

Report

Report to:	Clyde Valley Learning and Development Joint Committee
Date of Meeting:	1 September 2008
Report by:	Legal Services Manager, South Lanarkshire Council

Subject:	Clyde Valley Learning and Development Joint Committee – Minute of Agreement
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ request approval of the proposed legal agreement to be signed by the member Councils of the Joint Committee

2. Recommendation(s)

2.1. The Joint Committee is asked to approve the following recommendation(s):-

- (1) that the terms of the legal agreement attached to this report be approved;
- (2) that the Head of Legal Services, South Lanarkshire Council be authorised to send the agreement to the member Councils for signing by them; and
- (3) that the Head of Legal Services, South Lanarkshire Council report further to the Joint Committee when all member Councils have signed the agreement and the matter is accordingly concluded.

3. Background

3.1. The Clyde Valley Learning and Development Project is an agreement between the 8 member Councils to provide shared services on certain terms and conditions. Such an agreement is legally binding on the members and it is desirable in the interests of the members and the Joint Committee that this agreement should be set out in writing and signed by the member Councils.

3.2. Following discussions with the Chair of the Implementation Steering Group and the Project Manager, a draft legal agreement was prepared by the Head of Legal Services, South Lanarkshire Council and sent to the other members for consideration in February 2008. Comments were received from a number of the members and the draft agreement was changed to reflect these. A further opportunity to comment on the amended draft was provided to all members with a cut off date of 31 July 2008. Some further comments were received by that date and these have, where appropriate, been incorporated in the final version of the agreement which is attached to this report.

4. Current Position

4.1. The attached agreement has been considered by all member Councils who have had an opportunity to comment on its terms. The agreement deals with the management and operation of the Joint Committee. Its principal terms are: -

- ◆ The date of establishment of the Joint Committee is agreed to be 16 October 2007
- ◆ The remit of the Joint Committee is to:-
 - ◆ regulate delivery of the Project
 - ◆ maintain a strategic overview
 - ◆ monitor the business plan relating to the training and development function of the members
 - ◆ set performance standards
- ◆ The Joint Committee may allow other local authorities or similar bodies to become members of the Project either as Full Members (with voting rights) or Associate Members (without voting rights)
- ◆ Any member who wishes to withdraw from the Project must give at least 12 months written notice

4.2 The next stage is for the agreement to be circulated to the member Councils for signing. This will be carried out by the Head of Legal Services, South Lanarkshire Council who will advise the Joint Committee further once all members have signed the agreement.

5. Employee Implications

5.1. There are no employee implications.

6. Financial Implications

6.1. There are no current financial costs in relation to the drafting and conclusion of the legal agreement.

7. Other Implications

7.1. None.

8. Equality Impact Assessment and Consultation Arrangements

8.1. There is no change to policy, therefore, no impact assessment is required at this stage.

8.2. Consultation has taken place with the member Councils as detailed in the report.

**Hazel Lawson,
Legal Services Manager, South Lanarkshire Council**

15 August 2008

Previous References

Clyde Valley Learning and Development Joint Committee - 16 October 2007

List of Background Papers

Proposed legal agreement regarding Clyde Valley Learning and Development Project

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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MINUTE OF AGREEMENT

between

SOUTH LANARKSHIRE COUNCIL

and

EAST DUNBARTONSHIRE COUNCIL, EAST RENFREWSHIRE COUNCIL, GLASGOW CITY COUNCIL, INVERCLYDE COUNCIL, NORTH LANARKSHIRE COUNCIL, RENFREWSHIRE and WEST DUNBARTONSHIRE COUNCIL all incorporated under the Local Government etc. (Scotland) Act 1994 (all hereinafter referred to as "the Member Authorities")

WHEREAS the Member Authorities have formed the Clyde Valley Learning and Development Joint Committee constituted under Section 57 of the Local Government (Scotland) Act 1973.

NOW THEREFORE it is hereby agreed as follows:-

1. DEFINITIONS

The following expressions shall have the meanings respectively ascribed thereto.

"Accounting Officer" otherwise known as the "Treasurer" means the Executive Director (Finance and Information Technology Resources) of South Lanarkshire Council or his/her nominee.

"Associate Member" means a Local Authority or similar body which may from time to time be permitted by the Joint Committee to utilise all or some of the services of the Project but has no right to vote on the Joint Committee (Clause 9 refers).

"Bid Document" means the information detailing the business case and Project proposals submitted to the National Board for Shared Services in December 2006 by South Lanarkshire Council.

"Clerk to the Joint Committee" means the Executive Director (Corporate Resources) of South Lanarkshire Council or his/her nominee.

