

Bridgend County Borough Council
Rhondda Cynon Taff County Borough Council
Vale of Glamorgan County Borough Council

DRAFT

Memorandum of Agreement

Relating to the Coychurch Crematorium Joint Committee

Dated _____

This **AGREEMENT** is made the day of2009
Between Bridgend County Borough Council of Civic Offices, Angel Street, Bridgend CF31 4WB ("Bridgend"), Rhondda Cynon Taff County Borough Council of the Pavilions, Cambrian Park, Clydach Vale, Tonypany CF40 2XX ("RCT") and the Vale of Glamorgan County Borough Council of Civic Offices, Holton Road, Barry CF63 4RU ("Vale of Glamorgan")

WHEREAS:

1. The Councils to this Deed have by their respective Executive Cabinets and by virtue of sections 101(5) and 102(1) of the Local Government Act 1972 the Local Government Act 2000 and by regulations made thereunder and all and every power enabling them agreed and resolved to constitute a Joint Committee to exercise the powers which each of the Councils hereto might respectively have exercised by virtue of the Cremation Acts 1902 and 1952 for the provision and management of the existing crematorium at Coychurch Bridgend.
2. The said Councils now wish to constitute the said Joint Committee on the terms set out below and to the intent that an existing Memorandum of Agreement dated 11th. April 1967 shall forthwith cease to have effect.

NOW in pursuance of the said agreement and the respective resolutions and in consideration of these presents **THIS DEED WITNESSES** as follows:-

1. **Definitions and Interpretation.**

1.1 In this agreement the following expressions have the meanings set out below, unless the context otherwise requires:

'Annual General Meeting' means the annual meeting of the Joint Committee held each year in accordance with clause 3(2) of this Agreement

'Clerk' means the person appointed by virtue of clause 7 of this Agreement

'Council' means either Bridgend, RCT or Vale of Glamorgan.

'Host Authority' means Bridgend

'Joint Committee' means the Coychurch Crematorium Joint Committee constituted by this Agreement

'Special Meeting' means a meeting of the Joint Committee convened in accordance with clause 3.8 of this Agreement

1.2 Words importing one gender include all other genders.

1.3 Words importing the singular include the plural and vice versa.

1.4 The clause and paragraph headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation.

1. **Constitution of Joint Committee**

There shall be constituted a Joint Committee of the Councils consisting of the members of each of these Councils as hereinafter specified and having the functions powers and duties upon and subject to the terms and conditions as are hereinafter set forth and which shall be known as the Coychurch Crematorium Joint Committee.

2. **Membership**

2.1 The Joint Committee shall consist of eleven members appointed as follows:

Six representatives to be appointed by Bridgend County Borough Council from amongst the members of that Council;

Three representatives to be appointed by the Vale of Glamorgan County Borough Council from amongst the members of that Council;

Two representatives to be appointed by Rhondda Cynon Taff County Borough Council from amongst the members of that Council.

2.2 Each of the Councils shall at their Annual Meeting of the Council appoint the requisite number of members to represent it to serve on the Joint Committee and subject to clause 2.5 a representative so appointed shall hold office until either:

2.2.1 the next Annual Meeting of the Council which the member represents: or

2.2.2 the member dies; or

2.2.3 the member resigns; or

2.2.4 the member becomes disqualified.

2.3 **Nomination of Deputy to Attend Meetings**

Any of the Councils may nominate a deputy for any member appointed by them to attend and vote at any meeting of the Joint Committee in place of the member so appointed who for any reason is unable to attend that meeting.

2.4 **Election of Chair and Vice Chair**

The Joint Committee shall at their first meeting in any municipal year elect a Chair and Vice Chair for the ensuing year. The Vice Chair shall assume the position of Chair in the following year and his or her Vice Chair shall be elected in accordance with the agreed rota:

Chair

Vale of Glamorgan CBC
Bridgend CBC
Rhondda Cynon Taff CBC
Bridgend CBC
Vale of Glamorgan CBC

Vice Chair

Bridgend CBC
Rhondda Cynon Taff CBC
Bridgend CBC
Vale of Glamorgan CBC
Bridgend CBC

2.5 Filling of Casual Vacancies

If by reason of death, resignation, loss of qualification, cessation of membership of the appointing Council, or in any other manner, there shall be a vacancy in the representation of any of the Councils on the Joint Committee the Council in whose representation the vacancy occurs may forthwith fill such vacancy and the person so elected shall hold office as member of the Joint Committee for the remaining period of office of the person whose place he fills.

