

**DATED** \_\_\_\_\_

**(1) THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BROMLEY**

**(2) THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BEXLEY**

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**COLLABORATION AGREEMENT**

**THE PROVISION OF SHARED PARKING  
SERVICES**

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**BETWEEN:**

- (1) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BROMLEY**  
Civic Centre Stockwell Close Bromley Kent BR1 3UH ("**LB Bromley**");
- (2) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BEXLEY**  
London Borough of Bexley Room 5 Maidstone Road Sidcup Kent DA14 5HS ("**LB Bexley**");

together referred to as "**the Councils**".

**1. DEFINITIONS AND INTERPRETATION**

**1.1 DEFINITIONS**

Unless the context otherwise requires, the following words and expressions when used in this Agreement shall have the following meanings:

<b>"Agreed Functions"</b>	means the functions listed or referred to in Part 1 of Schedule 2 (The Role of the Shared Parking Services Management Board);
<b>"Agreement"</b>	means this agreement together with all Schedules and Appendices thereto;
<b>"Back Office Function"</b>	means the function as more specifically detailed in the Specification attached at Schedule 7
<b>"Shared Service Budget"</b>	Specific budget directly related to the shared service team (eg staffing & general running expenses)
<b>"Board Decisions"</b>	means those decisions that are required to be taken by the Shared Parking Services Management Board in relation to an Agreed Function in accordance with Schedule 2 (The Role of the Shared Parking Services Management Board);
<b>"Business Days"</b>	means any day including a Saturday or Sunday or a public or bank holiday in England;
<b>"Commencement Date"</b>	means ;1 <sup>st</sup> April 2013
<b>"Confidential Information"</b>	means all know-how and other information whether commercial, financial, technical or otherwise relating to the business, affairs or methods of all or any party,

which is contained in or discernible in any form whatsoever (including without limitation software, data, drawings, films, documents and computer-readable media) whether or not marked or designated as confidential or proprietary or which is disclosed orally or by demonstration and which is described at the time of disclosure as confidential or is clearly so from its content or the context of disclosure;

<b>"Contracting Authority"</b>	means any contracting authority as defined in Regulation 3 of the Public Contracts Regulations 2006 and for the purposes of this Agreement;
<b>"DPA"</b>	means the Data Protection Act 1998;
<b>"Draft Revenue Budget"</b>	means the draft revenue budget prepared in accordance with Clause 22
<b>"Employees"</b>	means those staff engaged in posts appointed to work pursuant to the Shared Parking Services Arrangements and managed by the Host Council and as detailed in Schedule 6.
<b>"Financial Principles"</b>	means the principles, which shall be used to calculate the contributions due from each of the Councils as set out in Schedule 4 (Financial Principles)
<b>"Financial Year"</b>	means the period from 1 April in any year to 31 March in the following year;
<b>"Operational Budget"</b>	Operational budgets for each Council that are managed and administered by the Shared Service staff on behalf of the two Councils
<b>"Host Council"</b>	means London Borough of Bromley
<b>"Parking Services"</b>	shall mean the Shared Parking Service Arrangements (forming part of the Agreed Functions) set out in Schedule 7 (the Specification) and carried out by the Shared Services Management Board, Head of Parking Services and the Shared Parking Services Team pursuant to this Agreement;
<b>"Intellectual Property"</b>	means any and all patents, trade marks, trade names, copyright, moral rights, rights in design, rights in databases, know-how and

all or other intellectual property rights whether or not registered or capable of registration and whether subsisting in the United Kingdom or any other part of the world together with all or any goodwill relating to them and the right to apply for registration of them;

<b>"IP Material"</b>	means the Intellectual Property in the Material developed by the Councils during the term of this Agreement;
<b>"Shared Assets"</b>	means any equipment, goods, supplies or other property required for the purposes of the Shared Parking Services which may be acquired and agreed from time to time as Shared Assets.
<b>"Shared Parking Services Arrangements"</b>	means the arrangements established by the Councils under this Agreement for delivery of the Shared Parking Services;
<b>"Shared Parking Services Management Board"</b>	means the management board established pursuant to this Agreement as detailed in Schedule 2;
<b>"Head of Parking Services"</b>	means the manager appointed pursuant to this Agreement to manage the Shared delivery of Parking Services as detailed in Schedule 3 (Head of Parking Services);
<b>"Shared Services Team"</b>	means the team of employees established pursuant to this Agreement to deliver the Shared Parking Services;
<b>"Shared Intellectual Property"</b>	means Intellectual Property which may be required for the purpose of the Shared Parking Services Arrangements and which will be agreed by the Councils as Shared Intellectual Property from time to time;
<b>"Stakeholder Board"</b>	means the Stakeholder Board established pursuant to this Agreement in accordance with Schedule 1 (Role of the Stakeholder Board);
<b>"Management Decisions"</b>	means decisions that are taken by the Head of Parking Services in relation to an Agreed Function in accordance with Schedule 3;
<b>"Material"</b>	means all data, text, graphics, images and other materials or documents created, used or supplied by a party in connection

with this Agreement unless before the first use or supply, the party notifies the others that the data, text supplied is not to be covered by this definition;

**“Objectives”**

means the objectives the Councils for the Shared Parking Services shall work to and as more specifically described in Clause 3 below

**"Personal Data"**

means personal data as defined in the Data Protection Act 1998;

**"Procurement Exercise"**

means those public procurement processes to be carried out in order to procure a range of services, works or goods undertaken by the Councils under the Shared Parking Services Arrangements;

**"Reserved Decisions "**

means those decisions which have been reserved to be taken by the Councils (in accordance with Clause 12.2) acting independently and/or which have not been delegated as part of the Shared Parking Services Arrangements;

**"Specification"**

means the specification detailing the Shared Parking Services attached at Schedule 7;

1.2. The interpretation and construction of this Agreement shall be subject to the following provisions:

1.2.1. the singular includes the plural and vice versa;

1.2.2 a reference to any Clause, sub-Clause, paragraph, Schedule, recital or annex is, except where expressly stated to the contrary, a reference to such Clause, sub-Clause, paragraph, schedule, recital or annex of and to this Agreement;

1.2.3 any reference to this Agreement or to any other document shall include any permitted variation, amendment or supplement to such document;

1.2.4 any reference to legislation shall be construed as a reference to any legislation as amended, replaced, consolidated or re-enacted;

1.2.5 a reference to a public organisation (to include, for the avoidance of doubt, any Council) shall be deemed to include a reference to any successor to such public organisation or any organisation or entity

which has taken over either or both functions and responsibilities of such public organisation;

- 1.2.6 a reference to a person includes firms, partnerships and corporations and their successors and permitted assignees or transferees;
- 1.2.7 the schedule, Clause, sub-Clause and (where provided) paragraph headings and captions in the body of this Agreement do not form part of this Agreement and shall not be taken into account in its construction or interpretation;
- 1.2.8 words preceding "include", "includes", "including" and "included" shall be construed without limitation by the words which follow those words; and
- 1.2.9 any reference to the title of an officer or any of the Councils shall include any person holding such office from time to time by the same or any title substituted thereafter or such other officer of the relevant Council as that Council may from time to time appoint to carry out the duties of the officer referred to.

## **2. BACKGROUND**

- 2.1 Sections 9EA and 9EB of the Local Government Act 2000 enables the Secretary of State to make provision to permit local authorities to make arrangements for the discharge of their functions by another local authority and under section 101(5) of the Local Government Act 1972 for the discharge of any of their functions jointly which are the responsibility of the executive of a local authority. The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 permit such arrangements.
- 2.2 Section 111 of the Local Government Act 1972 provides for each of the Councils to do anything which is calculated to facilitate, or is conducive or incidental to the discharge of any of its functions.
- 2.3 Section 112 provides that a local authority shall appoint such officers as they consider necessary for the proper discharge by the authority of such of their or another authority's functions as fall to be discharged by them and the carrying out of any obligations incurred by them in connection with an agreement made by them under Section 113 of the Local Government Act 1972.
- 2.4 Section 113 of the Local Government Act 1972 confers on the Councils the power to enter into an agreement with each other for the placing at their disposal the services of officers employed by them. Any such officer shall be treated for the purpose of any enactment relating to the discharge of local authorities' functions as an officer of that other local authority.
- 2.5 The Local Authority (Goods and Services) Act 1970 confers the power on the Councils to enter into an agreement for the provision to each other of (amongst other things) goods, materials, and administrative, professional and technical services. Any agreement under this provision may contain such terms as to payment or otherwise as the parties consider appropriate.



- 2.6 Under the Public Contracts Regulations 2006 the Councils, as contracting authorities, may purchase works, goods or services from or through a central purchasing body. Where such purchases are made, they are deemed to have complied with the public procurement rules, to the extent that the central purchasing body has complied with them. A central purchasing body is defined as a contracting authority which acquires goods or services, or awards public contracts or framework agreements for works, goods or services intended for one or more contracting authorities.
- 2.7 By virtue of Section 3 of the Local Government Act 1999, each Council has a duty to make arrangements to secure continuous improvement in the way in which its functions are exercised having regard to a combination of economy, efficiency and effectiveness.
- 2.8 The Councils have agreed to establish shared working arrangements for the parking services to facilitate the improvement and efficient and economical discharge of their functions.
- 2.90 The Councils have entered into this agreement to establish the framework and governance for their shared working arrangements. They may, from time to time, enter into separate agreements under the terms of this framework which will record the detailed basis of the way in which they will manage and contribute to the carrying out of specific projects or services that they may undertake jointly.
- 2.11 The Councils shall keep under review opportunities to further enhance the services including but not limited to entering into arrangements with other local authorities.

### **3. PRINCIPLES AND KEY OBJECTIVES**

- 3.1 The Councils have agreed to work together to achieve the following objectives (the "**Objectives**") in relation to the Shared Parking Services Arrangements:
- 3.1.1 to build on the service provided and expertise that currently exists within the Councils and to create a single service that enhances and improves what is currently in existence;
  - 3.1.2 to maximise efficiencies in service provision, aiming to achieve a high quality service provision and to maximise the use of resources available and achieve improved efficiency;
  - 3.1.3 to develop long term strategies for the most economic, efficient and effective provision of Parking Services for the Councils and to create a forum in which the Councils can work collaboratively in respect of developing the Shared Parking Services Arrangements and to develop a long term vision of the Parking Services;
  - 3.1.4 to position the Councils so that they are able to collaborate with other local authorities in the provision of Parking Services provided that any such collaboration is in the interests of both Councils;
  - 3.1.5 to rationalise the management and maximise the procurement of supplies or services in relation to the Shared Parking Services Arrangements;

- 3.1.6 to keep under review the integrated back office and senior management parking functions with the view to further integration of the service provision should the Councils consider it is financially viable and conducive to enhanced service delivery;
  - 3.1.7 to ensure the Parking Services Arrangements are delivered within the budget allocated by the Councils;
  - 3.1.8 to ensure achievement income targets agreed by the Councils in respect of the Parking Services arrangements.
  - 3.1.9 to ensure savings targets agreed by the Councils in respect of the Parking Services Arrangements are achieved.
- 3.2 In order to achieve the Objectives, the Councils agree to work together in good faith and in an open, co-operative and collaborative manner. The Councils' Members and officers will work together in a spirit of mutual trust in order to ensure the successful implementation and operation of the Shared Parking Services Arrangements and will respond in a timely manner (or within such timescales as agreed between the Councils) to all reasonable requests from each other.
- 3.3 The Councils agree as a general principle (subject to any specific provisions) that the Shared Parking Services Arrangements pursuant to this Agreement will be implemented and operated by them in such a way as to ensure that the position of one Council is no worse off where the other is better off than it would have been simply because of the adoption of a shared working model which requires one of the Councils to take on the role of the Host Council. If the Councils cannot reach agreement on a matter left to their shared discretion under this Agreement (including without limitation the financial or other adjustment to be made to accommodate these arrangements) the matter will be determined through the procedure set out in Clause 17 (Internal Dispute Resolution) having regard to this general principle.
- 3.4 The Councils agree that the Shared Parking Services Arrangements shall apply only to the Agreed Functions.

#### **4. ESTABLISHMENT OF SHARED ARRANGEMENTS**

- 4.1 The Councils (which for the purposes of this Clause shall include the Cabinets/Member/Portfolio Holder of the London Borough of Bexley and the London Borough of Bromley respectively) agree to establish the Shared Parking Services Arrangements in accordance with the terms of this Agreement, by the exercise of the following powers:
- 4.1.1 section 9EA and section 9EB of the Local Government Act 2000;
  - 4.1.2 section 101(5) of the Local Government Act 1972;
  - 4.1.3 The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012;
  - 4.1.4 section 112 and section 113 of the Local Government Act 1972;
  - 4.1.5 Local Authority (Goods and Services) Act 1970;

4.1.6 section 111 of the Local Government Act 1972; and

4.1.7 any other enabling powers.

