

THIS AGREEMENT is made the _____ day of _____ 2013
BETWEEN BRACKNELL FOREST BOROUGH of Easthampstead House Town Square Bracknell Berkshire RG12 1AQ of the first part
READING BOROUGH COUNCIL of Civic Centre Reading Berkshire RG1 7TD of the second part
THE ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD of Town Hall St Ives Road Maidenhead Berkshire SL6 1RF of the third part
SLOUGH BOROUGH COUNCIL of St Martin's Place 51 Bath Road Slough Berkshire SL1 3UF of the fourth part
WEST BERKSHIRE COUNCIL of Council Offices Market Street Newbury Berkshire RG14 5LD of the fifth part, and
WOKINGHAM BOROUGH COUNCIL of Civic Offices Shute End Wokingham Berkshire RG40 1BN of the sixth part

RECITALS

1. By virtue of the 2012 Act as from 1 April 2013 relevant local authorities will have responsibility for certain Public Health functions (including those functions are set out in Sections 2B, 111, 249 and Schedule 1 to the 2006 Act and the same are to be inserted or amended by the 2012 Act) which have hitherto been the responsibility of the National Health Service. Each of the Parties is a relevant local authority.
2. Section 73A of the 2006 Act will with effect from the date that Section 30 of the 2012 Act comes into force require each relevant authority, acting jointly with the Secretary of State for Health, to appoint an individual to have responsibility for the Public Health functions such officer to be known as "the Director of Public Health".
3. All Parties have agreed that the same person shall act as the Director of Public Health for each of them and that the individual so appointed shall be employed by the Host Authority. To that end the Host Authority has, jointly with the Secretary of State, appointed Dr Lise Llewellyn as its Director of Public Health.
4. The Parties have agreed that the Host Authority shall provide the Core Service to each of the Non-Host Authorities and that each of the Parties shall

contribute a reasonable proportion (as set out in this Agreement) of the costs of such service.

5. Section 300 of the 2012 Act provides that the Secretary of State for Health may make a property or transfer scheme in connection with –
 - (a) the establishment or abolition of a body by the 2012 Act, or
 - (b) the modification of the functions of a body or other person by or under the 2012 Act

It is intended that a transfer scheme will be made by the Secretary of State to transfer some of the staff to be employed by the Host Authority to deliver the Core Service

6.
 - 6.1 The responsibility for delivering most/all of the public health functions which the Parties hereto will be responsible for currently rests with the PCTs. The PCTs have let a number of contracts in connection with the delivery of the public health functions. It is intended that any such contract which only benefits the area of one Party will be transferred to that Party but that all other public health contracts entered into by the PCTs will be transferred to and vest in the Host Authority which will be responsible for the management and administration of such contracts.
 - 6.2 In respect of Transferred Contracts where it is possible to identify which expenditure benefits the area of which Party the party in respect of whose area the expenditure was incurred shall reimburse the Host Authority the amount of the expenditure under the Transferred Contract.
 - 6.3 In respect of Transferred Contracts in respect of which at the date of this Agreement it is not reasonably ascertainable what expenditure incurred will benefit the area of which party the Parties have agreed that initially the expenditure incurred under the contract will be borne by them in proportion to the funding which each party receives from central government for Public Health.
 - 6.4 The Parties will use all reasonable endeavours to establish (if reasonably practicable) mechanisms practices and procedures to enable the extent to

which goods and services under all Transferred Contracts are delivered for the respective areas of the Parties. Upon such mechanism practices and procedures being established expenditure under all Transferred Contracts shall be apportioned according to the extent to which goods and services are delivered for the respective areas.

7. It has been agreed between the Parties that the delivery of the Core Service by the Host Authority and the operation of the Transferred Contracts will be overseen by the Public Health Joint Advisory Board.