"Confidential Information" means information listed as Confidential Information in Part 5 of the Schedule annexed hereto.

"Contribution Rate" means the proportion of any sum payable in terms of this Minute of Agreement by each Member Authority towards the cost of administrative and other support to the Joint Committee and to the Project, including but not limited to such costs as staff secondment to the Project, insurance indemnities and IT and accommodation costs. It is understood that any grant funding received for the Project in the initial year(s) will be utilised to limit contributions in the initial year(s). The contribution rate shall be based on the

number of employees employed by each of the Member Authorities in each year as a percentage of the total number of employees across all of the Member Authorities.

“Environmental Information Regulations” means the Environmental Information (Scotland) Regulations 2004.

“FOISA” means the Freedom of Information (Scotland) Act 2002 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Scottish Government or the Scottish Information Commissioner in relation to such legislation.

“Full Member” means any Local Authority or similar body which is a member of the Joint Committee and has an entitlement to vote.

“Implementation Group” means officer representatives from the Lead Authority and the other Member Authorities.

“Information” means information recorded in any form.

“Joint Committee” means the Committee established by the Member Authorities to regulate the delivery of the Project whose composition is as set out in Clause 3 of this Agreement, and whose powers are as set out in the Agreement.

“Lead Authority” means South Lanarkshire Council.

“Member Authority” means any Local Authority which is a Full Member of the Joint Committee.

“Project” means the Clyde Valley Learning and Development Project as detailed in the bid for which grant agreement has been received from the then Scottish Executive, (now Scottish Government) by letter dated Eleventh July Two thousand and seven to South Lanarkshire Council.

“Project Manager” means the Officer appointed by the Lead Authority and endorsed by the Joint Committee as having overall responsibility for the day to day operation of the Clyde Valley Learning and Development Project.

“Requests for Information” means any apparent request for information under FOISA, or the Environmental Information Regulations

2. COMMENCEMENT AND DURATION

2.1 The Joint Committee was established on Sixteenth October Two thousand and seven (notwithstanding the date or dates hereof).

2.2 Subject always to the consent of the Joint Committee and Member Authorities additional Members may be approved for future phases of the Project.

2.3 Membership of the Joint Committee shall subsist until terminated in accordance with the provisions of Clause 12 hereof.

- 2.4 The Joint Committee shall subsist until the Member Authorities determine in accordance with Clause 12 hereof not to continue with the Joint Committee and any period of notice required in Clause 12.1 has expired.
- 2.5 A Member Authority may withdraw from the Project in accordance with the terms of Schedule Part 3 of this Agreement

3. ESTABLISHMENT OF A JOINT COMMITTEE

- 3.1 The Joint Committee has been established for the purpose of regulating the delivery of the Project by maintaining a strategic overview and monitoring of the business plan relating to those training and development functions of the Member Authorities detailed in the Bid Document. For future years when grant funding may no longer be available training functions may be added to the Project or amendment may be made to the existing Project subject to approval of the Joint Committee.
- 3.2 Each Member Authority shall appoint one of their Elected Members to be their representative on the Joint Committee.
- 3.3 Each Member Authority may appoint a substitute representative to attend meetings of the Joint Committee in the absence of the appointed representative.
- 3.4 It will be open to each of the Member Authorities to replace its representative on the Joint Committee at any time.
- 3.5 The Joint Committee has appointed a Convener and Vice Convener from the Member Authorities. The Joint Committee may appoint Sub-Committees and consider and agree to the delegation of responsibilities of the Joint Committee to Sub-Committees and to Officers of the Lead Authority. The Joint Committee shall determine the role and functions of any Sub-Committee.
- 3.6 Each Member Authority shall delegate to the Joint Committee their powers to regulate the provision of the Project through the strategic overview and monitoring of the business plan and operation of the Project.
- 3.7 The Joint Committee has adopted, at its meeting on Sixteenth October Two thousand and seven, Standing Orders relating to proceedings at their meetings and at the meetings of any Sub-Committee.
- 3.8 Other Local Authorities and similar bodies may become an Associate Member or Full Member subject to prior approval by the Joint Committee and execution of any necessary amendment to or variation of this Minute of Agreement.

4. IMPLEMENTATION GROUP

- 4.1 There shall be an Implementation Group comprising officer representative(s) of the Lead Authority and Member Authorities which shall oversee the operational work of the Project undertaken by the Project Manager and his/her staff.
- 4.2 The Implementation Group shall have responsibility for the overall supervision of the Project and for the monitoring of the performance of the Project Manager and his/her staff in delivering the Project bid objectives.

