including but not limited to articles 32 to 36 of the GDPR), taking into account the nature of the Processing and the information available to the Processing Party;
- 14.1.9 upon termination of this Collaboration Agreement, cease Processing such Personal Data provided that the Processing Party may continue to hold such Personal Data for archival purposes to the extent and for so long as is necessary to comply with any statutory obligations to hold such Personal Data ("Archival Period");
- 14.1.10 upon termination of this Collaboration Agreement or expiry of any relevant Archival Period (whichever is later), at that other Party's option delete or return such Personal Data; and
- 14.1.11 notify that other Party without undue delay in the event that the Processing Party breaches any of Sections 14.1.1 - 14.1.10 above).

15 **SECTION 15: AUDITS**

- 15.1 This Collaboration Agreement shall be subject to such internal and external financial audits as determined by the Transformation Board from time to time.

16 **SECTION 16: CONTRACTS AND PROCUREMENT**

- 16.1 The procurement of all equipment and services for use in relation to the Services shall be commissioned by HFA on behalf of itself, the PCC and HP in accordance with the provisions of this Collaboration Agreement.
- 16.2 The procurement of such equipment and services shall be made by HFA through the fire service ordering system used by HFA and the HFA's financial regulations shall apply.

17 **SECTION 17: PROPERTY ACCESS AND LICENCES**

- 17.1 The headquarters of the JHSS will be based at Service HQ at buildings owned by HFA.

17.2 The Parties acknowledge that in order to provide the Services, HFA will need access to premises and/or buildings which are in the ownership of the PCC. The PCC accordingly hereby undertakes to grant such access as may be necessary for the performance of the Services and confirm that they will grant to HFA any licences necessary to permit such access and obtain any necessary consents required to permit such access.

17.3 Each Party shall procure that its representatives shall, whenever they are on the premises of another Party, observe all reasonable policies, procedures, rules and security requirements that apply at such premises (or any part thereof) which have been notified in advance to that Party by the relevant other Party in writing.

18 **SECTION 18: SHARING OF COSTS**

18.1 It is agreed that the JHSS will be managed as a separate, independent unit within the HFA with its own designated budget and reserves with freedom to operate within the boundaries of this Collaboration Agreement and the governance procedures set out in Section 7. In relation to the provisions of accounts by HFA, HFA's financial chief officer shall ensure that financial accounts are retained separately in relation to the JHSS.

18.2 Subject to Section 21, the costs of delivery of JHSS will be shared by HP and HFA and each financial year, HP and HFA shall agree an annual budget for the provision of the Services. It has been agreed that in the first year of the agreement HP shall provide £130,372 towards staff costs only. The final budget for the first year of operation of the JHSS shall be determined by the JHSS following completion of the Due Diligence Exercise (provided that if the JHSB cannot agree the final budget the matter shall be dealt with via the dispute resolution procedure set out in Section 22 of this Collaboration Agreement).

18.3 On behalf of the JHSS, HFA shall invoice HP and HFA quarterly in advance (with the first quarter beginning on 1 April) in accordance with the agreed budget, such invoice to be paid within 30 days of receipt.

18.4 Where any issue arises in relation to the resources available for the delivery of the JHSS which might require an additional payment to satisfy cashflow requirements for the delivery of the Services, such issues shall be escalated to the JHSB. Where determined by the JHSB, a quarterly invoice may be demanded early (provided that in the event that the JHSB is not able to determine the matter then the matter shall be dealt with via the dispute resolution procedure set out in section 22 of this Collaboration Agreement)

18.5 It is the expectation of the Parties that HFA will manage the budget for the JHSS in accordance with the budget agreed in accordance with this clause provided that such

budget shall include spending tolerances of £5,000.00 or 5% and, if spending is exceeded within any quarter, such excess will be reported to the JHSB or in urgent situations to the designated representative (as appointed pursuant to Section 7.1 of this Collaboration Agreement) of either HP or HFA as applicable.

