

DRAFT

(1) Derbyshire County Council

and

(2) Derby City Council

AGREEMENT FOR THE DERBYSHIRE AND DERBY
SUB REGIONAL 16-19 GROUP

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THIS MEMBERS' DEED OF AGREEMENT is made on

2009

BETWEEN

- (1) **DERBYSHIRE COUNTY COUNCIL** of County Hall, Matlock, DE4 3AG (“**DCoC**”);
- (2) **DERBY CITY COUNCIL** of Council House, Corporation Street, Derby DE1 2ZL (“**DCiC**”);

(The members)

BACKGROUND

- (A) The Partnership has been formed to co-ordinate the planning and commissioning of learning provision for 16-19 year old young people from learning providers primarily in Derby and Derbyshire.
- (B) The Partnership follows the guidance provided by the Department of Children, Schools and Families.
- (C) Learning provision being offered by institutions in Derbyshire shall be commissioned, under contract, by Derbyshire County Council, and in Derby by Derby City Council.
- (D) The Group is considered to be, and acts as subordinate to the respective Councils' elected members and constitutions, and its primary relationships with them are governed by way of this constitutional document rather than by way of contract;

Purpose of the Group

- 1. The Group exists to undertake the following activities in partnership between the two members :
 - a. Analyse and understand the demographic profile of young people aged 11-19.
 - b. Ensure that a learning place is available for every young person aged 16-19 in Derbyshire and Derby City, working closely with other authorities to

ensure access for Derbyshire and Derby residents who study outside their home area.

- c. Ensure that places are commissioned from learning providers in Derbyshire and Derby City to accommodate young people aged 16-19 from areas outside of Derbyshire and Derby City.
- d. Analyse and understand the curriculum needs of young people in Derbyshire and Derby City, planning and commissioning sufficient provision so that each young person aged 16-19 is able to access appropriate provision, achieving appropriate levels of qualification, including:
 - A Levels and GCSEs
 - Diplomas
 - Apprenticeships
 - Foundation Level Tier
 - Other Curricular Provision to ensure appropriate learning for every young person.
- e. Ensure that appropriate provision is commissioned to meet the needs of vulnerable young people including:
 - Learners with a learning difficulty or disability
 - Young offenders, including those in the secure estate
 - Teenage parents
 - Young people in or leaving the care of the local authority.
- f. Commission learning provision in response to the skills needs of employers as advised by the Chamber of Commerce, Federation of Small Businesses through the Education Business Partnership and Employment and Skills Boards.
- g. Provide advice and guidance to the NAS regarding the commissioning of apprenticeships in Derby and Derbyshire.
- h. Work closely with the Derbyshire Youth Council and Derby City's Voices in Action to ensure the commissioning process is informed by the views of young people.
- i. In partnership with the YPLA and SFA monitor the performance and quality of learning providers, influencing the commissioning of provision and raising the quality of provision.
- j. Through the 14-19 Partnerships, ensure that transport arrangements enable young people to access appropriate provision.

- k. Establish effective links with Connexions Derbyshire Ltd and each authority's 14-19 Partnership to ensure that information, advice and guidance (IAG) services meet the appropriate quality standards, and that the area prospectus and common application process are in place.
 - l. Ensure effective links with authorities that border Derbyshire, to determine the flows of learners from Derby and Derbyshire to other authorities and vice versa.
 - m. Provide advice and support to each local authority on post-16 capital issues as it develops its capital strategy, including the BSF programme.
2. Membership The following shall be members of the SRG

Officers from each local authority :

The Director or Assistant Director of Children's Services

Officer responsible for 14-19 Commissioning

Officer responsible for education improvement

Officer responsible for integrated youth support

Officer responsible for 14-19 finance

3. **CONDUCT OF THE GROUP'S AFFAIRS**

- 3.1 Each Member covenants with the other Member that so long as this agreement remains in force and effect it will:

- 3.1.1 respect the other Members and act in good faith;
- 3.1.2 as soon as practicable notify the Group of any matters of which it becomes aware which may affect the Group
- 3.1.3 generally do all things necessary to give effect to the terms of this Agreement;

- 3.1.4 take all steps available to it to ensure that any meeting of the Group or any committee of the Group has the necessary quorum throughout; and
- 3.1.5 take all reasonable steps to ensure that the SRG complies with its contractual obligations.

Derbyshire County Council and Derby City Council shall keep proper books of account and therein make true and complete entries of all its dealings and transactions.