2.6 If any Council does not appoint the number of members which it is entitled to appoint the other members of the Joint Committee shall be competent to carry out the business thereof pursuant to this agreement

3. Meetings and Standing Orders

3.1 The Joint Committee shall hold two meetings at least in each municipal year (one of which is to be the Annual General Meeting mentioned in the next sub-clause) for the transaction of general business and may hold such other meetings at such intervals as they shall find necessary or convenient.

3.2 The first meeting of the Joint Committee after the annual meetings of the Councils shall be the Joint Committee's Annual General Meeting. At that meeting the Joint Committee shall elect a Chairman and Vice Chairman for the ensuing year. The Joint Committee shall also receive a report reviewing performance against the Business Plan for the preceding year.

3.3 The Joint Committee shall adopt the Standing Orders of the Host Authority for the purpose of regulating the procedure at their meetings and such Standing Orders shall provide (inter alia) for the election of Chair and for a method of voting and as to the quorum and place of meeting.

3.4 Sub-Committees

The Joint Committee shall have the power to appoint Sub-Committees from amongst its members for any purpose which in their opinion could better be managed or considered by means of a Sub-Committee. The constitution, quorum and the terms of reference of the Sub-Committee(s) shall be as the Joint Committee shall determine or if not determined shall be dealt with in accordance with the Host Authority's rules and procedures.

3.5 Convening of Meetings

The meetings of the Joint Committee and any Sub-Committees shall be convened by the Clerk of the Joint Committee or by the Chair and every meeting shall be convened by notice in writing by the Clerk and delivered to each member of the Joint Committee, or sent by post to, or delivered at the member's residence or place of business, or delivered electronically to an agreed e-mail address, at least three clear working days before the day of the meeting.

3.6 Quorum of Meetings

To constitute a meeting of the Joint Committee there must be present not less than three representative members.

3.7 Minutes of Meetings

The minutes of the proceedings of every meeting of the Joint Committee or Sub-Committee thereof shall be drawn up by the Clerk to the Joint Committee. Such minutes shall record the names of all members present and copies shall be sent by the Clerk to the Chief Executive Officer of the Councils.

3.8 Special Meetings

The Chair of the Joint Committee shall call a special meeting of the Joint Committee within fourteen days of the receipt of a requisition for the purpose signed on behalf of two Councils and setting forth the nature of the matter requiring consideration. The notice summoning any special meeting shall have noted thereon the matter to be discussed at the special meeting.

3.9 The Joint Committee may enter into agreements with any one or more or all of the Councils in respect of the carrying out of any of its purposes or functions.

3.10 Rules and Procedures

For the avoidance of doubt the Joint Committee shall where relevant and subject to the provisions of this Agreement operate in accordance with the Host Authority's Scheme of Delegation, Rules of Procedure and Policies from time to time.

4. Accounts

4.1 The Joint Committee and every Officer thereof who is by reason of his office entrusted with the custody or control of monies shall keep accounts of all monies received by the Joint Committee or any such Officer and of all expenditure thereof by them or him and such accounts shall be subject to district audit as accounts falling within Section 219(c) and Section 241 of the Local Government Act 1933 and the provisions of Part X of that Act shall apply accordingly

4.2 The Joint Committee shall as soon as may be practicable after the conclusion of every financial year (which shall for the purpose of this Agreement be taken to be a period of twelve months ending on the 31st day of March in any year) send to each of the Councils a copy of the final accounts of the Joint Committee for such financial year this provision being in addition to and not in substitution for any statutory obligation to furnish to each of the three Councils copies of the auditors report on such accounts and of the financial statement thereof

4.3 The accounts of the Joint Committee shall at all reasonable times be open to inspection free of charge by any member of the Councils or by any

officer of any of the Councils duly authorised for the purpose of his employing Council

5. Powers of Joint Committee

The Councils hereby delegate to the Joint Committee upon and subject to the terms and conditions of this Agreement or any part therein contained all the powers of them the Councils with reference to the provision and maintenance of crematoria in the area of each of them the Councils other than powers of borrowing money levying or issuing of precept for a rate or holding land and without prejudice to the generality of the foregoing the Committee shall to the exclusion of the Councils have all powers of each of the Councils under the Cremation Acts 1902 and 1952 and under any Acts of Parliament or Statutory Instruments with reference to the provision and maintenance of crematoria which may be passed or made or come into operation after the date of this Agreement

6. Capital Expenditure

6.1 If it is necessary to incur capital expenditure for the acquisition of land/property or the construction of works or for other capital purposes in connection with the provision of crematoria then the amount thereof (unless the Joint Committee shall in their discretion decide to defray part of such expenditure out of revenue or the balance sheet reserve) may be borrowed and shall be paid to the Joint Committee by the Council in whose area the property works or other assets shall be erected or created on such terms and on such conditions as may be agreed between the Joint Committee and the said Council subject to any necessary consent of the Welsh Assembly Government.