- 18.6 Any savings identified against a budget agreed in accordance with this Section 18 (Sharing of costs) in the course of any financial year which cannot be attributed to an individual Party will be apportioned between the parties proportionately and agreed at JHSB and (b) for each subsequent period of 12 months, such proportions as are determined annually by the JHSB prior to the relevant financial year).
- 18.7 All Parties agree to meet their financial contributions in full by the date that such contributions fall due in accordance with the provisions of this Section 18 (Sharing of Costs) and any dispute in this regard will be dealt with in accordance with the provisions set out in Section 22 (Dispute Resolution).
- 18.8 A Party will be entitled to set off against any sums due from it, such sums as may be due to it provided that such sums are agreed in writing by all Parties.
- 18.9 Annual accounts, monthly budget monitoring reports and reports on the delivery of business cases, and such other financial information as the Parties may require or may lawfully be required by any other Party or agency will be drawn up by HFA's Head of Finance and all accounts shall be prepared in a timely fashion and in accordance with requirements prescribed by law. There will be complete transparency and the principles of Open Book Accounting will apply.
- 18.10 Day to day accounting and financial arrangements between the Parties shall be in accordance with the financial instructions agreed from time to time but the JHSS costs for the purposes of this Section shall include all costs associated with the JHSS and the JHSB including any costs for support services such as payroll, IT, finance and business support.
- 18.11 The Transformation Board may require independent audit of any arrangements relating to this Collaboration Agreement and upon the Transformation Board giving HFA 14 days written notice of such audit, the Parties will provide the auditor appointed for this purpose access to all relevant records and will provide such other assistance as may be necessary.
- 18.12 In the event of any conflict or inconsistency between the terms of this Collaboration Agreement and any report produced as an outcome of the Due Diligence Exercise this Collaboration Agreement shall prevail to the extent of such conflict or inconsistency.

18.13 The revenue budget for the first twelve months commencing on the Effective Date shall be as determined in accordance with Section 18.2 following completion of the Due Diligence Exercise.

18.14 Annual budget planning will be undertaken to review the annual charges made to HP and HFA for the provision of the Services and future maintenance budgets will be documented together with the reasons for cost increases. The parties agree that it is the parties' intention to review opportunities for increased investment to improve the efficiency of the Services and the parties shall procure that the JHSB shall consider any proposals for such investment in good faith.

19 **SECTION 19: STRATEGY**

19.1 The Parties agree to cooperate in working towards the development of a strategic approach for the JHSS which will apply to all the Parties subject to each Party's continuing responsibility to comply with health and safety law.

20 **SECTION 20: RISK MANAGEMENT**

20.1 The Parties agree to establish and maintain an appropriate system for the management of risk, such system to include as a minimum:

20.1.1 The maintenance of risk registers in respect of business and legal risk arising from the nature of collaborative activity contemplated within this Collaboration Agreement and in particular any risks arising from the implementation of a lead organisation model as provided for in Section 12 (Lead organisation).

20.1.2 An obligation upon HFA on behalf of the JHSS to disclose to the Parties any matters which could give rise to the forms of liability referred to in Sections 20 (Risk Management) and 21 (General Liabilities).

20.1.3 An obligation upon the Parties to cooperate in the identification and execution of measures to minimise the likelihood and/or impact of risks being realised.

