

**Collaboration Agreement Pursuant to Sections 22A to 22C,
23, and 23A to 23I of the Police Act 1996 (as amended by
the Policing and Crime Act 2009 and the Police Reform
and Social Responsibility Act 2011)**

relating to the

**Collaboration over the provision of Legal Services
between**

Chief Constable of Avon and Somerset Constabulary

and

Chief Constable of Wiltshire Police

and

Avon and Somerset Police Authority

and

Wiltshire Police Authority

THIS AGREEMENT is made on [*insert date*] 31st October 2012

BETWEEN

1. Chief Constable of Avon and Somerset Constabulary; and
2. Chief Constable of Wiltshire Police; and
3. Avon and Somerset Police Authority; and
4. Wiltshire Police Authority

1. INTRODUCTION AND LEGAL CONTEXT

- 1.1 This Agreement is made in pursuance of a commitment by the Parties to work together as part of the collaboration programme in the South West.
- 1.2 The Parties have identified operational and business benefits by the provision of legal advice and representation by ASPA and CCAS in support of CCWP and WPA.
- 1.3 This Agreement is made between the Parties pursuant to Sections 22A to 22C, 23, and 23A to 23I of the Act.
- 1.4 For the purposes of Section 23(5) of the Act, the Chief Constables have determined that the making of this Agreement is in the interests of the efficiency or effectiveness of their respective forces.
- 1.5 For the purposes of Section 23A(5) of the Act, the Police Authorities have determined that the making of this Agreement is in the interests of the efficiency or effectiveness of their respective authorities and forces they maintain.
- 1.6 For the purposes of Section 22A of the Act this Agreement contains a policing body and force collaboration provision.

2. DEFINITIONS

- 2.1 In this Agreement, unless the context otherwise requires:

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| "Act" | means the Police Act 1996 (as amended by the Policing and Crime Act 2009 and the Police Reform and Social Responsibility Act 2011); |
| "Agreement" | means this agreement and the appendices to it |
| "ASPA" | means Avon and Somerset Police Authority; |
| "CCAS" | means Chief Constable of Avon and Somerset Constabulary; |
| "CCWP" | means Chief Constable of Wiltshire Police; |
| "Chief Constables" | means the Chief Constables of Avon and Somerset Constabulary and Wiltshire Police; |
| 'Confidential Information' | means all information relating to or arising from the Service; |
| "Director" | means the Director of Avon and Somerset Constabulary Legal Services Directorate |
| "Management Board" | means the board established by the Parties for the purpose of reviewing the Agreement and managing the delivery of this Service. |
| "Parties" | means the Chief Constables and Police Authorities and "Party" shall be construed accordingly; |

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| "Police Authorities" | means Avon and Somerset Police Authority and Wiltshire Police Authority and "Police Authority" and any successor governance board established from their successor policing bodies for the same purposes and shall be construed accordingly; |
| "Service" | means the provision of legal services by ASPA and CCAS to CCWP and WPA as set out in Appendix A to this Agreement |
| "WPA" | means Wiltshire Police Authority |
| "Year" | means the period of one year commencing on 1 June 2012 and each successive anniversary of such commencement so that the first year shall end on 31 May 2013 and so on; |

