



EAST KENT (JOINT SCRUTINY) COMMITTEE

White Cliffs Business Park, Dover, Kent CT16 3PJ
Telephone: (01304) 821199

Tuesday, 22 June 2010

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **EAST KENT (JOINT SCRUTINY) COMMITTEE** will be held in the **Council Chamber, Dover District Council** on **Wednesday, 30th June, 2010, at 10.00 am** when the following business will be transacted.

Members of the public who require further information are asked to contact **Anna Taylor 01622 694764/ anna.taylor@kent.gov.uk**

East Kent (Joint Scrutiny) Committee:

| | | |
|----------------------------|------------|----------------------------|
| Mr M Vye | (Chairman) | (Kent County Council) |
| Mr D Brazier | | (Kent County Council) |
| Councillor M D Conolly | | (Dover District Council) |
| Councillor H Cragg | | (Canterbury City Council) |
| Councillor C Goddard | | (Shepway District Council) |
| Councillor M Harrison | | (Thanet District Council) |
| Councillor J Holben | | (Shepway District Council) |
| Councillor D R Lloyd-Jones | | (Dover District Council) |
| Mr R F Manning | | (Kent County Council) |
| Councillor K Mills | | (Dover District Council) |
| Councillor A Perkins | | (Canterbury City Council) |
| Councillor T Prater | | (Shepway District Council) |
| Councillor J Roberts | | (Thanet District Council) |
| Councillor B Rogers | | (Thanet District Council) |
| Councillor J Samper | | (Canterbury City Council) |

AGENDA

EAST KENT (JOINT SCRUTINY) COMMITTEE

Wednesday, 30th June, 2010, at 10.00 am

Ask for: **Anna Taylor**

Council Chamber, Dover District Council

Telephone **01622 694764/
anna.taylor@kent.gov.uk**

1. APOLOGIES
2. APPOINTMENT OF SUBSTITUTE MEMBERS
To note the appointment of Substitute Members in accordance with the agreed procedure.
3. DECLARATIONS OF INTEREST
4. MINUTES (Pages 1 - 4)
To confirm the attached Minutes of the meeting of the East Kent (Joint Scrutiny) Committee held on 14 January 2010.
5. OPERATING ARRANGEMENTS (Pages 5 - 12)
The Operating Arrangements for the East Kent (Joint Scrutiny) Committee are attached for information.
6. ISSUES REFERRED TO THE COMMITTEE BY THE EAST KENT (JOINT ARRANGEMENTS) COMMITTEE (Pages 13 - 24)
East Kent (Joint Arrangements) Committee Minutes of 19 May 2010.
7. ITEMS PLACED ON THE AGENDA BY A MEMBER OF THE COMMITTEE
In accordance with Paragraph 7.1 of the Operating Arrangements any Member of the Committee may require that an item be placed for consideration on the agenda of the next available meeting.

There are no items for consideration.
8. APPOINTMENT OF HOST AUTHORITY, DELEGATION OF POWERS FOR THE PROPOSED THANET, DOVER AND CANTERBURY SHARED SERVICES AND LOCATION OF STAFF (Pages 25 - 40)
TO CONSIDER the attached report of the Head of Legal and Democratic Services (Canterbury)
9. REVIEW OF ADMINISTRATIVE ARRANGEMENTS FOR THE EAST KENT (JOINT ARRANGEMENTS) COMMITTEE AND THE EAST KENT (JOINT SCRUTINY) COMMITTEE (Pages 41 - 90)
TO CONSIDER the attached report of the Head of Legal and Democratic Services (Canterbury)

Minutes of the meeting of the **EAST KENT (JOINT SCRUTINY) COMMITTEE** held at the Dover District Council on Thursday 14 January 2010 at 9.30 am.

Present:

Chairman: Councillor G Cowan (Dover District Council)

Councillors: A Clifton-Holt (Shepway District Council)
M D Conolly (Dover District Council)
M Harrison (Thanet District Council)
D R Lloyd-Jones (Dover District Council)
A Perkins (Canterbury City Council)
T Prater (Shepway District Council)
B Rogers (Thanet District Council)
J Samper (Canterbury City Council)
R Tillson (Shepway District Council)
M Tomlinson (Thanet District Council)
C Windsor (Canterbury City Council)

Officers: Chief Executive (Canterbury City Council)
Chief Executive (Dover District Council)
Chief Executive (Shepway District Council)
Chief Executive (Thanet District Council)
Head of Finance and ICT (Dover District Council)
Head of Legal and Democratic Services (Canterbury City Council)
Director of Customer Services and Business Transformation (Thanet District Council)
Assistant Head of Democratic Services (Canterbury City Council)
Democratic Support Officer (Dover District Council)

Apologies for absence were received from Councillors C Goddard, J Roberts, I Thomas and M Vye.

20 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that in accordance with the Operating Arrangements, Councillors M Tomlinson, R Tillson and C Windsor had been appointed as substitutes for Councillors J Roberts, C Goddard and I Thomas respectively.

21 MINUTES

The Minutes of the meeting of the Committee held on 14 December 2009 were approved as a correct record subject to the replacement of the word "consensus" with "majority" in the final paragraph and signed by the Chairman.

22 ISSUES REFERRED TO THE COMMITTEE BY THE EAST KENT (JOINT ARRANGEMENTS) COMMITTEE

There were no items for consideration.

23 ITEMS PLACED ON THE AGENDA BY A MEMBER OF THE COMMITTEE

There were no items for consideration.

24 EAST KENT JOINT SERVICES – STRATEGIC BUSINESS CASE

The Chairman advised the Committee that an additional paper had been circulated at the meeting and with the Committee's consent the meeting was adjourned until 9.50 am to allow Members the opportunity to read it.

On its resumption, the meeting heard from the Chief Executive of Shepway District Council on the nature of his authority's concerns over the reports proposals for joint services. It was emphasised that despite concerns over its participation, Shepway District Council would not seek to prevent any of the other East Kent authorities from progressing with closer joint working arrangements on the basis outlined in the report.

The Chief Executives for the other three East Kent authority's stated that due to uncertainty over the level of future central government funding for local government the existing model of two years to develop shared services proposals to fruition would not deliver the required savings in time to avoid significant budgetary pressures arising.

It was stated that a series of checks and balances had been established by the proposals that would ensure democratic involvement in decision-making where there was a question as to whether a shared service would deliver savings for an authority. The involvement of Elected Members in service management would be on a similar basis to that where services had been contracted out with Members determining service levels.

The target level of saving to be achieved from sharing a service was 10% overall. It was acknowledged that this meant that individual authorities could save less or more than the 10% saving if the overall level of saving across all participating authorities was 10% or greater. In addition, in certain circumstances an authority might opt to receive a lower saving in order to achieve a greater level of service provision.

In response to questions from Members, the Committee was advised that the set-up costs for the proposed arrangements had yet to be identified but on the basis of the proposed staffing structure it was expected to be less than the £250,000 suggested. The expenditure on a Director of Shared Service cost would be a single year cost, as it would be funded from savings made through shared services after that. The Business Transformation Manager positions would be an internal appointment if a suitable candidate applied for the post and their existing work would be backfilled until the shared service was established.

The issue of exit arrangements from joint working was raised and it was acknowledged that once a service had been shared it would be difficult to withdraw from the arrangements once the staff members had been

transferred to the shared service. At this point however, Members were only being asked to commit to the arrangements until 2011.

It was proposed by Councillor A Perkins and duly seconded

- (a) That the East Kent (Joint Scrutiny) Committee reaffirm its support for the resolution passed at its meeting held on 14 December 2010.
- (b) That while the East Kent (Joint Scrutiny) Committee supports the principal of joint working it cannot support the proposals for the following reasons:
 - (i) The lack of information relating to actual costs.
 - (ii) The lack of detail on how savings can be achieved.
 - (iii) The concerns over democratic accountability.
 - (iv) The prohibitive cost of exit from any individual shared service or shared service vehicle.
 - (v) The lack of other options.

Councillor J Samper requested that the vote be recorded.

| | | | |
|---------------------------|-----|----------------------------|---------|
| Councillor A Clifton-Holt | For | Councillor M D Conolly | Against |
| Councillor G Cowan | For | Councillor D R Lloyd-Jones | Against |
| Councillor M Harrison | For | Councillor B Rogers | Against |
| Councillor A Perkins | For | Councillor J Samper | Against |
| Councillor T Prater | For | Councillor M Tomlinson | Against |
| Councillor R Tillson | For | Councillor C Windsor | Against |

On being put to the vote, there was an equality of six votes in favour and six votes against the proposal. In the absence of a provision in the operating arrangements for a Chairman's casting vote the proposal was LOST. The Chairman stated that had there been the option for a casting vote he would have voted for the proposal.

RESOLVED: That the East Kent (Joint Arrangements) Committee be advised that the East Kent (Joint Scrutiny) Committee was unable to reach a resolution on the matter of the East Kent Joint Services.

The meeting ended at 11.55 am.

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East Kent (Joint Scrutiny) Committee – Operating Arrangements

Canterbury City Council

Dover District Council

[Kent County Council]

Shepway District Council

Thanet District Council

together referred to as 'the Parties'

1. Key Principles for the Operation of the East Kent (Joint Scrutiny) Committee (EKJSC)

- 1.1 The members of the EKJSC will work together to maximise the exchange of information and views, to minimize bureaucracy and make best use of the time of members and officers of local and other authorities.
- 1.2 The guiding principle for the work of EKJSC is that it should be consensual and positive. The emphasis of the work should be on making proactive contribution to the development of policy and the discharge of EKJAC's functions. This is best achieved by an inclusive process covering members, the parties' partners, service users and officers.
- 1.3 The process of joint scrutiny will be open and transparent, designed to engage the parties, their residents and other stakeholders.

2. Objectives

- 2.1 The EKJSC is established under section 101 and 102 Local Government Act 1972 and Section 2 Local Government Act 2000 with the objective of acting as the single Scrutiny Committee for the monitoring, review and scrutiny of the East Kent (Joint Arrangements) Committee (EKJAC).

3. Terms of Reference

- 3.1 The terms of reference of the EKJSC are as set out in Schedule 1.
- 3.2 These arrangements will be reviewed regularly. No proposed amendments to these arrangements will take effect until they have been agreed and endorsed by each of the parties.

4. Call-In

- 4.1 The arrangements for the operation of call-in by the EKJSC shall be as set out in Schedule 2. The EKJSC shall have power to call-in any decision made by EKJAC, a sub-committee of EKJAC, or any member or officer with delegated authority from EKJAC. The EKJSC will not have the power to call-in any decision of the Executive of any of the Parties.

- 4.2 Where there is a call-in by a statutory scrutiny committee of any of the Parties of any decision of the EKJAC, each of the other Parties will be notified forthwith. The call-in shall be heard by the call-in Party's statutory scrutiny committee in accordance with the call-in Party's own arrangements. Where there is more than one call-in on the same subject the parties shall endeavour to ensure that they are heard together at the same time and place.
- 4.3 The call-in procedure set out in clauses 4.1 and 4.2 above shall not apply where the decision being taken by or on behalf EKJAC is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the interests of any of the Parties or the public interest. The record of the decision and notice by which it is made public shall state whether, in the opinion of the decision maker, the decision is an urgent one and therefore not subject to call-in. The Chairman and the members of each of the Parties affected by the decision must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the consent of the Vice-Chairman shall be required. In the absence of both the Chairman and Vice-Chairman, the consent of the Head of Paid Service of that Party (or his/her nominee) shall be required. Decisions taken as a matter of urgency must be reported to the next available full Council meetings of each of the Parties, together with the reasons for urgency.

5. Membership and Terms of Office

- 5.1 The EKJSC will comprise three non-executive councillors from each of the Parties.
- 5.2 Each appointing Party shall appoint its three members on the basis of its overall political proportionality.
- 5.3 Members of the EKJSC shall be appointed by the Parties at their annual meetings of their respective Council and shall hold office until:
- (a) the next annual meeting of the Party that appointed them, save that the Party that appointed them may remove them from office, either individually or collectively, at an earlier date in the event of a change in political control of that Party; or
 - (b) they resign from office; or
 - (c) they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension)
- 5.4 Each Party may appoint substitutes to represent their authority in the absence of the appointed councillors. Nominated substitutes will be non-executive councillors and will be able to attend any meeting of EKJSC in order to familiarise themselves with the issues involved, but will not be able to participate in debate or vote unless they are formally acting as a substitute member.
- 5.5 Non-voting members may be co-opted onto the EKJSC from any or all of the Parties or from other public sector partner organisations as the EKJSC may unanimously decide. Co-optees may participate in the debate but may not vote.

6. Frequency of Meetings

- 6.1 The EKJSC will meet quarterly, but may change the frequency of meetings and call additional meetings as required.

7. Agenda Setting and Access to Meetings and Information

- 7.1 The agenda for the EKJSC shall be agreed by the chairman following a briefing by relevant officers. Any member of the EKJSC may require that an item be placed for consideration on the agenda of the next available meeting.
- 7.2 There will be a standing item on the agenda of each meeting of the EKJSC for matters referred by the EKJAC.
- 7.3 Notice of meetings and access to agendas and reports will be in accordance with sections 100A-K and Schedule 12A of the Local Government Act 1972.

8. Sub-Committees

- 8.1 The EKJSC may establish sub-committees as it may determine by unanimous agreement of the EKJSC.
- 8.2 When establishing a sub-committee the EKJSC will agree the:
- (a) terms of reference for the sub-committee
 - (b) size and membership of the sub-committee including co-optees
 - (c) period for which the sub-committee will remain constituted
 - (d) chairman of the sub-committee or will delegate this decision to the sub-committee
 - (e) mechanism for hosting the sub-committee and sharing the cost amongst the relevant Parties, as appropriate

9. Delegation to Sub-Committees

- 9.1 The EKJSC may arrange for the discharge of any of its functions by a sub-committee of the EKJSC.

10. Meetings and Procedure

- 10.1 The Chairman and Vice Chairman will be appointed by the EKJSC on the basis of the position being rotated annually, as follows, and repeated each five years:

| | Chairman and Scrutiny Host Authority | Vice-Chairman |
|---------|---|----------------------|
| 2008-9 | Shepway | Dover |
| 2009-10 | Dover | Kent |
| 2010-11 | Kent | Canterbury |
| 2011-12 | Canterbury | Thanet |
| 2012-13 | Thanet | Shepway |

- 10.2 The Chairman and Vice Chairman of EKJSC shall be drawn from any political group not forming part of the administration of the appointing Council.
- 10.3 In the absence of the chairman and the vice chairman at a meeting, the meeting will elect a chairman for that meeting.

