

Schedule 38 – Civil Contingency Plan

1. Introduction

- 1.1 The purpose of this schedule is to set out the responsibilities of the JV Co for assisting the Authorities in delivering their legal obligations relating to Civil Contingencies and Business Continuity Planning.

2. Definitions

- 2.1 The following definitions shall apply to this Schedule in addition to those contained in Schedule 1:

2.1.1 **‘Business Continuity Assistance’** means any assistance the Authority requires the JV Co to provide to assist the out-of-scope services (being services and or functions of the Authority which are not included in Service Lines) in the delivery of their business continuity plans and which is in addition to any business continuity assistance for out-of-scope services provided for in the Output Specifications or which the Authority would not otherwise be entitled to require the JV Co to provide under any other provision of this Agreement (otherwise than by making a Change Request).

2.1.2 **‘Business Continuity Planning’** means the contingency planning process required in order to fulfil the Authority’s legal obligation to maintain service delivery insofar as it is reasonably practicable to do so in the event of an Emergency. This is in addition to the JV Co’s general obligations under the Agreement which would require JV Co to undertake business continuity planning in order to ensure that it can continue to deliver the Services in accordance with the Agreement.

2.1.3 **‘Business Continuity Plans’** means the plans which describe to the Authority how the JV Co will use its reasonable endeavours to maintain normal service delivery to the Contract Standard in respect of each of the Service Lines, where that is not possible, at least to continue to deliver the Critical Functions for each Service Line in the event of an Emergency.

2.1.4 **‘Civil Contingencies’** means the Authority’s obligations under the Civil Contingencies Act 2004.

2.1.5 **‘Corporate Emergency Response Plan’** means the Corporate Emergency Response Plan and any successor thereto published by the Authority. (A copy is appended to this Schedule).

2.1.6 **‘Critical Functions’** means the specific key functions identified in the Business Continuity Plans for each service line which the JV Co must use its reasonable endeavours to continue to deliver during any Emergency;

2.1.7 **‘Emergency’** means for the purposes of this schedule any incident declared as such by the Authority’s Emergency Coordinator or any authorised officer acting on their behalf.

- 2.1.8 **‘Emergency Assistance’** means for the purposes of this schedule any assistance the Authority requests the JV Co to provide to help the Authority in dealing with the Emergency which the Authority would not otherwise be entitled to require the JV Co to provide under any other provision of this Agreement (otherwise than by making a Change Request);
- 2.1.9 **‘Emergency Coordinator’** means the Emergency Coordinator referred to in the Corporate Emergency Response Plan.
- 2.1.10 **‘Emergency Management Team’** means the Emergency Management Team referred to in the Corporate Emergency Response Plan.

3. General principles

- 3.1 The Civil Contingencies Act 2004 places a legal duty on local authorities to maintain plans to ensure they can both continue to perform their normal functions (Business Continuity Planning) in the event of an Emergency and assist in dealing with the Emergency.
- 3.2 The JV Co will assist the Authorities in fulfilling its Civil Contingency and Business Continuity Planning obligations as follows:
- 3.2.1 The JV Co will help the Authorities in planning for Emergencies and, subject to reasonable notice, will provide staff to attend training courses and exercises, as appropriate;
- 3.2.2 The JV Co will on an ongoing basis review and update Business Continuity Plans which exist and/or are developed from time to time and, where required, will develop new Business Continuity Plans in respect of each Service Line (and where appropriate each Service Element);
- 3.2.3 In the event of an Emergency being declared the JV Co will provide staff and/or assistance as required by the Authority and as soon as reasonably practicable in order to assist the Authority in responding to the Emergency and in undertaking any subsequent activities required in order to restore normality;
- 3.2.4 In the event of an Emergency the JV Co will implement the Business Continuity Plans for each of the Service Lines, as necessary, in order to maintain normal service delivery in accordance with the Contract Standard or, where that is not possible, use its reasonable endeavours to continue to deliver at least the Critical Functions for each Service ;
- 3.2.5 In the event of an Emergency the JV Co will provide Business Continuity Assistance to the out-of-scope service areas as relevant and as required by the Authority;
- 3.2.6 Following each actual Emergency the Authority will agree with the JV Co any reasonable additional charges payable to the JV Co in respect of the provision of Emergency Assistance and/or Business Continuity Assistance

which will be calculated in accordance with the process outlined in paragraphs 9 and 10 of this Schedule and subject to paragraph 8 of this Schedule.