ORGANISATION OF THE GROUP

4. STAFFING

- 4.1 The activities of the group shall be supported by senior officers of each LA, led by the Assistant Directors of Children's Services
- 4.2 The equivalent of at least a 0.5 FTE administrative assistant shall be dedicated to the work of the group, with costs shared proportionately.

5. MEETINGS AND PLANNING

- 5.1 All Group meetings shall be held at a venue reasonably convenient for all members.
- 5.2 A Group meeting will be held every two months unless determined otherwise by the Group.
- 5.3 Each Member will be sent papers for all meetings of the Group no less than five Business Days before the date of such meeting.
- 5.4 Group meetings shall be chaired alternately by each LA, changing on an annual basis.
- 5.5 No business shall be transacted at any Group meeting unless a quorum is present. A quorum shall be two members from each authority but, if the number attending is less than the number fixed as the quorum, they may act only for the purpose of calling another general meeting.

5.6 The Group shall produce an annual commissioning plan, taking account of the Children and Young People's Plans, which shall indicate the number of learning places required from providers in Derbyshire and Derby City in the following curriculum areas :

- A Levels and GCSEs
- Diplomas
- Apprenticeships
- Foundation Level Tier
- Alternative Curricular Provision.

In producing the plan, the group shall take into account guidance issued by the Government or by the Young People's Learning Agency.

6. **Dispute**

6.1 **Members' obligations**

In any case of irresolvable Dispute, each of the Members shall within 15 Business Days of Dispute having arisen or become apparent, cause its appointees on the Group to prepare and circulate to the Members a memorandum or other form of statement setting out its position on the matter in respect of which the Dispute has arisen and its reasons for adopting that position, but on the basis that such memorandum or statement shall always be prepared and delivered on a "without prejudice" basis. Each Member shall then refer the Dispute to either

- a) The 16-19 Regional Planning Group (for all curriculum or learner related matters) or
- b) the Chief Executives of each respective Member (for any other matters)

and such persons shall use all reasonable efforts in the 20 Business Days following such reference to resolve the Dispute.

6.2 Failure to resolve Dispute

If a resolution of a Dispute is not resolved or is not agreed in accordance with that clause (or such longer period as the Members may agree in writing) then the following shall apply :

the Members will attempt to settle it by mediation in accordance with the model mediation procedures (“the Procedures”) published by the Centre for Effective Dispute Resolution, CEDR Solve (“the Service Provider”). To initiate a mediation, a Member must give notice in writing (“the mediation notice”) to the other Member.

6.3 The Members will seek to agree the appointment of a mediator but, failing agreement within 28 days of the service of the mediation notice, any Member may ask the Service Provider to appoint a mediator.

6.4 In the event that there are no Procedures available and/or the Service Provider is unable or unwilling to appoint a mediator, any Member may ask the President of the Law Society of England & Wales (or its successor body) to appoint a mediator and/or to recommend a mediation procedure which the Members shall adopt.

6.5 If the matter in dispute is not resolved within 40 Business Days of the service of the mediation notice then any Member may (but shall not be obliged to) within 15 Business Days after expiry of such period serve notice in writing upon the other Member that the Group shall, at the earliest practicable date:

6.5.1 convene an extraordinary meeting of the Agreement to consider:

6.5.1.1 the matter from which the Dispute arose;

6.5.1.2 any alternatives available to Members

7. TERMINATION OF THIS AGREEMENT

- 7.1 This Agreement shall continue in full force and effect from the date hereof until all the Members or their successors in title agree in writing to its termination and to the date on which such termination shall take effect.

8. RECORDS, REPORTING, CONFIDENTIALITY AND DISCLOSURE

8.1 Books and records

The Group shall:

- 8.1.1 at all times keep true, accurate and up to date books and records of all the affairs of the Group
- 8.1.2 at all times make available to the Members and their duly authorised representatives full and complete access (including copying facilities) to the books, records, accounts, and documents
- 8.1.3 supply to each Member such information relating to the Agreement as it may require and without prejudice to the foregoing shall keep the Members fully and promptly informed as to all material developments regarding the Group's financial and business affairs and promptly notify the Members of any significant event (including without limitation any litigation or arbitration) the outcome of which will or is likely to affect the Agreement or its Business, finances, assets or affairs.

8.2 Representation

The group shall not represent the group or other member at regional or national meetings, unless specifically agreed. Each member shall represent itself on the 16-19 Regional Planning Group.