STATUTORY POWERS

1. The Parties enter into this Agreement pursuant to the following statutory powers:-
 - (a) Section 1 of the Local Authorities (Goods and Services) Act 1970.
 - (b) Sections 111 and 113 of the Local Government Act 1972
 - (c) The 2006 Act (as amended by the 2012 Act)
 - (d) Section 1 of the Localism Act 2011

2. DEFINITIONS, INTERPRETATION AND GENERAL

- 2.1 In this Agreement (save where the context otherwise requires):

“Annual Core Service Charge” The Annual Core Service Charge for each Party shall be calculated in accordance with Schedule 1

“Appointing Authority” (a) if a disputes relates to the construction of rights or liabilities of any Party or to the terms of this agreement, the Appointing Authority shall be the President or Vice President of the Law Society.
(b) if a dispute relates to financial matters or matters of accounting the

Appointing Authority shall be the President or Vice President (or equivalent) of the Chartered Institute of Public Finance and Accountancy

(c) if a dispute relates to the delivery of the Core Service the Appointing Authority shall be the Faculty of Public Health or in the event of such faculty failing to make an appointment within 15 days of being so requested the Appointing Authority shall be the Academy of Experts.

(d) if the parties to the dispute shall fail to agree upon the nature of the Dispute the Appointing Authority shall be determined upon by a solicitor appointed upon the application of any Party to the dispute by the President or Vice President of the Law Society.

“the Anticipated Increase”

The Anticipated Increase for the budget for a Financial Year shall be the aggregate of:-

(a) the difference between the budget for the previous financial year (i.e. the budget for the financial year in which the Core Service budget is reviewed pursuant to clause 6.2) and that budget increased in accordance with the Forecourt Rate of Inflation, and

(b) any increase in staffing costs due to Core Service Staff receiving salary increment increases in accordance with normal management practice

“Authorised Officer”

An officer duly authorised by any of the Non Host Authorities to inspect any

	records of the Host Authority pursuant to clause 13.1
“Benefitting Party”	The Benefitting Parties for each Transferred Contract shall be as shown in Schedule 2
“Core Service”	those public health services to be provided by the Host Authority which are described in Schedule 3
“Core Service Budget”	the budget for the Core Service for a Financial Year as determined in accordance with Clause 6
“Finance Officers”	means those officers respectively designated by each of the parties for the purposes of Section 151 of the Local Government Act 1972 or any replacement thereof from time to time in force [THIS DEFINITION MAY BE UNNECESSARY BUT IS RETAINED FOR THE TIME BEING]
“Financial Year”	the period commencing on 1 st April and ending on the succeeding 31 st March
“Forecast Rate of Inflation”	[TO BE DEFINED]
“Financial Quarter”	the periods 1 April to 30 June, 1 July to 30 September, 1 October to 31 December and 1 January to 30 April.
“Host Authority”	Bracknell Forest Borough Council
“the Insured Risks”	fire lightning explosions storm tempest

flood bursting and overflowing of water tanks apparatus or pipes earthquake aircraft and other aerial devices dropped from aircraft riot and civil commotion and such other risks as the Host Authority may consider it prudent to insure

“the Leaders Group”	The group which comprises the Leaders of the Parties (or their respective substitutes)
“Non-Host Authority”	Each of the Parties other than the Host Authority
“Part A Transferred Contracts”	Those Transferred Contracts which are listed in Part A of Schedule 2
“Part B Transferred Contracts”	Those Transferred Contracts which are listed in Part B of Schedule 2
“Part B Transferred Contracts Percentage”	The Part B Transferred Contracts Percentage for a Party for a Financial Year in respect of a Part B Transferred Contract shall be calculated in accordance with Schedule 4
“Parties”	The parties to this Agreement
“Payment Dates”	15 May, 15 August, 15 November and 15 February
“Personal Data”	Shall have the meaning ascribed to such term by the Data Protection Act 1998
“PCTs”	The East Berkshire Primary Care Trust and the West Berkshire Primary Care

Trust

“Public Health Grant” The annual grant which each Party receives for a Financial Year from central government in respect of the delivery of Public Health services

“Public Health Joint Advisory Board” An advisory group the composition and terms of reference of which are set out in Schedule 5