6.2 Subject as is hereinafter provided the Joint Committee shall from time to time pay to the Council who shall borrow money for the said purposes the amounts of all interest and all instalments of principal or sinking fund contributions as and when the same shall become due and the cost of taking up any loans raised for such purposes.

6.3 All land/property acquired or works constructed by means of capital expenditure borrowed as aforesaid shall belong to and be vested in the Council by whom the amount of expenditure is borrowed but shall be maintained controlled and managed by the Joint Committee for crematoria purposes.

7. Appointment of Officers

For the purpose of carrying out their duties under this Agreement the Joint Committee shall appoint a Clerk and Treasurer and such other officers as they deem necessary provided that no person who is or within twelve months previously was a member of the Joint Committee or of any of the Councils may be appointed an officer of the Joint Committee. Every such officer shall be appointed by Bridgend County Borough Council, presently the Host Authority and officers shall operate within the Council's policies and procedures.

8. Apportionment of Surpluses and Deficits

Any surplus or deficit ascertained to have been made at the end of any financial year shall be transferred to a balance sheet reserve. This will even out variations between financial years and operate as a contingency to cover unforeseen items of expenditure which cannot be offset by savings elsewhere. If sufficient monies are built up and the Joint Committee approves, the reserve can be used to fund expenditure aimed at service improvement.

9. Financial Assessments

9.1 The Crematorium is currently self financing and no contributions are required from each of the Councils. However in the case of emergency expenditure, a contribution may be required from each of the Councils and this will be made based on the percentage use made of the Crematorium by the residents of the present constituent authorities in the full year before any contribution is required.

9.2 If deemed necessary, each of the Councils shall pay to the Joint Committee the amount of its contribution determined in accordance with the above provisions within 28 days of any notification and in the event of the failure of any of the Councils to make such payment interest thereon at the rate of 6% per annum, commencing as from the 28th day from the date payment was due, shall be added to the amount thereof.

10. Financial Adjustments

In the event of any alteration of the boundaries of the districts of the Councils or this Agreement being at any time hereafter determined under the provisions hereinafter contained or otherwise there shall as on the date of such alteration of boundaries or determination be an adjustment between the then parties for the areas affected by this Agreement of all property income debts liabilities and expenses then existing in relation to the subject matter of this Agreement and of any financial relations affected by such alteration boundaries or determination and there shall also be an adjustment of capital assets and liabilities acquired or assumed by any such authorities (including any outstanding loans incurred by them or any of them) for the purposes of this Agreement and provision may then be made for the payment to any such authorities of such sum as seems equitable. Upon such an adjustment as is referred to in this paragraph the outstanding amounts of any property or works on the date of adjustment and the outstanding amounts of such loans shall be taken into account in the adjustment. In the event of such adjustment being required as a result of any of the Councils determining this Agreement account shall be taken of any consequent financial loss or benefit on the part of the remaining Councils which can reasonably be anticipated.

11. Operation of Agreement

11.1 This Agreement shall be determinable by any of the Councils by giving to the others not less than two years' notice in writing expiring on the 31st day of March in any year but no notice of determination shall be served so as to expire before the 31st day of March

11.2 The determination of this Agreement by any Council in accordance with this paragraph shall be without prejudice to its continued operation as between the remaining Councils and the term “the Councils” as defined herein shall thenceforth be deemed to refer to the reduced number of Councils remaining parties to the Agreement

11.3 In the event of a notice determining this Agreement being given the Council which gives such notice shall bear the expense involved in the settling of financial adjustments

12. Arbitration

All disputes between the Councils on the interpretation of the Clauses of this Agreement and all disputes or differences in any way or at any time arising out of the operation of this agreement shall be referred to some competent arbitrator to be agreed upon by the parties concerned or in default of such agreement to be named by the President for the time being of the Law Society and the Arbitration Act 1950 or any statutory modification thereof for the time being in force shall apply to any such arbitration

13. General

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement

IN WITNESS whereof the Councils have hereunto affixed their respective Common Seals the day and year first before written

THE COMMON SEAL of the **BRIDGEND COUNTY BOROUGH COUNCIL** was affixed hereto in the presence of:

Mayor

Authorised Signatory

THE COMMON SEAL of the **RHONDDA CYNON TAFF COUNTY BOROUGH COUNCIL** was affixed hereto in the presence of:

Mayor

Authorised Signatory

THE COMMON SEAL of the **VALE OF
GLAMORGAN COUNTY BOROUGH COUNCIL**
was affixed hereto in the presence of:

Mayor

Authorised Signatory