20.1.4 An expectation that the JHSB shall have responsibility for administering the maintenance of the said registers.

21 **SECTION 21: GENERAL LIABILITIES**

- 21.1 Each Party shall indemnify on demand and hold harmless each other Party against all actions, proceedings, claims or demands made by any person or body other than a Party (each a "**Claim**") against the relevant other Party arising out of or in connection with the Services save to the extent such Claim arises out of a Party's fraud or negligent act or omission in which case the other parties shall not be required to indemnify that party in relation to any related Claim.
- 21.2 Subject to the provisions of Section 21.4, any damages, liabilities, compensation awards, costs (including legal costs), charges, losses and expenses ("**Losses**") arising to either party as a consequence of a Claim (including the costs and expenses properly incurred by HFA as the Party nominated by the Parties to lead, be responsible for and have care and conduct of a Claim when applicable) shall be met by the Parties in such proportions as are determined by the JHSB and if there is any dispute the matter shall be dealt with via the dispute resolution procedure set out in Section 22 of this Collaboration Agreement. Each Party shall indemnify and hold harmless each other Party to give effect to this Section.
- 21.3 In considering the applicable liability proportions in accordance with section 21.2, the JHSB shall consider what would constitute a fair distribution of the associated liabilities in the circumstances and, in considering what is fair, shall have regard to the following factors:
- 21.3.1 the proportionate resource contributed by each party to the delivery of the Services; and
- 21.3.2 the grounds and causation for the Claim including the extent to which any party is in breach of its obligations under this Collaboration Agreement.
- 21.4 To the extent that a Party is entitled to recover any Losses under a policy of insurance then the applicable Party shall be required to pursue the Insurance Claim and the indemnities in this Section shall only apply to such element of the Losses (if any) that are not recovered under the Insurance Claim(s) made by the Parties.
- 21.5 Should a Claim be notified to a Party it shall promptly provide written notification to the other Parties specifying the nature of the Claim in reasonable detail.
- 21.6 HFA on behalf of the JHSS shall have conduct in respect of all Claims that are not Insurance Claims, including any settlement negotiations in respect of the same ("**Claims Defence**") and the other Parties shall provide such assistance to HFA as it shall reasonably require in respect of each such Claim.

- 21.7 HFA on behalf of the JHSS shall be entitled to appoint lawyers to act on behalf of the Parties in respect of the Claim, including external lawyers should HFA consider this to be appropriate.
- 21.8 Save for HFA the Parties shall not make any admission of liability, agreement or compromise in relation to any Claim or take any other action (including making any statements which may be prejudicial to the defence or settlement of any Claim) without the prior written consent of HFA.
- 21.9 HFA on behalf of the JHSS shall:
- 21.9.1 conduct each Claims Defence diligently and in good faith;
- 21.9.2 update the Parties in respect of each Claims Defence at such intervals as it shall reasonably determine;
- 21.9.3 at the request of a Party provide to that Party such information in respect of a Claim as the requesting Party shall reasonably require;
- 21.9.4 allow that Party to make representations in respect of a Claims Defence and HFA shall consider such representations in good faith; and
- 21.9.5 not settle or compromise a Claim without the consent of all Parties (such consent not to be unreasonably withheld, delayed or conditioned) other than where it obtains, from a solicitor approved by the JHSB, a legal opinion to the effect that the failure to settle or compromise on the terms proposed is likely to increase the Losses to be indemnified pursuant to this Section.
- 21.10 Notwithstanding any other provision in this Collaboration Agreement, no Party excludes or limits its liability for:
- 21.10.1 death or personal injury caused by its negligence, or that of a person for whom it is vicariously liable;
- 21.10.2 fraud or fraudulent misrepresentation; or
- 21.10.3 any other liability that cannot be lawfully excluded or restricted.
- 21.11 The provisions of this Section shall continue in force notwithstanding the termination or expiry of this Collaboration Agreement.

22 **SECTION 22: DISPUTE RESOLUTION**

22.1 Any difference or dispute between any of the Parties arising out of or in connection with this Collaboration Agreement, including any question of the validity of this Collaboration Agreement and any dispute arising before or after termination of this Collaboration Agreement that cannot be resolved by the Parties will be initially referred to the Transformation Board for resolution.

22.2 If a resolution cannot be agreed by the Transformation Board the matter shall be referred to a single Arbitrator appointed by agreement by the Transformation Board in accordance with the Arbitration Act 1996. The decision of the Arbitrator will be final and binding.

22.3 Upon referral to an Arbitrator the Parties agree that they will cooperative fully and promptly in good faith with the Arbitrator and shall do all things that the Arbitrator might reasonably require to progress the Arbitration.

23 **SECTION 23: CONFIDENTIALITY**

23.1 Each Party to this Collaboration Agreement agrees to be bound by a duty of confidentiality to the others in relation to any information of a confidential nature disclosed (whether in writing, verbally or by any means directly or indirectly) (“Confidential Information”) which now exists or which may in the future (whether during or after the Term) come into being. The Parties will not (other than in accordance with an Order of the Court of competent jurisdiction, or by way of response to a lawful request from a Regulatory Body) use, disclose or divulge any Confidential Information to any person (other than Officers or employees of the Parties) and shall use best endeavours to prevent use, publication or disclosure of any Confidential Information by any other person.