4.3 The Project Manager shall be accountable through the Implementation Group to the Joint Committee for the performance of the Clyde Valley Learning and Development Project and for the successful delivery of that Project in terms of the agreed Business Plan.

5. SUPPORT SERVICES

5.1 Staff will be seconded from Member Authorities to the Lead Authority to enable the Project to be delivered as agreed from time to time by Member Authorities or any officer to whom such authority has been delegated.

5.2 All professional and administrative support for the Joint Committee, any Sub-Committees, the Project Manager and the Project Group will be provided by South Lanarkshire Council as Lead Authority. The Support Services are more specifically described in Schedule Part 2 of this Minute of Agreement.

6. DELIVERY OF THE CLYDE VALLEY LEARNING AND DEVELOPMENT PROJECT

6.1 Except as specifically provided for in this Minute of Agreement, the Joint Committee shall regulate the operation of the Project and set the key performance standards to be met.

6.2 Each Member Authority may arrange to contract for the training and development areas included in the Bid Document through the Project. This may be delivered either by the Member Authorities in-house under the management of the Project Manager or may be contracted to third parties. Where contracted externally the Member Authority will reimburse the Lead Authority pro rata per unit cost of the service provided multiplied by the number of participants from that specific authority or on such other basis as may have been previously agreed by the Project Manager or the Implementation Group for the delivery of specific training. The unit cost will be the cost of the training course divided by the number of participants. For the avoidance of doubt for years when grant funding is not available these unit costs may include an element for direct overheads such as accommodation and other administrative costs. Where a Member Authority has indicated the number of places required on a particular course but has failed to take up that number of places the Member Authority concerned will remain liable for the unit cost per participant for the number of places originally indicated.

6.3 Member Authorities may arrange to contract for such services without participating in the Project and nothing in this Minute of Agreement shall require a Member Authority to breach or replicate an existing contract for the supply of a service set out in the bid process.

6.4 The services to be included in the Project may be amended subject to compliance with the Bid Document and/or as previously detailed at item 3.1.

6.5 The Lead Authority's Standing Orders and Financial Regulations as amended from time to time shall apply to all tendering procedures and contracts negotiated by the Lead Authority on behalf of the Member Authorities in relation to this Project. The Lead Authority shall comply with all necessary legislation and any other relevant source of law when tendering contracts on behalf of Member Authorities.

- 6.6 Member Authorities undertake to provide such information within such timescales as is reasonably required by the Project Manager to enable the Project to undertake its activities.
- 6.7 Failure by a Member Authority to provide such information referred to in Clause 6.6 above shall result in the Project Manager reporting to the Implementation Group and the Implementation Group may ask the Joint Committee to:-
- (a) Exclude that Member Authority from participating in this Minute of Agreement;
 - (b) Exclude that Member Authority from obtaining benefits arising from Membership of the Joint Committee; or
 - (c) Recover from that Member Authority any additional costs incurred or losses suffered by the Project arising from that Member Authority's failure.
- 6.8 Staffing of the Project shall be carried out in accordance with the terms of the Schedule Part 1.

7. BUDGET AND PAYMENTS

- 7.1 The Joint Committee shall in each year prior to Thirty first March (except in the start up year of this Agreement) approve a budget in consultation with South Lanarkshire Council, in accordance with Paragraph 1.5 of Part 2 of the Schedule to this Agreement.
- 7.2 The Member Authorities shall defray the cost of the said budget and the cost, expenses and outgoings incurred by the Lead Authority in accordance with the contribution rate.
- 7.3 For the avoidance of doubt the budget projections prepared for the Joint Committee shall relate solely to the cost of the administrative element of the Project. After approval by the Joint Committee a Schedule will be distributed by the Lead Authority detailing the percentage share to be paid by each Member Authority and the relevant payment Schedule which shall allow for quarterly advance payments.
- 7.4 The Accounting Officer/Treasurer for the Project shall prepare the annual financial statements and accounts (the accounts of the Project) to the Thirty first March in each year and submit them to the Joint Committee no later than Thirty first August following. Any deficit in the Project budget shall be identified and shall be paid *pro rata* by the Member Authorities in accordance with arrangements made by the Accounting Officer. Any surplus in the budget identified in the accounts may at the discretion of the Joint Committee be distributed amongst the Member Authorities *pro rata* to their contribution rate. Any such deficit or surplus shall be distributed *pro rata* on the basis of the contribution rate previously mentioned in the definitions section.
- 7.5 Where a new Member Authority or similar body joins the Joint Committee its contribution rate will be fixed by the Joint Committee.