“Relevant Officers” those officers respectively designated as such by each of the Parties as shown in Schedule 6 or as may be subsequently designated by a Party giving notice in writing to each of the Other Parties

“the 2006 Act” the National Health Service Act 2006

“the 2012 Act” The Health and Social Care Act 2012

- 2.1 Where any provision of this Agreement requires a decision election discretion or judgement to be made or exercised by any Party then that decision election discretion or judgement shall be made or exercised reasonably and in good faith to fulfil the objectives of this Agreement and whenever any Party’s Consent approval or agreement is required that consent approval or agreement shall not be unreasonably withheld or delayed.

3. **DATE OF EFFECT OF AGREEMENT**

- 3.1 This Agreement shall have effect from 1st April 2013.

4. **APPOINTMENT OF DIRECTOR OF PUBLIC HEALTH**

- 4.1 The Host Authority shall place at the disposal of each of the Non-Host Authorities Dr Lise Llewellyn in order that she may discharge the functions of the Director of Public Health (as set out in the 2006 Act as amended by the

2012 Act) on their behalf in accordance with the arrangements as set out in Schedule 7 [**SCHEDULE TO SET OUT OUTLINE OF WORKING ARRANGEMENTS BETWEEN DPH AND CONSULTANT/TEAMS IN OTHER AUTHORITIES**]. The Non-Host Authorities confirm that as required by Section 113 of the Local Government Act 1972 they have consulted Dr Llewellyn.

4.2 The Host Authority agrees that in the event of the Director of Public Health post with the Host Authority falling vacant it will use reasonable endeavours to:-

- (a) appoint to the position of Director of Public Health (acting jointly with the Secretary of State) an individual who will be willing and able to also act as Director of Public Health for the Non-Host Authorities, and
- (b) to consult with and to involve the Non-Host Authorities during the process for recruitment and appointment to the vacant post.

5. **THE CORE SERVICE**

5.1 The Host Authority agrees to provide the Core Service to the Non-Host Authorities for the duration of this Agreement.

6. **BUDGET FOR THE CORE SERVICE**

6.1 The Core Service Budget for the Financial Year 2013/14 is as shown in Schedule 8 to this Agreement.

6.2 The Core Service Budget shall be the subject of annual review by the Host Authority having regard to any increases in the cost of providing the Core Service in particular (but not limited to):-

- (a) the Forecast Rate of Inflation for the Financial Year in question
- (b) the changes to salaries and wages and other Terms and Conditions of Employment of the relevant staff brought about by national and local negotiations.
- (c) changes in law or practice relating to the delivery of the Core Service

- (d) other material changes in the cost of the provision of the Core Service outside the control of the Host Authority
- 6.3 By the end of October the Host Authority shall use its reasonable endeavours to:-
 - (a) carry out such a review in the year preceding the date of operation of the review, and
 - (b) notify the Non-Host Authorities of the outcome of the review
- 6.4 If the Host Authority does not propose to increase the Core Service Budget for the previous Financial Year by more than the Anticipated Increase the Core Service Budget shall be as notified to the Non-Host Authorities. In the event that the Host Authority proposes an increase in the Core Service Budget in excess of the Anticipated Increase the Host Authority shall include in its notification to the Non-Host Authorities detailed reasons for the increase over and above the said rate of inflation.
- 6.5 In the event of the Host Authority proposing an increase in the Core Service Budget in excess of the Anticipated Increase each Non-Host Authority shall indicate in writing their approval or disagreement with the Host Authority's proposals within a period of one month from 31 October or the date of receipt of the Host Authority proposals whichever is the later. Any of the Parties failing to give an indication as to their agreement or disagreement within such period shall be deemed to have agreed.
- 6.6 If three of the Non-Host Authorities indicate (or shall have been deemed to have indicated) their approval to the Host Authority's proposals the Host Authority's proposals shall be the Core Service Budget for the financial year in question.
- 6.7 If less than three of the Non-Host Authorities indicate (or shall have been deemed to have indicated) their approval the Core Service Budget shall be increased in accordance with the Anticipated Increase. In the event of the Host Authority proposing an increase in the Core Service Budget in excess of the Anticipated Increase but the Core Service Budget only increasing in

accordance with the Anticipated Increase the Host Authority shall as soon as reasonably practical indicate what alterations it considers will be required in the delivery of the Core Service and the Parties shall use reasonable endeavours to agree what alterations will be made in consequence of the increase in the Core Service Budget being limited to the Anticipated Increase. Any dispute as to such alterations made be referred for determination in accordance with Clause 19.