8.3 Reporting arrangements

- 7.2.1 The Group shall arrange for regular reports on the activities of the Group to be submitted to the following:

SRG Elected Panel

Full Council, Council Cabinet and Scrutiny Commissions in each LA as appropriate

Derbyshire Children and Young People's Trust

Derbyshire 14-19 Partnership

Derby City for Children and Young People (the Children's Trust)

Derby City 14-19 Partnership

- 7.2.2. The annual commissioning plan shall be approved by the County Council and City Council, as part of each authority's normal planning process.

Confidentiality

- 8.3.1 Subject to the following provisions, no party shall disclose any Confidential Information (whether verbal, in writing or in electronic form).
- 8.3.2 Such Confidential Information or any part thereof may only be disclosed to or used by persons such as employees, sub-contractors and agents of a party who need to know the same for the purposes of performing its obligations under this agreement. Each party shall maintain the confidentiality of such information and shall procure that such persons shall comply with substantially similar obligations of confidentiality as set out in this agreement.
- 8.3.3 The restriction on disclosure shall not apply to Confidential Information to the extent that it

- 8.3.3.1 is required to be disclosed by law (including under the Freedom of Information Act 2000) or by any governmental or other regulatory authority acting within the scope of its powers;
 - 8.3.3.2 is or becomes part of the public domain through no fault of the receiving party;
 - 8.3.3.3 is known to the receiving party prior to the disclosure by the disclosing party without an obligation to keep such Confidential Information confidential;
 - 8.3.3.4 is subsequently furnished by the disclosing party to a third party without restriction on disclosure or use;
 - 8.3.3.5 is subsequently obtained by the receiving party from a third party without breach of any obligation of confidentiality owed to any third party or the disclosing party; or
 - 8.3.3.6 is approved for public release by the disclosing party and the disclosing party shall give prior written notification of such disclosure to the other party where practicable.
- 8.3.4 No party shall use any Confidential Information disclosed to it by any other party, its employees, agents or advisers for any purpose other than for the purpose of this agreement
- 8.3.5 Each party shall use a reasonable standard of care in dealing with the other party's Confidential Information so as to maintain confidentiality and security of the Confidential Information.

8.4 Freedom of Information

- 8.4.1 Each party acknowledges that it and the other parties are subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and each party shall assist and

cooperate with the others (at their own expense) to enable the other parties to comply with these Information disclosure obligations.

8.4.2 Where a party receives a Request for Information in relation to Information which it is holding on behalf of another party, it shall:-

- (a) transfer the Request for Information to the other party as soon as practicable after receipt and in any event within Five Business Days of receiving a Request for Information;
- (b) provide the other party with a copy of all Information in its possession or power in the form that the other party requires within five Business Days (or such other period as the other party may specify) of a request from the other party; and
- (c) provide all necessary assistance as reasonably requested by the other party to enable that party to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations 2004.

8.4.3 Where a party receives a Request for Information which relates to Confidential Information, it shall inform the other parties of the Request for Information as soon as practicable after receipt and in any event within Five Business Days of receiving a Request for Information.

8.4.4 If any party determines that Information (including Confidential Information) must be disclosed under the FOIA, it shall notify the other parties of that decision at least Five Business Days before disclosure.

8.4.5 Each party shall be responsible for determining at its absolute discretion whether the Confidential Information and/or any other Information:-

- (a) is exempt from disclosure under the FOIA or the Environmental Information Regulations 2004;
- (b) is to be disclosed in response to a Request for Information.

8.4.6 Each party acknowledges that any other party may, acting in accordance with the Department for Constitutional Affairs' Code of Practice on the Discharge of Functions of Public Authorities under Part I of the Freedom of Information Act 2000, be obliged under the FOIA or the Environmental Information Regulations 2004 to disclose Information:-

- (c) without consulting with the other parties, or
- (d) following consultation with the other parties and having taken their views into account.

8.5 Audit and Access

The Group shall co-operate fully and in a timely manner with any request from time to time from any auditor (whether internal or external) of any of the Members and the Audit Commission to provide documents, or to procure the provision of documents, relating to the Agreement, and to provide, or to procure the provision of, any oral or written explanation relating to the same. In particular, each Member and/or any auditors shall be permitted access to any and all documentation in the possession, custody or control of the Agreement (who shall procure that any person acting on its behalf (including any sub-contractor) who has such documents and/or any information shall also provide such access.

9. VARIATION

Any variation of any term of this Agreement shall be in writing duly signed by the Members and the Agreement.

10. **ENDORSEMENT**

This agreement shall become active upon the endorsement of Derbyshire County Council and Derby City Council.