- 3.2.7 The Authority acknowledges that the JV Co having to divert resources from normal service delivery to assist the Authority in dealing with any Emergency may have a detrimental impact upon performance. The Authority agrees, subject to the provisions of paragraphs 8 and 10 of this Schedule, that the JV Co shall not be penalised for any resultant key performance indicator failure.

4. Corporate Emergency Response Plans

- 4.1 Both Authorities have agreed, together with the other Somerset district authorities, to act in partnership to deal with major Emergencies where appropriate to do so.
- 4.2 Both Authorities have detailed Corporate Emergency Response Plans, which take into account the partnership working agreement. (Both plans are appended to this schedule). These plans outline the:
- Key roles;
 - Process for maintaining contact details and for contacting key staff;
 - Process for declaring minor and major emergencies;
 - Structures for managing emergencies in conjunction with other Authorities and organisations;
 - Communications protocols;
 - Directorate responsibilities;
 - Service specific responsibilities.
- 4.3 The JV Co must, when required by the Authority to do so and/or where relevant, act in accordance with these plans.
- 4.4 These plans are reviewed and updated on an ongoing basis and the Authorities will provide updated copies to the JV Co.

5. Emergency key staff contact details

- 5.1 The Corporate Emergency Response Plans provide for senior posts within each service to be nominated as key contact points in the event of emergencies. These key posts may at the Authority's discretion either be within the retained element of the service identified in the relevant Output Specification, the JV Co or both. The Authority will advise the JV Co within 7 working days of any change being made to the nominated key contact posts
- 5.2 The contact details for the key staff will be held on a central list and distributed to key officers as appropriate. (For SCC this list is known as the 'Pink Pages' and for TDBC the 'Emergency Contacts').
- 5.3 The JV Co must ensure that any changes to the JV Co personnel occupying key contact posts and new contact details are notified to the relevant Authority's Civil Contingencies Manager and, where appropriate, the Contract Manager within 7 days of the change.

- 5.4 Where relevant the Authority's retained service heads must ensure that any changes to the retained personnel occupying key contact posts and new contact details are notified to the Authority's Civil Contingencies Manager and the JV Co service head within 7 days of the change.

6. Corporate Emergency Response & Business Continuity Planning

- 6.1 The JV Co will assist the Civil Contingencies Officers of both the Authority and SCC /TDBC(as appropriate) in reviewing, updating and developing the Corporate Emergency Response Plan and in corporate Business Continuity Planning. This will require senior staff in each Service Line for approximately 5 days per year. Some Service Lines will have a greater input than others due to the nature of their work.
- 6.2 The JV Co will provide at least one representative to attend the quarterly Somerset County Council Civil Contingencies Coordination Group meetings.
- 6.3 The cost of providing assistance to the Authority and SCC/TDBC (as appropriate) in accordance with paragraphs 6.1 and 6.2 will be borne by the JV Co.

7. Service Specific Business Continuity Planning

- 7.1 The Authority's Civil Contingencies Section will on an annual basis provide a template and guidance on the high risk contingencies for which Business Continuity Planning is required.
- 7.2 Notwithstanding the provisions of paragraph 7.1, where the JV Co identifies a high risk contingency it must report it to the Authority's Civil Contingencies Section and develop Business Continuity Plans to cater for the contingency for each service area for which it is responsible.
- 7.3 The JV Co must produce detailed Business Continuity Plans to address the high risk areas identified by the Authority's Civil Contingencies Section for each Service Line (and where appropriate Service Element).
- 7.4 The JV Co must identify in each Business Continuity Plan the Critical Functions that it must use its reasonable endeavours to continue to provide for each service in the event of an Emergency. The Critical Functions detailed in the Business Continuity Plans must be consistent with the requirements of the Civil Contingencies Act 2004 and the Authority's Business Continuity Planning principles and practices.
- 7.5 The JV Co must also assist out-of-scope service areas which rely on the JV Co Services or any part thereof in the production and maintenance of their Business Continuity Plans.

8. Training & training exercises

- 8.1 The JV Co will, subject to reasonable notice being provided, continue to make staff available to attend Civil Contingencies training courses and training exercises in line with current practices. Training will generally fall into three categories:

- 8.1.1 *General awareness training* – this is provided to all staff across both the Authority and SCC/TDBC (as appropriate) and on average amounts to half a day per annum per person. This training is generally undertaken ‘in-house’.
- 8.1.2 *Role specific training* – this is specific training provided to nominated key senior officers in order to explain their specific role within the Emergency Response process. On average this requires two days a year per person. The number of senior officers required to attend will vary between services.
- 8.1.3 *Emergency exercises* – up to 5 exercises are undertaken per year in conjunction with the other district authorities. All exercises are undertaken on normal working days and exercises generally only last for 1 working day. In exceptional circumstances exercises may extend over 2 working days. Generally each section involved in the exercise will only be required to provide up to 2 representatives. However, where the exercise involves setting up the County Emergency Centre more staff may be required from the appropriate sections.