## **5. DURATION OF AGREEMENT AND WITHDRAWAL FROM ARRANGEMENTS**

5.1 This Agreement shall come into force on the Commencement Date 1 April 2013.

5.2 The Shared Parking Services Arrangements shall continue in operation until ?? (“Initial Term”) or unless terminated in accordance with Clauses 5.3 or 5.4 or terminated upon such other terms as the Councils may agree. The Councils may by unanimous agreement of the Stakeholder Board in writing extend the Initial Term for a further specified term or terms.

5.3 Either Council may terminate this Agreement and withdraw from the Shared Parking Services Arrangements by giving a minimum of 6 months' notice in writing to the other at any time.

5.4 Notwithstanding clause 5.3, either Council may terminate this Agreement by giving such other period of notice that shall be mutually agreed between the Councils.

5.5 On termination of this Agreement the provisions of Clause 24 (Consequences of Termination) will apply.

## **6. HOST COUNCIL**

6.1 The Councils agree that LB Bromley shall be appointed Host Council for the purposes of this Agreement.

6.2 For the purposes of this Agreement and to facilitate the effective and efficient delivery of the Shared Parking Services Arrangements the Host Council shall:

6.2.1 manage and develop the Shared Parking Services Arrangements on behalf of the Councils in line with the Specification attached;

6.2.2 plan and deploy the resources for the Shared Parking Services Arrangements;

6.2.3 manage the workforce where employed and or engaged to deliver the Shared Parking Services Arrangements regardless by which Council they are engaged;

6.2.4 ensure the Councils engage appropriately qualified and experienced persons to deliver the Shared Parking Services Arrangements on behalf of the Councils

6.2.5 monitor and manage the shared revenue budget and shared capital schemes (when they arise) in accordance with the provisions set out in the Collaboration Agreement as varied from time to time by agreement of the Councils

6.2.6 acquire and hold any Shared Assets or Shared Intellectual Property rights on behalf of the Councils in accordance with this Agreement and as may be agreed from time to time.

6.2.7 arrange facilitate and provide general support to the Shared Parking Services Management Board.

## **7 DUTY TO CO-OPERATE**

7.1 The Councils shall use their best endeavours to ensure they co-operate fully with the other to ensure the effective discharge of the Shared Parking Services Arrangements.

7.2 The duty to co-operate shall include but is not limited to the following:

7.2.1 the preparation of reports on any aspect of its responsibilities (including those beyond the scope of this Agreement) where this is necessary to enable the Executive/s or the full Council/s to make a decision relating to the Arrangements;

7.2.2 each Council shall arrange for its officers to attend relevant Council meetings or such other meetings as are considered appropriate;

7.2.3 ensure the effective delivery of the Services as detailed in the Specification at Schedule 7.

7.2.4 to act in a spirit of goodwill and co-operation to resolve any disputes that may arise between the Councils or in relation to the operation of the Workforce Agreement (Schedule 6).

## **8 GOVERNANCE ARRANGEMENTS**

8.1 The Councils agree that robust governance arrangements be implemented for the Shared Parking Service which shall include the discharge of decision making through the respective Cabinet Member and Portfolio Holder, a Stakeholder Board and a Shared Parking Services Management Board as set out in clauses 10, 11 and 12 respectively, and whose composition and responsibilities are set out in Schedules 1 and 2.

8.2 Each Council shall report annually to their respective Cabinet Member/Portfolio Holder, or Cabinet/Executive if appropriate, on the effectiveness, success and value that the Shared Service is providing.

## **9 NOMINATED CABINET MEMBER/PORTFOLIO HOLDER**

9.1 The nominated lead executive Member for each authority shall be the relevant Cabinet Member/Portfolio Holder with responsibility for Parking, including the Shared Service.

9.2 Each Council shall ensure the other is aware at all times of the identity of the nominated lead executive Member and of any deputising arrangements.

9.3 At any point when the Councils are required, as a consequence of this Agreement, to consult with or seek agreement from the other, this requirement may be discharged by consultation with the Deputy Director/Assistant Director or such other person of similar designated posts as identified by the Councils who will, if necessary, consult the nominated lead executive Member.

9.4 When considering any decision under this Agreement, the nominated lead executive Member as appropriately advised by officers will determine whether the issue under discussion needs to be considered under any other Council decision making arrangement.

9.5 Any decisions taken by the nominated lead executive Member or the Deputy Director/Assistant Director pursuant to this Agreement will be recorded in writing by the Council and a copy of this record shall be made available to the other Council.

## **10 THE STAKEHOLDER BOARD**

10.1 The Councils agree to establish a **Stakeholder Board**, or such other appropriately named body, whose membership and responsibilities are set out in Schedule 1.

10.2 The Stakeholder Board shall:

10.2.1 have a strategic advisory role in developing the relationship between the Councils with regard to the Shared Parking Services Arrangements; and

10.2.2 discharge its responsibilities in accordance with the terms of this Agreement and as set out in Schedule 1.

## **11. SHARED PARKING SERVICES MANAGEMENT BOARD**

11.1 The Shared Parking Services Management Board or such other appropriately named body as agreed by the Councils shall:

11.1.1 on behalf of the Councils discharge the Agreed Functions and arrange for the discharge of those Functions or any of them by any officer of the Councils;

11.1.2 exercise and make decisions in respect of matters delegated to it by the Councils under the terms of this Agreement.

## **12 DECISIONS**

12.1 Notwithstanding clauses 10 and 11 above the Councils shall have the right to make independent decisions on matters referred to each of them by the Shared Parking Services Management Board for decision and on such matters not delegated to the Shared Parking Services Management Board.

12.2 Any decisions or actions which are not set out or referred to in paragraph 1 of Part 1 of Schedule 2 (Role of the Shared Parking Services Management Board) are Reserved Decisions and shall be dealt with accordingly by the relevant Council to whom it relates.

12.3 The Shared Parking Services Management Board shall operate and discharge its responsibilities in accordance with the terms of this Agreement and as set out in Schedule 2 (Role of the Shared Parking Services Management Board).

12.4 Decisions in respect of the Shared Parking Services Arrangements shall be determined as follows:

- 12.4.1 **Reserved Decisions** shall be taken by each Council acting independently;
- 12.4.2 **Management Board Decisions** shall be taken by the Councils acting unanimously through the Shared Parking Services Management Board;
- 12.4.3 **Management Decisions** shall be taken by the Head of Parking Services acting for both Councils;

### **13 SCRUTINY**

- 13.1 The Councils will arrange for appropriate officers to attend a Scrutiny Committee of the other Council or sub-committee or such other meeting provided reasonable notice is given.
- 13.2 The Councils will provide and supply such monitoring information for consideration by the Scrutiny Committees or sub-committee or any other meeting in so far as it is able to meet any reasonable request for information.

### **14. SHARED ASSETS**

- 14.1 Shared Assets shall be acquired on behalf of the Councils by the Host Council and vested in it for the purposes of this Agreement and for use as determined by the Shared Parking Services Management Board.
- 14.2 The Councils shall assign any shared Intellectual Property which is acquired or brought into existence after the Commencement Date for the purposes of the Shared Parking Services Arrangements to the Host Council to be held jointly on behalf of the Councils for the purposes of this Agreement.
- 14.3 All shared Assets and shared Intellectual Property shall be used and cared for in an appropriate manner and their proper use (including any maintenance) shall be supervised, managed and controlled by the Host Council acting in accordance with the instructions of the Shared Parking Services Management Board.
- 14.4 The Shared Parking Service shall maintain a log of the assets such as IT equipment.

### **15. REVIEW OF AGREEMENT**

- 15.1 The Councils shall carry out an Annual Review of the Arrangements in accordance with Schedule 1.
- 15.2 The annual review shall include but is not limited to the following:
  - 15.2.1 an evaluation of performance against agreed performance measured targets and priorities;
  - 15.2.2 a review of the targets and priorities for the following financial year;
  - 15.2.3 a review of the quality of service delivery;
  - 15.2.4 an evaluation of any statistics or information required to be undertaken from time to time.

- 15.3 Each Annual Review of the Arrangements will take into account the Council's obligations in respect of Best Value, any other statutory requirements in force at the time of the review and any performance indicators agreed by the Councils from time to time.
- 15.4 Either Council may require a review to be undertaken at any time outside the Annual Review Provision.
- 15.5 In addition to the Annual Review the Shared Parking Service Management Board shall produce a written report for the Stakeholder Board on the arrangements in a format and at such frequency as agreed by the Councils.

## **16 INTELLECTUAL PROPERTY**

- 16.1 Each Council will retain all Intellectual Property in its Material.
- 16.2 Each Council will grant the other Council a non exclusive, perpetual, non-transferable and royalty free licence to use, modify, amend and develop its IP Material for the Shared Parking Services Arrangements and any other purpose resulting from the Shared Parking Services Arrangements whether or not the Council granting the licence remains a party to this Agreement.
- 16.3 Without prejudice to Clause 16.2 if both Councils own or have a legal or beneficial right or interest in any aspect of the IP Material for any reason (including without limitation that no one Council can demonstrate that it independently supplied or created the relevant IP Material without the help of the other Council), each Council who contributed to the relevant IP Material will grant to the other Council a non-exclusive, perpetual, non-transferable and royalty free licence to use and exploit such IP Material as if the Council were the sole owner under the Copyright Design and Patents Act 1988 or any other relevant statute or rule of law.
- 16.4 For the avoidance of doubt a Council who has licensed any Intellectual Property under this Agreement shall be entitled to continue to use the licensed Intellectual Property following termination.
- 16.5 Each Council warrants that it has or will have the necessary rights to grant the licences set out in Clauses 16.2 and 16.3 in respect of the IP Material to be licensed.

## **17 INTERNAL DISPUTE RESOLUTION**

- 17.1 The Councils undertake to pursue a positive approach towards dispute resolution which seeks (in the context of this shared working arrangement) to identify a solution at the Head of Parking Service level that is appropriate to the subject of the dispute and which avoids legal proceedings and maintains a strong working relationship between the parties.
- 17.2 If any dispute arises between the Councils and cannot be resolved by the Head of Shared Parking Service, it shall be referred to the Assistant Director of LB Bromley and Deputy Director of LB Bexley respectively for resolution.
- 17.3 If the dispute cannot be resolved by the Assistant Director and Deputy Director within a period of 28 days, the matter shall be referred to the respective Directors who shall endeavour to resolve the dispute within 14 days. Should the matter

remain unresolved by the Directors, it shall be passed on to the Chief Executive of each Council or other such equivalent designated post for resolution within a further period of 28 days. Should the Chief Executives fail to resolve the dispute, the Councils shall refer the dispute for mediation. Neither Council shall wilfully delay or obstruct the mediation process and each Council agrees that:

- 17.3.1 whenever the Council wish to have a dispute resolved by mediation, the Councils agree to request the Centre for Effective Dispute Resolution ("CEDR") to appoint a Mediator (and if in turn CEDR has ceased to exist or is unwilling to act, then the parties agree to request the Chartered Institute of Arbitrators to appoint a Mediator). The Mediator shall be wholly independent of the Councils and any sub-contractor;
  - 17.3.2 the Mediator shall, in consultation with the Councils, determine the timetable and procedure for mediation. Unless otherwise agreed, the CEDR Mediation Rules in force at the commencement of the mediation will apply;
  - 17.3.3 the mediation will be conducted on a without prejudice basis and in strict confidence;
  - 17.3.4 the Mediator shall incur no legal liability to the parties in respect of his or her role in relation to the mediation, except in the case of proven fraudulent conduct on the part of the Mediator;
  - 17.3.5 if a dispute is settled through mediation, the terms of the settlement will be recorded in writing in a legally binding form signed by a duly authorised representative of each of the Councils;
  - 17.3.6 if, within 20 Business Days (the "Mediation End Date") of the Mediator being appointed, the Mediation has not resulted in the resolution of the dispute, then the mediation procedure shall, unless otherwise agreed by the Councils, be terminated and then the provisions of Clause 17.4 below shall apply; and
  - 17.3.7 no-one appointed to act as a Mediator shall be called to give evidence in any subsequent proceedings between the Councils, nor shall any Mediator be entitled to act as an adviser to either party in any subsequent proceedings whether as counsel, solicitor or independent expert without the prior written consent of the other Council. The Mediator shall not act as an arbitrator in any subsequent dispute.
- 17.4 In the event of any dispute between the Councils relating to this Agreement which it has not been possible to resolve through the mediation (whether this be a contractual interpretation or otherwise) the matter may be referred to an independent Arbitrator acceptable to both Councils in accordance with the Arbitration Acts 1950 and 1979. If the Councils fail to agree on the identity of an Arbitrator within 14 working days, then the President of the Chartered Institute of Arbitrators or his nominated representative shall be requested to appoint an Arbitrator.
- 17.5 The decision of the Arbitrator, which may include a decision as to liability for the costs and/or Arbitration, shall be binding on both Councils and all costs incurred from the arbitration procedure shall be shared equally by both Councils.