2.2 In this Agreement, unless otherwise specified:

- (a) the headings are for convenience only and shall not affect its interpretation;
- (b) references to a clause, appendix or paragraph are to a clause, appendix or paragraph in this Agreement;
- (c) any reference to this Agreement or to any other document shall include any permitted variation, amendment or supplement to such document;
- (d) any reference to any statute shall include references to the same as it may have been, or may from time to time be amended, consolidated or re-enacted and to any regulation or subordinate legislation made under it (or under such an amendment, consolidation or re-enactment);
- (e) any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and the words following any of those terms shall not limit the sense of the words preceding those terms;
- (f) the words "in writing" and "written" mean "in documented form" whether electronic or hard copy, unless otherwise stated;
- (g) reference to the plural shall include the singular and *vice versa*, and reference to one gender includes reference to all genders;
- (h) any reference to a person shall be to a legal person of whatever kind whether incorporated or unincorporated, and to its successors, permitted assigns and transferees;
- (i) words shall not be given a restrictive interpretation by reason of their being preceded or followed by words indicating a particular class of acts, matters or things;
- (j) any reference to a notice, consent, approval, agreement and/or permission being required under this Agreement shall, unless expressed to the contrary in this Agreement, be given in writing; and
- (k) all agreements on the part of any party comprising more than one person or entity shall be joint and several and throughout this Agreement the neuter singular gender shall include all genders and the plural.

3. SCOPE AND PURPOSE OF AGREEMENT

- 3.1 This Agreement legislates for ASPA and CCAS to provide the Service to CCWP and WPA when requested to do so by WPA.
- 3.2 The purpose of this Agreement is to govern the Parties' collaborative working and sets out their respective roles and responsibilities in relation to the Service.
- 3.3 The Appendices to this Agreement will have effect.

4. LENGTH OF AGREEMENT

This Agreement and the rights and obligations of the Parties to this Agreement shall be deemed to have effect from 1st June 2012 and shall continue in full force until terminated in accordance with Clause 14 of this Agreement.

5. MANAGEMENT BOARD

- 5.1 A Management Board will be established for the purpose of reviewing this Agreement and delivery of the Service pursuant to this Agreement.
- 5.2 The Management Board shall be comprised of the Director and the Chief Executive of Wiltshire Police Authority and/or their nominated representatives.
- 5.3 The Management Board shall meet at least twice in each Year to:
 - (a) Review service delivery
 - (b) Review the range of services within scope to be provided to CCWP and WPA.
 - (c) Review the Service reports reasonably requested by WPA or the Director and reporting arrangements.

6. FINANCIAL ARRANGEMENTS

- 6.1 An initial budget is agreed to facilitate the smooth running of the Agreement as set out in Appendix B.
- 6.2 Thereafter the Management Board shall undertake annual reviews of financial provisions under this agreement with a view to recommending alterations to same for the forthcoming 12 months.

7. TASKING AND DAY TO DAY MANAGEMENT

- 7.1 The day to day management of all staff of ASPA and CCAS involved in the provision of the Service is the responsibility of the Director.
- 7.2 For the avoidance of doubt nothing within this Agreement shall affect any existing employment arrangement.

8. VARIATION OF AGREEMENT

- 8.1 This Agreement may only be varied with the written consent of the Parties.

9. DISPUTES AND ARBITRATION

- 9.1 Any dispute arising out of or in connection with this Agreement will in the first instance be the subject of negotiation at the Management Board.
- 9.2 A nominated representative will be appointed on behalf of the Chief Constable and Police Authority of each policing area jointly to whom the dispute shall be referred if not resolved.
- 9.3 Nothing in this Clause shall restrict at any time (while the above dispute resolution procedure is in progress or before it is invoked) the freedom of any party to commence or defend legal proceedings to preserve a legal right or remedy pending outcome of the dispute.

10. CONFLICTS OF INTEREST & CONFIDENTIALITY

- 10.1 The procedure as set out in Appendix C shall govern resolution of any conflicts of interest. The Parties fully accept the content and agree to be bound by same.

11. PUBLIC INTEREST DISCLOSURE

The Parties acknowledge and agree that for the purposes of the legal protection against victimisation and dismissal provided for individuals under the Public Interest Disclosure Act 1998 ("PIDA") who disclose information so as to expose malpractice and matters of similar concern (known as "whistleblowers"), police officers and police staff shall be entitled to report such "whistleblowing" matters back to their Home Force and it is their Home Force who shall be obliged to give such legal protection pursuant to PIDA.