8. DEFAULT IN PAYMENTS

- 8.1 In the event that any Member Authority fails to make any payment due under this Agreement within 28 days of the day on which payment is demanded interest will run thereon from the day following the date upon which the money became due and payable until paid at a rate of 2% per annum above the base rate of the Royal Bank

of Scotland plc or such other bank as the Accounting Officer may from time to time notify to the Member Authorities.

- 8.2. Where a Member Authority remains in default for more than one quarter it will lose its entitlement to participate in the Project or any contract arranged on behalf of Member Authorities by the Project. Subject always to any losses, costs, expenses or other outstanding payments being reimbursed to the Lead Authority.
- 8.3 For the avoidance of doubt where in terms of Clause 8.2 a Member Authority loses its entitlement to participate in the Project or any contract arranged by the Project that Member Authority remains liable to perform its obligations under this Minute of Agreement and in particular remains liable for payment of its contribution sum and any losses, costs, expenses or other outstanding payments due. The Lead Authority on behalf of the Member Authorities and the Member Authorities themselves individually shall have the power to recover any outstanding sums due to them from a defaulting Member Authority or similar body.

9. SERVICES TO THIRD PARTIES

- 9.1 The Implementation Group may allow bodies who are not Member Authorities (as permitted under the Local Authorities (Goods & Services) Act 1970 or other relevant legislation) to utilise all or some of the services of the Project on such terms and conditions as are stipulated by the Implementation Group and previously approved by the Joint Committee.
- 9.2 The Joint Committee may appoint any person or body it has allowed to utilise any of the services in terms of Clause 9.1 above to become an Associate Member of the Project or to become a Full Member subject to an amendment to this Minute of Agreement to reflect any such changes and subject also to compliance with any necessary legislation in force from time to time.
- 9.3 An Associate Member shall have such rights and obligations as are stipulated by the Joint Committee but an Associate Member shall not be given the right to be represented on the Joint Committee or to vote on any issue on which a decision of the Joint Committee is required. A Full Member shall be entitled to be represented and to have one vote on said Joint Committee.

10. ADDITIONAL PARTIES

- 10.1 The Joint Committee may agree to allow a party or organisation to attend the Joint Committee in an advisory capacity where such attendance is considered appropriate. For the avoidance of doubt any such party or organisation will have no voting rights.

11. INDEMNITY AND INSURANCE

- 11.1 Where the Project Manager and his/her staff are acting on behalf of all or some of the Member Authorities those Member Authorities shall jointly indemnify the Lead Authority in proportion to their contribution rate against any liability for loss, damage or injury arising from the provision of said services.

- 11.2 Where the Project Manager and his/her staff are acting on behalf of a single Member Authority that Authority shall indemnify the Project Manager and his/her staff and the Lead Authority against any liability for loss, damage or injury arising from the provision of said services. The sum due to the Lead Authority will be paid on demand where only one authority is involved.
- 11.3 The Member Authorities shall jointly indemnify the Lead Authority in proportion to the contribution rate in respect of all/or any loss costs and expenses incurred by the Lead Authority (including any liability to their own Legal Advisers) arising out of any claim which arises in turn out of any act or omission by any person in connection with their duties under this Minute of Agreement. Where only one authority is involved that authority will indemnify the Lead Authority on demand in respect of any such losses, costs and expenses.

12. TERMINATION

- 12.1 Member Authorities shall require to give at least twelve months written notice of their intention to withdraw from the Project. Such notice period will commence following receipt by the Clerk to the Joint Committee of a formal Notice of Termination. Any such notice shall be acknowledged by the Clerk to the Joint Committee who will advise the Project Manager that such a Notice has been received. The Joint Committee shall be entitled to allow a Member Authority to cancel a Notice of Withdrawal/Termination at any time. The Member Authority's membership of the Joint Committee and participation in the Project shall terminate on the date of the expiry of a Notice of Termination which shall be deemed to be twelve months from the date of receipt by the Clerk to the Joint Committee of said Notice of Termination.
- 12.2 If one or more Member Authorities serve notice of their intention to withdraw from the Project and to cease their membership of the Joint Committee the other Member Authorities shall as soon as reasonably practicable meet to discuss the future viability and extent of the Project with a decision being reached regarding whether to continue with the Joint Committee before expiry of such Notice.
- 12.3 Where the Member Authorities resolve not to continue with the Joint Committee arrangement the Joint Committee shall ensure that a sufficient period of time is allowed for South Lanarkshire Council as Lead Authority to facilitate the orderly winding up of the Project. That will include the retention of sufficient seconded staff for the relevant period to enable the Project to be properly wound up.
- 12.4 In the event that Member Authorities resolve not to continue with the Joint Committee following one or more Notices of Termination, each of the Member Authorities shall on demand pay to South Lanarkshire Council as Lead Authority all costs, expenses and outgoings whatsoever reasonably incurred as a result of the termination of the Agreement and that in accordance with the contribution rate.
- 12.5 In the event that South Lanarkshire Council resolve not to continue to be Lead Authority or to participate in the Joint Committee the Member Authorities shall on demand pay to South Lanarkshire Council all costs, expenses and outgoings whatsoever reasonably incurred as a result of their ceasing to provide all or any of the support services detailed in Schedule Part 2 and that in accordance with the contribution rate. For the avoidance of doubt any outstanding contributions or other payments in respect of training previously provided shall be paid on demand.