8.2 The provision by JV Co of staff to undertake training and to participate in Emergency exercises is part of the JV Co’s general obligations provided for in Schedule 2 and as such will not require any additional payment to be made by the Authority to cover for staff time and will not affect the JV Co’s obligations to achieve performance targets for individual services.

8.3 The cost of providing the training will be borne by the Authority. Any travel or other expenses relating to staff attending the training will be borne by the JV Co.

9. Actual Emergencies

9.1 Emergencies, which are likely to impact on the Authority and/or SCC/TDBC (as appropriate) and require corporate response plans to be activated, will be formally declared by the Authority or by the Emergency Services.

9.2 However it is not uncommon for frontline staff to be the first to be made aware of actual emergencies. In the event that JV Co staff believe they have received notification of an emergency they must report it in accordance with the emergency response procedures.

9.3 The provision of Emergency Assistance:

9.3.1 Where an Emergency has been declared and the Authority requires Emergency Assistance from the JV Co the relevant key contact staff in the JV Co will be contacted by the Authority’s designated Emergency Coordinator or an authorised officer of the Authority acting on their behalf. Any request for assistance is likely to be verbal in view of the probable urgency of the situation. (The Emergency Response Plans outline examples of the types of area where assistance may be required).

9.3.2 Upon receipt of the request the JV Co will divert staff and/or services, as necessary, in order to assist the Authority in fulfilling its Emergency response

obligations. The JV Co will respond to all requests and instructions from the Authority's Emergency Management Team or Emergency Coordinator.

9.3.3 The JV Co will continue to provide Emergency Assistance to the Authority, as required, until such time as the Authority instructs it to stop doing so.

9.3.4 As soon as is reasonably practicable the Authority and the JV Co will meet to agree and document the Emergency Assistance the JV Co has been asked to undertake in connection with the Emergency.

9.3.5 The JV Co will, where requested by the Authority, provide details as soon as reasonably practicable of any additional costs to date and an estimate of future costs related to providing the Emergency Assistance. The cost estimates will need to be split and calculated in accordance with paragraph 10.1.1 below.

9.4 Implementation of Business Continuity Plans for JV Co Services:

9.4.1 Where an Emergency has been declared the JV Co will implement Business Continuity Plans as necessary in order to maintain normal service delivery or, where that is not possible, use its reasonable endeavours to continue to deliver at least the Critical Functions specified in the Business Continuity Plans for each Service Line.

9.4.2 The JV Co will continue to implement Business Continuity Plans for as long as it is necessary to do so in order to maintain service delivery or until such time as the Authority instructs it to cease doing so.

9.4.3 The Authority may instruct the JV Co to make changes to the way in which it is delivering any Business Continuity Plan in order to ensure the maintenance of service delivery. Such changes will be dealt with through the Emergency Change procedures detailed in Schedule 14.

9.4.4 As soon as is reasonably practicable the JV Co will report to the Authority regarding the direct impact upon service delivery of the Emergency.

9.5 The provision of Business Continuity Assistance

9.5.1 Where an Emergency has been declared the JV Co will, where requested by the Authority and where relevant, provide Business Continuity Assistance to the out-of-scope services to assist in the implementation of their business continuity plans.

9.5.2 As soon as is reasonably practicable the Authority and the JV Co will meet to agree and document any Business Continuity Assistance provided by the JV Co.

9.5.3 The JV Co will, where requested by the Authority, provide details as soon as reasonably practicable of any additional costs to date and an estimate of future costs relating to the provision of any Business Continuity Assistance.

The cost estimates will need to be split and calculated in accordance with paragraph 10.1.1 below.

- 9.6 Where the JV Co has to purchase or hire items in connection with the provision of Emergency Assistance and/or the provision of Business Continuity Assistance it shall use all reasonable means to ensure that such items are obtained at a reasonable price.

10. Post-Emergency

- 10.1 Within 10 working days of the end of the Emergency the JV Co will provide to the Authority a report detailing:

10.1.1 The costs it has incurred split into 2 general categories, as below:

- Emergency Assistance costs; and
- Business Continuity Assistance costs.