## **18 LEGAL, HR, FINANCE AND OTHER SUPPORT**

18.1 The Councils agree that unless otherwise determined:

18.1.1 The London Borough of Bromley's Legal Services, Human Resources, Occupational Health and other relevant support service staff shall advise and assist Bromley staff in the provision of the Shared Parking Services and shall not provide legal advice, HR advice, Occupational Health advice or other relevant support or assistance to the London Borough of Bexley in relation to employment or other matters arising by virtue of these arrangements;

18.1.2 The London Borough of Bexley's Legal Department, Human Resources Department, Occupational Health Service and other relevant support service staff shall advise and assist Bexley staff in the provision of the Shared Parking Services and shall not; (save for general support and guidance to Bromley staff in the management of Bexley staff), provide legal advice, HR advice, Occupational Health advice or other relevant support or assistance to the London Borough of Bromley in relation to employment or other matters arising by virtue of these arrangements;

18.1.3 In the event of legal proceedings being issued against either Council pursuant to this Agreement the employees and/or consultants shall co-operate to enable the Councils to defend and/or settle such claim;

18.1.4 The Councils shall share any legal costs incurred pursuant to this Agreement in defending a claim or sharing the award against either Council made by a court.

18.2 The costs incurred on the shared arrangements will be recorded on both Bromley and Bexley's financial systems. Assistance will be provided by Finance staff of both authorities to the Head of Parking Services in the interpretation of the financial data.

## **19. STAFFING**

19.1 The current staff structure for the Shared Parking Service is set out in Schedule 6. The Parties are aware that this structure may require to be amended from time to time and shall have due regard to the Governance Arrangements for the Shared Parking Service when any amendments are to be made.

19.2 Staff appointed to work in the Shared Parking Service will be issued with a contract of employment based on the terms and conditions of their employing Council and in accordance with the Service requirements and statutory obligations.

19.3 London Borough of Bexley employees appointed to work within the Shared Parking Service will continue be subject to LB Bexley terms and conditions, with the exception of policies and procedures. LB Bexley staff seconded to the shared parking service will be subject to LB Bromley's policies and procedures and in accordance with the Workforce Agreement set out in Schedule 6 of this agreement. Both parties agree to the terms set out in the Workforce Agreement attached at Schedule 6.

- 19.4. LB Bexley will ensure that its employees will continue to have access to LB Bexley relevant IT services and intranet in order that they can keep in touch with their employer.
- 19.5 LB Bromley staff appointed to work within the Shared Parking Service will continue to be subject to LB Bromley's terms and conditions of service.
- 19.6 Employees appointed to the Shared Parking Service shall continue to be paid directly by their respective employer and any queries in respect of pay should be directed to the respective Council Payroll Service.
- 19.7 The Head of Parking Services shall be responsible for ensuring effective delivery of the arrangements and managing the Shared Parking Service.
- 19.8 Either Council shall appoint a nominated officer to carry out any formal investigation required under either Councils' procedures as appropriate.
- 19.9 In the event of vacancies arising during the term of this agreement a decision as to how and when these vacancies shall be filled will be made by the Shared Parking Services Management Board (subject always to any internal policy and approval of either Council that may be required) and in accordance with the Governance Arrangements for the Shared Parking Service.
- 19.10 When a decision is taken to fill a vacancy the Shared Parking Services Management Board shall determine the most appropriate contractual arrangements to employ, including whether LB Bromley or LB Bexley terms and conditions are appropriate and whether a permanent, temporary or fixed term appointment should be made.

## **20 GENERAL STAFF MATTERS**

- 20.1 When working in relation to the Shared Parking Services Arrangements, employees of each Council shall work and shall be made available to the other Council pursuant to section 113 of the Local Government Act 1972.
- 20.2 It is acknowledged that this Agreement embodies the provision of services by the staff to the Councils and that accordingly, should the Shared Parking Service be terminated, upon termination, the parties recognise that there may cease to be a requirement for the staff or that the Councils may only have a need for a proportion of the staff so employed. In the event that the staff services are no longer required under this Shared Parking Service, staff will return to the direct employment of the Council to whom they are contracted with under their contract of employment and any secondment arrangements shall terminate. In these circumstances, upon termination of the Shared Parking Services, the arrangements as set out in the Financial Principles in Schedule 4 and clause 24 (Consequences of Termination) will apply.
- 20.3 Other than on termination of this agreement, any proposal by either Council for re-organisation or redundancy in relation to the Employees after the Commencement Date shall be reported to and discussed by the Shared Services Management Board who shall consider the proposals in good faith and in accordance with the objectives and principles set out in Clause 3 of this Agreement.

20.4 The Shared Services Management Board shall determine whether and how the proposals shall be implemented and whether it is fair and equitable in all the circumstances of the proposals that the provisions of the Financial Principles set out in Schedule 4 in relation to the sharing of costs should apply or whether alternative provisions should be agreed. If the Shared Services Management Board cannot reach agreement on the provisions which should apply to the proposal then the matter will be determined in accordance with the Internal Dispute Resolution procedure set out in clause 17.

## **21. SHARED PARKING SERVICE OFFICE LOCATION**

21.1 The Councils agree that the location of the Shared Parking Service will be at London Borough of Bromley Civic Centre Stockwell Close Bromley Kent BR1 3UH or at such other location as may be agreed between the Councils.

21.2 Staff of either Council shall be required to work as and where required across both Council Boroughs and other premises occupied or used by the Shared Parking Service in the provision of Parking Services.

21.3 LB Bromley agrees that it shall provide safe and suitable accommodation and facilities (including power, water and telephone services) to such employees and or consultants where appropriate as the Councils agree should be located at LB Bromley premises.

21.4 Each Council shall allow members of the Shared Parking Services such access to that Council's IT systems as may be reasonably required to enable provision of the Parking Services and shall provide such help-desk and desktop support to those employees as necessary to deliver the Services. Each Council shall be responsible for obtaining any necessary third party consents to enable such access to its IT systems. If any necessary third party consents cannot be obtained (or can only be obtained at a cost that is unreasonable or disproportionate), the Councils shall agree an alternative method to provide the Parking Services.

## **22 BUDGETS AND COUNCIL CONTRIBUTIONS**

22.1 Any obligations and liabilities arising out of the Shared Parking Services arrangements ascertainable prior to the expiry or termination of this Agreement or subsequently arising shall be met by the Councils in accordance with the Financial Principles set out in Schedule 4 unless otherwise agreed in writing by the Councils.

22.2 Not later than 1 September in any other year prior to the commencement of a Financial Year the Head of Parking Services shall commence work to prepare and submit through the Shared Parking Services Management Board to the Stakeholder Board for their comments on the Draft Revenue Budget and any capital expenditure proposals

22.3 The Draft Revenue Budget and capital expenditure proposals shall include:

22.3.1 estimates of revenue income and expenditure of the Shared Parking Services for or in relation to the Shared Parking Services Arrangements and the Agreed Functions;

22.3.2 details as to how the expenditure is to be financed including a breakdown of the contributions required from each Council;

- 22.3.3 estimated costs of any specific capital or revenue project which the Head of Parking Services seeks authority or has authority to undertake within the framework of the Shared Parking Services Arrangements;
- 22.3.4 budget proposals from the Head of Parking Services in respect of the activities of the Shared Parking Service.
- 22.3.5 Any efficiency savings/targets required by each Council as part of the normal draft estimate process.
- 22.4 The Draft Revenue Budget and capital expenditure proposals shall be prepared on the basis that all revenue and capital expenditure incurred by the Councils for the Shared Parking Services Arrangements shall be shared in line with the Financial Principles (unless otherwise agreed by the Councils for a specific project) contained in schedule 4.
- 22.5 Following receipt of any comments from the Stakeholder Board the Head of Parking Services shall make such adjustments to the Draft Revenue Budget and capital expenditure proposals as appropriate and forward the Draft Budget and capital expenditure proposals to the Assistant Director of the LB Bromley and the Deputy Director of the LB Bexley who shall submit it to the Councils for comment.
- 22.6 The Shared Parking Services Management Board shall submit the Draft Revenue Budget and capital expenditure proposals (as amended) for approval to the Councils not later than 31st January in the relevant year. The Draft Revenue Budget shall take into consideration the comments of each Council in respect of the Draft Budget and shall be split into committed and optional estimates in relation to the Agreed Functions. Should the Councils approve the Revenue Draft Budget it shall become the "**Approved Revenue Budget**".
- 22.7 If either Council does not approve the Draft Revenue Budget it shall provide the Shared Parking Services Management Board with detailed reasons why the Draft Revenue Budget has not been approved and any amendments that are required in relation to it. The Shared Parking Services Management Board shall discuss the proposed amendments and shall agree a revised Draft Revenue Budget to be submitted.
- 22.8 The Head of Parking Services shall not incur expenditure in excess of that amount so approved in the Approved Revenue Budget in any Financial Year without the prior consent of the Councils.
- 22.9 The Councils agree that they shall each comply with the provisions of Schedule 4.
- 22.10 Unless otherwise specified in Schedule 4, LB Bexley shall pay to the LB Bromley on 15 April and quarterly thereafter, payments of one quarter of the net financial contribution it has agreed to make in accordance with the methodology set out in schedule 4. At the year end, reconciliation will be undertaken based on actual costs and a balancing payment made as appropriate.
- 22.11 The financial split for the Shared Service shall be as referred to at Schedule 4, Clauses 1.1.3 and 1.1.4.
- 22.12 For the avoidance of doubt if any dispute or difference (including a refusal to approve a final estimate) arises between the Councils in respect of any matter in

this Clause 22 then the matter shall be referred to resolution in accordance with Clause 17.

## **23. LIABILITY OF THE COUNCILS**

- 23.1 Unless otherwise agreed in writing by the Councils (and subject always to Clause 23.2 and 23.3), all losses, claims, expenses, actions, demands, costs and liabilities incurred by the Councils; arising as a result of the provision of the Shared Parking Services Arrangements (including through the Host Council and Shared Parking Services Management Board) or arising out of any negligence or other act or omission of the Shared Parking Service (or the Shared Parking Service Arrangements) shall be shared by the Councils in accordance with the Financial Principles. For the sake of clarity, where equal pay claims brought by an employee are concerned, any claim arising from either Council which is not directly related to the Shared Parking Service, shall be borne by the Council who employ/employed that employee
- 23.2 Liability and indemnities for all losses, claims, expenses, actions, demands costs and liabilities relating to the delivery of specific projects or tasks undertaken within the framework of the Shared Parking Services Arrangements shall be shared in accordance with the provisions agreed for that specific project or task as agreed by the Shared Parking Services Management Board from time to time or in accordance with the Financial Principles.
- 23.3 Each Council ("the Indemnifier") shall indemnify and keep indemnified the other Council ("the Beneficiary") against any losses, claims, expenses, actions, demands costs and liabilities suffered by the Beneficiary arising solely from any breach by the Indemnifier of its obligations under this Agreement or any negligent act or omission in relation to such obligations.
- 23.4 A Council who receives a claim for loss, expenses, actions, demands, costs and liabilities in respect of the Shared Parking Services Arrangements shall notify and provide details of such claim as soon as is reasonably practicable to the other Council. A Council shall not be entitled to be indemnified under this Clause 23.4 unless it has given notice in accordance with this Clause 23.4 to the other Council against whom it will be enforcing its rights to an indemnity under this Agreement.
- 23.5 The Councils shall ensure that adequate insurance cover is effected and maintained in respect of any liabilities they may have in respect of any neglect or default on their part.
- 23.6 The Councils shall ensure that adequate insurance cover is effected and maintained in respect of any property and assets held by them for the purpose of the Shared Parking Services Arrangements.
- 23.7 The Councils shall at all times maintain an up-to-date register of the assets and committed liabilities of each Council in relation to the Shared Parking Services Arrangements. The Councils will each advise the Host Council of any such assets and committed liabilities.