- 12.6 A Statement or Certificate specifying the amount due to South Lanarkshire Council in terms of Paragraph 12.3, 12.4 and 12.5 above signed by the Accounting Officer/Treasurer or by any other signing official authorised by South Lanarkshire Council shall, unless until the contrary be proven, be deemed correct and thus binding the Member Authorities.
- 12.7 In the event that funding is withdrawn for the Project Member Authorities will similarly reimburse South Lanarkshire Council as Lead Authority and shall allow such staff to remain seconded to ensure an orderly winding up of the Project as previously detailed.
- 12.8 The Accounting Officer/Treasurer shall keep full and accurate accounts and records throughout the currency of this Agreement or any replacement thereof relating to the matter shown in each Statement or Certificate and shall for at least three years preserve all such accounts and records. The Member Authorities shall be entitled on giving reasonable prior notice to inspect such accounts and records and to make examination or audit which they may desire and for this purpose the Accounting Officer/Treasurer shall forthwith on demand produce to the Member Authorities all relevant information or vouchers as the Member Authorities may reasonably request.

13. VARIATION

- 13.1 These terms and conditions may only be varied by execution of a Minute of Variation signed by the Member Authorities.

14. CONFIDENTIAL INFORMATION

- 14.1 Each Member Authority:-

- (a) shall treat all Confidential Information belonging to another Member Authority as confidential and safeguard it accordingly;
- (b) shall not disclose any Confidential Information belonging to another Member Authority to any other person without the prior written consent of the other Member Authority, except to such persons and to such extent as may be necessary for the performance of this Minute of Agreement or except where disclosure is otherwise expressly permitted by the provisions of this Minute of Agreement.

- 14.2 A Member Authority shall take all necessary precautions to ensure that all Confidential Information obtained from another Member Authority under or in connection with this Minute of Agreement:-

- (a) is given only to such of the Staff and professional advisors or consultants engaged to advise it in connection with this Minute of Agreement as is strictly necessary for the performance of this Minute of Agreement and only to the extent necessary for the performance of this Minute of Agreement;
- (b) is treated as confidential and not disclosed (without prior written consent of the Member Authority) or used by any Staff or such professional advisors or consultants otherwise than for the purposes of this Minute of Agreement.

- 14.3 Where it is considered necessary in the opinion of a Member Authority, any other Member Authority shall ensure that Staff or such professional advisors or consultants sign a confidentiality undertaking before commencing work in connection with this Minute of Agreement.
- 14.4 A Member Authority shall not use any Confidential Information received otherwise than for the purposes of this Minute of Agreement.
- 14.5 The provisions of Clauses 14.2 to 14.4 shall not apply to any Confidential Information received by one Member Authority from the other:-
- (a) which is or becomes public knowledge (otherwise than by breach of this Condition);
 - (b) which was in the possession of the receiving Member Authority, without restriction as to its disclosure, before receiving it from the disclosing Member Authority;
 - (c) which is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
 - (d) is independently developed without access to the Confidential Information; or
 - (e) which must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the Member Authority making the disclosure, including any requirements for disclosure under FOISA, or the Environmental Information Regulations pursuant to Condition 15 (Freedom of Information).
- 14.6 Nothing in this Condition shall prevent a Member Authority:-
- (a) disclosing any Confidential Information for the purpose of:-
 - (i) the examination and certification of the Member Authority's accounts; or
 - (ii) any examination/investigation as to whether a Member Authority has secured Best Value in the performance of its functions; or
 - (b) disclosing any Confidential Information obtained from a Member Authority to any person engaged in providing any services to the Member Authority for any purpose relating to or ancillary to this Minute of Agreement;
 - (c) provided that in disclosing information under sub-paragraph (b) the Member Authority discloses only the information which is necessary for the purpose concerned and requires that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.
- 14.7 Nothing in this Condition shall prevent a Member Authority from using any techniques, ideas or know-how gained during the performance of this Minute of Agreement in the course of its normal business, to the extent that this does not result in a disclosure of Confidential Information or an infringement of Intellectual Property Rights.

