

**(1) City of Lincoln Council (“City of Lincoln”)**

**(2) North Kesteven District Council (“North Kesteven”)**

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**Appendix A**

**Delegation and Joint Committee Agreement**

## Appendix A: 12 June 2018 - Revenues and Benefits Joint Committee – General Data Protection Update

### (1) Definitions

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(to be added to contract if not already present or amended if definitions already exist)

#### 1.1 Standard Definitions

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Council	a Council to this Agreement
Agreement	this contract
Law	means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Contractor is bound to comply
Personnel	means all directors, officers, employees, agents, consultants and contractors of the Council and/or of any Sub-Contractor engaged in the performance of its obligations under this Agreement

#### 1.2 GDPR Clause Definitions

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Data Protection Legislation	(i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 [subject to Royal Assent] to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;
Data Protection Impact Assessment	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data
Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer	take the meaning given in the GDPR
Data Loss Event	any event that results, or may result, in unauthorised access to Personal Data held by the Councils under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach

## Appendix A: 12 June 2018 - Revenues and Benefits Joint Committee – General Data Protection Update

Data Subject Access Request	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data
DPA 2018	Data Protection Act 2018
GDPR	the General Data Protection Regulation (Regulation (EU) 2016/679)
LED	Law Enforcement Directive (Directive (EU) 2016/680)
Protective Measures	appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it
Sub-processor	any third party appointed to process Personal Data on behalf of the Councils related to this Agreement

## **(2) The Clauses**

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### 1. DATA PROTECTION

1.1 The Councils acknowledge that for the purposes of the Data Protection Legislation, both Councils are the Joint Controllers of data. The only processing that the Councils are authorised to do is listed in Schedule 1 and may not be determined by either one of the Councils alone.

1.2 Both Councils shall notify the other immediately if it considers that any of the processing under the Agreement infringes the Data Protection Legislation.

1.3 The Councils shall provide all reasonable assistance to each other in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, include:

(a) a systematic description of the envisaged processing operations and the purpose of the processing;

(b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;

(c) an assessment of the risks to the rights and freedoms of Data Subjects; and

(d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

1.4 Both Councils shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:

(a) process that Personal Data only in accordance with Schedule 1, unless required to do otherwise by Law. If it is so required the Council shall promptly notify the other Council before processing the Personal Data unless prohibited by Law;

(b) ensure that it has in place Protective Measures, which have been reviewed and approved by the other Council as appropriate to protect against a Data Loss Event having taken account of the:

(i) nature of the data to be protected;

(ii) harm that might result from a Data Loss Event;

(iii) state of technological development; and

(iv) cost of implementing any measures;

(c) ensure that:

(i) the Council's Personnel do not process Personal Data except in accordance with this Agreement and in particular Schedule 1;

(ii) the Councils take all reasonable steps to ensure the reliability and integrity of any Personnel who have access to the Personal Data and ensure that they:

(A) are aware of and comply with the Council's duties under this clause;

(B) are subject to appropriate confidentiality undertakings with the Council or any Sub-processor;

## Appendix A: 12 June 2018 - Revenues and Benefits Joint Committee – General Data Protection Update

(C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Council unless directed in writing to do so by the Council or as otherwise permitted by this Agreement; and

(D) have undergone adequate training in the use, care, protection and handling of Personal Data; and

(d) not transfer Personal Data outside of the EU unless the prior written consent of both Councils has been obtained and the following conditions are fulfilled:

(i) the Council has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Councils;

(ii) the Data Subject has enforceable rights and effective legal remedies;

(iii) the Council complies with their obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the other Council in meeting its obligations); and

(e) the Councils delete or return Personal Data (and any copies of it) to the other Council on termination of the Agreement unless the other Council is required by Law to retain the Personal Data.

1.5 Subject to clause 1.6, the Councils shall notify the other Council immediately if it receives a request relating to Personal Data in the other Council's control including:

(a) a Data Subject Access Request (or purported Data Subject Access Request);

(b) a request to rectify, block or erase any Personal Data;

(c) any other request, complaint or communication relating to either Council's obligations under the Data Protection Legislation;

(d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;

(e) receives a request from any third Council for disclosure of Personal Data where compliance with such request is required or purported to be required by Law;

or

(f) becomes aware of a Data Loss Event.

1.6 The Councils obligations to notify under clause 1.5 shall include the provision of further information to the other Council in phases, as details become available.

1.7 Taking into account the nature of the processing, the Councils shall provide each other with full assistance in relation to either Council's obligations under Data Protection Legislation and any complaint, communication or request made under clause 1.5 (and insofar as possible within the timescales reasonably agreed) including by promptly providing:

(a) full details and copies of the complaint, communication or request;

(b) such assistance as is reasonably requested to enable the other Council to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;

## Appendix A: 12 June 2018 - Revenues and Benefits Joint Committee – General Data Protection Update

(c) the other Council, at its request, with any Personal Data it holds in relation to a Data Subject;

(d) assistance as requested by the other Council following any Data Loss Event;

(e) assistance as requested by the other Council with respect to any request from the Information Commissioner's Office, or any consultation by the other Council with the Information Commissioner's Office.

1.8 The Councils shall maintain complete and accurate records and information to demonstrate its compliance with this clause.

1.9 The Councils shall allow for audits of its Data Processing activity by the other Council or the other Council's designated auditor.

1.10 The Councils shall designate a data protection officer as required by the Data Protection Legislation.

1.11 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Councils must:

(a) notify the other Council in writing of the intended Sub-processor and processing;

(b) obtain the written consent of the other Council;

(c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause such that they apply to the Sub-processor; and

(d) provide the other Council with such information regarding the Sub-processor as the other Council may reasonably require.

1.12 The respective Council shall remain fully liable for all acts or omissions of any Sub-processor.

1.13 The Councils may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to controller standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).

1.14 The Councils agree to take account of any guidance issued by the Information Commissioner's Office. The Councils may on not less than 30 Working Days' notice to the other Council amend this Agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.