## **24. CONSEQUENCES OF TERMINATION**

- 24.1 On termination of this Agreement:

- 24.1.1 the costs and any outstanding payments shall be divided or shared between each Council in accordance with the Financial Principles set out in Schedule 4 and Clause 22;
- 24.1.2 each Council shall comply with the provisions in relation to staff matters as set out in Clause 20.2 and the Financial Principles set out in Schedule 4.
- 24.2 Upon termination of this Agreement all Shared Assets shall:
  - 24.2.1 where reasonably practicable be divided between the Councils in accordance with the Financial Principles set out in Schedule 4 or under the agreement the item was purchased; or
  - 23.2.2 be dealt with under equal proportion of benefit or loss to both Councils or as otherwise agreed between the Councils.
- 24.3 Upon termination of this Agreement:
  - 24.3.1 each party shall return and make no further use of any equipment, property, materials and other items (and all copies of them) belonging to the other party;
  - 24.3.2 each Council shall co-operate with each other and/or any replacement provider for the management of the Parking Services and provide such transitional assistance reasonably required to facilitate the smooth handover of the management of the Parking Services to a provider other than the Councils party to this Agreement;
  - 24.3.3 both Councils shall without delay return to the other any data and Confidential Information of the other in its possession, such data to be returned in a format to be reasonably specified by the owner of the Data;
  - 24.3.4 the accrued rights of the Councils as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced.

## **25. AUDIT AND RECORD KEEPING**

- 25.1 Any books of account of the shared working arrangements shall be the subject of the audit arrangements of the Host Authority.
- 25.2 The Councils shall maintain detailed financial records relating to the shared working arrangements and performance of services under the arrangements, in accordance with good practice and any applicable legislation. The records shall be retained for at least 6 (six) years.
- 25.3 Each Council shall at all times and on reasonable notice permit for the purposes of audit the other Council and any nominated officers and/or auditors access to documentation relating to the Shared Parking Services Arrangements.
- 25.4 The Councils shall keep (and where appropriate procure that each sub-contractor shall keep) books of account in accordance with best accountancy practices with

respect to the costs incurred in relation to the shared working arrangements, showing in detail:

- 25.4.1 the costs of any goods or services;
- 25.4.2 staffing and administrative overheads;
- 25.4.3 payments to sub-contractors;
- 25.4.4 capital and revenue expenditure; and
- 25.4.5 such other items as each Council may reasonably require from time to time to conduct costs audits for verification of cost expenditure or estimated expenditure, for the purpose of this Agreement.

## **26 TAXATION AND VAT**

- 26.1 Each party shall bear its own liability for any taxation or duty chargeable in the United Kingdom in respect of its participation in the Shared Parking Services Arrangements or any Procurement Exercise and each undertakes to indemnify the other in respect of any such taxation assessed on and paid by the other in respect of which the former is primarily liable.
- 26.2 Any supply made by one party to the other pursuant to this Agreement shall be exclusive of any VAT chargeable on it, which shall (where required by law) be paid by the party to whom the supply is made in addition to the payment for the supply, subject to the provision to it of a valid VAT invoice.
- 26.3 All payments to be made by one Council to the other under this Agreement shall be made in full without deduction of or withholding for or on account of any present or future taxes, levies, duties, charges, fees, deductions or withholdings of any nature unless the party making the payment is required by law to make any such deduction or withholding. If such withholding or deduction is so required by law, then the Council making the payment shall increase the amount of the payment so that the other Council receives the same amount as it would have received in the absence of the requirement to make the withholding or deduction, and the Council making the payment shall give to the other Council an appropriate certificate as may be required by law showing the amount.
- 26.4 If the Council receiving the payment subsequently obtains relief or credit in respect of the withholding or deduction, then it shall promptly repay to the Council which made the payment an amount equal to the credit or relief obtained up to maximum of the amount by which the payment was increased to take account of the withholding or deduction. The Councils shall co-operate with a view to allowing each other to obtain any available relief or credit in respect of any such withholding or deduction in respect of taxation and in particular but without prejudice to the foregoing generality shall give any information reasonably required by the other Council in connection with the making of a claim for relief under an applicable double taxation treaty.

## **27 CONFIDENTIALITY**

- 27.1 Except to the extent set out in this Clause or where disclosure is expressly permitted elsewhere in this Contract, each Council shall:

- 27.1.1 treat the other party's Confidential Information as confidential and safeguard it accordingly; and
  - 27.1.2 not disclose the other party's Confidential Information to any other person without the owner's prior written consent.
- 27.2 Clause 27.1 shall not apply to the extent that:
- 27.2.1 such disclosure is a requirement of law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations (as defined in Clause 29.1);
  - 27.2.2 such information was in the possession of the Council making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
  - 27.2.3 such information was obtained from a third party without obligation of confidentiality;
  - 27.2.4 such information was in the public domain at the time of disclosure otherwise than by a breach of this Contract; or
  - 27.2.5 it is independently developed without access to the other Council's Confidential Information.
- 27.3 Either Council may only disclose the other's Confidential Information to staff who are directly involved in the provision of the Shared Parking Services or to other of its employees (including in its finance or audit departments or to its consultants or agents) and who need to know the information, and shall ensure that such recipients of Confidential Information are aware of and shall comply with these obligations as to confidentiality.
- 27.4 Each Council shall not use any of the other Council Confidential Information received otherwise than for the purposes of this Agreement.
- 27.5 Each Council shall use its best endeavours to ensure that its staff do not use any of the other Council's Confidential Information received otherwise than for the purposes of this Agreement.
- 27.6 Nothing in this Agreement shall prevent either Council from disclosing Confidential Information belonging to the other:
- 27.6.1 to any Crown Body or any other Contracting Authority. All Crown Bodies or Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown Bodies or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown Body or any Contracting Authority;
  - 27.6.2 for the purpose of the examination and certification of that Council's accounts; or
  - 27.6.3 to the Information Commissioner (or their successors) for any purpose for which that body is entitled to request information.



27.7 Each Council shall use all reasonable endeavours to ensure that any government department, Contracting Authority, employee, third party or subcontractor to whom the other Council's Confidential Information is disclosed pursuant to Clause 27.6 is made aware of that Council's obligations of confidentiality.

27.8 Nothing in this Clause 27 shall prevent either Council from using any techniques, ideas or know-how gained during the performance of the Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the other Council's Confidential Information or an infringement of Intellectual Property rights.

## **28. DATA PROTECTION**

28.1 In relation to all Personal Data, each Council shall at all times comply with the DPA, (as a data controller if necessary) which includes (but is not limited to) maintaining a valid and up to date registration or notification under the DPA covering the data processing activities to be performed in connection with the Shared Parking Services Arrangements. The Councils acknowledge that they are each likely to be data controllers and data processors in relation to personal data and that in acting as the Host Council LB Bromley will act as data processor in relation to LB Bexley's Personal Data.

28.2 Each Council:

28.2.1 shall process Personal Data belonging to any other Council only on the instructions of that Council and shall adhere to obligations and responsibilities under applicable law;

28.2.2 shall not transfer any Personal Data to any country or territory outside the European Economic Area unless appropriate measures have been taken and the Data Controller in relation to such Personal Data has approved such transfer);.

28.3 The Councils shall not disclose Personal Data to any third parties other than:

28.3.1 to staff and sub-contractors to whom such disclosure is reasonably necessary in order for the Councils to carry out the Parking Services or any Procurement Exercise; or

28.3.2 to the extent required under a court order or to comply with any applicable laws including (but not limited to) any statute, bye law, European Directive or regulation;

provided that any disclosure to sub-contractors under Clause 28.3.1 shall be made subject to written terms substantially the same as, and no less stringent than, the terms contained in this Clause 28 and that each Council shall give notice in writing to the other Council of any disclosure of Personal Data belonging to them which they or a sub-contractor are required to make under Clause 28.3.2 immediately they are aware of such a requirement.

28.3.3 the Councils shall bring into effect and maintain and shall use all reasonable endeavours to ensure that all relevant sub-contractors have in effect and maintain all reasonable technical and organisational

measures necessary to prevent unauthorised or unlawful processing of Personal Data and accidental loss or destruction of, or damage to, Personal Data including but not limited to taking reasonable steps to ensure the reliability and probity of any employee or agent of a relevant sub contractor having access to the Personal Data; and

- 28.3.4 either Council may, at reasonable intervals, request a written description of the technical and organisational methods employed by the other Council and the relevant sub-contractors referred to in Clause 28.3.1. Within 5 Business Days of such a request, the Council requested to do so shall supply written particulars of all such measures as it is maintaining detailed to a reasonable level such that the requesting Council can determine whether or not, in connection with the Personal Data, it is compliant with the DPA. Both Councils shall use all reasonable endeavours to ensure that the sub-contractors also comply with such request from either Council.
- 28.4 Each Council shall ensure that any Personal Data it obtains and provides to the other Council has been lawfully obtained and complies with the DPA and that the use thereof in accordance with this Agreement shall not breach any of the provisions of the DPA.
- 28.5 Where either Council is:
- 28.5.1 required under the DPA to provide information to a data subject (as defined in the DPA) in relation to Personal Data when such data is in the possession or under control of any other Council; and
- 28.5.2 required Council informs the controlling Council in writing that this is the case, the controlling Council shall guarantee reasonable and prompt co-operation to the required Council in meeting its obligations under the DPA including making copies of the relevant Personal Data to the extent the same are in its possession within 10 business days.
- 28.6 Each Council shall provide the other as soon as reasonably practicable, with such information in relation to Personal Data and their processing as the other Council may reasonably request in writing and the party asked to provide the relevant data may reasonably be able to provide in order for the other Council to:-
- 28.6.1 comply with its obligations under this Clause and the DPA; and
- 28.6.2 assess whether the processing of the relevant Personal Data in connection with this Agreement is breaching or may breach the DPA in a manner which is material and not effectively sanctioned by any guidance statement issued by the Information Commissioner.
- 28.7 Each Council shall each take reasonable precautions (having regard to the nature of their respective obligations under this Agreement) to preserve the integrity of any Personal Data.

## **29 FREEDOM OF INFORMATION ACT AND ENVIRONMENTAL INFORMATION**

- 29.1 Each Council acknowledges that the other Council is subject to the requirements of the Freedom of Information Act 2000 ("FOIA") and the Environmental Information

Regulations 2004 (“EIR”) and each Council shall where reasonable assist and co-operate with the other Council (at their own expense) to enable the other Council to comply with these information disclosure obligations.

29.2 Where a Council receives a request for information under either the FOIA or the EIR in relation to information which it is holding on behalf of the other Council in relation to the Shared Parking Services Arrangements or any Procurement Exercise conducted pursuant to such arrangements it shall:

29.2.1 transfer the request for information to the other Council as soon as practicable after receipt and in any event within 2 (two) Business Days of receiving a request for information;

29.2.2 provide the other Council with a copy of all information in its possession or power in the form that the Council reasonably require within 10 (ten) Business Days (or such longer period as the Council may specify) of the Council requesting that information unless the cost of compliance exceeds the limit set down pursuant to FOIA from time to time (and provides reasonable proof of this to the other Council); and

29.2.3 provide all necessary assistance as reasonably requested by the other Council to enable the Council to respond to a request for information within the time for compliance set out in the FOIA or the EIR.

29.3 Where a Council receives a request for information under the FOIA or the EIR which relates to this Agreement or the Shared Parking Services Arrangements or any Procurement Exercise, it shall inform the other Council of the request for information as soon as practicable after receipt and in any event at least 2 (two) Business Days before disclosure and shall use all reasonable endeavours to consult with the other Council prior to disclosure and shall consider all representations made by the other Council in relation to the decision whether or not to disclose the information requested.

29.4 Subject to Clause 29.2, each Council shall be responsible for determining in their absolute discretion whether any information requested under the FOIA or the EIR:

29.4.1 is exempt from disclosure under the FOIA or the EIR; and

29.4.2 is to be disclosed in response to a request for information.

29.5 Each Council acknowledges that the other Council may be obliged under the FOIA or the EIR to disclose information:

29.5.1 without consulting with the other Council where it has not been practicable to achieve such consultation; or

29.5.2 following consultation with the other Council and having taken its views into account.

### **30 CONTRACTS (THIRD PARTY RIGHTS)**

30.1 The Councils do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

### **31 NOTICES**

31.1 Any notice or demand in connection with this Agreement shall be in writing and may be delivered by hand, prepaid first class post, special delivery post to the addresses set out in Schedule 8 or such other recipient address as may be notified in writing from time to time by one Council to the other Council.