- 10.4 The quorum of the EKJSC will be five with at least one member present from four of the five Parties.
- 10.5 The EKJSC may approve rules for meetings and procedure from time to time.
- 10.6 The EKJSC may ask organisations, individuals or groups to assist it from time to time and may ask independent professionals to advise it during the course of reviews. Such individuals or groups will not be able to vote.
- 10.7 The EKJSC may request the attendance of officers employed by the participating authorities to answer questions and give evidence to the committee. Such requests must be made via the Chief Executive of the relevant participating authority.
- 10.8 The EKJSC may invite any other person to attend its meetings to answer questions or give evidence; however, attendance by such persons cannot be mandatory.

11. Decision Making

- 11.1 Decisions of the EKJSC will normally be made by consensus. A vote shall be taken where the chairman or any Voting Member requests that a vote be taken. The vote will be by way of a show of hands. A simple majority shall be required.
- 11.2 Where a minimum number of two members express an alternative to the majority view, they will be permitted to produce a minority report.

12. Scrutiny Host Authorities and Allocation of Roles

- 12.1 In order to achieve the objectives of the EKJSC, the Parties will appoint a Scrutiny Host Authority which is for the time being the Authority shown as the Chairman and Scrutiny Host Authority in the table at clause 10.1.
- 12.2 Staff from the Scrutiny Host Authority who are commissioned to provide services, advice and support to the EKJSC will continue to be employees of the relevant Scrutiny Host Authority.
- 12.3 Responsibility for the following support services to the EKJSC will be allocated to the Scrutiny Host Authority:
 - (a) the provision of legal advice and services
 - (b) the provision of financial advice and services
 - (c) secretariat support and services
 - (d) communications support and services
 - (e) data protection, freedom of information, information sharing and confidentiality issues in accordance with clause 17
 - (f) research
- 12.4 The cost of the services and advice set out in this section will be paid for by the Scrutiny Host Authority.

13. Amendments to these Arrangements

- 13.1 These arrangements may be amended by the unanimous agreement of the EKJSC following a recommendation approved by the full Council of each of the Parties.

14. New Membership and Cessation of Membership

- 14.1 New Parties may join the EKJSC provided that they are also a party to EKJAC and the full council of the joining Party(ies) and of all the Parties to these arrangements for the time being so resolve.
- 14.2 A Party ceases to be a member of these arrangements when it ceases to be a party to EKJAC.
- 14.3 Termination of these arrangements may occur by agreement of all the Parties.

15. Claims and Liabilities

- 15.1 The purpose of these arrangements and any actions taken under them is to assist all of the Parties. The Parties therefore have agreed that:
 - (a) where one of the Parties nominated by the EKJSC to act as Scrutiny Host Authority undertakes actions or incurs liabilities in that respect then it shall be entitled to be indemnified by the other Parties for the appropriate proportion of all its costs and liabilities incurred in good faith
 - (b) a Party carrying out actions in good faith on behalf of the EKJSC shall not (other than in the case of fraud and/or clear bad faith) be liable to claims from the other Parties (and there shall be no right of set-off against any claim for indemnity under (b) and/or (c) above) on the grounds that the actions that were taken were not the proper actions carried out properly or that the costs and liabilities incurred were not reasonably and properly incurred (as long as they were in fact incurred)
- 15.2 Each of the Parties shall at all times take all reasonable steps within its power to minimise and mitigate any loss for which it is seeking reimbursement from any of the other Parties.

16. Administration

- 16.1 The decisions and recommendations of the EKJSC will be communicated to EKJAC and the participating councils as soon as possible after the resolution of the committee.
- 16.2 Where working on forthcoming decisions of the EKJAC, the EKJSC will endeavour to carry out its functions as part of the EKJAC's process in order to ensure that its findings and recommendations can influence the final decision.
- 16.3 When considering items before it, the EKJSC will take account of whether an issue could more appropriately be dealt with by one of the Parties or elsewhere.

17. Data Protection, Freedom of Information, Information Sharing & Confidentiality

- 17.1 Subject to the specific requirements of this clause, each of the Parties shall comply with its legal requirements under data protection legislation, freedom of information and associated legislation, and the law relating to confidentiality.
- 17.2 A Party will be appointed as a Host Authority for the purposes of ensuring compliance with any legislative or legal requirements relating to these issues should

they arise directly in relation to the EKJAC (as compared to information held by the Parties to these arrangements).

17.3 Each of the each Parties shall:

- (a) treat as confidential all information relating to:
 - (i) the business and operations of the other Parties and/or
 - (ii) the business or affairs of any legal or natural person in relation to which or to whom confidential information is held by that Party("Confidential Information") and
- (b) not disclose the Confidential Information of any other of the Parties without the owner's prior written consent

17.4 Clause 17.3 shall not apply to the extent that:

- (a) such information was in the possession of the party making the disclosure, without obligation of confidentiality, prior to its disclosure or
- (b) such information was obtained from a third party without obligation of confidentiality or
- (c) such information was already in the public domain at the time of disclosure otherwise than through a breach of these arrangements or
- (d) disclosure is required by law (including under Data Protection Legislation, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004) or disclosure is permitted by the Human Rights Act 1998

17.5 The Parties may only disclose Confidential Information of another of the Parties to staff who need to know by reason of their work. Each of the Parties shall ensure that such staff are aware of, and comply with, these confidentiality obligations and that such information is not used other than for the purposes of the EKJSC.

17.6 If any of the Parties receives a request for information under the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004 then the other Parties shall (at their own expense) assist and co-operate to enable the request to be dealt with.

17.7 If a request for information is received then the Party receiving it shall copy it to the other Parties and consider when making its decisions any views of the other Parties.

17.8 Notwithstanding the provisions of 17.6 and 17.7 it shall be the Party receiving the request that is responsible for determining at its absolute discretion how to reply to the request.

18. Exercise of Statutory Authority

18.1 Without prejudice to these arrangements, nothing in these arrangements shall be construed as a fetter or restriction on the exercise by any of the parties of their statutory functions.

Schedule 1

TERMS OF REFERENCE of the EAST KENT (JOINT SCRUTINY) COMMITTEE

1. Monitor review and scrutinise the actions and decision of the EKJAC.
2. Make recommendations for reconsideration of any decisions made or actions taken and to make recommendations for improvement and/or changes in responsibilities and functions of the EKJAC.
3. Prepare reports and recommendations to the parties on the performance and delivery of the shared services provided by the EKJAC.
4. Propose an annual budget for the EKJSC in accordance with the requirements of the parties.
5. Prepare an annual report to the parties on the performance of these arrangements.
6. Facilitate the exchange of information about the work of the EKJSC and to share information and outcomes from reviews.

Schedule 2

ARRANGEMENTS FOR THE OPERATION OF CALL-IN by the EKJSC

1. When a decision is made by EKJAC, a sub-committee of EKJAC or an individual member with delegated authority from EKJAC, or a key decision is made by an officer with delegated authority from EKJAC, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of each of the Parties normally within two days of being made. The Chairman of the EKJSC (and all other members of each of the Parties) will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
2. That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented at 12.00 noon, on the fourth working day after the publication of the decision, unless it is called-in.
3. By 10.00 am on the fourth working day after publication of the decision, the proper officer of the Scrutiny Host Authority shall call-in a decision for scrutiny by the EKJSC if so requested by any member of the EKJSC, and shall then notify the decision maker of the call-in. A meeting of the EKJSC shall then be held within 15 working days of the decision to call-in. Reasons for calling-in a decision should be given and recorded in the agenda.
4. If, having considered the decision, the EKJSC is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to the full Council of all or any of the Parties. If referred to the decision maker they shall then reconsider within a further 10 working days, amending the decision or not, before adopting a final decision.
5. If, following an objection to the decision, the EKJSC does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the EKJSC meeting, or the expiry of that further 10 working day period, whichever is the earlier.
6. If the matter was referred to full Council of any of the Parties and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision maker, together with Council's views on the decision. That decision maker shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by EKJAC as a whole or a committee of it, a meeting will be convened to reconsider within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.
7. If the Council of any of the Parties to whom the matter has been referred does not meet, or if it does but does not refer the decision back to the decision maker, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

The decisions set out in these minutes will come into force, and may then be implemented at 12 noon on the fourth working day after the publication of the decision, unless the decision is subject to call-in.

Date of publication: 26 May 2010

CANTERBURY CITY COUNCIL

EAST KENT (JOINT ARRANGEMENTS) COMMITTEE

**Minutes of a meeting held on Wednesday, 19th May, 2010
at 10.00 am in The Guildhall, Westgate, Canterbury**

Present: Councillor R Bayford, Thanet District Council (Chairman)

Councillor R Bliss, Shepway District Council
Councillor R Doyle, Canterbury City Council
Councillor J Gilbey, Canterbury City Council
Councillor A King, Kent County Council
Councillor R Love, Shepway District Council
Councillor F Scales, Dover District Council
Councillor I Ward, Dover District Council

Officers:

| | |
|------------------|---|
| Nadeem Aziz | Chief Executive, Dover District Council |
| Colin Carmichael | Chief Executive, Canterbury City Council |
| Richard Samuel | Chief Executive, Thanet District Council |
| Alistair Stewart | Chief Executive, Shepway District Council |
| Mark Ellender | Head of Legal and Democratic Services, Canterbury City Council |
| Roger Walton | Head of Property, Leisure and Waste Management, Dover District Council |
| Linda Davies | Director, Environment and Waste, Kent County Council |
| Matthew Archer | Assistant Head of Democratic Services, Canterbury City Council |
| David Godfrey | Public Policy, Kent County Council |

34 APOLOGIES FOR ABSENCE

Apologies received from Councillors Carter (Kent), Watkins (Dover), Wise (Thanet) and Law (Canterbury).

35 DECLARATIONS OF INTEREST

No declarations of interests were received.

36 SUBSTITUTE MEMBERS

Councillor Rosemary Doyle substituted for Councillor Law (Canterbury) and Councillor Ian Ward substituted for Councillor Watkins (Dover).

37 **MINUTES**

The minutes of the meeting held on 20 January 2010 were agreed as a correct record.

38 **APPOINTMENT OF HOST AUTHORITY, DELEGATION OF POWERS FOR THE PROPOSED THANET, DOVER AND CANTERBURY SHARED SERVICES AND LOCATION OF STAFF**

The committee was informed that following acceptance by three of the five participant authorities of the strategic business case for a range of shared services earlier in the year, a Director of Shared Services had now been appointed. Delegated powers needed to be agreed by the committee for the new post to undertake her duties. These delegated powers would also be exercisable should Kent County Council and Shepway District Council delegate functions to the Committee in future. Attention was drawn to analysis, as set out in schedule 1, of which authority should act as host. It identified Thanet District Council as the preferred employer for the new Director. Canterbury was identified as the most suitable location for the shared services management team. He noted that it was not for the Joint Arrangements Committee to appoint the host but it did have authority to delegate powers to the Director. He recommended two minor amendments to the report:

- (i) That recommendation 1 be amended to Director of Shared Services *and her staff*.
- (ii) That within the scheme of delegation set out in Schedule 2 that "The Parties" means any two or more of Canterbury City Council, Dover District Council, Kent County Council, the District Council of Shepway and Thanet District Council.

RESOLVED –

1. That Thanet District Council as the host employer of the Director of Shared Services and her staff be approved.
2. That the Director of Shared Services when employed by Thanet District Council be delegated the powers of the Committee as set out in schedule 2 attached to this report.
3. That the Director of Shared Services and associated staff be located at Canterbury City Council offices.
4. That the definition of "the parties" be amended to include Kent County Council.

A copy of the scheme of delegation as amended is appended to the minutes.

39 **REVIEW OF ADMINISTRATIVE ARRANGEMENTS FOR THE EAST KENT (JOINT ARRANGEMENTS) COMMITTEE AND THE EAST KENT (JOINT SCRUTINY) COMMITTEE**

The Committee was informed that a review of the arrangements had been undertaken by Mr Doug Bradbury, SOLACE consultant and former Chief Executive of Shrewsbury and Atcham Borough Council, who was well versed in constitutional matters. The review had concluded that the current arrangements were robust. A number of recommendations had been made in the report to further enhance the

arrangements and these were included in the report for consideration by the committee. Particular attention was drawn to the difficulties inherent in EKJAC's decision-making processes, which had contributed to the delay of projects. These had been taken on board in preparing the methodology for the strategic business case earlier in the year.

Attention was drawn to a number of the more detailed recommendations as follows:

- (i) administration and chairmanship – it was recommended that Canterbury retained the 'administering authority' arrangements for a further year, making a total of 3 years, whilst the chairmanship rotated. A further review would take place in a year's time;
- (ii) that the chairman of both EKJAC and EKJSC be given a second or casting vote unless his or her council was not participating in the shared service concerned;
- (iii) agreement to a fund to meet the costs of researching and creating shared services projects; and
- (iv) creation of an SLA for the functions of the administrative host.

He also said the following matters should be kept under review:

- (v) relationship between EKJSC and individual scrutiny committees, which may be the subject of a future protocol;
- (vi) the need for specialist officer advice to support the work of the Joint Scrutiny Committee; and
- (vii) funding the work of officers supporting the Joint Arrangements Committee.

RECOMMEND -

That the following recommendations be made to each council –

1. That the East Kent (Joint Arrangements) Committee operating arrangements be amended as follows:
 - (a) Paragraph 11.1 – In the table delete "and Host Authority".
 - (b) Paragraph 12.1 – To add "in the event of an equality of votes the Chairman may have a second or casting vote unless his council is not participating in the shared service concerned".

Paragraph 12.2 – To add "Any such recommendation shall be considered by each of the parties and a response made to it within three months of the date such recommendation is made".
 - (c) Paragraph 14.1 – To delete "the Parties will appoint a Host Authority which is for the time being the Authority shown as the Chairman and Host Authority in the table at clause 11.1" and substitute "which until May 2012 shall be Canterbury City Council and thereafter such Administering Authority as EKJAC may from time to time appoint".

Paragraph 14.4 – Delete “will be paid for by the host authority” and substitute “will be paid for by the parties in equal shares”.