7. CHARGES FOR THE CORE SERVICE

- 7.1 The Non-Host Authorities shall pay to the Host Authority their Annual Core Service Charge by four equal instalments on the Core Service Payment Dates.
- 7.2 Failure to make a payment on or before any of the Core Service Payment Dates shall incur an additional payment for each month or part of a month during which the payment is unpaid at a rate per annum equivalent to 2% above the base rate of the Host Authority's bank for the time being in force at the date upon which the payment first becomes overdue.
- 7.3 All sums payable under this Agreement shall unless otherwise stated be exclusive of VAT and other duties and taxes. Should any VAT or other duty or tax become due or payable in respect of such sums it shall be payable in addition to such sums.
- 7.4 At the end of each year of this Agreement the Host Authority shall within 3 months of the end of the financial year provide each of the Non-Host Authorities with details of the actual cost of the Core Service to the Host Authority and such under or over payment as may have been made in accordance with the sums paid in accordance with Clause 7.1 above shall be carried forward to the Non-Host Authorities credit or debit (in proportion with the relevant Annual Core Service Charges) as the case may be to the next Core Service Payment Date.
- 7.5 Within three months of the end of this Agreement the Host Authority shall provide each of the Non-Host Authorities with written notice of the actual cost of the Core Service for the preceding year to the Host Authority and shall

(subject to any other payment or contribution due under this Agreement) identify any under or over payments made by the Non-Host Authorities (in proportion with the relevant Annual Core Service Charges). Any under payments due shall be paid by the Non-Host Authorities to the Host Authority within 30 days of such written notice thereof and any over payments made shall be reimbursed by the Host Authority to the Non-Host Authorities within 30 days of written notice thereof.

- 7.6 The Host Authority shall use its reasonable endeavours to secure that the expenditure for the Core Service in any financial year does not exceed the Core Service Budget for that financial year.

8. **VARIATIONS TO THE CORE SERVICE**

- 8.1 Subject to Clause 8.2 below no variation to the Core Service shall be made by the Host Authority unless agreed to in writing by each of the Parties.

- 8.2 If a proposed enhancement to the Core Service is not agreed upon by all of the Parties it may nevertheless be made by agreement with the Host Authority and one or more Non-Host Authorities **PROVIDED THAT:-**

- (a) it does not affect the provision of the Core Service to any of the Non-Host Authorities not approving the variation, and
- (b) those Parties agreeing to the variation shall bear the additional costs arising and the additional costs shall be added to the payments due under Clause 7 with effect from the next of the Core Service Payment Dates after the variation is agreed or as otherwise agreed by the Finance Officers

- 8.3 The cost of any variation agreed to by all of the Parties shall be borne in proportion to the Annual Core Service Charge and the costs of such variations shall be added to the Approved Budget for the purposes of Clause 6.

- 8.4 In the event of a variation being made in accordance with Clause 8.2 the costs of that variation shall be continued to be met by those Parties agreeing

the variation in accordance with the provisions of Clause 8.2 such costs shall be shown separately in the accounts maintained by the Host Authority in relation to the Core Service. The provisions of Clause 7 shall be applied to those costs but only insofar as they affect the Parties who have agreed to the variation.