31.2 The notice or demand shall be deemed to have been duly served:-

31.2.1 if delivered by hand, when left at the proper address for service;

31.2.2 if given or made by prepaid first class post or special delivery post, 48 hours after being posted (excluding days other than Business Days);and

provided that, where in the case of delivery by hand or transmission by facsimile such delivery or transmission occurs either after 4.00pm on a Business Day or on a day other than a Business Day service shall be deemed to occur at 9.00am on the next following Business Day.

31.3 For the avoidance of doubt, where proceedings to which the Civil Procedure Rules apply have been issued, the provisions of the Civil Procedure Rules must be complied with in respect of the service of documents in connection with those proceedings.

31.4 Any other communication under this Agreement which must be in writing may be sent by the means set out in this Clause 31 but may also be sent by electronic mail.

## **32 FURTHER ASSURANCE**

32.1 At any time after the date of this Agreement each Council shall execute or procure the execution of such documents and do or procure the doing of such acts and things as the other Council may reasonably require for the purpose of giving to the other party the full benefit of its rights under this Agreement.

## **33 PUBLICITY, REPUTE AND BRANDING**

33.1 Neither Council shall make any press announcements concerning this Agreement or publicise this Agreement in any way without the prior consent of the other.

33.2 Neither Council shall do anything to cause anything to be done, which may damage the reputation of the other or bring the other into disrepute.

33.3 The provisions of this Clause 33 shall apply whilst this Agreement is in force and continue indefinitely after its expiry or termination.

## **34 CONFLICT OF INTEREST**

34.1 Each Council shall as soon as practical disclose to the other any actual or potential conflict of interest arising from this Agreement of which it becomes aware.

34.2 The Councils shall give effect to such measures as may reasonably be agreed between them for ending or avoiding any such actual or potential conflict of interest, or alleviating its effect.

## **35 ENTIRE AGREEMENT**

- 35.1 This Agreement (including the Schedules) constitutes the entire Agreement and understanding between the Councils in respect of the matters dealt with in it and supersedes, cancels and nullifies any previous agreement, representations, negotiations, arrangements and understandings between the Councils relating to such matters.
- 35.2 The Councils acknowledge that they have not relied upon any representation or promise in entering into this Agreement except as expressly set out in this Agreement.
- 35.3 Each of the Councils unconditionally waives any rights it may have to claim damages against the other or any right it may have to rescind on the basis of any statement of any nature whatsoever, whether in writing or otherwise, made by the other (whether made carelessly or not) not set out or referred to in this Agreement (or for breach of any warranty given by the other not so set out or referred to) unless such statement or warranty was made or given fraudulently.

## **36 WAIVER**

- 36.1 The failure by either Council to insist upon strict performance of any provision of this Agreement or to exercise any right or remedy to which it is entitled hereunder, shall not constitute a waiver thereof and shall not cause a diminution of the obligations established by this Agreement.
- 36.2 A waiver by either Council of any default by the other party shall not constitute a waiver of any other default.
- 36.3 No failure or delay in exercising or partial exercise of any right or power under the Agreement shall operate as a waiver thereof or prevent the further exercise of that or any other right or power.

## **37 SEVERANCE**

- 37.1 If any provision of this Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, unenforceable or illegal:
- 37.1.1 the other provisions shall remain unaffected and in force except where it deprives one of the Councils of a substantial part of the benefit intended to be derived by it from this Agreement;
- 37.1.2 the Councils shall in good faith amend to reflect as nearly as possible the spirit and intention behind the invalid, unenforceable or illegal provision to the extent that such spirit and intention is consistent with the laws of that jurisdiction and so that the amended provision complies with the laws of that jurisdiction; and
- 37.1.3 if the Councils cannot agree upon the terms of any amendment within 6 months of the date on which the provision was determined to be invalid, unenforceable or illegal then the dispute will be determined in accordance with Clause 17 (Internal dispute Resolution).

## **38 COUNTERPARTS**

38.1 This Agreement may be executed in any number of counterparts, each of which when executed shall constitute an original of this Agreement, but all the counterparts shall together constitute the same Agreement. No counterpart shall be effective until each party has executed at least one counterpart and the Agreement has been dated.

## **39 VARIATION**

39.1 Either Council may at any time propose to the other a variation or addition to the Specification or the Conditions of Contract. Neither Council shall unreasonably withhold or delay its consent to such variation.

39.2 No such variation or addition shall affect the continuation of the Contract.

39.3 The value of such variation (if any), or addition shall be negotiated between the Councils and shall be priced according to the Financial Principles of this Shared Parking Service.

39.4 Both Councils will be bound by such variation.

## **40 GOVERNING LAW**

40.1 This Agreement shall be governed by and construed in all respects in accordance with the laws of England. Subject to Clause 17 (Internal dispute Resolution), the English Courts shall have exclusive jurisdiction to settle any disputes or issues which may arise out of or in connection with this Agreement (whether of a contractual or tortious nature or otherwise).

## SCHEDULE 1

### Role of the Stakeholder Board

1. The Stakeholder Board will have a key advisory role to develop in co-operation the relationship of the Councils with regard to the Shared Parking Services Arrangements.
  - 1.1 The Stakeholder Board will comprise two senior representatives of each Council as it may nominate from time to time as set out in paragraph 1.7 below.
  - 1.2 The chairman of the Stakeholder Board shall be nominated at alternate meetings by LB Bexley and LB Bromley.
  - 1.3 The Councils agree that the Head of Parking Services shall be invited to attend meetings of the Stakeholder Board but shall have no voting rights at such meetings.
  - 1.4 Protocols will be agreed by the Stakeholder Board in respect of its ways of working, clerking and the way in which it will operate. The Stakeholder Board shall meet once a year and extra meetings may be convened by either Council by serving written notice on the other, specifying in reasonable detail the matters to be discussed, at least two weeks prior to the proposed date of such meeting.

### Shared Parking Services Annual Timetable to be confirmed

- |                  |  |
|------------------|--|
| <b>April</b>     | Start of financial year  |
| <b>May</b>       | <b>Shared Parking Services Management Board</b> <ul style="list-style-type: none"><li>▪ Take end of municipal year report (progress with annual service plans, KPIs, key issues) produced by HoS.</li><li>▪ Take draft annual report (appraisal of performance for previous financial year and a draft service plan and budgetary information for the coming year) - produced by HoS</li></ul> |
| <b>June</b>      | <b>Stakeholder Board</b> <ul style="list-style-type: none"><li>▪ Sign off annual report (appraisal of performance for previous financial year and a draft service plan and budgetary information for the coming year).</li></ul> <p>Councils shall carry out an Annual Review of the Arrangements by 30 June 2014 and annually thereafter.</p>   |
| <b>July</b>      | <b>Shared Parking Services Management Board</b> <ul style="list-style-type: none"><li>▪ Take Quarter 1 report (progress with annual service plans, KPIs, key issues) produced by HoS.</li></ul>  |
| <b>August</b>    |  |
| <b>September</b> | Not later than 1 September in any year prior to commencement of financial year, the Head of Parking Services shall commence preparation of the Draft Revenue Budget.   |
| <b>October</b>   | <b>Shared Parking Services Management Board</b> <ul style="list-style-type: none"><li>▪ Take Quarter 2 report (progress with annual service plans, KPIs, key issues) produced by HoS.</li></ul>  |

## **November**

**December** The Shared Parking Service Management Board will submit a Draft Revenue Budget and capital expenditure proposals for approval to Councils no later than 31 December of relevant year.

## **January** **Shared Parking Services Management Board**

- Take Quarter 3 report (progress with annual service plans, KPIs, key issues) produced by HoS.
- Initial discussion on medium term priorities and service plan for coming year

The Head of Parking Services shall make such adjustments to the Draft Revenue Budget following comments and forward to the constituent councils not later than 15 January each year.

## **February**

**March** Heads of Finance from both boroughs shall inform Head of Parking Services by 1 March each year at the latest of the timetable and requirements for closure of the accounts.

### **Notes:**

- Senior Management Team meetings will take place monthly (chaired by Head of Parking Services, including Contracts and Operations Manager, Strategy & Service Development Manager, Parking Appeals & Processing Manager, Car Park Facilities and Assets Manager, ICT & Projects Manager, and other Parking Staff as appropriate).
- Reporting arrangements – the first report will be provided in May 2013 and will include the draft annual service plan for both authorities for the year 2013/14 . The subsequent report produced in May 2014 will include a review of 2013/14 and the draft annual service plan for both authorities for the year 2014/15.

1.5 The key functions of the Stakeholder Board shall be to:

1.5.1 act as the custodian of the partnership ethos and the relationship between the Councils, and to serve as a forum for the open exchange of strategic ideas so as to enable the Councils to discuss forthcoming service requirements to ensure an integrated co-ordinated approach to fulfilling such requirements;

1.5.2 drive the objectives of this Agreement forwards to ensure that there is significant achievement in accordance with the objectives;

1.5.3 allow the Councils to discuss performance of the arrangements;

1.5.4 review and agree the appropriate arrangements, including protocols on relationships and methodology for the governance arrangements from time to time to reflect the evolving nature of the relationship;

1.5.5 review and recommend to the parties revisions to the objectives from time to time to reflect changed circumstances; and



- 1.5.6 agree a communication strategy for the parties and protocols to support the partnership ethos.
- 1.6 The Stakeholder Board shall provide strategic direction for the Arrangements and shall not be involved in day-to-day operational matters nor shall it have delegated executive powers but shall exercise an advisory role only.

## **MEMBERSHIP OF THE STAKEHOLDER BOARD**

- 1.7 The Stakeholder Board shall comprise of the following:

The lead executive Members nominated in accordance with clause 9 of the Agreement

The Deputy Director for Public Realm Management (LB Bexley) and the Assistant Director Customer & Support Services (LB Bromley) (or any other similar designated posts)

## **SCHEDULE 2**

### **ROLE OF THE SHARED PARKING SERVICES MANAGEMENT BOARD**

#### **PART 1 - AGREED FUNCTIONS**

1. The Shared Parking Services Management Board shall be responsible for and shall have delegated to it the following functions of each Council which shall be Agreed Functions:
  - 1.1 Management of the shared working arrangements to facilitate and co-ordinate the improvement and efficient and economical discharge of the LB Bexley and LB Bromley Parking shared service functions.
  - 1.2 Identification of the need for specific projects or tasks to be undertaken within the framework of the Shared Parking Services Arrangements and for any Procurement Exercises. The agreement of any specific terms under which such specific projects or tasks shall be undertaken, which shall be recorded in writing, as defined in the Specification (in schedule 7).
  - 1.3 The preparation of a Service Plan for the Shared Parking Services Arrangements for approval by the Councils ("Approved Service Plan"), which will include:
    - 1.3.1 developing strategy, any relevant regulations and/or legislation and/or best practice including the training of staff which complies with any relevant regulatory requirements;
    - 1.3.2 the preparation and agreement of a detailed work programme in accordance with an Approved Service Plan for the Shared Parking Services Arrangements, which they shall keep under regular review;
    - 1.3.3 the preparation of the budgets and estimates for approval by the Councils ("Approved Budget") under Clause 22 (Budgets and Council Contribution) in conjunction with appropriate finance personnel;
    - 1.3.4 the regular monitoring of the approved revenue budget and any approved capital or grant funded initiatives on a monthly basis
2. The Shared Parking Services Management Board shall, within 3 months of the date of this Agreement develop a risk register in the form to be agreed detailing potential risks arising from the provision of the Shared Parking Service Arrangements and agreeing steps to mitigate such risks and shall continue to monitor and update such risk register for as long as this Agreement is in force.
3. The Shared Parking Services Management Board shall ensure that the Shared Parking Services are provided in accordance with all applicable laws and regulations. If either Council wishes to implement a change in how their Parking Services are provided, their proposals shall be considered by the Shared Parking Services Management Board and the Shared Parking Services Management Board shall discuss how these proposals impact on the Shared Parking Service and will discuss how the costs of such proposals should be attributed between the Councils.
4. The Shared Parking Services Management Board shall consider all existing contracts let by both Councils in relation to the Shared Parking Services and seek

to agree a course of action in relation to them until their expiry date after which date they shall be jointly procured for the shared provision of the Service.

5. The Shared Parking Services Management Board shall ensure the employees working within the Shared Parking Services Arrangements take good care of any assets provided by either of the Councils and that they comply with any reasonable instructions given by the Council providing those assets pursuant to this Clause 21.