- (d) To add the following paragraphs and re-number the succeeding paragraphs:

“Paragraph 15. – Finance

Paragraph 15.1 – “To agree that the councils allocate sums from time to time to funds for meeting the costs of researching and creating Shared Services projects and that the Chief Executive of the Host Authority be given delegated power in consultation with the Chief Executives of the parties participating in those projects to authorise any expenditure within the allocated budget”.

- (e) Where the context so admits change “Host Authority” to “Administering Authority” throughout.

2. That the East Kent (Joint Scrutiny) Committee operating arrangements be amended as follows:

To add at the end of 11.1 “In the event of an equality of votes the chairman may have a second or casting vote unless his council is not participating in the shared service concerned”.

To add “11.3 Where two or more parties have resolved to delegate the relevant functions to the EKJAC then:

- (a) The service will thereafter be a shared service only in relation to those parties and
- (b) Those parties alone will have voting rights at the EKJSC in relation to further decisions as to how that shared service is jointly managed provided or procured.
- (c) The parties that did not delegate that shared service will not have voting rights in relation to that shared service until or unless they do delegate such service at some future date.

3. That the Head of Legal and Democratic Services at Canterbury prepare a Service Level Agreement to describe the role of the administrative host authority for the EKJAC to be approved by the Monitoring Officers of all the parties.

4. That the following matters be kept under review in relation to the operating arrangements of both Committees:

A protocol regulating the relationship between EKJSC and the individual council Overview and Scrutiny Committees.

Recruitment of a specialist officer to support the work of EKJSC.

The principle that any work carried out by staff of the councils towards achieving a shared service be reimbursed from EKJAC funds and that such funds are made available to EKJAC.

40 **ANY OTHER BUSINESS WHICH FALLS UNDER THE EXEMPT PROVISIONS OF THE LOCAL GOVERNMENT ACT 1972 OR THE FREEDOM OF INFORMATION ACT 2000 OR BOTH**

RESOLVED – That, under Section 100(A) 4 of the Local Government Act 1972, the press and public be excluded from the meeting during the consideration of the following item on the grounds that there would be disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act or the Freedom of Information Act or both.

41 **EAST KENT JOINT WASTE PROJECT**

The report was introduced by Roger Walton, Head of Property, Leisure and Waste Management (Dover). The Committee was informed that the report before them built on the previous agreement made in November 2009 to adopt the Notional Optimum Model (NOM) for waste disposal and collection. In the interim period, a competitive dialogue procurement process had been continuing on the joint tender between Shepway, Dover and Kent to allow prospective tenders the opportunity to inform the client authorities on the most effective waste collection methodology. This had led to a recommendation that an Alternative NOM be adopted, which included separate weekly collection of food and separate containerised collection of dry recyclables. He said the new model allowed those who presently charge for green waste on a subscription basis to continue to do so.

The impact of the changes to the cost model were described. It was explained that the savings accrued by Kent County Council from disposal would be retained by them and used, in part, to provide enabling payments to the districts to support them with the waste collection service. He explained that there were two components to the payment to districts; one part offset the loss of recycling income presently enjoyed by districts and a second compensatory payment was included to ensure that overall the new collection service would, based on estimated costs, be cost neutral to the districts whilst delivering improved recycling rates.

He said for various procurement reasons it had not been possible to prepare a single contract for East Kent at this stage but the opportunity to do so in 2020 had been retained. The possibility of co-located depots had been rejected by prospective tenderers, due to the lack of cost benefit. It was explained that the business case had moved away from a desegregation of shared benefits so that the disposal authority now retained the income from recyclate disposal, which carried the risk of fluctuation according to market conditions. This had led to a proposal from the County council that the enabling payments to districts should be capped at the rates set out in section 2.7 of the report. Anticipated gross disposal savings arising from the alternate NOM were estimated to be £2.96 million and the adjusted total net savings, taking into account all enabling payments and containerisation costs were estimated to be £1.008 million.

The funding arrangement for the sharing of consultancy costs for technical and legal advice was explained. The timetable set out in Appendix 3 of the report for the Shepway, Dover, Kent element of the contract was amended to reflect the most recent advice. The award of contract would take place in September 2010 and contract commencement was expected in November 2010.

A Member asked if all of the recommendations needed to be referred to the constituent authorities Executive/Cabinet. In response the Head of Legal and Democratic Services (Canterbury) explained that recommendations one to five were for EKJAC to determine and that recommendations six and seven would be a matter for each partner and may differ slightly in each authority according to individual circumstances.

RESOLVED –

1. That EKJAC agrees the proposal to use the Alternate NOM as the base model to be priced by tenderers in the procurement for the waste collection, disposal and cleansing services for Dover, Shepway and KCC.
2. That the Alternate NOM is used in the future for the development of services in Canterbury and Thanet.
3. That the required additional future funding to complete the current procurement process is met initially by KCC, with the part contributions to these costs by the districts being deducted from their Enabling Payments once these commence
4. That delegated authority is given to the Chief Executive of Dover District Council in consultation with the Chief Executives of Kent, Shepway, Canterbury and Thanet councils to determine the formula to share the outstanding and future project development costs of completing the first phase of procurement in the East Kent Joint Waste project, but if he considers there is difficulty in reaching a consensus he may refer it to this Committee for decision.
5. That KCC will provide capital funding for additional containerisation up to the figures set out in the table under paragraph 2.6 for each district. KCC will deal with any revenue fluctuations that arise from the borrowing of these funds.

To recommend to the partner authorities that they seek authority to agree:

6. That net disposal savings generated by the new service arrangements set out in Appendix 1 are retained by KCC, and that they limit the sums payable to the districts to the enabling payments for each authority set out in the table under paragraph 2.7 plus the alternate view payments to Canterbury and Thanet set out in paragraph 2.10.
7. That provided the overall waste diversion increases in East Kent then KCC will share 50% of the savings with the East Kent districts. The allocation between the districts will be based on a simple formula pro-rata to their populations.
8. That the amendments set out in the supplementary agenda relating to paragraphs 2.8, 2.11 and 6.3 of the report be confirmed.

There being no other business the meeting closed at 11.00 am

The East Kent Joint Arrangements Committee Scheme of delegation of functions to officers

Introduction

This scheme has been adopted by the East Kent Joint Arrangements Committee and is the list of delegations to officers under section 101 of the Local Government Act 1972 (as amended), section 20 of the Local Government Act 2000 Regulation 11(4) of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 and all other powers enabling delegations to officers. It is adopted with the intention of giving a clear transparent and accountable decision-making process.

“The arrangements” means the operating arrangements, Terms of Reference, Committee Procedure Rules and any other minutes or documents for the time being in force by which the East Kent Joint Arrangements Committee and the East Kent Joint Scrutiny Committee are constituted and their powers defined.

“The Committee” means the East Kent (Joint Arrangements) Committee.

“The council” means Thanet District Council as host authority by whom the officers will be employed.

“The Department” means the East Kent Shared Services department under the Directorship of the Director of Shared Services.

“The Director of Shared Services” means the chief officer appointed by the council and primarily responsible for the development and delivery of such shared services as the parties decide.

“The Parties” means as the context requires any two or more of Canterbury City Council, Dover District Council, Kent County Council, the District Council of Shepway and Thanet District Council.

1. Officers may only exercise the delegated powers in this scheme in accordance with
 - 1.1 Statutory or other legal requirements, including the principles of public law, the Human Rights Act 1998 (as amended), statutory guidance and statutory codes of practice.
 - 1.2 The Constitution of the council where relevant including standing orders, contract standing orders and financial regulations.
 - 1.3 The revenue and capital budgets of the Committee, subject to any variation thereof which is permitted by the council’s Financial Regulations.
 - 1.4 Consideration of any relevant policy adopted by the Committee.
2. Officers may not exercise delegated powers where –
 - 2.1 The matter is reserved to the Committee by the arrangements.
 - 2.2 The matter is a function which cannot by law be discharged by an officer.

- 2.3 The Committee or a sub-committee has determined that the matter should be discharged otherwise than by an officer.

Where an officer has delegated powers the committee or a sub-committee (as appropriate) can still exercise that power if it considers it is appropriate to do so.

3. Officers may not exercise delegated powers in a way which is contrary to the policies and plans approved by or on behalf of the Committee.
4. If for any reason it is not practical to consult a person required to be consulted in the exercise of a delegation then the person with the delegated powers must consult someone else they reasonably consider to be an appropriate substitute consultee.
5. Delegations to the Director of shared services or other identified officers may be exercised by other officers whom they authorise to act on their behalf; provided that the delegation is recorded in writing.
6. The delegated powers held by an officer may be exercised by the line manager of that officer (or by the line manager's line manager) if:
 - That post is vacant.
 - The post holder is not at work for any reason.
 - The decision is urgent and the reasons are recorded in writing.
7. The delegations in this Scheme of Delegation include the discharge of both executive and non-executive functions.
8. Any reference in this Scheme of Delegation to any enactment shall include a reference to any amendment to or re-enactment of the same.
9. Where an officer has delegated authority to discharge functions
 - by virtue of any other decision by the parties or
 - through a specific decision the committee, or a sub-committee, either before or after the adoption of this Scheme,

the absence of the delegation from this Scheme shall not prevent the exercise of the delegation.

Powers delegated to the Director of Shared Services

Business cases and delivery of services

1. To develop shared service business cases work programmes and projects in relation to the functions which all or not less than two of any of the parties are minded to delegate to the EKJAC.
2. With the assistance if necessary of the appropriate Chief Executive of any of the parties to obtain from his or her council any information required in preparing a shared service business case.
3. Once two or more of the parties have resolved a service is to be shared to implement the business case and deliver the service as defined therein. [E/C]

4. To take any action which is required as a matter of urgency in the interests of the committee, in consultation with the Chair, if time permits. [E/C]
5. To manage the Department. [E/C]

Financial

6. Acceptance of the lowest tender or bid for the carrying out of works for the committee, the purchase, leasing or hiring of goods, materials and equipment by the committee, or the supply of services to the committee, provided that budget provision is available. [E]
7. Entry into contract documentation following tender/bid acceptance (subject to the provisions of Financial Regulations and Contract Standing Orders of the council relating to the execution of contracts under seal). [E/C]
8. Authority to negotiate and agree price increases where a contract provides for price increases to be negotiated and agreed by the parties, subject to Contract Standing Orders of the council and ensuring sufficient budgetary provision exists. [E/C]
9. The assignment or novation of a contract. [E/C]
10. The approval of the appointment of or the acceptance of the tender of a sub-contractor or supplier for specialist work or material provided that this does not result in the budget provision for the works as a whole being exceeded. [E/C]
11. Virement between heads of expenditure of up to the limit specified in the council's Financial Regulations for a Director provided that such virement is in accordance with the conditions for virements in such Financial Regulations. [E/C]
12. Provision of reasonable hospitality to representatives of other authorities, visiting a department or premises under the Director's control subject to agreement by the Chief Executives of each of the parties for expenditure in excess of £500. [E]
13. To negotiate and agree variations in contracts arising out of statutory requirements subject to adequate budgetary provision being available. [E/C]

Human resources

14. To appoint all staff subject to the council's recruitment procedures. [E/C]
15. Dealing with all staffing matters which can be contained within budget. [C]
16. Granting acceleration of increments for any staff within their substantive grade for merit and ability. [C]
17. Determination of requests or recommendations for honoraria, gratuities and responsibility allowances. [C]
18. The determination of applications for paid and unpaid leave:
 - 18.1 for trade union training with special regard to the council's policies on equalities and to courses directed towards equalities issues;
 - 18.2 for health and safety training;

- 18.3 for paid leave for an employee to discharge her/his duties of the office of President of a Trade Union;
 - 18.4 for an employee to attend meetings etc with pay as a member of another local authority, or similar public body on condition that the employee only receives the difference between pay and any amount receivable under local government regulations etc. This does not include an employee attending such a body in her/his official capacity which would be as part of their official duties;
 - 18.5 for personal or domestic reasons in accordance with conditions of service;
 - 18.6 for maternity, parental and dependant's support leave;
 - 18.7 for compassionate leave where there are urgent personal or domestic reasons for needing additional paid leave in accordance with conditions of service. [C]
- 19. Determination of extensions of sickness allowance in consultation with the Head of East Kent Shared Human Resources Service. [C]
 - 20. Determination of requests for extensions of service except that of first and second tier officers. [C]
 - 21. Determination of casual or essential car users allowance or leased car or cash in lieu to officers subject to compliance with the provisions agreed by the council. [C]
 - 22. Determination of planned overtime for officers above Scale 6. [C]
 - 23. Determination of claims for payment of subsistence allowances on the basis that only claims in respect of expenditure incurred within six months of the date of the application will be met. [C]
 - 24. Determination of proposals to attend service training courses. [C]
 - 25. Determination of staff grievances and referral to the Chief Executives of the parties where resolution is not possible at departmental level. [C]
 - 26. Discipline, suspension and/or dismissal of employees up to third tier level. [C]
 - 27. Authority to assimilate staff on appointment, promotion or regrading where appropriate within the approved grade having regard to all the circumstances. [C]
 - 28. Compliance with the provisions of the Health and Safety Policy of the council. [C/E]
 - 29. To work out appropriate managerial and operational consequences and to refine as necessary the structure of the Department in order to deliver the aims, objectives and changing priorities of the Committee. [C/E]
 - 30. To deal with redundancies and approve applications from employees for early retirement (including ill health retirements) in accordance with council policies and following referral to the council's doctor as necessary and reporting all approvals to the Committee. (C)

31. To be the Proper Officer responsible for the list of politically restricted posts within the Department. [C]

General

32. Where the Director considers that legal proceedings are needed in connection with the effective management of any service for which he or she is responsible they may, subject to consultation with the chief legal officer of the council instruct that officer to take those proceedings subject to reporting the outcome to the next committee meeting as appropriate. [C/E]
33. To take any action which the committee has the power to take in order to manage any of their service areas.
34. To publicise the services they provide. [E/C]
35. To deal with issues relating to the Commission for Local Administration relevant to the Committee.

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EAST KENT (JOINT ARRANGEMENTS) COMMITTEE

19 May 2010

Subject: **Appointment of Host Authority, Delegation of Powers for the Proposed Thanet, Dover and Canterbury Shared Services and Location of Staff**

Director/Head of Service: Head of Legal and Democratic Services (Canterbury)

Decision Issues: These matters are within the authority of the Committee

Decision type: Not applicable

Classification: This report is open to the public.