23.2 The restrictions in the preceding paragraph shall not apply to the extent that use of Confidential Information is expressly permitted elsewhere in this Collaboration Agreement nor where:

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

23.2.2 such information was obtained from a third party without obligation of confidentiality.

23.2.3 such information was already in the public domain at the time of disclosure.

23.3 HFA may disclose Confidential Information belonging to HP’s employees directly involved in provision of the Services and who have a need to know that information

but it will be the responsibility of the HFA to ensure that all such employees are aware of and comply with their obligations of confidentiality.

24 **SECTION 24: INFORMATION MANAGEMENT/FREEDOM OF INFORMATION**

24.1 The Parties shall share information where appropriate to fulfil the purposes of this Collaboration Agreement subject to any conditions imposed by the Party providing the information in respect of such disclosure.

24.2 For the purposes of the Freedom of Information Act 2000 (“FOIA”) the Party receiving a request under FOIA (acting where appropriate in consultation with one or more of the other Parties) will be responsible for responding to that request and with any subsequent compliance required under FOIA. Any FOIA requests received by any Party which relate to or touch upon the subject matter of this Collaboration Agreement will be brought to the attention of the other Party as soon as practicable and at the request of the Party in receipt of FOIA request, the other Party will offer all reasonable assistance for responding to the FOIA request or any subsequent compliance requirement.

25 **SECTION 25: VETTING**

25.1 The Parties agree that all personnel of the HFA responsible for providing the Services will be vetted to a level required by HP and persons failing vetting will not be permitted to provide Services to HP.

25.2 HP’s human resources services shall facilitate the process detailed under Section 26.

26 **SECTION 26: BUSINESS CONTINUITY**

26.1 HFA shall ensure that it implements and maintains at all times a business continuity plan in relation to the Services.

26.2 Where any incident or event that causes (or is likely to cause) an adverse effect on the performance and delivery of the Services, HFA shall comply with instructions from the Parties where applicable as to the order of priority in which the services should be restored.

27 **SECTION 27: VAT**

27.1 Where, under the terms of this Collaboration Agreement, a supply is made that is subject to VAT, the Party receiving the supply is to pay the VAT to the Party making the supply and a valid VAT invoice is to be issued by the Party making the supply.

27.2 The Parties agree that where any Party is uncertain of the VAT treatment of any supply made under the terms of this Collaboration Agreement, that Party may choose to seek a ruling from HM Revenue & Customs as to the correct VAT treatment of that supply and such Party shall inform the other Parties if it does so.

28 **SECTION 28: INTELLECTUAL PROPERTY RIGHTS**

28.1 The provisions of clause 8.1 of the Framework Agreement shall apply to any intellectual property rights created by any of the parties pursuant to activities carried out or commissioned under this Collaboration Agreement.

29 **SECTION 29: FURTHER ASSURANCE**

29.1 Each Party agrees to use all reasonable endeavours to do or to procure to be done all such further acts and execute or procure the execution of all such documents as any other Party may from time to time reasonably require for the purpose of giving the other Parties the full benefit of the provisions of this Collaboration Agreement.

30 **SECTION 30: NO AGENCY OR PARTNERSHIP**

30.1 Nothing in this Collaboration Agreement shall be deemed to constitute a partnership between the Parties nor constitute any Party the agent of any other Party.

30.2 No Party shall act or describe itself as the agent of any other Party, nor shall it make any representation that it has the authority of a Party to make any commitments on behalf of any other Parties save when that Party acts in its capacity as a lead organisation as provided for in Section 12 of this Collaboration Agreement and such action is approved in accordance with the terms of this Collaboration Agreement or by the JHSB.

31 **SECTION 31: STATUTORY POWERS**

31.1 Nothing contained or implied in this Collaboration Agreement shall prejudice or affect the rights, powers, duties and obligations of each of the Parties in the exercise of their respective functions as may be amended, supplemented or increased from time to time and the rights, powers, duties and obligations of each of the Parties pursuant to their respective functions may be as fully and effectually exercised as if this Collaboration Agreement had not been made.

32 **SECTION 32: CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

32.1 For the purpose of Section 1(2) of the Contracts (Rights of Third Parties) Act 1999 the Parties state that they do not intend any term of this Collaboration Agreement to be enforced by any third parties.