## **SCHEDULE 2**

### **PART 2 - GOVERNANCE OF THE SHARED SERVICES MANAGEMENT BOARD**

1. The Shared Parking Services Management Board shall consist of the officers listed in Schedule 5 – Diagram of governance arrangements.
2. Each Council may change its Deputy Director/Assistant Director representative from time to time by written notice to each other. Any officer nominated shall be an appropriate senior officer employed by that Council.
3. The Shared Parking Services Management Board shall meet once a quarter. Extra meetings may be convened by any officer of the Board with at least one week written notice to all the other representatives. Any notice convening a meeting shall specify in reasonable detail the matters to be discussed and be accompanied by relevant papers.
4. There shall be three representatives to form the quorum of the Shared Parking Services Management Board. The Chairman of the Shared Parking Services Management Board shall alternate between the Assistant Director of LB Bromley and the Deputy Director of LB Bexley.
5. All decisions of the Shared Parking Services Management Board shall be recorded in writing by the Host Council, and a copy of the record provided to each officer representative ("Decision Notice").
6. The officer representatives of the Shared Parking Services Management Board shall keep their appointing Councils informed and briefed on the business of the Shared Parking Services Management Board as they consider appropriate, including the preparation of reports.
7. The Shared Parking Services Management Board may from time to time delegate to the Shared Parking Service's managers any of its functions which fall within the delegated powers of that manager within the scheme of delegation of his/her employing Council.

### **SCHEDULE 3**

#### **HEAD OF PARKING SERVICES**

1. The Shared Parking Services Management Board shall approve the appointment (subject always to any internal policy and approval of either Council that may be required) of the Head of Parking Services who shall be based in the London Borough of Bromley. The Head of Parking Services shall report to the Shared Parking Services Management Board.
2. The Head of Parking Services shall be responsible for any of the Agreed Functions which have been delegated to him/her by the Shared Parking Services Management Board.
3. The Head of Parking Services may from time to time delegate to the appropriate officers of the Parking Services any of the powers he/she is entitled to exercise.
4. The Head of Parking Services shall be responsible for the preparation of the revenue budget, any capital expenditure or external funding proposals as well as the regular financial monitoring of the service in close liaison with finance.
5. The lead Assistant Director for LB Bromley will be the line manager of the Head of Parking Services.
6. The Head of Parking services shall manage allocated budgets in accordance with the L.B Bromley's Financial Regulations and procurement procedures.
7. The Head of Parking Services shall contribute to effective budget setting, monitor income and expenditure and ensure that control procedures are in place.

## **SCHEDULE 4 – FINANCE ARRANGEMENTS**

### **A. FINANCIAL COST SHARING MODEL**

The parties have agreed that the following principles shall be used to assess the contribution to be made by each Council:

1. Financial Principles for Clause 22 (Budget Contributions):
  - 1.1 The Councils have agreed that costs incurred in operating the Shared Parking Services Agreement (as identified in Clause 22) shall be borne on the following basis:
    - 1.1.1 The costs of the operation of the shared service will be on an open book arrangement and costs will be incurred by both Councils. It is important that the basis of the sharing of the costs is simple fair and certain.
    - 1.1.2 The Councils have agreed the following financial cost sharing model which combines the fixed and variable costs of the shared service.
      - 1.1.3 For the financial year 2013/14 costs shall be shared on a percentage basis as follows on the specified items:

Costs for all strategic and policy staff to be shared 50:50  
Costs for parking support officers shared pro rata to the number of PCNs issued – currently Bromley 64.5: Bexley 35.5. This will be reviewed annually and will be based on the year end projections as at 30th November each year  
Each borough to meet its own costs in relation to post room/scanner and postage costs.  
The ICES Parking ICT system costs will be shared on the basis of 61:39 for Bromley: Bexley Council  
All other direct costs will be shared 50:50
    - 1.1.4 In the circumstances where this agreement is terminated and where this results in the need for redundancies to take effect the Councils shall jointly share any redundancy and early retirement costs arising from the termination of this agreement on a 50/50 basis. This is subject to the caveat that where either Council offers more generous redundancy or severance benefits then that Council shall be responsible for funding the additional benefits paid over and above those that would have been provided under the lowest terms payable by either Council.

### **B. FINANCIAL AND PROCUREMENT PROCEDURES**

1. In discharging any functions on behalf of the Shared Parking Services the financial and procurement rules applicable to LB Bromley shall be followed. These documents are included in Bromley's Financial Regulations, Code of Financial Procedures and Contract Procedure Rules.
2. When considering entering into joint procurement of contracts for services, officers of the Shared service should ensure that the protocols/reporting requirements of each respective authority is adhered to.

## **C. PAYMENT OF FINANCIAL CONTRIBUTIONS**

1. Each borough will incur expenditure in relation to the shared arrangements and the cost will then be aggregated and contributions calculated as detailed in section A above. This will mean that there is likely to be a payment due to from one of the boroughs to the other.
2. A calculation of the payment will be made before the start of the financial year by the host borough and agreed. LB Bexley shall pay to the LB Bromley on 15 April and quarterly thereafter, payments of one quarter of the net financial contribution it has agreed to make in accordance with the methodology set out in this schedule.
3. At the year end, a reconciliation will be undertaken of the payments made and the actual expenditure incurred to determine any balancing payments required by either party.

## **D. REVENUE BUDGET**

1. Not later than 1<sup>st</sup> September in any year prior to the commencement of each Financial Year the Head of Parking Services shall commence preparation of the Draft Revenue Budget, with the support of the finance staff of the two boroughs. The draft Revenue Budget will be aggregated by the host borough's finance staff. It will be prepared on an outturn basis. Inflation will only be added for pay awards, if applicable. Changes in national employer taxes, including national insurance will be added to the staffing costs. Changes in each Council's employer pension contributions will also be built into the budget.
2. Any directives from the constituent boroughs to reduce the budget for the Shared Service (expenditure reductions) will be formulated by the Head of Parking Services, with assistance of the finance staff.
3. A full justification and commentary on any revenue bids for additional resources (service developments) for the next financial year will be provided for consideration although these are expected to be minimal.
4. The Draft Revenue Budget, along with any proposals for expenditure reduction and service development will then be submitted through the Shared Services Management Board to the Stakeholder Board for their comments. Following any such comments, the Head of Parking Services shall make such adjustments to the Draft Revenue Budget as necessary and forward it to the constituent Councils not later than 31st January each year. When the constituent Councils approve the Draft Revenue Budget it shall become the "Approved Revenue Budget". If either Council does not approve the Draft Revenue Budget it shall provide the Shared Parking Services Management Board with detailed reasons why the Draft Revenue Budget has not been approved and any amendments that are required in relation to it. Based on recommendations made by the Head of Service, the Shared Parking Services Management Board shall discuss the proposed amendments and shall agree a revised Draft Revenue Budget to be submitted

## **E. CAPITAL EXPENDITURE**

1. Any capital expenditure proposed by the shared service will be shared between the boroughs in accordance with the Section A of this Schedule above. Such bids for

resources will need to be made in accordance with the relevant boroughs' annual budget timetable and agreed by the Shared Parking Services Management Board.

## **F. SUPPORT SERVICE / OVERHEAD COSTS**

Support service costs for Accommodation, Finance, Legal, ICT and Human Resources are chargeable to the shared operation in accordance with the following rates. Apart from the accommodation charges, these will be inflated annually with reference to local government national pay awards. Accommodation costs will be inflated by CPI calculated on the annual increase in the October index. Any costs charged to the Shared Service must be supported by a full audit trail.

Bromley Offices	<i>£48,000</i>	<i>Of this sum Bexley's contribution will be £6,000 in year 1 increasing by this amount each year until it reaches £24,000</i>
Payroll (per head)	<i>£60</i>	
Human resources (per head)	<i>£930</i>	
Finance (per year)	<i>£5,000 per Council</i>	
ICT (per head)	<i>£5,200 (Bexley £2,500 and Bromley £2,700).</i>	
Legal (hourly rate)	<i>£75 per hour plus disbursements for ad hoc legal advise</i>	

## **G. MONITORING OF REVENUE BUDGETS AND CAPITAL PROJECTS**

1. The revenue budgets for the shared service and operational services will be monitored on a bi-monthly basis by the Head of Parking Services, based on information taken from the financial systems of the constituent authorities. Appropriate financial support will be provided by finance staff in relation to training on the financial systems, the investigation and interpretation of data and projections.
2. The Head of Parking Services will report the outcome of the bi-monthly monitoring to the Shared Services Management Board and Stakeholder Board along with any action being taken to reduce any overspending.
3. The Head of Finance of the host borough will produce an annual timetable for the production of the bi-monthly monitoring reports.
4. Financial and physical progress on any capital projects will be monitored and reported on a quarterly basis.

## H. INITIAL 2013/14 BUDGET FOR PARKING SHARED SERVICES

<b>Expenditure</b>	<b>Bromley</b>	<b>Bexley</b>	<b>Total</b>
	<b>£</b>	<b>£</b>	<b>£</b>
Strategic/Policy staff (50:50)	349,950	201,360	<b>551,310</b>
Parking Support Officers (64.5:35.5)	166,920	172,280	<b>339,200</b>
Post room/scanning costs	74,000	0	<b>74,000</b>
ICES computer system	111,600	0	<b>111,600</b>
Other direct costs	24,300	3,000	<b>27,300</b>
Recharges and Support Service costs			
Post room	38,000	0	<b>38,000</b>
Accommodation	48,000	0	<b>48,000</b>
HR & Payroll	16,830	12,870	<b>29,700</b>
Finance	5,000	5,000	<b>10,000</b>
IT	81,000	75,000	<b>156,000</b>
Contribution from Bexley to Bromley	<b>-122,885</b>	122,885	<b>0</b>
<b>Total estimated costs</b>	<b>792,715</b>	<b>592,395</b>	<b>1,385,110</b>
<b>Calculation of split of costs</b>			
Costs split 50:50	294,305	294,305	588,610
Costs split 64.5:35.5	257,484	141,716	399,200
Costs split 100%	38,000	14,000	52,000
HR/payroll costs	14,850	14,850	29,700
Accommodation costs	42,000	6,000	48,000
IT recharge	78,000	78,000	156,000
ICES computer system	68,076	43,524	111,600
<b>Total costs of service to each authority</b>	<b>792,715</b>	<b>592,395</b>	<b>1,385,110</b>

## I. UNDERSPENDS AND OVERSPENDS

1. The Head of Parking Services shall use best endeavours through the bi-monthly budget monitoring process to ensure that the expenditure for the shared service and operational budget is in line with the approved budgets in each financial year.
2. The Head of Parking Services will be required to notify the Shared Services Management Board in writing as soon as practicable if an overspend or underspend is incurred or is likely to be incurred for the shared service/operational budgets. The Shared Services Management Board should promptly agree and put in place remedial measures to balance the budget should an overspend be forecast during the year.
3. If overspendings of the shared service budget are identified late in the financial year or cannot be fully compensated by savings during the financial year, then the amount of the overspending shall be borne by Bromley and Bexley in accordance with the Financial Cost Sharing Model as set out in section A of this schedule.
4. Whenever an underspend of the Shared Service is projected in year, the Shared Services Management Board may agree to the redeployment of that underspend for the Shared Service.



5. Any underspend from the Shared Service budget at the end of the financial year or upon termination of this agreement shall be apportioned between Bromley and Bexley in accordance with the Financial Cost Sharing Model as set out in section A of this schedule.
6. Adequate systems need to be in place for managing and monitoring Bexley's revenue budget particularly the Penalty Charge Notice and car parking income budgets. The Head of Parking Services shall provide reasons for any projected income shortfalls which may include poor performance by the parking enforcement contractor/s, increased payments at discounts, etc. Any poor performance will need to be addressed by Head of Parking Services and an improvement plan and any contract penalties implemented. Financial support and information shall be provided by the Bexley finance team.

#### **J. CODING OF FINANCIAL TRANSACTIONS**

1. The financial transactions of Bromley and Bexley costs of the shared function shall be coded in accordance with the chart of accounts supplied by the relevant head of Finance. No other codes shall be used.
2. The financial transactions of the operational budgets that are managed and administered by the shared service team shall be coded to the respective codes of the individual authorities.
3. Payments for goods and services for the operational budgets shall be paid by the exchequer team within the appropriate authority.

