

MEMORANDUM OF UNDERSTANDING

**CHESHIRE WEST AND CHESTER BOROUGH COUNCIL (1) AND WIRRAL METROPOLITAN COUNCIL
"THE COUNCILS"**

MEMORANDUM OF UNDERSTANDING

1 Nature of this Memorandum of Understanding

- 1.1 This Memorandum is entered into in acknowledgement of the obligation of the Councils pursuant to section 9 of the Domestic Violence Crime and Victims Act 2004 to undertake a review of the circumstances in which the death of a person aged 16 or over has resulted from domestic violence referred to in the legislation as a domestic homicide review ("D.H.R.") and in particular in relation to the appointment of a Chairperson to the D.H.R .
- 1.2 This Memorandum is intended to define what each Council shall jointly contribute to DHRs in their areas.
- 1.3 The Councils acknowledge that they do not have delegated decision making powers to bind each other as a group. Individual officers employed by each Council have delegated decision-making powers to bind their employing Councils. All decisions, other than those for which a specific delegation exists, shall be referred for approval of the relevant Council.
- 1.4 This Memorandum of Understanding is signed by the participating Councils as evidence of their commitment to collaboration.
- 1.5 Each Council acknowledges that it is bound by its own Standing Orders, Financial Regulations and Contract Standing Orders and is responsible for obtaining approval for matters and decisions in accordance with its own powers and those delegated to the respective officers.
- 1.6 For the avoidance of doubt this Memorandum of Understanding is not intended to create a legal partnership between the Councils pursuant to the Partnership Act 1890, the Limited Partnerships Act 1907 or the Limited Liability Partnership Act 2000.

THIS MEMORANDUM of UNDERSTANDING is made on the day of 2011

BETWEEN

- 1. CHESHIRE WEST AND CHESTER BOROUGH COUNCIL of HQ Building 58 Nicholas Street
Chester CH1 2NP (CWAC)**
- 2. WIRRAL METROPOLITAN BOROUGH COUNCIL OF Town hall Building, Brighton Street,
Wallasey, Wirral CH44 8ED**

WHEREAS

1. Pursuant to Section 9 of the Domestic Violence Crime and Victims Act 2004, the Councils have an obligation to undertake a DHR to review the circumstances in which the death of a person aged 16 or over has, or appears to have resulted, from violence, abuse or neglect by-
 - (a) a person to whom he/she was related or with whom he/she was or had been in an intimate personal relationship; or
 - (b) a member of the same household as himself/herself

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held with a view to identifying the lessons to be learnt from the death.

2. In the Borough of Cheshire West and Chester, the Community Safety Partnership is responsible for establishing and conducting DHRs. In Wirral the Community Safety Partnership is responsible for establishing and conducting DHRs.
3. In respect of DHRs conducted under this MOU each Council shall be responsible for obtaining any necessary consents/delegated powers to enable its appointed representatives to take such action as is deemed appropriate in connection with the DHR.

1. **AGREEMENT**

- 1.1 Each Council agrees to act in accordance with the terms set out in the First Schedule hereto.

2 **APPORTIONMENT AND RECOVERY OF COSTS**

- 2.1 Each Council shall pay the costs and expenditure including expenses relating to travel, meetings and the production of the DHR report arising from an incident in its area.
- 2.2 Where costs or expenditure have been incurred by one Council on behalf of the other Council for the purposes of a DHR the Council incurring the costs or expenditure may within the following 28 day period or such other relevant period, submit an invoice to the other Council in relation to the reimbursement of such costs or expenditure.
- 2.3 A Council to which a valid invoice is submitted pursuant to Clause 2.2 shall send full payment in relation thereto to the other Council within 30 days of receipt of the invoice. Any dispute or query relating to an invoice shall be raised with the Council submitting the invoice within 21 days of receipt of the invoice by the paying Council.
- 2.4 A Council required to make payment to the other Council shall in addition pay any Value Added Tax chargeable in relation thereto upon submission of a valid VAT .

3 **DURATION**

- 3.1 This Memorandum of Understanding shall be deemed effective from the date hereof and subject to Clause 5 shall subsist until the parties agree it is terminated.

4 **AGREEMENT REVIEW AND MILESTONES**

- 4.1 The Councils shall review their continued participation in this Memorandum annually

5. **PRIOR TERMINATION/WITHDRAWAL**

- 5.1 Subject to compliance with the provisions of Clause 6 hereto a Council may withdraw from this Memorandum by giving no less than 28 days written notice of its intention to do so.

6 **PAYMENT OF OUTSTANDING MONIES DUE**

- 6.1 Within 28 days of a Council withdrawing from or agreeing to terminate this Memorandum, it shall pay to the other Council any outstanding costs or expenses (if any) incurred up to the date of withdrawal or termination.