Summary: *This report concerns the delegation of powers to an officer of Thanet District Council, which council it is recommended acts as the host authority for the wider shared services project between Thanet and Dover District Councils and Canterbury City Council. It makes a distinction between the employment and location of this officer and his or her team and suggest that they be located in Canterbury.*

To Recommend:

1. **That Thanet District Council as the host employer of the director of Shared Services be approved.**
2. **That the Director of Shared Services when employed by Thanet District Council be delegated the powers of the Committee as set out in schedule 2 attached to this report.**
3. **That the Director of Shared Services and associated staff be located at Canterbury City Council offices.**

Next stage in process The Director of Shared Services will begin work on developing the service business cases with the team which is presently being gathered together.

SUPPORTING INFORMATION

1. **Background**

As Members will recall, the potential for different types of organisation by which shared services could be provided have been examined. Each have advantages and disadvantages but two particular models have been favoured. The first is the creation of a company owned by the local authorities and performing services on their behalf. The second is the local government model of the delegation by this

Committee of certain of its functions to an officer, who then develops or controls a joint service on its behalf and under its direction.

Following the uncertainty generated by a recent court case involving London Authorities Mutual Limited (commonly called “the LAML case”) and the doubt that the wellbeing powers could be used to create such a company, the second alternative has been explored. As a result a proposal for sharing services based on it has been put to the East Kent Authorities.

Following the approval by the councils of Thanet and Dover Districts and Canterbury City of the strategic case for the wider shared services project, work is now beginning on developing the shared services described as tranche 1 in the strategic case. The first appointment that needs to be made is of the Director of Shared Services and then the small team who will surround him or her, including the transformation managers, who will be leading on developing the separate shared services. Following a selection and interview process the Director designate is in place. It is Mrs Donna Reed, presently Director of Customer Services and Business Transformation at Thanet District Council. Her appointment is subject to her formal appointment by Thanet District Council and to her being delegated the necessary powers to act by this committee.

2. **Detail**

The East Kent (Joint Arrangements) Committee operating arrangements provide as follows:

10.1 The EKJAC may arrange for the discharge of any of its functions by a sub-committee of the EKJAC or an officer of one of the parties. Any such sub-committee may, subject to the terms of these arrangements, and unless the EKJAC or any voting Member directs otherwise, arrange for the discharge of any of its functions by such an officer.

The EKJAC is not itself a legal entity and therefore what is described as a host authority must employ the relevant officers. It will be noted that the host authority has very little, if any control in the direction of these officers in relation to shared services. They come under the direction of the EKJAC and are answerable to it. In practice the East Kent Chief Executives Forum will carry out this role on a regular basis. The host authority is responsible for payment of salaries and to provide general line management of the Director, but they cannot instruct the Director in terms of his or her work being carried out under the EKJAC. However in respect of certain administrative matters, Thanet’s constitutional arrangements will need to be followed by the Director.

The project group of officers acting on the wider shared services project have developed some criteria to identify the host and carried out an analysis against them as a basis for the EKJAC’s decision to whom it should delegate its powers and for whom the Director of Shared Services should work. Those criteria and the scores given by the project group appear at Schedule 1. It must be said that there is a substantial subjective element in the selection. All of the parties are capable of being the host but despite the clear limitations on the powers and responsibilities associated with it, it may be perceived as a role carrying some significance.

On the indicative assessment by the project group, it appears that Thanet narrowly can best perform the role of host, and therefore Thanet will provide the Director and make him or her available to the EKJAC. However, the assessment also indicates

that Canterbury City Council is best placed to provide the resources for support roles and (although this is not one of the criteria) is, for the time being, the administrative host authority for the EKJAC arrangements. Therefore, it is suggested that Canterbury provides the location for the Director of Shared Services and her staff.

It is to be noted as a general point with shared services that location of staff does not follow the host authority.

As the wider shared services project develops, these matters will be kept under review. This is particularly the case if, sometime after May 2011, as mentioned in the strategic case, other organisational vehicles for delivering shared services are re-examined.

In Schedule 2 to the report is a scheme of delegation to the Director of Shared Services, which contemplates the Director in turn, may delegate those powers down to her staff. It is inevitable that this scheme will be revised from time to time but is intended to form the basis upon which the Director can start work to develop the individual service business cases. The team will be peripatetic and will need space to work within each authority as well as the base in Canterbury.

3. Relevant Committee and Council Policy Documents

The strategic business case and relevant minutes from the three councils.

4. Consultation planned or undertaken

None in relation to this matter.

5. Options available with reasons for suitability

Members can decline to make these decisions but in doing so will require the participating councils to reconsider their approach to joint working.

6. Reasons for supporting option recommended, with risk assessment

This report follows logically from the approval by the participating councils of the Strategic Business case. The Director is a key appointment and she needs the necessary powers to act.

7. Implications

(a) Financial Implications

The participating councils are making funding available for the Director and team.

(b) Legal Implications

Both Executive and non-Executive functions have been delegated to the EKJAC and the EKJAC is making a further delegation as it is permitted to do. The Executive of each council still carries responsibility for the Executive functions carried out on its behalf.

8. Conclusions

The indicative assessment shows that Thanet District Council is likely to be preferred as the host authority, whilst Canterbury should be the actual location for staff. The delegated powers recommended to be delegated to the Director once formally appointed should be sufficient to develop the wider shared service organisation up to the point that two more of the parties agree the business cases and the authorities concerned pass the necessary delegations to the EKJAC.

9. Background Papers

None

Contact Officer: Mark Ellender Telephone: 862 011

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Version 2
Date 7 May 2010
Time 10.41am

Application of hosting criteria based on an indicative assessment by the Project Group

| Criteria | Canterbury | Dover | Thanet | Score | Comment |
|---|------------|-----------|-----------|-------|---|
| 1. Embedded and robust current job evaluation scheme | 1 | 2 | 3 | | Both Thanet and Dover have current schemes. Thanet's is the most established |
| 2. Capacity of each council to accommodate staffing numbers associated with the DSS team | 2 | 2 | 2 | | At the moment all three sites are more or less the same |
| 3. Resource levels available at each council for relevant services needed to support the host role (legal, finance, ICT, policy, comms) | 3 | 1 | 2 | | Canterbury employs more staff in the relevant areas than either Dover or Thanet |
| 4. Ease for staff to access each of the three main council sites with reference to: | | | | | |
| a) average levels of traffic congestion | 1 | 3 | 2 | | Given Dover's geographical position, it is the easiest site to access by car |
| b) public transport links | 3 | 1 | 2 | | Canterbury is the public transport hub for East Kent |
| c) staff and visitor car parking capacity | 3 | 3 | 3 | | There is adequate capacity at all three sites |
| Score | 13 | 12 | 14 | | |

Key:

| | |
|---|--|
| 3 | Strongly able to fulfil the hosting role based on this criteria |
| 2 | Moderately able to fulfil the hosting role based on this criteria |
| 1 | Potential to fulfil hosting role, but not sufficiently highly developed at this time |

* It should be noted that Dover already host the East Kent Audit Service and the East Kent Payroll and HR Service

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“The Committee” means the East Kent (Joint Arrangements) Committee.

“The council” means Thanet District Council as host authority by whom the officers will be employed.

“The Department” means the East Kent Shared Services department under the Directorship of the Director of Shared Services.

“The Director of Shared Services” means the chief officer appointed by the council and primarily responsible for the development and delivery of such shared services as the parties decide.

“The Parties” means as the context requires any two, three or all of Canterbury City Council, Dover District Council, the District Council of Shepway and Thanet District Council.

1. Officers may only exercise the delegated powers in this scheme in accordance with
 - 1.1 Statutory or other legal requirements, including the principles of public law, the Human Rights Act 1998 (as amended), statutory guidance and statutory codes of practice.
 - 1.2 The Constitution of the council where relevant including standing orders, contract standing orders and financial regulations.
 - 1.3 The revenue and capital budgets of the Committee, subject to any variation thereof which is permitted by the council’s Financial Regulations.
 - 1.4 Consideration of any relevant policy adopted by the Committee.
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 - 2.1 The matter is reserved to the Committee by the arrangements.
 - 2.2 The matter is a function which cannot by law be discharged by an officer.

2.3 The Committee or a sub-committee has determined that the matter should be discharged otherwise than by an officer.

Where an officer has delegated powers the committee or a sub-committee (as appropriate) can still exercise that power if it considers it is appropriate to do so.

3. Officers may not exercise delegated powers in a way which is contrary to the policies and plans approved by or on behalf of the Committee.
4. If for any reason it is not practical to consult a person required to be consulted in the exercise of a delegation then the person with the delegated powers must consult someone else they reasonably consider to be an appropriate substitute consultee.
5. Delegations to the Director of shared services or other identified officers may be exercised by other officers whom they authorise to act on their behalf; provided that the delegation is recorded in writing.
6. The delegated powers held by an officer may be exercised by the line manager of that officer (or by the line manager's line manager) if:
 - That post is vacant.
 - The post holder is not at work for any reason.
 - The decision is urgent and the reasons are recorded in writing.
7. The delegations in this Scheme of Delegation include the discharge of both executive and non-executive functions.
8. Any reference in this Scheme of Delegation to any enactment shall include a reference to any amendment to or re-enactment of the same.
9. Where an officer has delegated authority to discharge functions
 - by virtue of any other decision by the parties or
 - through a specific decision the committee, or a sub-committee, either before or after the adoption of this Scheme,

the absence of the delegation from this Scheme shall not prevent the exercise of the delegation.

Powers delegated to the Director of Shared Services

Business cases and delivery of services

1. To develop shared service business cases work programmes and projects in relation to the functions which all or not less than two of any of the parties are minded to delegate to the EKJAC.
2. With the assistance if necessary of the appropriate Chief Executive of any of the parties to obtain from his or her council any information required in preparing a shared service business case.
3. Once two or more of the parties have resolved a service is to be shared to implement the business case and deliver the service as defined therein. [E/C]

4. To take any action which is required as a matter of urgency in the interests of the committee, in consultation with the Chair, if time permits. [E/C]
5. To manage the Department. [E/C]

Financial

6. Acceptance of the lowest tender or bid for the carrying out of works for the committee, the purchase, leasing or hiring of goods, materials and equipment by the committee, or the supply of services to the committee, provided that budget provision is available. [E]
7. Entry into contract documentation following tender/bid acceptance (subject to the provisions of Financial Regulations and Contract Standing Orders of the council relating to the execution of contracts under seal). [E/C]
8. Authority to negotiate and agree price increases where a contract provides for price increases to be negotiated and agreed by the parties, subject to Contract Standing Orders of the council and ensuring sufficient budgetary provision exists. [E/C]
9. The assignment or novation of a contract. [E/C]
10. The approval of the appointment of or the acceptance of the tender of a sub-contractor or supplier for specialist work or material provided that this does not result in the budget provision for the works as a whole being exceeded. [E/C]
11. Virement between heads of expenditure of up to the limit specified in the council's Financial Regulations for a Director provided that such virement is in accordance with the conditions for virements in such Financial Regulations. [E/C]
12. Provision of reasonable hospitality to representatives of other authorities, visiting a department or premises under the Director's control subject to agreement by the Chief Executives of each of the parties for expenditure in excess of £500. [E]
13. To negotiate and agree variations in contracts arising out of statutory requirements subject to adequate budgetary provision being available. [E/C]

Human resources

14. To appoint all staff subject to the council's recruitment procedures. [E/C]
15. Dealing with all staffing matters which can be contained within budget. [C]
16. Granting acceleration of increments for any staff within their substantive grade for merit and ability. [C]
17. Determination of requests or recommendations for honoraria, gratuities and responsibility allowances. [C]
18. The determination of applications for paid and unpaid leave:
 - 18.1 for trade union training with special regard to the council's policies on equalities and to courses directed towards equalities issues;

- 18.2 for health and safety training;
 - 18.3 for paid leave for an employee to discharge her/his duties of the office of President of a Trade Union;
 - 18.4 for an employee to attend meetings etc with pay as a member of another local authority, or similar public body on condition that the employee only receives the difference between pay and any amount receivable under local government regulations etc. This does not include an employee attending such a body in her/his official capacity which would be as part of their official duties;
 - 18.5 for personal or domestic reasons in accordance with conditions of service;
 - 18.6 for maternity, parental and dependant's support leave;
 - 18.7 for compassionate leave where there are urgent personal or domestic reasons for needing additional paid leave in accordance with conditions of service. [C]
- 19. Determination of extensions of sickness allowance in consultation with the Head of East Kent Shared Human Resources Service. [C]
 - 20. Determination of requests for extensions of service except that of first and second tier officers. [C]
 - 21. Determination of casual or essential car users allowance or leased car or cash in lieu to officers subject to compliance with the provisions agreed by the council. [C]
 - 22. Determination of planned overtime for officers above Scale 6. [C]
 - 23. Determination of claims for payment of subsistence allowances on the basis that only claims in respect of expenditure incurred within six months of the date of the application will be met. [C]
 - 24. Determination of proposals to attend service training courses. [C]
 - 25. Determination of staff grievances and referral to the Chief Executives of the parties where resolution is not possible at departmental level. [C]
 - 26. Discipline, suspension and/or dismissal of employees up to third tier level. [C]
 - 27. Authority to assimilate staff on appointment, promotion or regrading where appropriate within the approved grade having regard to all the circumstances. [C]
 - 28. Compliance with the provisions of the Health and Safety Policy of the council. [C/E]
 - 29. To work out appropriate managerial and operational consequences and to refine as necessary the structure of the Department in order to deliver the aims, objectives and changing priorities of the Committee. [C/E]

30. To deal with redundancies and approve applications from employees for early retirement (including ill health retirements) in accordance with council policies and following referral to the council's doctor as necessary and reporting all approvals to the Committee. (C)
31. To be the Proper Officer responsible for the list of politically restricted posts within the Department. [C]

General

32. Where the Director considers that legal proceedings are needed in connection with the effective management of any service for which he or she is responsible they may, subject to consultation with the chief legal officer of the council instruct that officer to take those proceedings subject to reporting the outcome to the next committee meeting as appropriate. [C/E]
33. To take any action which the committee has the power to take in order to manage any of their service areas.
34. To publicise the services they provide. [E/C]
35. To deal with issues relating to the Commission for Local Administration relevant to the Committee.