9. **TRANSFERRED CONTRACTS**

General

- 9.1 Each of the Parties shall use their best endeavours to ensure that the terms and provisions of all Transferred Contracts are abided by observed performed and complied with and that no action or omission on their part shall cause the Host Authority to be in breach of the terms of any Transferred Contract. If by any action or omission a Party should cause a breach of the terms or conditions of a Transferred Contract that Party shall fully and promptly indemnify each of the other Parties to this Agreement in respect of all costs claims demands expenses or losses arising from such breach.
- 9.2 If a Benefitting Party should wish to exercise a right to terminate a Transferred Contract they shall seek agreement to such termination from each of the other Benefitting Parties. Notice to the Host Authority requesting termination of the Transferred Contract shall not be given unless a majority of the Benefitting Parties has confirmed in writing their agreement to such action. In the event of a majority of the Benefitting Parties so agreeing and notifying the Host Authority the Host Authority shall exercise its right to terminate the Transferred Contract as provided for by the Transferred Contract.
- 9.3 The Parties shall act towards each other with good faith in the operation and management of the Transferred Contracts with a view to ensuring the proper and smooth delivery of services under such contracts and that no Party is inappropriately exposed to any liability expense claim or demand arising from the provision of services under such contracts.

10. **FUNDING OF TRANSFERRED CONTRACTS**

- 10.1 Each Benefitting Party shall be liable to refund in accordance with the provisions of this clause all payments which the Host Authority makes under a Part A Transferred Contract in respect of the provision of goods and services for the area (or any part thereof) of the Benefitting Party.
- 10.2 Until such time as Clause 10.4 shall apply in relation to a Part B Transferred Contract each Benefitting Party shall be liable to pay to the Host Authority an amount equal to their Part B Transferred Contract Percentage of all payments made by the Host Authority under a Part B Transferred Contract in respect of which they are a Benefitting Party.
- 10.3 The mechanism for payments to the Host Authority under 10.1, 10.2 and 10.4 shall be as follows:-
- (a) payments shall be made to the Host Authority pursuant to 10.1 10.2 and 10.4 on each of the Payment Dates while this agreement shall subsist
 - (b) one month prior to the relevant Payment Date the Host Authority shall provide to each of the Non-Host Authorities written notice setting out:-
 - (i) an estimate of the liabilities in respect of each Transferred Contract which the Non-Host Authority is liable for in accordance with 10.1, 10.2 or 10.4 in respect of payments made or to be made by the Host Authority during the Financial Quarter in which the notice is given, and
 - (ii) subsequent to the liability under 10.1, 10.2 or 10.4 for the Non-Host Authority for a Financial Quarter being finally ascertained in respect of a Transferred Contract the difference between the estimate included in a notice previously given under (i) above and the finally ascertained amount
 - (c) on the Payment Date immediately following the notice each Non-Host Authority shall pay to the Host Authority an amount equal to the

aggregate (for that Non-Host Authority) of the amounts which notice is given of pursuant to (i) above plus or less (as the case may be) the aggregate of all sums set out in respect of the Non-Host Authority under b(ii) above

- (d) as soon as reasonably practicable following the termination of this agreement the Host Authority shall give notice to each of the Non-Host Authorities of the difference between the total sums which have been paid to the Host Authority in respect of liability under clause 10.1, 10.2 or 10.4 and their total respective liability under clause 10.1, 10.2 and 10.4. The difference shall be paid by or to (as the case may be) the Host Authority within 30 days of such notice
- (e) if any Transferred Contract shall continue beyond the termination of this Agreement sub-clause (d) above shall only apply in respect of such Transferred Contracts as shall not have continued beyond the date of termination. For contracts beyond the date of termination sub-clauses (a) to (c) shall continue to apply and upon the expiration of the contract a calculation and payment shall be made in respect of that Transferred Contract in accordance with (mutatis mutandis) (d) above

10.4 Benefitting Parties under each Part B Transferred Contract shall:-

- (a) identify and agree upon which Part B Transferred Contracts mechanisms practices and procedures can be put in place to secure that expenditure under the contract can be apportioned between the Benefitting Parties in proportion to the goods or services provided for the area of each Benefitting Party
- (b) agree upon a timescale in order to agree upon and implement mechanisms practices and procedures
- (c) within such timescales agree upon and implement such mechanisms practices and procedures

As from the date such mechanisms practices and procedures are put in place expenditure under a Part B Transferred Contract shall be apportioned in

accordance with such mechanisms practices and procedures (i.e. in proportion to the extent which expenditure under the Contract is incurred in respect of the area of a Benefitting Party).