7 **INTELLECTUAL PROPERTY RIGHTS**

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- 7.1 Subject to the usual copyright laws, any document or electronic data created and paid for under the terms of this Memorandum shall remain the joint and several property of the Councils and the other Council shall have a non-exclusive licence to use it for its own purpose.
- 7.2 Subject to the usual copyright laws any document or electronic data caused to be created and paid for in full by an individual Council in connection with this Memorandum shall remain the property of that Council, but the other Council shall have a non-exclusive licence to use it for its own purposes .
- 7.3 The provisions of this Clause 7 shall remain in full force and effect notwithstanding the termination of this Memorandum or the withdrawal of a Council from this Memorandum.

8 **NOTICES**

- 8.1 Any notice in writing to be given under this Memorandum shall be given in writing and shall be deemed properly served if addressed to the Chief Executive of the Council in question and left at or sent by first class post to the address of the Council given in this Memorandum. The notice shall be deemed received by the addressee on the second business day after the date of posting or transmission as the case may be.
- 8.2 The parties hereto shall promptly notify one another of any change of address .

9 **DISPUTES**

- 9.1 A Council may raise a dispute by giving notice in writing in the first instance to the other Council referring to this Memorandum and containing details of the matter(s) in dispute and the dispute shall be deemed to arise on the date of such notice. The Councils shall agree the best way of dealing with the dispute, the timescale and any procedural matters relating thereto.
- 9.2 In the event that the Councils are unable to agree any matter(s) referred to in clause 9.1 the matter shall be immediately referred for consideration by the Chief Executives of the Councils (who may delegate this responsibility to another officer). The Chief Executives or the delegated officer(s) shall meet as soon as reasonably practicable and agree a way forward. The Council raising the dispute shall accept the recommendation of the Chief Executives or the delegated officers.
- 9.3 The Councils agree to approach disputes in an open and conciliatory way and shall try to resolve any disputes quickly causing the least delay or disruption. In the event a dispute cannot be resolved and as a last resort, it shall be open for the Council to withdraw from this Memorandum in accordance with Clause 5 hereof.
- 9.4 For the avoidance of doubt, each Council shall remain at all times the employer of its staff for employment purposes and each Council shall remain solely responsible for disciplinary and competency matters howsoever arising and any decisions taken in that regard shall be the individual Council's alone.

10 **ACCESS TO INFORMATION AND DISCLOSURE OF INFORMATION**

- 10.1 Subject to any relevant provisions of the Data Protection Act 1998, Freedom of Information Act 2000, Legal Privilege or rules as to confidentiality, each Council shall from time to time, give to the other Councils reasonable access to relevant documentation.

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11 **INDEMNITY**

- 11.1 Each Council shall be responsible for and shall release and indemnify the other on demand from and against all liability for losses arising from
- a) death or personal injury;
 - b) loss of or damage to property and
 - c) third party actions, claims, and / or demands brought against the other Council
- which may arise out of, or in consequence of, matters being carried out by the Councils in accordance with this MOU save for liability for any injury, loss, damage, cost and expense caused by the negligence or wilful misconduct of the Council seeking to rely on the indemnity in this clause 11.

12 **GENERAL**

- 12.1 This Memorandum shall be governed in all respects in accordance with the Laws of England and the parties hereto irrevocably submit to the jurisdiction of the Courts of England and Wales.

THIS MEMORANDUM OF UNDERSTANDING IS SIGNED on behalf of the Councils the day and year first before written.

SIGNED on behalf of
CHESHIRE WEST AND CHESTER
BOROUGH COUNCIL

Authorised Signatory

Authorised Signatory

SIGNED on behalf of
WIRRAL METROPOLITAN BOROUGH COUNCIL
by::-

Authorised Signatory

Authorised Signatory

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FIRST SCHEDULE

During the subsistence of this Memorandum each Council agrees as follows:-

1. To act jointly and severally to mutually support each other in providing UP TO 2 DHRs .
2. To fully co-operate with each other .
3. To provide the Chairperson of each others DHR and any necessary administration support on a timely basis so as to facilitate the DHRs and all matters associated therewith.
4. To fully and freely exchange with the other all information in its possession relating to this MOU and any relevant DHR.
5. Not to do anything (or fail to do something) which does or is likely to hamper, delay, impede or be inconsistent in any way with, or which does or is likely to give rise to a delay or to adversely affect, this MOU.
6. To pay the costs and expenses arising out of a DHR in accordance with clause 2 of this MOU.
7. To consider any recommendations made by the Chief Executives in relation to a dispute and make decisions thereon on a timely basis.