The East Kent Joint Arrangements Committee Scheme of delegation of functions to officers

Introduction

This scheme has been adopted by the East Kent Joint Arrangements Committee and is the list of delegations to officers under section 101 of the Local Government Act 1972 (as amended), section 20 of the Local Government Act 2000 Regulation 11(4) of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 and all other powers enabling delegations to officers. It is adopted with the intention of giving a clear transparent and accountable decision-making process.

“The arrangements” means the operating arrangements, Terms of Reference, Committee Procedure Rules and any other minutes or documents for the time being in force by which the East Kent Joint Arrangements Committee and the East Kent Joint Scrutiny Committee are constituted and their powers defined.

“The Committee” means the East Kent (Joint Arrangements) Committee.

“The council” means Thanet District Council as host authority by whom the officers will be employed.

“The Department” means the East Kent Shared Services department under the Directorship of the Director of Shared Services.

“The Director of Shared Services” means the chief officer appointed by the council and primarily responsible for the development and delivery of such shared services as the parties decide.

“The Parties” means as the context requires any two or more of Canterbury City Council, Dover District Council, Kent County Council, the District Council of Shepway and Thanet District Council.

1. Officers may only exercise the delegated powers in this scheme in accordance with
 - 1.1 Statutory or other legal requirements, including the principles of public law, the Human Rights Act 1998 (as amended), statutory guidance and statutory codes of practice.
 - 1.2 The Constitution of the council where relevant including standing orders, contract standing orders and financial regulations.
 - 1.3 The revenue and capital budgets of the Committee, subject to any variation thereof which is permitted by the council’s Financial Regulations.
 - 1.4 Consideration of any relevant policy adopted by the Committee.
2. Officers may not exercise delegated powers where –
 - 2.1 The matter is reserved to the Committee by the arrangements.
 - 2.2 The matter is a function which cannot by law be discharged by an officer.

- 2.3 The Committee or a sub-committee has determined that the matter should be discharged otherwise than by an officer.

Where an officer has delegated powers the committee or a sub-committee (as appropriate) can still exercise that power if it considers it is appropriate to do so.

3. Officers may not exercise delegated powers in a way which is contrary to the policies and plans approved by or on behalf of the Committee.
4. If for any reason it is not practical to consult a person required to be consulted in the exercise of a delegation then the person with the delegated powers must consult someone else they reasonably consider to be an appropriate substitute consultee.
5. Delegations to the Director of shared services or other identified officers may be exercised by other officers whom they authorise to act on their behalf; provided that the delegation is recorded in writing.
6. The delegated powers held by an officer may be exercised by the line manager of that officer (or by the line manager's line manager) if:
 - That post is vacant.
 - The post holder is not at work for any reason.
 - The decision is urgent and the reasons are recorded in writing.
7. The delegations in this Scheme of Delegation include the discharge of both executive and non-executive functions.
8. Any reference in this Scheme of Delegation to any enactment shall include a reference to any amendment to or re-enactment of the same.
9. Where an officer has delegated authority to discharge functions
 - by virtue of any other decision by the parties or
 - through a specific decision the committee, or a sub-committee, either before or after the adoption of this Scheme,

the absence of the delegation from this Scheme shall not prevent the exercise of the delegation.

Powers delegated to the Director of Shared Services

Business cases and delivery of services

1. To develop shared service business cases work programmes and projects in relation to the functions which all or not less than two of any of the parties are minded to delegate to the EKJAC.
2. With the assistance if necessary of the appropriate Chief Executive of any of the parties to obtain from his or her council any information required in preparing a shared service business case.
3. Once two or more of the parties have resolved a service is to be shared to implement the business case and deliver the service as defined therein. [E/C]

4. To take any action which is required as a matter of urgency in the interests of the committee, in consultation with the Chair, if time permits. [E/C]
5. To manage the Department. [E/C]

Financial

6. Acceptance of the lowest tender or bid for the carrying out of works for the committee, the purchase, leasing or hiring of goods, materials and equipment by the committee, or the supply of services to the committee, provided that budget provision is available. [E]
7. Entry into contract documentation following tender/bid acceptance (subject to the provisions of Financial Regulations and Contract Standing Orders of the council relating to the execution of contracts under seal). [E/C]
8. Authority to negotiate and agree price increases where a contract provides for price increases to be negotiated and agreed by the parties, subject to Contract Standing Orders of the council and ensuring sufficient budgetary provision exists. [E/C]
9. The assignment or novation of a contract. [E/C]
10. The approval of the appointment of or the acceptance of the tender of a sub-contractor or supplier for specialist work or material provided that this does not result in the budget provision for the works as a whole being exceeded. [E/C]
11. Virement between heads of expenditure of up to the limit specified in the council's Financial Regulations for a Director provided that such virement is in accordance with the conditions for virements in such Financial Regulations. [E/C]
12. Provision of reasonable hospitality to representatives of other authorities, visiting a department or premises under the Director's control subject to agreement by the Chief Executives of each of the parties for expenditure in excess of £500. [E]
13. To negotiate and agree variations in contracts arising out of statutory requirements subject to adequate budgetary provision being available. [E/C]

Human resources

14. To appoint all staff subject to the council's recruitment procedures. [E/C]
15. Dealing with all staffing matters which can be contained within budget. [C]
16. Granting acceleration of increments for any staff within their substantive grade for merit and ability. [C]
17. Determination of requests or recommendations for honoraria, gratuities and responsibility allowances. [C]
18. The determination of applications for paid and unpaid leave:
 - 18.1 for trade union training with special regard to the council's policies on equalities and to courses directed towards equalities issues;
 - 18.2 for health and safety training;

- 18.3 for paid leave for an employee to discharge her/his duties of the office of President of a Trade Union;
 - 18.4 for an employee to attend meetings etc with pay as a member of another local authority, or similar public body on condition that the employee only receives the difference between pay and any amount receivable under local government regulations etc. This does not include an employee attending such a body in her/his official capacity which would be as part of their official duties;
 - 18.5 for personal or domestic reasons in accordance with conditions of service;
 - 18.6 for maternity, parental and dependant's support leave;
 - 18.7 for compassionate leave where there are urgent personal or domestic reasons for needing additional paid leave in accordance with conditions of service. [C]
- 19. Determination of extensions of sickness allowance in consultation with the Head of East Kent Shared Human Resources Service. [C]
 - 20. Determination of requests for extensions of service except that of first and second tier officers. [C]
 - 21. Determination of casual or essential car users allowance or leased car or cash in lieu to officers subject to compliance with the provisions agreed by the council. [C]
 - 22. Determination of planned overtime for officers above Scale 6. [C]
 - 23. Determination of claims for payment of subsistence allowances on the basis that only claims in respect of expenditure incurred within six months of the date of the application will be met. [C]
 - 24. Determination of proposals to attend service training courses. [C]
 - 25. Determination of staff grievances and referral to the Chief Executives of the parties where resolution is not possible at departmental level. [C]
 - 26. Discipline, suspension and/or dismissal of employees up to third tier level. [C]
 - 27. Authority to assimilate staff on appointment, promotion or regrading where appropriate within the approved grade having regard to all the circumstances. [C]
 - 28. Compliance with the provisions of the Health and Safety Policy of the council. [C/E]
 - 29. To work out appropriate managerial and operational consequences and to refine as necessary the structure of the Department in order to deliver the aims, objectives and changing priorities of the Committee. [C/E]
 - 30. To deal with redundancies and approve applications from employees for early retirement (including ill health retirements) in accordance with council policies and following referral to the council's doctor as necessary and reporting all approvals to the Committee. (C)

31. To be the Proper Officer responsible for the list of politically restricted posts within the Department. [C]

General

32. Where the Director considers that legal proceedings are needed in connection with the effective management of any service for which he or she is responsible they may, subject to consultation with the chief legal officer of the council instruct that officer to take those proceedings subject to reporting the outcome to the next committee meeting as appropriate. [C/E]
33. To take any action which the committee has the power to take in order to manage any of their service areas.
34. To publicise the services they provide. [E/C]
35. To deal with issues relating to the Commission for Local Administration relevant to the Committee.

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Subject: **Review of administrative arrangements for the East Kent Joint Arrangements Committee and the East Kent Joint Scrutiny Committee**

Director/Head of Service: Head of Legal and Democratic Services (Canterbury)

Decision Issues: These matters are within the authority of the Council

Decision type: Not applicable

Classification: This report is open to the public.

Summary: *With the benefit of external advice received last year and of subsequent decisions and developments this report reviews the arrangements for the East Kent Joint Arrangements Committee and the East Kent Joint Scrutiny Committee. It proposes some amendments to those arrangements and suggests that other matters be kept under review.*

To Recommend **Recommendations to be made to each council -**

1. That the East Kent (Joint Arrangements) Committee operating arrangements be amended as follows:

(a) Paragraph 11.1 – In the table delete “and Host Authority”.

(b) Paragraph 12.1 – To add “in the event of an equality of votes the Chairman may have a second or casting vote unless his council is not participating in the shared service concerned”.

Paragraph 12.2 – To add “Any such recommendation shall be considered by each of the parties and a response made to it within three months of the date such recommendation is made”.

(c) Paragraph 14.1 – To delete “the Parties will appoint a Host Authority which is for the time being the Authority shown as the Chairman and Host Authority in the table at clause 11.1” and substitute “which until May 2012 shall be Canterbury City Council and thereafter such Administering Authority as EKJAC may from time to time appoint”.

Paragraph 14.4 – Delete “will be paid for by the

host authority” and substitute “will be paid for by the parties in equal shares”.

- (d) To add the following paragraphs and re-number the succeeding paragraphs:

“Paragraph 15. – Finance

Paragraph 15.1 – “To agree that the councils allocate sums from time to time to funds for meeting the costs of researching and creating Shared Services projects and that the Chief Executive of the Host Authority be given delegated power in consultation with the Chief Executives of the parties participating in those projects to authorise any expenditure within the allocated budget”.

- (e) Where the context so admits change “Host Authority” to “Administering Authority” throughout.

2. That the East Kent (Joint Scrutiny) Committee operating arrangements be amended as follows:

To add at the end of 11.1 “In the event of an equality of votes the chairman may have a second or casting vote unless his council is not participating in the shared service concerned”.

To add “11.3 Where two or more parties have resolved to delegate the relevant functions to the EKJAC then:

- (a) The service will thereafter be a shared service only in relation to those parties and
- (b) Those parties alone will have voting rights at the EKJSC in relation to further decisions as to how that shared service is jointly managed provided or procured.
- (c) The parties that did not delegate that shared service will not have voting rights in relation to that shared service until or unless they do delegate such service at some future date.

3. That the Head of Legal and Democratic Services at Canterbury prepare a Service Level Agreement to describe the role of the administrative host authority for the EKJAC to

be approved by the Monitoring Officers of all the parties.

- 4. That the following matters be kept under review in relation to the operating arrangements of both Committees:**

A protocol regulating the relationship between EKJSC and the individual council Overview and Scrutiny Committees.

Recruitment of a specialist officer to support the work of EKJSC.

The principle that any work carried out by staff of the councils towards achieving a shared service be reimbursed from EKJAC funds and that such funds are made available to EKJAC.

Next stage in process

1. Introduction

At its initial meeting on 25 June 2008 the East Kent Joint Arrangements Committee (EKJAC) adopted procedure rules which enshrined identical resolutions passed by all the participating councils in the East Kent joint Arrangements. The Committee also noted the terms of reference of the East Kent Joint Scrutiny Committee which was subsequently adopted by that Committee on 16 July 2008. EKJAC also approved certain administrative processes and noted others which though informal reflected the way in which proposals would become projects and would be taken through the joint and individual council decision making processes.

Amongst those decisions was one to review the arrangements after six months and to make a report.

Copies of the reports to the EKJAC dealing with the Procedure Rules and the Administrative processes are attached as Annexes 1 and 2. This report primarily deals with the Procedure Rules.

2. Background

- 2.1 This report is that belated review referred to above. With hindsight, a review after six months was not appropriate. In that time little happened in the way of substantive decisions and not enough experience was gained to make a review worthwhile. The review contemplated at the first EKJAC meeting commenced early in 2009. It was carried out by Mr Doug Bradbury, the former Chief Executive of Shrewsbury and Atcham Borough Council. He is a solicitor by way of professional background and well versed in constitutional matters. His final report dated 29 April 2009 is attached to this report as Annex 3. He has also seen and commented on this report. Those comments have been included and addressed.

Through 2009 much work went into the wider shared services proposal. The finalisation of the review was put back as elements of Mr Bradbury's review were considered in relation to that report.

Mr Bradbury detected broad satisfaction with the way the east Kent arrangements were drafted but the concern was that the shared services agenda was not being driven quickly enough. There was broad agreement that Canterbury should retain the host role for the EKJAC although differing views were expressed as to whether the chairmanship role should rotate from Canterbury.

There was general agreement amongst the Chief Executives that Canterbury had the administrative processes of the EKJAC, the East Kent Chief Executives Forum and the East Kent Chief Executives and Leaders Group well in hand and there was clear benefits to Canterbury retaining that administrative role at least for the time being. A rotation of the chair of the EKJAC was contemplated by the arrangements and it was decided to make no recommendation that the process be changed. Accordingly the chairmanship has rotated with Thanet currently taking the chair and it will rotate again to Shepway District Council in June.

Kent County Council have indicated their desire to take over the administrative and other roles as well as the chairmanship in due course. With shared services now in the course of development there appears merit in Canterbury retaining the administrative host role for another year and (see later) defining that role in a document so that it may more easily be passed on if that is the desire in May 2011. Shepway are entitled to take both the chair and the administrative host role from the 1 June but it is understood are content to leave the administrative role to Canterbury whilst taking the chair. The general view given to Mr Bradbury was that the East Kent Joint Scrutiny Committee chair and administrative support should rotate and that it is currently with Dover and will rotate to Kent County Council in June.

Turning to Mr Bradbury's conclusions, each will be addressed in turn.

2.2 Administration and chairmanship

As previously indicated the city council has taken on the administration of EKJAC for this year and that has not been rotated with the chairmanship to Thanet. Mr Bradbury recommends that should last for a minimum of three years and be backed up with the Service Level Agreement ('SLA') between Canterbury City Council and EKJAC with provision for reasonable and quantifiable financial recompense. There is no formal agreement but the councils agreed that because of the routine burden of servicing the EKJAC the East Kent Chief Executives Forum and the East Kent Leaders and Chief Executives meeting each authority should contribute a sum towards the costs of the administrative, legal and financial support required.