15. FREEDOM OF INFORMATION

- 15.1 Each Member Authority acknowledges that the other Member Authorities are subject to the requirements of FOISA and the Environmental Information Regulations and each Member Authority shall assist and cooperate with the other (at their own expense) to enable the other Member Authority to comply with these Information disclosure obligations.
- 15.2 Where a Member Authority receives a Request for Information in relation to Information which it is holding on behalf of the other Member Authority arising out of or relating to this Agreement or the matters referred to herein, it shall:-
- a) transfer the Request for Information to the other Member Authority as soon as practicable after receipt and in any event within two Working Days of receiving a Request for Information;
 - b) provide the other Member Authority with a copy of all Information in its possession or power in the form that the other Member Authority requires within five Working Days (or such other period as the Member Authority may specify) of the Member Authority requesting that Information; and
 - c) provide all necessary assistance as reasonably requested by the Member Authority to enable the Member Authority to respond to a Request for Information within the time for compliance set out in section 10 of FOISA.
- 15.3 Where a Member Authority receives a Request for Information which relates to this Minute of Agreement, it shall inform the Clerk to the Joint Committee of the Request for Information as soon as practicable after receipt and in any event within [two] Working Days of receiving a Request for Information.
- 15.4 If any Member Authority determines that Information (including Confidential Information) must be disclosed pursuant to Clause 15.3, it shall notify the Clerk to the Joint Committee of that decision at least two Working Days before disclosure.
- 15.5 Member Authorities reserve the right to disclose information contained within this Minute of Agreement and any supporting correspondence, notes etc. held by them in compliance with a Request for Information (the decisions of the Member Authorities in relation to the interpretation of FOISA and the Environmental Information Regulations, including, but not limited to whether
- an exemption or exception applies or
 - if an exemption/exception applies, whether the public interest in giving out the information outweighs the public interest in holding back the information shall be final and conclusive in any dispute, difference or question arising in respect of disclosure under its terms).
- 15.6 Without prejudice to clause 15.5, it may be necessary for a Member Authority to disclose information to its elected members concerning the contents of the Bid Document in order to allow them to fulfil their role as a member of the Member Authority.
- 15.7 In any of the above circumstances detailed in clauses 15.5 and 15.6, the Member Authorities shall not treat this disclosure of the information as a breach of this Minute of Agreement.

- 15.8 Each Member Authority acknowledges that another Member Authority may decide, acting in accordance with the Scottish Ministers' Code of Practice on the Discharge of Functions of Public Authorities under the Freedom of Information (Scotland) Act 2002, FOISA or the Environmental Information Regulations to disclose Information:-
- a) without consulting with the other Member Authority, or
 - b) following consultation with the other Member Authority and having taken its views into account.
- 15.9 Each Member Authority acknowledges that any lists or schedules provided by it outlining Confidential Information, are of indicative value only and that another Member Authority may nevertheless be obliged to disclose Confidential Information in accordance with Clause 15.8.

16. DATA PROTECTION

- 16.1 The Lead Authority shall act as a data processor on behalf of the Member Authorities in respect of any personal data concerning employees and/or others given by the Member Authorities in connection with the services provided by or arranged by the Lead Authority in terms of the Minute of Agreement.
- 16.2 The Lead Authority shall ensure that:-
- 16.2.1 all such personal data is subject to technical and organisational security measures that would satisfy the Seventh Data Protection Principle;
 - 16.2.2 it shall take reasonable steps to ensure compliance with the measures described in Clause 16.2.1; and
 - 16.2.3 it will process the said personal data only in accordance with the instructions of the other Member Authorities as data controllers.
- 16.3 Where the Lead Authority arranges for the services to be provided externally, it shall impose on any contractor the same contractual obligations in respect of data protection security as imposed upon it in terms of this Minute of Agreement.
- 16.4 For the avoidance of doubt all Member Authorities shall comply with their obligations arising under the Data Protection Act 1998
- 16.4 In this Minute of Agreement, the expressions "personal data", "data controller", "data processor", "processing" and "process" shall have the same meanings as assigned to them by the Data Protection Act 1998 and "Seventh Data Protection Principle" means the Seventh Data Protection Principle as set out in Part 1 of Schedule 1 of that Act.

17. ASSIGNATION

- 17.1. No rights or obligations arising from this Minute of Agreement may be assigned by any of the Member Authorities except with the prior written consent of the Joint Committee Group.