#### **K. CLOSURE OF ACCOUNTS**

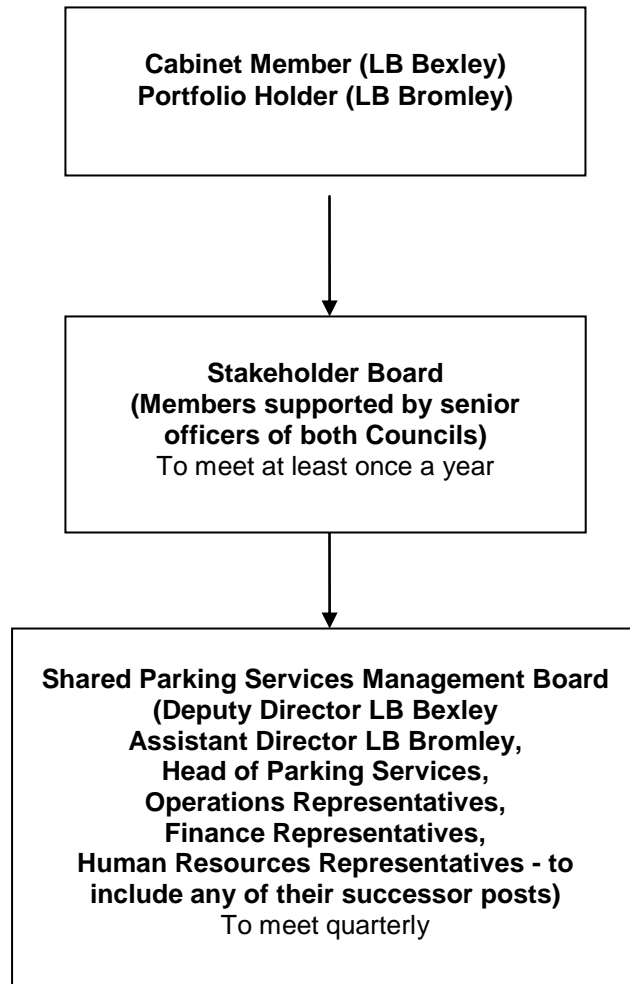
1. The Heads of Finance for Bromley and Bexley shall inform the Head of the Shared Service by 1 March each year at the latest of the timetable and requirements for the closure of the accounts.

#### **L. FINANCIAL MANAGEMENT OF OPERATIONAL PARKING SERVICES**

1. Sections G to J of this schedule will apply to the financial management by the Head of Shared Service of both Bromley and Bexley's operational Parking services. The reports will be made to the relevant Deputy Director/Assistant Director in consultation with their Head of Finance.

**SCHEDULE 5**

**DIAGRAM OF GOVERNANCE ARRANGEMENTS FOR THE SHARED SERVICE**



**Shared Services Team**

## SCHEDULE 6

### WORKFORCE AGREEMENT FOR THE SHARED PARKING SERVICES IN RELATION TO EMPLOYEES OF THE LONDON BOROUGH OF BEXLEY WHO ARE SECONDED TO THE SHARED PARKING SERVICE

#### 1. DEFINITIONS

- “The Councils”** means the London Borough of Bexley and the London Borough of Bromley
- “The Host ”** means the London Borough of Bromley
- “The Employee(s)”** means employee(s) of the London Borough of Bexley who are seconded to the Host to work in the Shared Parking Service
- “The Contract”** means the Employee’s contract of employment with the London Borough of Bexley.
- “The Agreement”** The Collaboration Agreement for the Shared Parking Service.

#### 2. BACKGROUND

- 2.1. The Councils have entered into a Shared Service Agreement in respect of the provision of Shared Parking Services for back office and management of the Parking Service as specified in the Agreement effective from 1 April 2013.
- 2.2. All staff employed to work in the Shared Parking Service will report to and be managed by the Host.

#### 3. EMPLOYMENT ARRANGEMENTS

- 3.1. These arrangements will apply to all employees of the London Borough of Bexley who are seconded to the Host to work in the Shared Parking Service either at the commencement of the Agreement, or those who may be appointed to work in the Shared Parking Service at a later date.
- 3.2. The Employees shall be appointed to a specified role within the Shared Parking Service and will report directly to the Host whilst continuing to be employed by the London Borough of Bexley under the Contract, which shall remain in force.
- 3.3. The Employees will be directly managed by the Host and the Employees will accept that managerial control.
- 3.4. The Host will assume the responsibility as the Employer for all matters relating to health and safety as well as other employment and associated matters and will ensure compliance with all appropriate legislation. In this regard the Host will assume and accept appropriate responsibility for all the acts of the

Employees under their day to day control. Where an issue relates to Bromley premises the Host will refer the matter to the London Borough of Bromley.

- 3.5. During the term of this Agreement the Host shall comply with its common law and statutory obligations in relation to the provision of a safe workplace for the staff including, but not limited to health and safety, occupier's liabilities and codes of practice introduced pursuant to such legislation.
- 3.6. If at any time the Host requires advice relating to the Employees' terms and conditions or in connection with the policies or procedures the Host shall liaise with Human Resources within the London Borough of Bexley.
- 3.7. All matters in respect of Employee discipline, grievances, management of absence, and staff development including annual appraisal and supervision shall be managed on a day to day basis by the Host and in accordance with the Governance Arrangements set out in the Agreement. Management will be undertaken in accordance with the terms and conditions and employment policies and procedures of the London Borough of Bromley.
- 3.8. The Host will be responsible for ensuring that all aspects of supervision for the Employees are appropriately met and monitored.

#### **4. DUTIES**

- 4.1. The Employees shall devote the appropriate time, attention and skill to their duties for the Host Council during their secondment to the Shared Parking Service. They will perform their duties to the best of their ability and shall follow all reasonable and lawful directions given by the Host.

#### **5. REMUNERATION**

- 5.1. The London Borough of Bexley will continue to pay to the Employees their salary in accordance with the Contract during the term of their secondment to the Shared Parking Service. The payment of salary will continue to be on a monthly basis through the Payroll service of the London Borough of Bexley.

#### **6. HOLIDAYS**

- 6.1. The Employees' annual leave period runs from 1 April to 31 March. At the commencement of this Agreement the London Borough of Bexley will notify the Host of the annual leave entitlement of all Employees including any annual leave remaining in the first three months of the secondment.

#### **7. SICKNESS AND PERSONAL DETAILS**

- 7.1. Any Employee sickness absence must be notified by the employee to the Host who will inform the London Borough of Bexley for their records and for Payroll purposes. The Employee must also provide copies of any medical certificates for sickness absence or notification of any personal details to the Host who will inform the London Borough of Bexley for recording purposes. Where the London Borough of Bexley's self-service system allows, employees are responsible for updating the records. Any Employee referrals to Occupational

Health will be managed by the Host in accordance with the London Borough of Bexley's Managing Employee Ill Health Procedure.

## **8. PENSION ARRANGEMENTS**

8.1. Within the provisions of the local Government Pension Scheme Regulations, during the period of the secondment the Employees will continue to be members of the London Borough of Bexley Local Government Pension Scheme. Pension contributions will continue to be deducted from the Employee's salary in the normal way.

## **9. RECKONABLE SERVICE**

9.1 For the purpose of continuity of service, the Employee's service for the duration of the secondment to the Shared Parking Service will count as reckonable service with the London Borough of Bexley.

## **10. TERMINATION OF THE CONTRACT**

9.1. An Employee's Contract shall end if it is terminated by either the London Borough of Bexley or the Employee before the expiry of the secondment to the Shared Parking Service. Such termination being in accordance with the notice provisions specified in the Employee's Contract.

9.2. Upon termination of the secondment to the Shared Parking Service the Employees shall deliver to the Host any documents made or compiled by, or delivered to them, relating to work for the Host during their employment. For the avoidance of doubt it is declared that all property and rights in all such documents shall at all times be vested in the Shared Parking Service.

## **11. CONFIDENTIALITY**

10.1. During the secondment the Employees are under a general duty towards the Host and the London Borough of Bexley as regards confidentiality. Additionally, in respect of the Data Protection Act 1998, it is a condition of the secondment to the Shared Parking Service that the Employees undertake to observe confidentiality in respect of the personal data to which they will have access to during the course of their employment. The Employees must agree not to disclose personal data except as provided for by the Councils' procedures, nor use personal data for their own purposes. Any unjustified failure to observe confidentiality of personal data may lead to action being taken in accordance with the London Borough of Bexley's policies and procedures.

(Personal data is information which identifies or helps to identify any living person including an employee or potential employee, a client who receives a service from the Council, or any other person. Personal data may be held on manual and computerised records. Any worker disclosing personal data without the authority of the Host may commit a criminal offence unless there is some other legal justification for doing so).

## SCHEDULE 7

<b>Title</b>	<b>Service Specification – Shared Parking Service</b>
<b>Parties involved</b>	<b>London Boroughs of Bromley and Bexley</b>
<b>Date of Version</b>	<b>21 January 2013</b>
<b>Version Number</b>	<b>3.0 (G/M)</b>

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## **1. Scope of the Shared Parking Service**

The structure of the Shared Parking Service has been approved. It will be reviewed after 6 months, and regularly thereafter, to maximise effectiveness and ensure the service is able to respond to future challenges. Bromley and Bexley Parking offers a range of services to its customers, as well as enforcement. Activities are set out in more detail in Appendix 1

### 1.1 In scope

Key Service Areas include:

- Contract Management
- Financial Management
- On-Street Parking Operations.
- Off-Street Car Parks and Asset Management
- Service Development and Strategy
- Customer & Communications Strategy
- Penalty Charge Notices - Processing and Appeals.
- Penalty Charge Notices - Debt Recovery

### 1.2 Out of scope

#### 1.2.1 Bromley's CCTV Parking and Bus Lane Enforcement Operations.

The enforcement operation and the recording of Penalty Charge Notices on to the ICES system will not be part of the Shared Service. They will remain the responsibility of LB Bromley.

#### 1.2.2 Mobile CCTV Vehicles.

The enforcement operation will remain under the respective contracts. However reviewing and input of contraventions identified using the vehicles will be undertaken by the Shared Service.

#### 1.2.3 Processing and Issue of Permits.

A small amount of officer time from within in the Shared Service will be dedicated to the management and overseeing of this process, led in the first instance by the Parking Appeals and Processing Manager (Bexley) and the Contracts and Operations Manager (Bromley).

It may be appropriate for the Strategy and Development Manager to take over this responsibility if there is a move to sharing more processes in the future.

In Bromley the process of issuing Permits will remain the responsibility of the Customer Service Centre. In Bexley, Libraries and the Call Centre will remain responsible for the issuing of permits.



## **2 Strategy and Service Development**

The Shared Service will be managed by the Head of Parking Services, who will provide strategic support to the Deputy/Assistant Directors of the respective Councils.

The Head of Parking Services will provide management guidance to the management team of the Shared Service, and more generally to all staff throughout the structure. The Shared Service shall also take an active part in reviewing parking practices and, where appropriate, supporting corporate working in both authorities.

### 2.1 Development of Core Services

Core services will, where possible, be jointly developed and delivered to meet the needs of customers' and residents' needs. In all instances the purpose of parking strategy will be to assist the Council/s in achieving their corporate aims and objectives.

Strategy developed by the Shared Service strategy will be a combination of harmonised strategic thinking between the two boroughs and individual corporate requirements unique to each borough; harmonisation of policy may not be the preferred option in all circumstances.

### 2.2 Joint Service Plan

The Shared Service will develop a joint annual Service Plan. The plan will ensure services are developed in accordance with each authority's policies and that agreed priorities are being met.

Within the Service Plan an annual work plan will be developed which will identify the key priorities for the service managers and staff.

Procedures will be established, reviewed and implemented to establish agreed service priorities, and methods of reviewing and monitoring the work of the Shared Service to ensure it meets agreed standards.

### 2.3 Implementation of the Service Plan

Arrangements will be made for the effective management of projects affecting the Shared Service; drawing on resources from within the Shared Services team, or commissioning outside support from internal or external resources if required.

Regular updates will be provided to all Shared Service managers through regular management team meetings to be held at a frequency to be determined by the Head of Service.

### 3 Meetings - Frequencies and Responsibilities

The table below sets out the various types of meetings that are covered by the Shared Service. The list is not exhaustive and the frequency and nature of meetings suggested may be subject to change.

The Head of Parking Services shall where appropriate determine the scope of the meetings and arrange suitable attendance and frequency; however the following levels of frequency are anticipated.

All meetings are to be fully recorded and documented in accordance with each Authority's practices.