33 **SECTION 33: ASSIGNMENT**

33.1 Except where assignment or transfer occurs or is made necessary by operation of law none of the Parties may assign or transfer this Collaboration Agreement as a whole, or any of the rights and obligations under it, without first obtaining the written consent of all the other Parties, such consent not to be unreasonably withheld or delayed.

34 **SECTION 34: BINDING NATURE OF THIS AGREEMENT**

34.1 This Collaboration Agreement is binding upon the Parties and their respective successors and permitted assigns.

35 **SECTION 35: ILLEGAL/UNENFORCEABLE PROVISIONS**

35.1 If the whole or any part of any provision of this Collaboration Agreement is void or unenforceable the other provisions of this Collaboration Agreement and the enforceable part of any void or unenforceable provision will continue in full.

36 **SECTION 36: WAIVER OF RIGHTS**

36.1 If a Party fails to enforce or delays in enforcing an obligation of any other Party or fails to exercise or delays in exercising a right under this Collaboration Agreement, such failure or delay will not affect its right to enforce that obligation or constitute a waiver of that right. Any waiver by a Party of any provision of this Collaboration Agreement will not, unless expressly stated to the contrary, constitute a waiver of that provision on future occasion.

37 **SECTION 37: COUNTERPARTS**

37.1 This Collaboration Agreement may be signed in any number of counterparts and this has the same effect as of the signatures on counterparts or on a single copy of this Collaboration Agreement.




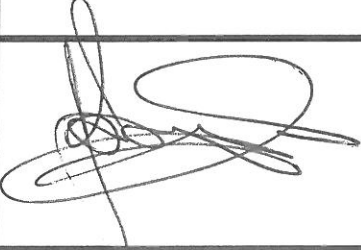
38 **SECTION 38: LEGALLY BINDING**

38.1 The Parties agree that this Collaboration Agreement shall be legally binding between the Parties.

39 **SECTION 39: GOVERNING LAW AND JURISDICTION**

39.1 This Collaboration Agreement shall be governed by and construed in accordance with English Law and without prejudice to the provisions of Section 22 (Dispute Resolution) the Parties submit to the exclusive jurisdiction of the English Courts.

IN WITNESS whereof the Parties have signed below on the dates indicated

PARTY	SIGNATURE	DATE
Police and Crime Commissioner for Humberside		2/4/2019.
Chief Constable of Humberside Police	 T/CC	1/4/19
Chief Fire Officer of Humberside Fire and Rescue		29 March 2019
Chair of Humberside Fire Authority		29 March 2019

SCHEDULE 1
DEFINITIONS AND INTERPRETATION

The following definitions and rules of interpretation apply in this agreement.

1. Definitions

“Claim”	Shall have the meaning given in Section 21 (General Liabilities).
“HP Materials”	all documents, information, items and materials in any form (whether owned by HP or a third party) which are provided by HP to the HFA in connection with the Services.
“Data Controller”, “Data Subject”, “Personal Data”, “Process” And “Processing”	shall have the respective meanings (or their corresponding equivalent meanings) set out in the applicable DP Legislation.
“DP Legislation”	The General Data Protection Regulation (Regulation (EU) 2016/679) (“GDPR”), the Data Protection Act 2018 and all other laws and regulations from time to time relating to the processing of personal data, including any which implement the GDPR or create broadly equivalent law in the United Kingdom.
“Due Diligence Exercise”	An exercise to be carried out by the parties jointly within 3 months of the date of this agreement with a view to establishing certain matters in relation to the detail of the operation and costs of the JHSS.
“Effective Date”	The date on which the provision of the Services by HFA commenced as set out in Section 6.1.
“Framework Agreement”	Is the framework agreement entered into on 29 March 2018 by the Police and Crime Commissioner for Humberside, the Chief

	Constable of Humberside Police and Humberside Fire Authority.
“JHSB”	The Joint Health and Safety Board as more particularly described at section 7 of this agreement.
“JHSS”	The Joint Health and Safety Service for HFA and HP established on the terms of this agreement.
“PCC Materials”	all documents, information, items and materials in any form owned by the PCC which are provided by HP to the HFA in connection with the Services.
“Programme Board”	Has the meaning as set out in the Framework Agreement.
“Services”	The services set out in part 1 of Schedule 2 and excluding those activities or functions set out in part 2 of Schedule 2.
“Term”	The term of this Collaboration Agreement commencing on the Effective Date and terminating in accordance with section 10.
“Transformation Board”	Has the meaning as set out in the Framework Agreement.