18. LAW

18.1. These terms and conditions shall be the subject of the exclusive jurisdiction of the Scottish Courts and shall be construed in accordance with the Laws of Scotland.

SCHEDULE PART 1 – STAFF

1. SOUTH LANARKSHIRE COUNCIL'S DUTIES

- 1.1 The Joint Committee may authorise the appointment of sufficient suitably qualified employees or seconded staff to undertake the Project on behalf of the Member Authorities for such periods and subject to conditions of employment as the Joint Committee shall agree. The Joint Committee may delegate the appointment or secondment of staff to the Project Manager or to the Implementation Group.
- 1.2 The Joint Committee may authorise the appointment of new staff directly to the Project (not necessarily seconded from the Member Authorities). In the event of such staff requiring to be made redundant at the end of said Project any such staff costs associated with the winding up of the Project will be included in the contribution rate and will be reimbursed to the Lead Authority by the Member Authorities on demand.

In the event of South Lanarkshire Council opting out of the Project at some future date, responsibility for said staff shall transfer to any new Lead Authority for the Project on behalf of the Member Authorities.

- 1.3 The Joint Committee's prior approval will be required in respect of any proposals to amend materially the terms and conditions of employment of the Project Manager and/or his/her staff.
- 1.4 South Lanarkshire Council will provide pay and personnel services for the Project Manager and any staff appointed/seconed to the Project.
- 1.5 South Lanarkshire Council shall effect such insurance policies as it considers necessary in connection with its obligations under this part of the Schedule and the premiums thereof shall be included in the cost to be paid by the Member Authorities in terms of Paragraph 2.1 of this part of the Schedule.

2. MEMBER AUTHORITY'S DUTIES

- 2.1 The Member Authorities hereby agree to pay all costs, expenses and outgoings incurred by South Lanarkshire Council ("the employment costs") in connection with the performance by South Lanarkshire Council as Lead Authority of its obligation under this Part of the Schedule. Each Member Authority's share of the employment costs shall be calculated by reference to that Member Authority's contribution rate.
- 2.2 Without prejudice to Paragraph 2.1 above an estimate of the employment costs shall be agreed between South Lanarkshire Council and the Joint Committee in each year. Such employment costs shall be paid quarterly in advance by each Member Authority in accordance with the contribution rate.

3. TERMINATION

- 3.1 In the event that the Joint Committee is terminated the following provisions shall apply in respect of the Project staff on permanent contracts of employment.

- 3.1.1 The Project Manager and his/her staff where seconded will revert to their original employer prior to their secondment to the Project.
- 3.1.2 Any staff employed directly by the Project shall either be taken on by agreement by one of the Member Authorities failing which the redundancy and associated costs will be met as detailed in terms of Schedule Part 1 item 1.2.

SCHEDULE PART 2 – SUPPORT SERVICES

1. SUPPORT FOR THE JOINT COMMITTEE SERVICES
- 1.1 South Lanarkshire Council shall supply to the Joint Committee such administrative and technical support as it may reasonably require to discharge its function.
- 1.2 The Executive Director (Corporate Resources) or his/her nominee will be the Clerk to the Joint Committee and either alone or at the request of the Chair or Vice-Chair of the Joint Committee or on the requisition of at least three of the whole number of Member Authorities of the Joint Committee shall have the power to call meetings of the Joint Committee.
- 1.3 The Chief Executive of South Lanarkshire Council/the Executive Director (Corporate Resources) or his/her nominee will have power to call upon the services of such other employees of South Lanarkshire Council as are required to enable him or her to discharge his/her duties to the Joint Committee.
- 1.4 South Lanarkshire Council shall make available to the Joint Committee such Committee rooms and Members accommodation as may be required to allow the Joint Committee to discharge its functions.
- 1.5 South Lanarkshire Council shall agree a budget with the Joint Committee annually in advance of Thirty first March in each year for the financial year following (except in the first year of the Project). The agreed budget shall be apportioned between the Member Authorities in accordance with the contribution rate and items 7.1 to 7.5 hereinbefore mentioned and will be payable quarterly in advance by them to South Lanarkshire Council. Any additional services required by the Joint Committee not included in the budget shall after authorisation by the Joint Committee be invoiced to the Member Authorities in accordance with the contribution rate.