This has been calculated as £5,000 each. This funding in most cases was taken from the Performance Reward Grant due to be paid in respect of the Kent Agreement 2005-2008.

It is recommended that Canterbury retain the role of administering the EKJAC arrangements for a further year although the chairmanship and vice-chairmanship will rotate to the authorities previously indicated.

The resolutions passed by each authority gave delegated powers to their Chief Executive to contribute towards funding for pursuing joint service proposals. Mr Bradbury recommends that there be a realistic budget which has been described as a “fighting fund.” For ease of decision making it is suggested that the Chief Executive of the host authority under these arrangements be given the power to authorise expenditure, but in consultation with his colleagues. It is suggested that these provisions be incorporated into the operating arrangements.

To avoid confusion it is recommended that the host authority in these arrangements be renamed administering authority.

It has been taken as read that the ‘administering’ or host authority should also supply financial and legal advice but without prejudice to the involvement of the Section 151 and Monitoring Officers of the other authorities.

Mr Bradbury remains of the view that an SLA is desirable to provide for a meaningful assessment of costs incurred in acting as the administering authority. Looking to the future will a simple division of costs without an SLA be satisfactory? Accordingly a recommendation has been included to develop an SLA for the EKJAC administering host authority.

Whilst Mr Bradbury recommends that the chairmanship should remain with the administering authority. In practice we have found this year that the separation of the chairmanship from the administering authority has not presented a practical problem given the comprehensive discussions that take place before the formal meetings of EKJAC both by the Chief Executives in their Forum and by the East Kent Leaders and Chief Executives. As recommended the administration and chairmanship of the EKJSC has continued to rotate.

2.3 Scrutiny

As recommended by Mr Bradbury the EKJSC has continued as it was established. He recognised the difficulties with a protocol to limit local scrutiny and it has not been pursued. Local accountability of the joint services is of importance. When shared services of individual councils come under the control of the EKJAC the scope for the officers running those services to spend time at scrutiny committees covering the same issues is clearly present. Should that become a problem the position on such a protocol will clearly need to be reviewed.

Given the challenge that all the authorities face on resources a specialist officer resource has not been found for the EKJSC although as more services become shared, a resource to gather performance data and analyse it may be deemed helpful for all members. Mr Bradbury suggests a firmer commitment to this proposal being considered in the future might be beneficial. As to the number of meetings EKJSC has no doubt they will consider that matter when they consider this report.

A point not raised by Mr Bradbury but which merits consideration is whether scrutiny by the EKJSC should be on the same basis as participation in the business of the EKJAC. In other words, a council’s representatives can only speak or vote at the EKJAC if they are actually participating in the shared service. Logically participation at the EKJSC should be on the same basis.

As it appears more likely that services will not be shared by all participating councils, it does appear advisable that scrutiny of a shared service should only be by those members of the EKJSC whose councils have resolved to participate in that shared service. Mr Bradbury describes this as a “self evidently sensible approach.”

2.4 The key concerns

In his early paragraphs under this section Mr Bradbury draws attention to the difficulties inherent in EKJAC’s decision making processes. This was contributing to the delay of projects. After examining and then dismissing alternative solutions Mr Bradbury’s recommendation was for each authority to delegate to its Chief Executive in the terms spelled out in paragraph 4.3.8 of his report.

This was Mr Bradbury’s key recommendation and was taken to heart by the Project Team of officers when drawing up the strategic business case for the wider shared service initiative which has gone through each authority’s decision making processes. The recommendations in the business case cannot be formally incorporated as part of the working arrangements for EKJAC as they have not proved acceptable to all the constituent councils. They include a delegation of powers to the Chief Executives in consultation with the Leaders.

In practical terms the agenda for present projects is now sufficiently full with project such as housing landlord services and joint waste as well as the wider shared service agenda (although not all councils are participating) means that commissioning work on new projects is several months or perhaps a year away.

Mr Bradbury recommended doing away with the concept of business cases in development of shared service projects. At this stage that appears to take the councils beyond a point at which they feel comfortable. The business case process is not only used to justify whether a service should be shared or not, it also defines the service standard and what will not be shared. It is part of the process by which a shared service is developed. The desire to cut down on time consuming process is shared, but we are not at the point of doing away with business cases yet.

Therefore the existing arrangements should simply be consolidated with the amendments made which are identified in the recommendations to this report.

2.5 Some further details

Mr Bradbury is clearly right to say that drawing together all the arrangements and rules in a single document would be useful. It is intended that once the consolidation previously mentioned has been carried out that a single document be produced.

The issue of speaking rights was considered by EKJAC at its initial meeting and it simply resolved that the chairman of the EKJAC may invite the chairman of the EKJSC to speak or others may attend and speak to items of on the Agenda. It is not proposed to extend these rights.

Mr Bradbury identifies that no provision is made for a chairman’s casting vote. In his view it would be useful to make clear that the chairman should not have the casting vote thereby requiring a majority vote for any decision to be made. This

issue has arisen once at EKJSC and the advice given was that as there was no provision for a casting vote one did not exist. That was reinforced by the point that at the present EKJSC is not a statutory committee and therefore the provisions of paragraph 39, schedule 12 Local Government Act 1972 do not apply. Notwithstanding Mr Bradbury's recommendation which in the context of a joint committee has much to commend it, with the EKJAC it may well be that the statutory provisions apply. With EKJSC they would apply once the committee has statutory substance as it will do it under S.123 Local Government and Public Involvement and Health Act 2007 as amended. That section is in force but the necessary regulations made under it have not been made. It is suggested that nevertheless the chairman be given a casting vote by agreement at this stage. On reflection Mr Bradbury agrees with these proposals.

On other matters resources have now been supplied to EKJAC so there is a question whether sitting down time limits within the rules for individual authorities to respond to recommendations from EKJAC are necessary. In my view such time limits should exist albeit on a fairly generous basis, say within three months.

Mr Bradbury's view that additional costs brought about to individual authorities by using inhouse resources for joint services projects should in principle be reimbursable from EKJAC funds has in part been addressed by the delegation to Chief Executives previously mentioned. In practice such resources are limited and the councils have been working collaboratively to try to share officer resources between them. However burdens do not always fall equally and the matter should be kept under review.

Mr Bradbury's final two conclusions on reports being seen in advance by all appropriate professionals within each individual council and to get completed draft reports to the East Kent Forum at least two weeks before scheduled meetings of EKJAC are clearly right but perhaps do not need formal provision in the rules. Having consulted my fellow Monitoring and Chief Financial Officers the majority view is that a formal provision is unnecessary but their role in the process must not be overlooked. It is important that they have an opportunity to examine and comment upon reports before they reach their final form for the EKJAC.

3. The Administrative Processes

The original report to the EKJAC was largely descriptive of the many of the processes to be followed partly because few decisions were required to approve them and partly because a laid down framework of process was likely to inhibit rather than advance progress. That position remains. A flexible and pragmatic approach appears to be a key to success in working on shared services.

4. Relevant council documents

The four East Kent districts and the county council resolved upon the arrangements attached to this report.

5. Consultation planned or undertaken

After EKJAC and EKJSC have considered these matters each council will go through its own decision making processes.

6. Options available with reasons for suitability

Members are not obliged to adopt all or any of the recommendations. Taken as a whole with the benefit of Mr Bradbury's advice they represent reasonable adjustments to arrangements which have proved successful.

7. Reasons for supporting option recommended with risk assessment

There are no significant risks in supporting the recommendations. If members are minded to suggest other changes those should first be considered by officers before they are implemented.

8. Implications

Financial – as in the report.

Legal – none.

9. Conclusions

These amendments provide a sound basis for the EKJAC and the EKJCS to continue their work.

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EAST KENT (JOINT ARRANGEMENTS) COMMITTEE

25 JUNE 2008

| | |
|----------------------------------|--|
| Subject: | Procedure Rules |
| Director/Head of Service: | Head of Legal and Democratic Services (Canterbury) |
| Decision Issues: | These matters are within the authority of the Committee |
| Decision type: | Not applicable |
| Classification: | This report is open to the public. |
| Summary: | <i>This report reminds Members of the operating arrangements for this committee which all the authorities have approved and which, together with the proposed committee procedure rules, will form the constitution of the committee.</i> |
| To Resolve: | <ol style="list-style-type: none">1. To accept the terms of reference in the Schedule to Appendix 1.2. To adopt the committee procedure rules attached as Appendix 2 to this report.3. To note the operating arrangements and terms of reference of the East Kent (Joint Scrutiny) Committee attached as Appendix 3 to this report. |
| Next stage in process | Once these rules are in place the Joint Committee can commence business. |

SUPPORTING INFORMATION

1. Background

Appendix 1 sets out the operating arrangements for this committee which has been approved by all the parties. It also contains the terms of reference of the Joint Committee which should be formally accepted. The operating arrangements cover most issues, but there is still a need for some specific procedure rules. The proposed procedure rules appear in Appendix 2. They will be broadly familiar to members of the committee, deriving from the Executive procedure rules under which, in similar ways, all Executives work. However this Committee works under the principles of the Local Government Act 1972 as amended, making reference where needed to the changes brought about by the Local Government Act 2000.

The operating arrangements having been approved by all the constituent councils will, in the event of conflict, have priority. Within the bounds of those operating arrangements and the law, the Joint Committee can agree its own procedure.

Like much else with this new venture, these procedure rules can be kept under review and amended if necessary.

For completeness the Joint Committee is asked to note the operating arrangements and terms of reference of the East Kent (Joint Scrutiny) Committee attached as Appendix 3. That committee will need to accept them formally.

2. Relevant Council Documents

Attached as Appendices 1 and 3.

3. Consultation planned or undertaken

None.

4. Options available with reasons for suitability

These rules are based on the Executive rules in the model constitution issued by the Secretary of State. As such, they should be given due weight although amendments have been necessary to apply them to the situation of the Joint Committee.

5. Reasons for supporting option recommended, with risk assessment

The proposed rules are based on an existing model and are therefore of low risk.

6. Implications

(a) Financial Implications

None.

(b) Legal Implications

It is prudent to have established rules by which the Joint Committee will work. They provide certainty and reduce the risk of challenge either at law or by the Ombudsman.

7. Conclusions

These procedure rules supplement the operational arrangements already agreed. As such they complete framework for the Joint Committee to do business.

Contact Officer: Mark Ellender, 862 011

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Appendix 1

East Kent (Joint Arrangements) Committee

Operating Arrangements

Canterbury City Council

Dover District Council

[Kent County Council]

Shepway District Council

Thanet District Council

together referred to as 'the Parties'

1. Key Principles

- 1.1 The Executive and full Council of each of the Parties has determined by resolution to establish this joint committee to become effective from 1 June 2008 for the purposes of exercising agreed functions over their 'combined administrative area'.
- 1.2 The joint committee will be established as the East Kent (Joint Arrangements) Committee (EKJAC).
- 1.3 The Parties are committed to a joint committee which provides streamlined decision making; and co-ordination of services across the combined administrative area through mutual co-operation.
- 1.4 The Parties are committed to open and transparent working and proper scrutiny and challenge of the work of the EKJAC.
- 1.5 Any new Parties to these arrangements after they become effective will have all the same rights and responsibilities under these arrangements.

2. Definitions

- 2.1 'Decisions' means those decisions of the Parties delegated from time to time to the EKJAC to discharge.
- 2.2 'A shared service' means a service delivering functions as agreed by two or more of the Parties.
- 2.3 'The combined administrative area' means the local government areas of the city and district authority Parties combined.
- 2.4 'The Parties' means the authorities listed above.
- 2.5 'Voting Member' means the appointed elected members of each of the Parties.

- 2.6 'Host Authority' means the local authority appointed by the Parties under these arrangements to lead on a specified matter or function as set out in paragraphs 14 and 19.

3. Objectives

- 3.1 The objectives of the East Kent (Joint Arrangements) Committee are to:
- (a) improve services, and secure economy, efficiency and effectiveness in their delivery across both tiers of government in the combined administrative area
 - (b) Streamline decision making where joint arrangements already exist
 - (c) Develop and agree new areas of joint working
 - (d) Enhance mutual co-operation and strategic partnering

4. Powers and Functions

- 4.1 The EKJAC is established under section 20 of the Local Government Act 2000 and Regulations 4, 11 and 12 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 and sections 101(5) and section 102(1) of the Local Government Act 1972 enabling the Parties to perform the functions referred to in the Schedule in the manner set out in these arrangements.
- 4.2 The functions of the EKJAC shall be those functions or services that are delegated to it by the parties from time to time as approved by resolution of the executive and/or full Council (as appropriate) of such of the parties as are minded to participate in those joint functions and services.
- 4.3 Any delegations to the EKJAC shall be made in a common form and shall not take effect until agreed by the executive and/or full Council (as appropriate) of all those Parties participating in the services.

5. Terms of Reference

- 5.1 The terms of reference for the EKJAC are as set out in the Schedule.

6. Membership and Voting Rights

- 6.1 The EKJAC shall comprise the Leaders and Deputy Leaders of the Council of each of the Parties. The Leader of each Party may nominate two members of their Executive (who have been authorised by the respective Parties to act as substitutes) to substitute for either the Leader or Deputy Leader, as necessary.
- 6.2 Non-voting members may be co-opted onto the EKJAC from any or all of the Parties or from other public sector partner organisations as the EKJAC may unanimously decide. Co-optees may participate in the debate but may not vote.

7. Frequency of Meetings

- 7.1 The EKJAC will meet quarterly, but may change the frequency of meetings and call additional meetings as required.

8. Agenda Setting and Access to Meetings and Information

- 8.1 The agenda for the EKJAC shall be agreed by the chairman of the EKJAC following a briefing by relevant officers. Any member of the EKJAC may require that an item be placed on the agenda of the next available meeting for consideration.
- 8.2 There will be a standing item on the agenda of each meeting of the EKJAC for matters referred by the East Kent Joint Scrutiny Committee.
- 8.3 Notice of meetings and access to agendas and reports will be in accordance with The Local Authorities (Executive Arrangements) (Access to Information) (England) Amendment Regulations 2000 and 2002 or sections 100A-K and Schedule 12A of the Local Government Act 1972, as appropriate.