12. INFORMATION MANAGEMENT

- 12.1 Subject to legal and litigation privilege:
- (a) The Parties acknowledge they are subject to the Freedom of Information Act 2000 and any codes of practice issued thereunder.
 - (b) Nothing contained in this Agreement shall prevent the Parties from disclosing and/or publishing under the provisions of the Data Protection Act 1998 and/or Freedom of Information Act 2000 any term or condition or information contained in or relating to this agreement.
 - (c) The parties will co-operate in connection with the supply to each other of any necessary information and documentation required in connection with any request received by either party under the Data Protection Act 1998 and/or Freedom of Information Act 2000.
- 12.2 All Parties will duly observe all their obligations under the Data Protection Act 1998 which arise in connection with this Agreement.
- 12.3 Each Party agrees to keep the Confidential Information, and all other matters arising or coming to its attention in connection with the provision of the Service secret and confidential and not at any time for any reason whatsoever to disclose them or permit them to be disclosed to any third party except as permitted hereunder to enable it to carry out its duties and obligations. Each Party shall procure that its employees and subcontractors having access to any of the Confidential Information or such matters shall be subject to the same obligations as itself.

13. INSURANCE AND INDEMNITY

- 13.1 Each party shall maintain insurance arrangements to cover its obligations under this Agreement. The Parties agree that if ASPA incurs any excess insurance costs arising from the provision of the Service under the Agreement, it may recover the relevant amount of the excess insurance costs from WPA.
- 13.2 Each Party shall indemnify the other Parties against all losses, claims, damages, costs charges, expenses, uninsured liabilities, demands or proceedings incurred or brought as a result of its negligence and/or breach of its obligations under this Agreement.

14. TERMINATION OF AGREEMENT

- 14.1 This Agreement may be terminated with the consent of the Parties.
- 14.2 This Agreement shall be terminated by:
- (a) Any of the Parties serving 3 months written notice of termination on the other Parties, or;
 - (b) Mutual written agreement between the Police Authorities;
- 14.3 In the event of termination in accordance with paragraph 14.2 the parties shall agree upon a timetable and process for the smooth transition of any on-going litigation.
- 14.4 In the event of termination in accordance with paragraph 14.2 any costs associated with and occasioned by termination of the Agreement shall be borne as agreed between the Parties.
- 14.5 The termination or variation of this Agreement shall not prejudice or affect any right of action or any other remedy which the Police Authorities are entitled to exercise whether pursuant to this Agreement or otherwise.
- 14.6 The Parties shall act in good faith and provide each other with all reasonable assistance to facilitate a smooth dissolution of the Agreement to ensure continuity of service in both force areas.

15. BOILER PLATE PROVISIONS

15.1 PUBLICATION

The parties agree that the provisions of S23E Police Act 1996 will be discharged by each party by the publication of this Agreement.

15.2 FURTHER ASSURANCE

Each Party agrees to use all reasonable endeavours to do or 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 Agreement.

15.3 NO AGENCY OR PARTNERSHIP

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

15.3.2 Neither Party shall act or describe itself as the agent of any other Party, nor shall it make or represent that it has authority to make any commitments on the behalf of any other Party.

15.4 ENTIRE AGREEMENT

This Agreement, including its Appendices, sets out the entire agreement between the Parties in connection with its subject matter and supersedes all prior oral or written agreements, arrangements or understandings between them.

15.5 STATUTORY POWERS

Nothing contained or implied in this 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 Agreement had not been made.

15.6 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

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

15.7 COUNTERPARTS

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

15.8 LEGALLY BINDING

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

15.9 GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by and construed in accordance with English law and the Parties submit to the exclusive jurisdiction of the English Courts.