11. **ASSIGNMENT AND SUB-CONTRACTING**

11.1 The Host Authority may not assign all or any part of its obligations under this Agreement.

11.2 The Host Authority may not sub-contract all or any part of its obligations under this Agreement without the prior written consent of at least three of the Non-Host Authorities.

11.3 For the avoidance of doubt it is agreed that provision of the following goods services and facilities by means of contracts for external contractors shall not be regarded as breach of Clause 11.2:-

- (a) stationery
- (b) computer services
- (c) electricity, gas water and telephone services
- (d) supply of fuels
- (e) delivery
- (f) fixing and assembling of equipment
- (g) **[TO BE INSERTED]**

12. **INDEMNITY AND INSURANCE**

12.1 The Host Authority will indemnify the Non-Host Authorities against all actions claims and losses in respect of personal injury (including injury resulting in death) loss or damage to property caused or contributed to by the negligence of the Host Authority or its employees or agents in the performance of the Host Authority's obligations under this Agreement. This indemnity shall apply to direct losses only.

12.2 The Host Authority will maintain such insurances as will be necessary to cover its liabilities under Clause 12.1 with a reputable insurance company

where the Host Authority's places its insurance requirements in carrying out its statutory functions.

- 12.3 The Host Authority shall also insure the Property together with any other property acquired for the purposes of the Core Service against the insured risk in their full replacement value with the insurance company referred to in Clause 12.2 above.

13. **ACCESS TO INFORMATION**

- 13.1 The Host Authority shall keep adequate and comprehensive records relating to the provision of the Core Service and shall make such records available for inspection at reasonable times and on reasonable notice by any Authorised Officer employed or contractors engaged by the Non-Host Authorities and where required to do so by law or by a member of the public.

14. **OMBUDSMAN**

- 14.1 If a complaint relating to the provision of the Core Service is made to one or more of the Parties the Host Authority shall co-operate fully in dealing with such a complaint and shall, in particular, co-operate in responding to any enquiries or investigations by the Commissioner for Local Administration or the Health Commissioner.

- 14.2 Any findings and recommendations made by the Commissioner for Local Administration shall be adhered to forthwith by the Host Authority provided that the cost incurred in so doing shall be borne by such one or more of the Parties determined as responsible by the Commissioner for Local Administration or the Health Commissioner.

15. **INTELLECTUAL PROPERTY**

- 15.1 The Parties agree not to cause or permit anything which may damage or endanger the intellectual property of the Parties or any one of them or their respective titles to it or assist or allow others to do so.

16. **INFORMATION MANAGEMENT**

Data Protection

- 16.1 The Parties shall in the performance of this Agreement comply in all respects with all legislation pertaining to data protection.
- 16.2 Any Party in breach of clause 16.1 shall indemnify each of the other Parties against all actions, costs, expenses, claims, proceedings, penalties, undertakings and demand which may be brought or made in consequence of such breach.
- [16.3 The Parties shall at all times only communicate Personal Data by way of secure e-mail unless it is not reasonably practicable to do so in which case Personal Data shall be communicated by Fax Express or by such other agreed process as will ensure the security of the Personal Data.]
- 16.4 The Parties shall have in place and maintain throughout the duration of this Agreement appropriate technical and organisational measures to prevent the accidental, unauthorised or unlawful processing, destruction, loss, damage or disclosure of data and adequate security programmes and procedures to ensure that unauthorised persons do not have access to data or to any equipment used to process the data.

Information Sharing

- 16.5 The Parties shall use their reasonable endeavours to agree as soon as reasonably practicable after the date on this Agreement takes effect a protocol governing the exchange of data pursuant to the performance of this Agreement. The Parties shall observe perform and comply with such protocol.