Meeting	Lead officer from within the shared service	Frequency
<b>Internal</b>		
Committee Meetings	Head of Service	As required
Parking Shared Service Management Board	Head of Service	3 months
Budget/Finance and other inter-departmental meetings as required	Strategy and Service Development Manager	2 Months
Departmental Managers Meetings	Head of Service	1 Month
Shared Parking Service; Managers, Service Plan and Project Teams	Head of Service	2 weeks
Section Meeting.	Section Manager	1 Month
Full Staff Meeting	Head of Service	4 months
Appraisals for all Shared Services staff		Annually in accordance with current policies of each authority.
<b>External</b>		
Contract performance meetings	Contract and Operations Manager	1 Month
On-Street Operational	Contract and Operations Manager	2 weeks
Off-Street Operational	Car Park, Facilities and Assets manager.	2 weeks
Bailiff Service Review meetings	Performance and Debt Recovery Manager	2 months
ICT Quarterly Review meetings	ICT and Projects Manager	3 months
ICES User Group	ICT and Projects Manager	6 to 12 months
Public Consultations	Strategy and Service Development Manager	As required
Parking Managers Seminar (London Councils)	Head of Service	

## **4. Enforcement Operations**

There will be specific areas of each authority where enforcement is considered a priority and compliance a required factor. These are set down in the operational instructions and enforcement contract documents for each Authority.

### 4.1 Parking Strategies

The Parking Strategies of the respective authorities will be used to tailor parking enforcement practice to help achieve the aim of the approved strategies, set out in the parking services reports, published on each authority's web site.

Key priorities for each authority include (not exhaustive):

- Major town centres;
- Schools and nurseries
- Stopping restrictions
- Main thoroughfares

The main policy aims of the Councils are summarised below:

- To ensure that the public highway and car parks can be used by all
- To ensure that there is sufficient available parking for all users
- To encourage turn-over through fair but firm enforcement
- To maintain public safety
- To ensure that traffic can flow freely through each borough
- To maintain access to statutory and commercial facilities
- To provide a high standard of customer service.

Whilst every endeavour will be made to align such policies and practices, the Shared Service will be mindful of any exception to the overall policy pertaining to each individual authority's needs.

### 4.2 Parking Enforcement Models

Each authority currently contracts out Enforcement Services, Bromley to Vinci Park Services and Bexley to NSL.

The standards for the operations of each enforcement contract are set down in the individual contract documents, and existing operational processes shall be adhered to.

The Shared Service will ensure that sufficient monitoring of each contract is carried out to ensure the requirements of the specification are met and performance of the contractors meets the set standards.

## **5 PCN Processing & Debt Recovery**

The process required to deal with Penalty Charge Notices, including representations and Appeals, is set down within the Traffic Management Act 2004. Further details are contained within Statutory and Operational Guidance issued by the Secretary of State for Transport.

The Shared Service will ensure the correct legislative processes are applied to meet the requirements of the legislation when dealing with PCN-related matters.

Both Authorities have extensive procedural and operational guidance, (approved by their respective Internal Audit services) on the processing and cancellation of Penalty Charge Notices. The Shared Service shall adhere to these policies. It is expected that over time these policies will be developed by the Shared Service to align as closely as possible.

The Shared Service will appoint and manage bailiffs to carry out the execution of warrants in accordance with statutory procedures, having due regard to each authority's individual policies and processes.

### 5.1 PCN - Key Performance Indicators

The following key performance indicators will be used to ensure the quality of the service is maintained; these may be change but only after due consideration through the annual review process.

- Percentage of Penalty Charge Notices sent according to statutory requirements - 98% minimum.
- Compliance with statutory requirements in relation to response times and processing - 98% minimum.
- Percentage of Appeals Refused (i.e. proportion of the authority's decisions endorsed by PATAS, against Appeals contested) should not fall below the figure achieved for the respective authorities in 2012/13.
- Percentage of appeals referred to PATAS should not rise above the figure achieved for the respective authorities in 2012/13.
- Percentage of PCNs paid against PCNs issued should as a minimum remain at the level achieved by the respective authorities in 2012/13.

It is the responsibility of the Head of Parking Services to take corrective action if there are concerns over performance in the processing of PCNs or the associated recovery of debts.

The Head of Service shall bring to the attention of the Shared Service Project Board any aspects of PCN processing where variations in service are deemed to have a direct effect on service provision or income.

## **6. Complaints, FOI requests, MP and Member engagement.**

The Shared Service will adhere to all procedural and operational guidance on how to deal with Complaints, FOI requests, MP and Member enquiries. All correspondence will be dealt with in accordance with approved response times set out in each Authority's agreed Customer Service standards..

The Shared Service shall adhere to these policies. It is expected that over time the process of dealing with these requests will be developed by the Shared Service to align as closely as possible, in order to achieve the greatest efficiencies.

At the commencement of the Shared Service, all Bexley's complaints & information requests and Member enquiries will be managed through its own Complaints and FOI management system. Bromley will continue with its existing procedures.

The Shared Service shall provide any information, documents or reporting required to enable officers of either authority to investigate and respond to any complaints.

Further, the Shared Service shall provide any information, documents or reporting required to enable officers of either authority to investigate and respond to any complaints or requests for internal review.

The Shared Service will work with each authority's lead officers to review complaints and FOI data. The Shared Service will carry out causality analysis and identify improvements to prevent re-occurrence of complaints or, where appropriate, to proactively publish information.

## 6.1 Member Engagement

Both authorities emphasise the leading role of Members in the setting of policy in respect of parking, and advising the Head of Service with regard to policy implementation. From time to time, ward Members may also wish to support their constituents in their contacts with the Parking Service.

In accordance with the national legislative framework and the Secretary of State's guidance, Members are not able to be directly involved in the statutory processes which govern the issuing, processing and resolution of Penalty Charge Notices.

## **7. ICT - Bromley to Bexley Connectivity**

### 7.1 Bromley/Bexley connectivity

The respective ICT Service providers, Capita (Bromley) and Steria (Bexley), are responsible for connectivity between the authorities, specifically from Bromley Civic Centre to the Bexley Network.

Capita and Steria are also responsible for the security and system integrity of the connection. Detailed network connectivity diagrams and explanation of security controls are maintained by Capita and Steria.

The capacity for Bromley and Bexley staff to have access to all systems, required for home working, (or at any non-Civic Centre location) is the responsibility of Capita and Steria.

In all cases the initial contact for fault resolution is Capita, unless the issue is with a Bexley issued laptop and connection to the network, in which case Steria is the contact point.

### 7.2 ICT Connectivity to Vinci Park and NSL

Final details of how the infrastructure will work are to be confirmed.

### 7.3 ICT – Hand-Held Computer Terminals

Responsibility for the configuration and operation of Hand-Held Computer Terminals is detailed in the individual enforcement contracts for each authority. This will include repair, maintenance and software capabilities.

## **8. ICES Software and Service Provision**

### 8.1 ICES Service Provision

The Shared Service will engage a hosted software solution for the processing of PCNs and Permits; the preferred supplier following competitive tender is Imperial Civil Enforcement Solutions. The Shared Service will be responsible for the management of this contact.

The Shared Service uses the ICES system for all services as set out in the contract specification. Primary functions include:

- Issuing PCNs
- Processing PCNs
- Debt Recovery of PCNs
- PATAS
- DVLA Interface
- Payment Systems
- Workflow management
- Permit processing
- Dispensations and Suspensions.

### 8.2 ICT – Permits / Dispensations / Suspensions

The Shared Service will provide systems administration and management, including configuration of the Permit system of whatever type..

Polices in relation to applications and authorisation of applications for permits will be held in the procedure manuals for each authority.

### 8.3 PCN & Permit Management – Procedure Alignment.

The use of a single ICT solution and one back office processing team provides an opportunity for efficiencies in the Shared Service.

The Head of Parking Services shall have authority to make reasonable changes in procedures that are within agreed policy, and do not significantly effect service provision or have a financial impact.

Where the opportunity exists for significant improvement in service provision, the Head of Parking Services shall seek guidance and approval via the Deputy/Assistant Directors of each Authority involving Members where appropriate.

## **9. Performance Improvement and Monitoring**

### 9.1 Contract Monitoring & Performance Analysis

The Shared Service shall ensure the requirements of all contracts let by the respective authorities are met. The Shared Service shall also carry out monitoring to establish that the required standards of each contract is met and that where necessary action is taken to rectify any faults.

This will include:

- Ensuring value for money is achieved.
- Ensuring that the performance of the contractors is measured against the key performance indicators required by each respective borough.
- Adjustments are made to payments for service, or defaults awarded accordingly.

## 9.2 Reporting; Responsibilities & Frequencies

The Head of Parking Services shall establish the various types of reports and report functions required in accordance with the Shared Service principles, with the agreement with the Deputy/Assistant Directors of each Authority, and will:

- Establish the purpose of said reports in relation to the principles of the Shared Service.
- Identify who would be responsible for drafting reports on behalf of the Shared Service.
- Establish the appropriate frequency of the various types of reports.
- Ensure reports to Members, Management Board, Deputy Directors and Directors will be drafted as required and in consultation with appropriate colleagues across both authorities.

## 9.3 Improvements and Projects

Staff in the Shared Service will ensure that the following functions are undertaken:

- Liaison with colleagues across both Councils; membership of working groups and project teams, at an appropriate level as required.
- Work will be undertaken with colleagues across both Councils to achieve the delivery of integrated parking services to residents, in accordance with agreed plans and policies.
- Relationships and partnerships with other national, regional and local agencies across all sectors will be developed and managed.

New projects or business cases for the development and improvement of the service will be undertaken in consultation with the Deputy/Assistant Directors of both Authorities.

## **10. Car Park and Asset Management**

The Shared Service will have overall responsibility for the operation of both authorities' car parks and asset management, including:

- All Pay and Display machines and barrier-operated car parks
- Responsibility for ensuring that the payment mechanisms in use are in proper working order at all times.
- Ensure there is sufficient cover to manage any incidents which occur in the car parks.
- Car park improvement strategy
- Management of Safer Parking standards, award and assessment, including cleanliness and lighting provision

## **11. Pay by Phone Parking**

Both Authorities have implemented systems for payment by mobile phone. The Shared Service will manage these contacts. The benefits of this option for payment are set out in business documentation, and the Shared Service will look to develop the technology further.



**SERVICES AND FUNCTIONS WITHIN SCOPE**

**CONTRACT MANAGEMENT**

Bromley.

Parking Enforcement contract with Vinci Park  
Cash Collection (Vinci Park)  
Car Park management (Vinci Park)  
Car Park Technologies (P&D and Barrier) Parkeon and Park care.  
School Crossing Patrol (Vinci Park)  
Mobile Phone via RinGo  
Bailiff Services via JBW, Swift, Chandlers, Phoenix

Bexley.

Parking Enforcement contracts with NSL  
(Cash collection is out of scope)  
Car Park Management  
Car Park Technologies, (P&D) Metric.  
Mobile Phone via Bemrose Booth  
Bailiff Services via JBW,

**Financial Management**

Payments due under the Parking Services contract,  
Cash flow projections and PCN trends  
Reconciliation of income from paid-for parking

**Parking Operations.**

Car parking usage and income data  
On street enforcement  
Traffic and transport lead projects including the implementation of all parking related schemes  
Suspensions, dispensations, events  
Tackling fraudulent use of Blue Badges.  
To maintain a geographically referenced database of assets and signs.

**Strategy and Service Development Team**

Management and Implementation of Parking Strategies  
Turnover of car parking spaces and management of parking demand  
Service improvements.  
Financial management of the Shared Parking Service  
Policy and procedural matters relating to permit parking  
Blue Badge application process

**Customers & Communications**

Communication strategy  
Customer Service lead.  
Self-service functions online.  
Accessibility of services.  
Stakeholder engagement  
Media and press enquiries.  
Publicity material.  
Information requests and consultations.  
Website.  
Information campaigns.  
Customer complaints.  
Statutory enquiries covered by the Freedom of Information Act  
Members' and MPs' enquires.  
Regular budget monitoring.  
Ordering of goods and services.

### **Appeals & Debt Recovery Team**

PCN processing including PATAS  
Traffic Management Act requirements  
Debt recovery process and management of services provided by bailiff and debt recovery companies  
PCN processing and management  
Reviewing Bexley Mobile CCTV footage

### **ICT & Projects**

Development and maintenance of all specialist Parking Services systems.  
Management of programmes and projects

### **Car Parks and Asset Management Team**

Client side management/development and improvement of all 'off-street' parking facilities and parking assets.  
Safer Parking Awards

## **SCHEDULE 8**

### **COUNCILS' ADDRESSES**

#### **LB Bexley**

Contact Officer [Director or Deputy Director]  
London Borough of Bexley  
Civic Offices  
Broadway  
Bexleyheath  
Kent  
DA6 7LB

#### **LB Bromley**

Contact Officer [Director or Assistant Director]  
London Borough of Bromley  
Civic Centre Stockwell Close  
Bromley  
Kent  
BR1 3UH