SCHEDULE PART 3 – DURATION OF THE AGREEMENT/TERMINATION

1. The initial Project funding has been provided by the Public Service Reform Directorate of the Scottish Government for the period April 2007 to March 2008. It is anticipated that (subject to the success of the Project) additional funding may be awarded at least for the period to 31 March 2009 and possibly for future years. The scope of the Project is likely to develop over time. Member Authorities will require to give at least twelve months prior written notice to the Lead Authority if they wish to withdraw from this Agreement.
2. Any Member Authority so withdrawing will pay to the Lead Authority on demand all costs, expenses, and outgoings whatsoever reasonably incurred as a result of the termination/withdrawal and that in accordance with the agreed contribution rate.
3. In the event that a majority of Member Authorities resolve to wind up the Project or the Project should not attract future funding beyond March 2008 then the Joint Committee will ensure that a sufficient period of time is allowed and sufficient staff retained to facilitate the orderly winding up of the Project.
- 4.1 In the event of a wind up of the Project Member Authorities will pay to the Lead Authority on demand all costs, expenses and outgoings whatsoever reasonably incurred as a result of the termination of the Project and that in accordance with the agreed contribution rate and/or unit cost of training. For the avoidance of doubt this will include any penalties incurred on any contract entered into by the Lead Authority on behalf of any one or more of the Member Authorities of the Project in the event of early termination.
- 4.2 Where only one Member Authority has instructed a particular type of training and that training is subject to contract, that Member Authority alone will be responsible for the full cost of any penalties so incurred in the event of early termination.

SCHEDULE PART 4 – OPERATING ARRANGEMENTS

1. POWERS OF THE PROJECT

The Member Authorities will require to delegate to the Joint Committee all necessary powers to enable it to exercise the functions for which it is established.

2. REPRESENTATION ON THE JOINT COMMITTEE

Each Member Authority will be represented by one member. A substitute representative can attend meetings of the Joint Committee in the absence of the appointed member. The Joint Committee may invite other persons from appropriate bodies to attend meetings of the Joint Committee in an advisory capacity.

3. ROLE AND RESPONSIBILITY OF THE IMPLEMENTATION GROUP

The Project Implementation Group is an officer group with representatives from each of the participating authorities. The remit for the Group is

- Attending the Joint Committee
- Advising members of the Joint Committee on all aspects of the Project
- Co-ordinating all actions in relation to the Project work plan
- Representing individual Council's interests and views on the Group
- Acting as advocates for the Project within respective Councils
- Facilitating the work of the Group and its implications within each respective Council
- Liaising with senior officers as required regarding maintaining commitment to the Project
- Establishing relevant networks for each aspect of the Project
- Representing the Joint Committee at meetings of interested parties
- Taking appropriate decisions on methodologies and making recommendations as appropriate to the Joint Committee
- Gathering and monitoring data on progress
- Liaising with Improvement Service and National Board for Shared Services

4. ROLE AND RESPONSIBILITY OF THE PROJECT MANAGER

The role of the Project Manager is to

- Plan, initiate and co-ordinate delivery, and to evaluate the Project in all its stages
- Manage seconded staff involved in project management and implementation of specific aspects of the projects
- Schedule work plan
- Evaluate resource requirements for delivery
- Track risk, issues and change requirement logs and report accordingly
- Report on progress

- Co-ordinate tasks for implementation sub groups
- Ensure business case for change is developed for each subject area
- Provide information on outcomes and benefits accrued
- Represent the Joint Committee at meetings of interested parties
- Submit claims for grant monies to the national board (NBSS)

5. STANDARD TERMS AND CONDITIONS

A model Report has been prepared and has been circulated to all Member Authorities. All Member Authorities by their execution hereof confirm that their Council has approved the participation in the Project in accordance with the agreed model Report.

6. MINUTE OF AGREEMENT

Member Authorities will require to execute this Minute of Agreement to regulate their participation in the Project.

SCHEDULE PART 5 – CONFIDENTIAL INFORMATION

Description	FOISA exemption
Personal Data – information in relation to employees of Member Authorities necessary to be provided by one Member Authority to another.	Section 38 of FOISA

MINUTE OF AGREEMENT

between

SOUTH LANARKSHIRE COUNCIL EAST
DUNBARTONSHIRE COUNCIL, EAST
RENFREWSHIRE COUNCIL, GLASGOW CITY
COUNCIL, INVERCLYDE COUNCIL, NORTH
LANARKSHIRE COUNCIL, RENFREWSHIRE and
WEST DUNBARTONSHIRE COUNCIL all
incorporated under the Local Government etc.
(Scotland) Act 1994 (all hereinafter referred to as
“the Member Authorities”)

Subjects: Clyde Valley Learning and Development
Project

Head of Legal Services
South Lanarkshire Council
Legal Services
Montrose House
154 Montrose Crescent
HAMILTON
ML3 6LB

Ref: HL/ASH

FAS No: 2089