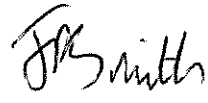
APPENDICES

Appendix A – Scope of Services

Appendix B Financial Information

Appendix C – Conflicts of Interest & Confidentiality

IN WITNESS whereof the Members have signed below on the date indicated.

| Party | Signature | Date |
|---|---|---------------------------|
| Chief Constable of Avon and Somerset Constabulary |  | 19 th Oct 2012 |
| Avon and Somerset Police Authority |  | 19/10/12 |
| Chief Constable of Wiltshire Police | | |
| Wiltshire Police Authority | | |

APPENDIX A

Areas of Work 'In Scope' at commencement:

| | |
|---------------|---|
| Civil | Public liability Employer's liability |
| Employment/HR | Employment Tribunals Employment Advice Police Misconduct |
| Operational | Anti Social Behaviour Orders Application under Sexual Offences Act Application under Anti-Social Behaviour Act Firearms licensing Dog applications Proceeds of Crime Act application Football banning orders Police Property Forced marriage orders Gang injunctions |

Areas of Work for further consideration to be brought 'in scope' by agreement.

Judicial review
Inquests
Debt recovery
POLACS
Interpleader proceedings
Licensing
General Advice – email and urgent telephone service

APPENDIX B

1. WPA hereby agrees to provide to ASPA immediately upon demand one initial payment in the sum of £45,000 ('the Initial Payment') for the purposes of ASPA and CCAS providing legal services to CCWP and WPA.
2. The Initial Payment is made in respect of the following elements:
 - (a) £10k for set up costs inc. Insurance arrangements and Partner 4 Windows (P4W - Case management software)
 - (b) £5k on account for Counsels Fees/Other Disbursements
 - (c) £30k costs on account for running the files. (£30k = 500 hours of work = Approx 71 days of work (7hours/day))
3. Save for the monies referred to in 2(a) above, ASPA will account to WPA for monies spent pursuant to this Agreement.
4. Once the monies in paragraph 2(c) above have been spent ASPA may charge WPA for the Service requested by WPA at an agreed rate of £60.00 per hour.

APPENDIX “C”

CONFLICTS OF INTEREST & CONFIDENTIALITY

For the purposes of this Agreement the Legal Services Directorate has four clients: The Chief Constable of Avon and Somerset Constabulary, The Chief Constable of Wiltshire Police, the Wiltshire Police Authority and Avon and Somerset Police Authority.

CONFLICTS OF INTEREST

The Parties recognise there is the potential for Conflicts of Interest between one or more client. This Appendix sets out how any conflict will be managed under this Agreement in order to provide an audit trail which will stand scrutiny by our clients, our indemnity insurers and/or the Solicitor’s Regulation Authority.

Conflict may arise in any number of situations. These may be best illustrated by the following (non exhaustive) list of examples.

1. An employment tribunal claim is brought alleging sex discrimination which allegedly took place in both Forces naming the Chief Constables of both Forces as respondents.
2. A wrongful arrest claim where the arrest was made by x Police but the claimant was detained by y Police.
3. A Police Property Act application where property is held by both Forces.

It is the professional duty of all lawyers who work for ASPA and CCAS to identify and deal with potential or actual conflicts of interest in

accordance with the Solicitors Code of Conduct 2007 or any amendment or variation thereof.

The Solicitors Code of Conduct sets out the principle in Rule 3.01:

Duty not to act:

- 1) You must not act if there is a conflict of interests.
- 2) There is a conflict of interests if:
 - a. You owe, or your firm owes, separate duties to act in the best interests of two or more clients in relation to the same or related matters, and those duties conflict, or there is a significant risk that those duties may conflict; or
 - b. Your duty to act in the best interests of your client in relation to a matter conflicts, or there is a significant risk that it may conflict, with your own interests in relation to that or a related matter.

If any matter arises which might involve a member of staff in a situation where there could be either actual or possible conflict of Interest then it is the duty of the person concerned to report the matter to the Director of Legal Services.

Anyone in the slightest doubt about something which might be regarded as conflict of interest must discuss it with the Director of Legal Services.

If the Director determines an actual or perceived conflict of interest arises she will notify the Chief Executive of WPA immediately. It may be necessary for one or more of the clients to be separately represented.