Within each category the costs will be split by Service Line and sub-split to show:

- Staff costs for staff diverted from their normal duties;
- Any related overtime payments and/or staff expenses;
- Any related temporary staff costs which must be calculated in accordance with paragraph 10.2 of this Schedule;
- Costs relating to any item purchased either at the Authority's request or where reasonably required by the JV Co in order assist in with the provision of Emergency Assistance and/or Business Continuity Assistance, which must be calculated in accordance with paragraphs 9.6 and 10.2 of this Schedule; and
- Any ongoing costs split as per the above and calculated, where relevant, in accordance with paragraphs 9.6 and 10.2 of this Schedule.

10.1.2 The impact of providing Emergency Assistance and/or any Business Continuity Assistance upon the Key Performance Indicators for each service as set out in Schedule 2. The JV Co should:

- Indicate and evidence which Key Performance Indicators it believes have been detrimentally affected as a direct result of JV Co staff resource being diverted;
- Indicate how long it believes each affected indicator will be detrimentally affected;
- Make recommendations as to how to recover any downturn in performance; and
- Provide specific details to evidence the extent of the associated Service Line's involvement in the Emergency.

- 10.2 Subject as provided in the following provisions of this paragraph 10, costs due from the Authority to the JV Co relating to procurement in connection with the provision of Emergency Assistance and/or Business Continuity Assistance may be charged up to a maximum of the actual costs incurred by the JV Co subject to the provisions of paragraph 9.6 of this Schedule. Any costs relating to the provision of temporary

staff must be calculated in accordance with the secondee rate card set out in Schedule 4.

- 10.3 Within 10 days of receiving the report the Authority and the JV Co will meet to agree any additional amounts and, where appropriate, ongoing amounts payable to the JV Co in connection with providing Emergency Assistance and/or Business Continuity Assistance and to agree the affect of such on the Service Credit Mechanism detailed in Schedule 2.
- 10.4 No payment will be due from the Authority to the JV Co to cover the salary costs (excluding any overtime costs which are directly related to providing Emergency Assistance and/or Business Continuity Assistance) of staff being diverted from normal duties to provide either Emergency Assistance or Business Continuity Assistance.
- 10.5 Unless an agreement has been reached in accordance with paragraph 10.6 and where the JV Co can evidence that any KPI failure in respect of a service from which staff have been diverted (either to provide Emergency Assistance or Business Continuity Assistance) has occurred as a direct result of those staff being diverted then that KPI shall be treated as having been met for the purposes of the Service Credit Mechanism.
- 10.6 The Authority may, with the JV Co's agreement, provide funding for additional temporary staff (to cover for staff diverted to provide either Emergency Assistance or Business Continuity Assistance) in order to maintain service delivery. The cost of the additional staff must be calculated in accordance with the secondee rate card set out in Schedule 4. Where this provision applies the Authority and the JV Co will agree how to treat any KPI's, which either have or are likely to fail as a direct result of staff being diverted, as part of the agreement.
- 10.7 Subject to the agreement by the Authority of the report referred to above and to paragraphs 10.8 and 10.9 below the Authority will reimburse the JV Co for all additional staff overtime, staff expenses, temporary staff and procurement costs directly and reasonably incurred and evidenced by the JV Co in providing Emergency Assistance and/or Business Continuity Assistance.
- 10.8 Where the Authority does not agree the costs reimbursement amount requested by the JV Co in the report and/or the effect on performance indicators detailed in the report the parties shall meet as soon as reasonably practicable to attempt to reach an agreement. Where they are unable to do so the matter shall be resolved in accordance with the Dispute Resolution Procedure set out in Schedule 16.
- 10.9 To the extent that the Emergency results from the actions or inactions of the JV Co, or any JV Co Related Party, no payment will be due to the JV Co by the Authority to cover the cost of any Emergency Assistance and/or any Business Continuity Assistance undertaken by the JV Co in connection with Emergency and the JV Co will not be able to claim exemption from any failing KPI.
- 10.10 The JV Co will release staff, as required, to take part in any post-emergency review sessions required by the Authority and/or SCC/TDBC (as appropriate) .

- 10.11 The JV Co will, where relevant to do so and/or where requested to do so by the Authority as a result of any post-emergency review, undertake a review of its emergency/business continuity processes and make any necessary changes.
- 10.12 This Schedule 38 shall be without prejudice to the Authority's ability to request any equivalent assistance by way of Emergency Change pursuant to the provisions of Schedule 14 (Change Control) rather than this Schedule 38 and in such case the provisions of this Schedule 38 shall not apply.