9. Sub-Committees

- 9.1 The EKJAC may establish sub-committees as it may determine by unanimous agreement of the EKJAC.
- 9.2 When establishing a sub-committee the EKJAC will agree the:
- (a) terms of reference for the sub-committee
 - (b) size and membership of the sub-committee including co-optees
 - (c) period for which the sub-committee will remain constituted
 - (d) chairman of the sub-committee or will delegate this decision to the sub-committee
 - (e) mechanism for hosting the sub-committee and sharing the cost amongst the relevant Parties, as appropriate

10. Delegation to Sub-Committees and Officers

- 10.1 The EKJAC may arrange for the discharge of any of its functions by a sub-committee of the EKJAC or an officer of one of the Parties. Any such sub-committee may, subject to the terms of these arrangements and unless the EKJAC or any Voting Member directs otherwise, arrange for the discharge of any of its functions by such an officer.

11. Meetings and Procedure

- 11.1 The Chairman and Vice Chairman of the EKJAC will be appointed by the EKJAC on the basis of the position being rotated annually, as follows, and repeated each five years:

| | Chairman and Host Authority | Vice Chairman |
|--------|------------------------------------|--------------------------|
| Year 1 | Canterbury City Council | Shepway District Council |

| | | |
|--------|--------------------------|-------------------------|
| Year 2 | Thanet District Council | Dover District Council |
| Year 3 | Shepway District Council | Kent County Council |
| Year 4 | Dover District Council | Canterbury City Council |
| Year 5 | Kent County Council | Thanet District Council |

- 11.2 In the absence of the chairman and the vice chairman at a meeting, the meeting will elect a chairman for that meeting.
- 11.3 The quorum of the EKJAC will be five with at least one member present from four of the five Parties. If the meeting is inquorate then it shall stand deferred for seven days to meet at the same time and in the same place when the quorum shall be five drawn from any of the Parties.
- 11.4 The EKJAC may approve rules for meetings and procedure from time to time.

12. Decision Making

- 12.1 Decisions of the EKJAC will normally be made by consensus. Alternatively, a vote shall be taken where the chairman or any Voting Member requests that a vote be taken. The vote will be by way of a show of hands. A simple majority shall be required.
- 12.2 The EKJAC may recommend to the parties services and/functions which may be considered for joint working.
- 12.3 A service will only become a shared service after at least two of the parties have resolved to delegate the relevant functions to the EKJAC.
- 12.4 Where two or more parties have resolved to delegate as mentioned in 12.4, then:
- (a) The service will thereafter be a shared service only in relation to those Parties and
 - (b) Those Parties alone will have voting rights at the EKJAC in relation to further decisions as to how that shared service is jointly managed, provided or procured
 - (c) The Parties that did not delegate that shared service will not have voting rights in relation to that shared service until or unless they do delegate such service at some future date

13. Forward Plan

- 13.1 Decisions of the EKJAC which will amount to a Key Decision of any Party shall be included within the Leader of that authority's Forward Plan.

14. Host Authorities and Allocation of Roles

- 14.1 In order to achieve the objectives of the EKJAC, the Parties will appoint a Host Authority which is for the time being the Authority shown as the Chairman and Host Authority in the table at clause 11.1.

- 14.2 Staff from the Host Authority who are commissioned to provide services, advice and support to the EKJAC will continue to be employees of the relevant Host Authority.
- 14.3 Responsibility for the following support services to the EKJAC will be allocated to the Host Authority:
- (a) the provision of legal advice and services
 - (b) the provision of financial advice and services
 - (c) secretariat support and services
 - (d) communications support and services
- 14.4 The cost of the services and advice set out in this section will be paid for by the Host Authority.

15. Amendments to these Arrangements

- 15.1 These arrangements may be amended by the unanimous agreement of the EKJAC following a recommendation approved by the Executive and full Council of each of the Parties.

16. New Membership and Cessation of Membership

- 16.1 New Parties may join the joint committee provided that the Executive and full Council of the joining Party (ies) and of all the Parties to these arrangements for the time being so resolve.
- 16.2 Any of the Parties may cease to be a party to these arrangements following notice of cessation subsequent to a decision by the relevant Executive and full Council. A minimum of six months notice is required for any Party to leave the EKJAC and in any event, any notice of cessation can only be effective at the end of a municipal year. For the avoidance of doubt, where a Party wishes to withdraw from these arrangements but makes that decision and gives notice within six months of the end of the current municipal year, they may not withdraw from these arrangements until the conclusion of the subsequent municipal year.
- 16.3 On any of the Parties ceasing to be a party to these arrangements, these arrangements shall continue unless the remaining parties determine that those arrangements shall terminate. The benefits and burdens of such termination shall be agreed between the Parties and in default of such agreement shall be determined in accordance with 17.1.
- 16.4 Termination of these arrangements may occur by agreement of all the Parties.

17. Dispute Resolution

- 17.1 Any dispute between the Parties arising out of these arrangements shall be referred to a single arbitrator to be agreed between the Parties, or, where no agreement can be reached, and having regard to the nature of the dispute, by an arbitrator nominated by the chairman of the Local Government Association and will be carried

out in accordance with the provisions of the Arbitration Act 1996 as amended or modified and in force for the time being.

18. Claims and Liabilities

18.1 The purpose of these arrangements and any actions taken under them is to assist all of the Parties (or those of the Parties as are engaged in any particular shared service). The Parties therefore have agreed that:

- (a) all of the costs attributable to the provision of any shared service shall be shared between those of the Parties that are engaged in the shared service and in such proportions as they shall agree (and if not otherwise agreed then in equal shares)
- (b) where one of the Parties nominated by the EKJAC to act in respect of a shared service undertakes actions or incurs liabilities in respect of that shared service on behalf of the EKJAC then it shall be entitled to be indemnified by the other Parties engaged in that shared service for the appropriate proportion of all its costs and liabilities incurred in good faith
- (c) where one of the Parties nominated by the EKJAC to act as Host Authority undertakes actions or incurs liabilities in that respect then it shall be entitled to be indemnified by the other Parties for the appropriate proportion of all its costs and liabilities incurred in good faith
- (d) a Party carrying out actions in good faith on behalf of the EKJAC shall not (other than in the case of fraud and/or clear bad faith) be liable to claims from the other Parties (and there shall be no right of set-off against any claim for indemnity under (b) and/or (c) above) on the grounds that the actions that were taken were not the proper actions carried out properly or that the costs and liabilities incurred were not reasonably and properly incurred (as long as they were in fact incurred)

18.2 Each of the Parties shall at all times take all reasonable steps within its power to minimise and mitigate any loss for which it is seeking reimbursement from any of the other Parties.

19. Data Protection, Freedom of Information, Information Sharing & Confidentiality

19.1 Subject to the specific requirements of this clause, each of the Parties shall comply with its legal requirements under data protection legislation, freedom of information and associated legislation, and the law relating to confidentiality.

19.2 An authority will be appointed as a Host Authority for the purposes of ensuring compliance with any legislative or legal requirements relating to these issues should they arise directly in relation to the joint committee (as compared to information held by the Parties to these arrangements).

19.3 Each of the Parties shall:

- (a) treat as confidential all information relating to:
 - (i) the business and operations of the other Parties and/or

- (ii) the business or affairs of any legal or natural person in relation to which or to whom confidential information is held by that Party
 - (“Confidential Information”) and
 - (b) not disclose the Confidential Information of any other of the Parties without the owner's prior written consent
- 19.4 Clause 19.3 shall not apply to the extent that:
- (a) such information was in the possession of the Party making the disclosure, without obligation of confidentiality, prior to its disclosure or
 - (b) such information was obtained from a third party without obligation of confidentiality or
 - (c) such information was already in the public domain at the time of disclosure otherwise than through a breach of these arrangements or
 - (d) disclosure is required by law (including under Data Protection Legislation, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004) or disclosure is permitted by the Human Rights Act 1998
- 19.5 The Parties may only disclose Confidential Information of another of the Parties to staff who need to know by reason of their work. Each of the Parties shall ensure that such staff are aware of, and comply with, these confidentiality obligations and that such information is not used other than for the purposes of the EKJAC.
- 19.6 If any of the Parties receives a request for information under the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004 then the other Parties shall (at their own expense) assist and co-operate to enable the request to be dealt with.
- 19.7 If a request for information is received then the Party receiving it shall copy it to the other Parties and consider when making its decisions any views of the other Parties.
- 19.8 Notwithstanding the provisions of 19.6 and 19.7 it shall be the Party receiving the request that is responsible for determining at its absolute discretion how to reply to the request.

20. Exercise of Statutory Authority

- 20.1 Without prejudice to these arrangements, nothing in these arrangements shall be construed as a fetter or restriction on the exercise by any of the parties of their statutory functions. The parties may continue to provide the whole or any part of a service at their own cost notwithstanding that the service is also a shared service being provided jointly.

The Schedule

TERMS OF REFERENCE of the EAST KENT (JOINT ARRANGEMENTS) COMMITTEE

1. To exercise the executive and non-executive functions of the parties in order to commission, co-ordinate, provide, procure and/or manage any shared services as are agreed from time to time by two or more of the Parties
2. To provide strategic direction to the officers advising the EKJAC
3. To exercise any of the functions or services that are determined to be a shared service in accordance with these arrangements
4. To develop work programmes and projects in relation to the functions which the parties are minded to be delegated to the EKJAC by the Parties
5. To regularly report to each of the Parties on its activities
6. To respond to reports and recommendations made by the East Kent Joint Scrutiny Committee
7. To monitor the operation of the EKJAC and of any shared service
8. To propose a budget for a shared service to the Parties and to monitor and manage any such budget once approved by them
9. To review these arrangements from time to time and make recommendations to the Parties for improvement and change and to propose (as appropriate) the creation of special purpose vehicles for the achievement of the Objectives, including companies, formal partnerships or consortia, the expansion of these arrangements to include other local authorities, the conclusion of contracts with other persons and the provision of services, supplies and works to other persons

East Kent (Joint Arrangements) Committee Procedure Rules

These Rules are made supplemental to clause 11.4 of the East Kent (Joint Arrangements) Committee operating arrangements (“operating arrangements”) and are to be read in conjunction with them. In the event of conflict the operating arrangements shall prevail. “Joint Committee” means the East Kent (Joint Arrangements) Committee. Words and phrases not otherwise defined in these Rules shall have the meanings given them in the operating arrangements.

1. The operation of the Joint Committee

1.01 Who may make decisions

The arrangements for the discharge of functions are:

- i) the Joint Committee as a whole;
- ii) a sub-committee;
- iii) an officer of one of the Parties.

1.02 Sub-delegation of functions

- (a) Where the Joint Committee are acting as a whole, they may delegate further to a sub-committee or an officer.
- (b) Even where functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated them.

1.03 The Joint Committee’s scheme of delegation

The Joint Committee’s scheme of delegation will be subject to adoption by it and may only be amended by it. It will contain any limitations or conditions.

1.04 Joint Committee meetings – frequency and venue

The Joint Committee will normally meet every three months. At other times it will meet at times agreed by the Chairman with the Chief Executive of the host authority. It will meet at the premises of the host authority.

A meeting of the Joint Committee shall be summoned by the Chief Executive of the Host Authority who will give a minimum of five working days notice (or less in the case of urgency) or any other date convenient to the Chairman subject to the requirements of legislation.

1.05 Meetings of the Joint Committee

Meetings of the Joint Committee will be held in public except in so far as the matters for decision relate to issues which can be dealt with in private in accordance with the Access to Information requirements of the Local Government Act 1972.

1.06 **Quorum**

The quorum of the Joint Committee is as provided for in paragraph 11.3 of the operating arrangements.

2. **Conduct of meetings**

2.01 **Chair**

The Chairman will preside at any meeting of the Joint Committee at which he/she is present, and in his/her absence the Vice Chairman will preside. In the absence of both the Chairman and Vice Chairman the members present shall appoint another person to preside.

2.02 **Attendance**

Members of the public (including other members of the Parties) may attend all meetings of the Joint Committee except when exempt or confidential information is being considered where the press and public, may be excluded by resolution of the Joint Committee in accordance with the Local Government Act 1972.

2.03 **Order of business**

Meetings of the Joint Committee will include the following business:

- i) consideration of the minutes of the last meeting;
- ii) apologies for absence;
- iii) declarations of interest, if any;
- iv) matters referred to the Joint Committee by the East Kent Joint Scrutiny Committee whether by call-in or otherwise;
- v) consideration of reports from any Sub-Committees of the Joint Committee;
- vi) consideration of reports from the Officers;
- vii) matters set out in the agenda for the meeting, which shall indicate which are key decisions;
- viii) advice to Leaders on the items for their Forward Plans;

2.04 **Consultation**

Reports will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.05 **Timescales**

In considering matters in relation to budgetary issues the Joint Committee will have due regard to any appropriate timescale within which budgets have to be approved by the Parties.

2.06 **Key decisions**

Decisions of the Joint Committee which are key decisions shall only be taken provided that the matter in question is contained within each of the Parties Forward Plan or if not in all or any of the Forward Plans that decision can only be taken if any delay likely to be caused by the call-in process would seriously prejudice the interests of any of the parties or the public interest. The record of the decision and the notice by which it is made public shall state whether, in the opinion of the decision maker, the decision is an urgent one, and therefore not subject to call-in. The Chairman of EKJSC and the members of each of the parties affected by the decision must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman of EKJSC, the consent of the Vice-Chairman shall be required. In the absence of both the Chairman and Vice-Chairman, the consent of the Head of Paid Service for that party (or his/her nominee) shall be required. Decisions taken as a matter of urgency must be reported to the next available Full Council meetings of each of the parties, together with the reasons for urgency.

2.07 **Recording of decisions**

Following a meeting of the Joint Committee at which a report has been received and at which a decision has been made, the Host Authority shall ensure that a written statement is kept which must include the following:

- (i) record of the decision;
- (ii) record of reasons for the decision;
- (iii) details of alternative options considered;
- (iv) record of any conflict of interest declared; and
- (v) any dispensation granted by Standards Committee, where appropriate.

No decision will be made either by the Joint Committee or a Sub-Committee thereof unless there is present at the meeting the Head of Paid Service of the host authority (or his representative) or the officer responsible for the particular joint service project is present or their representative and the Proper Officer for recording decisions is present which for this purpose shall be an officer of the host authority who is not the Head of Paid Service.

A written statement of the decision taken will be produced by the Proper Officer within two clear working days following the Joint Committee.