17. **THE PUBLIC HEALTH JOINT ADVISORY BOARD**

- 17.1 The Parties agree to constitute a Joint Advisory Board to oversee the operation of this Agreement which Board will have the composition and Terms of Reference as set out in Schedule ?

18. **DURATION TERMINATION AND AMENDMENT OF AGREEMENT**

18.2 Save as provided below this Agreement shall continue until it is determined by a notice in writing served by a Party upon the other Parties giving not less than one year's notice to expire on 31st March in the following year **PROVIDED THAT** no such notice may be given to terminate the Agreement before 31 March 2016.

18.3 The provisions of Clause 10 above (relating to payments for which the Host Authority is liable for under Transferred Contracts) shall continue to have force and effect in relation to a Transferred Contract until the determination or expiration of that contract notwithstanding that the other provisions of this Agreement have ceased to have force and effect.

18.4 In the event of two Parties or one Party wishing to determine this Agreement but the other Parties not wishing to do so any redundancy and other costs directly and reasonably incurred by the Host Authority in consequence of the determination of the Contract shall be reimbursed in equal shares by the Parties determining the Agreement (or in the event of there being any one such Party that Party).

18.5 Save as provided by Clause 18.4 above all redundancies and other costs reasonably incurred by the Host Authority in consequence of the determination of this Agreement shall be borne by all the Parties in proportion to their Annual Core Service Charge for the last year in which the Agreement shall have force and effect.

18.6 This Agreement may be varied after the date hereof by express agreement between all of the Parties signified by a memorandum of agreement executed on behalf of each of the Parties in such form as they shall respectively execute this Agreement.

19. **DISPUTES**

- 19.1 The Parties will act in good faith towards each other in relation to all matters arising under this Agreement and will do whatever is reasonably within their power to give effect to the purpose and intent of this Agreement.
- 19.2 In the event of any dispute (including any failure to agree as required by this Agreement) arising between any of the Parties either during the period of this Agreement shall have force and effect of thereafter and the dispute cannot be resolved by agreement between the Relevant Officers of the Parties the matter shall be referred to the Public Health Joint Advisory Board. In the event of a dispute not being able to be resolved following reference to the Public Health Joint Advisory Board then the matter may be referred for consideration by the Leaders Group.
- 19.3 If the dispute is not resolved following reference to the Leaders Group then any of the Parties to the dispute may refer it to an independent person (the Expert) who shall act as an Expert and not as an Arbitrator and whose decision in relation to the matter in dispute shall be final and binding upon the Parties.
- 19.4 The procedure for the appointment of the Expert in accordance with this clause shall be as follows:-
- (a) the Party wishing the appointment to be made shall give written notice to that effect to the others and with such notice shall give details of the matter or matters in dispute which it wishes to refer to the Expert
 - (b) if within 15 working days from the service of the said notice by the Party wishing to refer a matter or matters to an Expert the other Parties to the dispute fail to agree upon the identity of the person to be appointed as the Expert then that Party may apply to the Appointing Authority to appoint a person to act as an Expert to determine the matter or matters in dispute requesting that the appointment be made within 15 days of receipt of the request by the Appointing Authority.

- (c) the person identified to act as an Expert shall confirm within 10 working days whether or not he is willing and able to accept the appointment
- (d) in the event that the Expert so appointed does not confirm his availability to act within 10 working days then either party may request the Appointing Authority to suggest an alternative appointment until the person so appointed confirms that he is willing and able to accept the appointment
- (e) no person shall be appointed to act as an Expert under this Agreement unless he is reasonably qualified by education, experience and training to determine the matter in dispute.
- (f) any person appointed to act as an Expert pursuant to this Agreement shall at the time of confirming that he is willing and able to accept such appointment disclose to all parties to the dispute any contract or relationship with any of the Parties and otherwise disclose to the Parties to the dispute any duty or interest which does or may create a conflict or otherwise impinge upon the matters in dispute or failing to agree which he is appointed to determine. If such disclosure is made any Party may object to the appointment within 5 working days in which case the procedure for appointing an Expert referred to above shall be repeated. For the avoidance of doubt, no person shall be appointed as an Expert under this Agreement who at the time of appointment is an officer or employee of or directly or indirectly retained as a consultant or in any other professional capacity by any Party or any company or other person associated with any Party to the dispute.