2. Interpretation

- 2.1 Section, Schedule and paragraph headings shall not affect the interpretation of this agreement.
- 2.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 2.3 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.
- 2.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

- 2.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 2.6 This agreement shall be binding on, and enure to the benefit of, the parties to this agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that Party's personal representatives, successors and permitted assigns.
- 2.7 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 2.8 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 2.9 A reference to **writing** or **written** includes fax and email.
- 2.10 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 2.11 A reference to **this Collaboration Agreement** or to any other agreement or document referred to in this Collaboration Agreement is a reference to this agreement or such other agreement or document as varied from time to time.
- 2.12 References to sections and Schedules are to the sections and Schedules of this agreement and references to paragraphs are to paragraphs of the relevant Schedule.
- 2.13 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

SCHEDULE 2 SERVICES

PART 1 - THE SERVICES PROVIDED BY HFA ON BEHALF OF THE JHSS

- 1.1 Professional advice and guidance on health and safety workplace matters
- 1.2 Attendance at formal H&S meetings
- 1.3 Monitoring and review of safety reporting and investigations. Reporting of RIDDOR related incidents
- 1.4 Act as a competent advisor for health and safety
- 1.5 Consultation and joint working with Representative Bodies via JHSS Board meetings
- 1.6 Monitoring and review of health and safety policy and procedures
- 1.7 Development and promotion of a proactive H&S Culture and Strategy
- 1.8 Implementation and maintenance of an agreed recording system for risk management
- 1.9 Creation of an effective communications strategy with the assistance of communications teams
- 1.10 In conjunction with key individuals form part of Serious accident investigation team when required as per policy and support all other levels of investigations
- 1.11 The formulation of the Health and Safety Policy and the underpinning health & safety plans. This will include the development, monitoring and review of these documents
- 1.12 Competent guidance on risk assessment and safety training requirements
- 1.13 Maintain a regime of active monitoring to identify changes in health and safety performance
- 1.14 The analysis and co-ordination of the investigation of accidents, dangerous occurrences and diseases, including the reporting to and liaison with the Health & Safety Executive as required; In respect of this, all members of staff are required to co-operate with any such investigation or information requested by the Joint Health and Safety Team
- 1.15 The preparation of management information based on past and predicted safety performance
- 1.16 The identification of developments in health and safety across sectors

- 1.17 Interpretation of Health & Safety law and its application
- 1.18 Advising on effective systems and procedures for implementing such legislation
- 1.19 Prepare an annual report and strategy for the Joint Health and Safety Board
- 1.20 To support any Health and Safety Executive related enquiries or visits

PART 2: Out of scope services

- 1.1 Structured H&S Training
- 1.2 Specialist areas of work such as Legionella, Noise and Vibration assessments
- 1.3 Implementation of actions identified as a result of any external advice
- 1.4 Development and implementation of a proactive 'behavioural safety culture'

Note: Consideration via JHSB to support HP to provide Health and Safety support around DVI commitments and agree necessary arrangements

PART 3: Activities/areas of work not undertaken by JHSS

- 1.1 Undertake individual staff inductions where it is the responsibility of local managers
- 1.2 Complete risk assessments where its within role of employees
- 1.3 Day to day localised implementation and monitoring control measures of health and safety plans and policies, utilising both active and reactive techniques

SCHEDULE 3 PERFORMANCE STANDARDS

The parties shall use their reasonable endeavours to agree a list of performance standards with which the Services shall comply in accordance with section 4.3.2 within the first 12 months following the Effective Date and such standards are likely to include the following areas:

- Number of accidents
- Number of near misses
- Type of accidents
- Number of reviewed risk assessments, including fire risk assessments
- Number of active monitoring inspections
- Accident investigations completed within timescale
- RIDDOR Reports
- Competent workforce at differing levels %
- Safety meetings
- Safety Audits undertaken