19.5 Upon the person appointed as Expert confirming his willingness and ability to accept the appointment and upon none of the Parties having raised any objection to the appointment in the light of any disclosure made by the Expert in accordance with Clause 19.4(f) above, the Parties shall jointly send a letter to the Expert containing the terms of his appointment including, inter alia, the following:-

- (a) that the Expert shall not later than 10 working days after the confirmation of his appointment call the Parties to a meeting at which he shall give directions as to the future conduct of the matter and shall from time to time give such further directions as he shall see fit.
- (b) that the Expert shall make his determination as soon as reasonably practicable after receipt of all written or oral submissions which the Expert orders should be made and conclusion of such further work as the Expert shall consider necessary. In any event, the Expert shall endeavour to issue his decision within 3 months of the directions meeting referred to in sub-clause (a) above.
- (c) that the Expert shall be entitled to obtain such independent legal or other expert advice as he may reasonably require and may obtain such secretarial assistance as is reasonably necessary.
- (d) that the Expert shall give full written reasons for his determination.

19.6 For the avoidance of doubt, any person appointed to determine a dispute in accordance with this clause shall act as an Expert and not as an Arbitrator and the provisions of the Arbitrations Acts and the law relating to arbitrations shall not apply to such Expert or his determination or the procedure by which he reaches his determination.

18.7 The determination of the Expert shall be final and binding upon the Parties.

19.8 The Expert shall be entitled to order that the costs of reference of a dispute to him shall be paid by the Parties in whatever proportions he thinks fit.

19.9 Save for submissions made orally to the Expert at a meeting at which all parties are present, any other communications between the Party and the Expert shall be made in writing and a copy thereof shall be provided simultaneously to all Parties. For the avoidance of doubt, no meeting between the Expert and a Party shall take place unless all Parties have had notice of such meeting and have been offered a reasonable opportunity to attend such meeting.

SCHEDULE 1

CALCULATION OF THE ANNUAL CORE SERVICE CHARGE

The Annual Core Service Charge for each Party for each Financial year shall be calculated according to the following formula:-

$$\frac{A}{6} + \frac{(B \times 100 \times A)}{C}$$

- Where A = one half of the Core Service Budget for the Financial Year
B = the Public Health Grant received by the Party for the Financial Year
C = the total amount of Public Health Grant received by all of the Parties those for the Financial Year

SCHEDULE 4

CALCULATIONS OF THE PART B TRANSFERRED CONTRACTS PERCENTAGE

The Part B Transferred Contracts Percentage for a Party for a Financial Year shall be calculated according to the following formula:-

$$\frac{A}{B} \times 100$$

Where A = the Public Health Grant received by the Party for the Financial Year, and

Where B = the total amount of Public Health Grant received by all of the Benefitting Parties (i.e. those Parties which are a Benefitting Party in respect of the Part B Transferred Contract) for the Financial Year.

SCHEDULE

TERMS OF REFERENCE AND COMPOSITION OF PUBLIC HEALTH JOINT ADVISORY BOARD

TERMS OF REFERENCE

1. To oversee the operation of this Agreement
2. To monitor and keep under review the provision of the Core Service.
3. To provide guidance to the Parties if any dispute should arise between them in connection with the operation of this Agreement
4. To consider and provide guidance to the Parties on future arrangements for the commissioning of Public Health Services and to keep an overview of any such commissioning arrangements which may be conducted jointly by any of the Parties.
5. To provide a report in each Financial Quarter to the Leaders on the work of the Board and the operation of this Agreement.

COMPOSITION

The Director of Public Health

A representative of the Berkshire Chief Executive Group.

One senior officer from each Party (as they may nominate)