East Kent (Joint Scrutiny) Committee

Operating Arrangements

Canterbury City Council

Dover District Council

[Kent County Council]

Shepway District Council

Thanet District Council

together referred to as 'the Parties'

1. Key Principles for the Operation of the East Kent (Joint Scrutiny) Committee (EKJSC)

- 1.1 The members of the EKJSC will work together to maximise the exchange of information and views, to minimize bureaucracy and make best use of the time of members and officers of local and other authorities.
- 1.2 The guiding principle for the work of EKJSC is that it should be consensual and positive. The emphasis of the work should be on making proactive contribution to the development of policy and the discharge of EKJAC's functions. This is best achieved by an inclusive process covering members, the parties' partners, service users and officers.
- 1.3 The process of joint scrutiny will be open and transparent, designed to engage the parties, their residents and other stakeholders.

2. Objectives

- 2.1 The EKJSC is established under section 101 and 102 Local Government Act 1972 and Section 2 Local Government Act 2000 with the objective of acting as the single Scrutiny Committee for the monitoring, review and scrutiny of the East Kent (Joint Arrangements) Committee (EKJAC).

3. Terms of Reference

- 3.1 The terms of reference of the EKJSC are as set out in Schedule 1.
- 3.2 These arrangements will be reviewed regularly. No proposed amendments to these arrangements will take effect until they have been agreed and endorsed by each of the parties.

4. Call-In

- 4.1 The arrangements for the operation of call-in by the EKJSC shall be as set out in Schedule 2. The EKJSC shall have power to call-in any decision made by EKJAC, a

sub-committee of EKJAC, or any member or officer with delegated authority from EKJAC. The EKJSC will not have the power to call-in any decision of the Executive of any of the Parties.

- 4.2 Where there is a call-in by a statutory scrutiny committee of any of the Parties of any decision of the EKJAC, each of the other Parties will be notified forthwith. The call-in shall be heard by the call-in Party's statutory scrutiny committee in accordance with the call-in Party's own arrangements. Where there is more than one call-in on the same subject the parties shall endeavour to ensure that they are heard together at the same time and place.
- 4.3 The call-in procedure set out in clauses 4.1 and 4.2 above shall not apply where the decision being taken by or on behalf EKJAC is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the interests of any of the Parties or the public interest. The record of the decision and notice by which it is made public shall state whether, in the opinion of the decision maker, the decision is an urgent one and therefore not subject to call-in. The Chairman and the members of each of the Parties affected by the decision must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the consent of the Vice-Chairman shall be required. In the absence of both the Chairman and Vice-Chairman, the consent of the Head of Paid Service of that Party (or his/her nominee) shall be required. Decisions taken as a matter of urgency must be reported to the next available full Council meetings of each of the Parties, together with the reasons for urgency.

5. Membership and Terms of Office

- 5.1 The EKJSC will comprise three non-executive councillors from each of the Parties.
- 5.2 Each appointing Party shall appoint its three members on the basis of its overall political proportionality.
- 5.3 Members of the EKJSC shall be appointed by the Parties at their annual meetings of their respective Council and shall hold office until:
- (a) the next annual meeting of the Party that appointed them, save that the Party that appointed them may remove them from office, either individually or collectively, at an earlier date in the event of a change in political control of that Party; or
 - (b) they resign from office; or
 - (c) they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension)
- 5.4 Each Party may appoint substitutes to represent their authority in the absence of the appointed councillors. Nominated substitutes will be non-executive councillors and will be able to attend any meeting of EKJSC in order to familiarise themselves with the issues involved, but will not be able to participate in debate or vote unless they are formally acting as a substitute member.
- 5.5 Non-voting members may be co-opted onto the EKJSC from any or all of the Parties or from other public sector partner organisations as the EKJSC may unanimously decide. Co-optees may participate in the debate but may not vote.

6. Frequency of Meetings

6.1 The EKJSC will meet quarterly, but may change the frequency of meetings and call additional meetings as required.

7. Agenda Setting and Access to Meetings and Information

7.1 The agenda for the EKJSC shall be agreed by the chairman following a briefing by relevant officers. Any member of the EKJSC may require that an item be placed for consideration on the agenda of the next available meeting.

7.2 There will be a standing item on the agenda of each meeting of the EKJSC for matters referred by the EKJAC.

7.3 Notice of meetings and access to agendas and reports will be in accordance with sections 100A-K and Schedule 12A of the Local Government Act 1972.

8. Sub-Committees

8.1 The EKJSC may establish sub-committees as it may determine by unanimous agreement of the EKJSC.

8.2 When establishing a sub-committee the EKJSC will agree the:

- (a) terms of reference for the sub-committee
- (b) size and membership of the sub-committee including co-optees
- (c) period for which the sub-committee will remain constituted
- (d) chairman of the sub-committee or will delegate this decision to the sub-committee
- (e) mechanism for hosting the sub-committee and sharing the cost amongst the relevant Parties, as appropriate

9. Delegation to Sub-Committees

9.1 The EKJSC may arrange for the discharge of any of its functions by a sub-committee of the EKJSC.

10. Meetings and Procedure

10.1 The Chairman and Vice Chairman will be appointed by the EKJSC on the basis of the position being rotated annually, as follows, and repeated each five years:

| | Chairman and Scrutiny Host Authority | Vice-Chairman |
|---------|---|----------------------|
| 2008-9 | Shepway | Dover |
| 2009-10 | Dover | Kent |
| 2010-11 | Kent | Canterbury |
| 2011-12 | Canterbury | Thanet |
| 2012-13 | Thanet | Shepway |

10.2 The Chairman and Vice Chairman of EKJSC shall be drawn from any political group not forming part of the administration of the appointing Council.

10.3 In the absence of the chairman and the vice chairman at a meeting, the meeting will elect a chairman for that meeting.

- 10.4 The quorum of the EKJSC will be five with at least one member present from four of the five Parties.
- 10.5 The EKJSC may approve rules for meetings and procedure from time to time.
- 10.6 The EKJSC may ask organisations, individuals or groups to assist it from time to time and may ask independent professionals to advise it during the course of reviews. Such individuals or groups will not be able to vote.
- 10.7 The EKJSC may request the attendance of officers employed by the participating authorities to answer questions and give evidence to the committee. Such requests must be made via the Chief Executive of the relevant participating authority.
- 10.8 The EKJSC may invite any other person to attend its meetings to answer questions or give evidence; however, attendance by such persons cannot be mandatory.

11. Decision Making

- 11.1 Decisions of the EKJSC will normally be made by consensus. A vote shall be taken where the chairman or any Voting Member requests that a vote be taken. The vote will be by way of a show of hands. A simple majority shall be required.
- 11.2 Where a minimum number of two members express an alternative to the majority view, they will be permitted to produce a minority report.

12. Scrutiny Host Authorities and Allocation of Roles

- 12.1 In order to achieve the objectives of the EKJSC, the Parties will appoint a Scrutiny Host Authority which is for the time being the Authority shown as the Chairman and Scrutiny Host Authority in the table at clause 10.1.
- 12.2 Staff from the Scrutiny Host Authority who are commissioned to provide services, advice and support to the EKJSC will continue to be employees of the relevant Scrutiny Host Authority.
- 12.3 Responsibility for the following support services to the EKJSC will be allocated to the Scrutiny Host Authority:
- (a) the provision of legal advice and services
 - (b) the provision of financial advice and services
 - (c) secretariat support and services
 - (d) communications support and services
 - (e) data protection, freedom of information, information sharing and confidentiality issues in accordance with clause 17
 - (f) research
- 12.4 The cost of the services and advice set out in this section will be paid for by the Scrutiny Host Authority.

13. Amendments to these Arrangements

- 13.1 These arrangements may be amended by the unanimous agreement of the EKJSC following a recommendation approved by the full Council of each of the Parties.

14. New Membership and Cessation of Membership

- 14.1 New Parties may join the EKJSC provided that they are also a party to EKJAC and the full council of the joining Party(ies) and of all the Parties to these arrangements for the time being so resolve.
- 14.2 A Party ceases to be a member of these arrangements when it ceases to be a party to EKJAC.
- 14.3 Termination of these arrangements may occur by agreement of all the Parties.

15. Claims and Liabilities

- 15.1 The purpose of these arrangements and any actions taken under them is to assist all of the Parties. The Parties therefore have agreed that:
 - (a) where one of the Parties nominated by the EKJSC to act as Scrutiny Host Authority undertakes actions or incurs liabilities in that respect then it shall be entitled to be indemnified by the other Parties for the appropriate proportion of all its costs and liabilities incurred in good faith
 - (b) a Party carrying out actions in good faith on behalf of the EKJSC shall not (other than in the case of fraud and/or clear bad faith) be liable to claims from the other Parties (and there shall be no right of set-off against any claim for indemnity under (b) and/or (c) above) on the grounds that the actions that were taken were not the proper actions carried out properly or that the costs and liabilities incurred were not reasonably and properly incurred (as long as they were in fact incurred)
- 15.2 Each of the Parties shall at all times take all reasonable steps within its power to minimise and mitigate any loss for which it is seeking reimbursement from any of the other Parties.

16. Administration

- 16.1 The decisions and recommendations of the EKJSC will be communicated to EKJAC and the participating councils as soon as possible after the resolution of the committee.
- 16.2 Where working on forthcoming decisions of the EKJAC, the EKJSC will endeavour to carry out its functions as part of the EKJAC's process in order to ensure that its findings and recommendations can influence the final decision.
- 16.3 When considering items before it, the EKJSC will take account of whether an issue could more appropriately be dealt with by one of the Parties or elsewhere.

17. Data Protection, Freedom of Information, Information Sharing & Confidentiality

- 17.1 Subject to the specific requirements of this clause, each of the Parties shall comply with its legal requirements under data protection legislation, freedom of information and associated legislation, and the law relating to confidentiality.
- 17.2 A Party will be appointed as a Host Authority for the purposes of ensuring compliance with any legislative or legal requirements relating to these issues should they arise directly in relation to the EKJAC (as compared to information held by the Parties to these arrangements).

- 17.3 Each of the each Parties shall:
- (a) treat as confidential all information relating to:
 - (i) the business and operations of the other Parties and/or
 - (ii) the business or affairs of any legal or natural person in relation to which or to whom confidential information is held by that Party("Confidential Information") and
 - (b) not disclose the Confidential Information of any other of the Parties without the owner's prior written consent
- 17.4 Clause 17.3 shall not apply to the extent that:
- (a) such information was in the possession of the party making the disclosure, without obligation of confidentiality, prior to its disclosure or
 - (b) such information was obtained from a third party without obligation of confidentiality or
 - (c) such information was already in the public domain at the time of disclosure otherwise than through a breach of these arrangements or
 - (d) disclosure is required by law (including under Data Protection Legislation, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004) or disclosure is permitted by the Human Rights Act 1998
- 17.5 The Parties may only disclose Confidential Information of another of the Parties to staff who need to know by reason of their work. Each of the Parties shall ensure that such staff are aware of, and comply with, these confidentiality obligations and that such information is not used other than for the purposes of the EKJSC.
- 17.6 If any of the Parties receives a request for information under the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004 then the other Parties shall (at their own expense) assist and co-operate to enable the request to be dealt with.
- 17.7 If a request for information is received then the Party receiving it shall copy it to the other Parties and consider when making its decisions any views of the other Parties.
- 17.8 Notwithstanding the provisions of 17.6 and 17.7 it shall be the Party receiving the request that is responsible for determining at its absolute discretion how to reply to the request.
- 18. Exercise of Statutory Authority**
- 18.1 Without prejudice to these arrangements, nothing in these arrangements shall be construed as a fetter or restriction on the exercise by any of the parties of their statutory functions.

Schedule 1

TERMS OF REFERENCE of the EAST KENT (JOINT SCRUTINY) COMMITTEE

1. Monitor review and scrutinise the actions and decision of the EKJAC.
2. Make recommendations for reconsideration of any decisions made or actions taken and to make recommendations for improvement and/or changes in responsibilities and functions of the EKJAC.
3. Prepare reports and recommendations to the parties on the performance and delivery of the shared services provided by the EKJAC.
4. Propose an annual budget for the EKJSC in accordance with the requirements of the parties.
5. Prepare an annual report to the parties on the performance of these arrangements.
6. Facilitate the exchange of information about the work of the EKJSC and to share information and outcomes from reviews.

Schedule 2

ARRANGEMENTS FOR THE OPERATION OF CALL-IN by the EKJSC

1. When a decision is made by EKJAC, a sub-committee of EKJAC or an individual member with delegated authority from EKJAC, or a key decision is made by an officer with delegated authority from EKJAC, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of each of the Parties normally within two days of being made. The Chairman of the EKJSC (and all other members of each of the Parties) will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
2. That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented at 12.00 noon, on the fourth working day after the publication of the decision, unless it is called-in.
3. By 10.00 am on the fourth working day after publication of the decision, the proper officer of the Scrutiny Host Authority shall call-in a decision for scrutiny by the EKJSC if so requested by any member of the EKJSC, and shall then notify the decision maker of the call-in. A meeting of the EKJSC shall then be held within 15 working days of the decision to call-in. Reasons for calling-in a decision should be given and recorded in the agenda.
4. If, having considered the decision, the EKJSC is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to the full Council of all or any of the Parties. If referred to the decision maker they shall then reconsider within a further 10 working days, amending the decision or not, before adopting a final decision.
5. If, following an objection to the decision, the EKJSC does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the EKJSC meeting, or the expiry of that further 10 working day period, whichever is the earlier.
6. If the matter was referred to full Council of any of the Parties and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision maker, together with Council's views on the decision. That decision maker shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by EKJAC as a whole or a committee of it, a meeting will be convened to reconsider within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.

7. If the Council of any of the Parties to whom the matter has been referred does not meet, or if it does but does not refer the decision back to the decision maker, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

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EAST KENT (JOINT ARRANGEMENTS) COMMITTEE

25 JUNE 2008

- Subject:** **Administrative processes - East Kent (Joint Arrangements) Committee and the East Kent (Joint Scrutiny) Committee**
- Director/Head of Service:** Head of Legal and Democratic Services (Canterbury)
- Decision Issues:** These matters are within the authority of the Joint Committee
- Decision type:** Not applicable
- Classification:** This report is open to the public.
- Summary:** *This report outlines the administrative processes for these two Committees and asks for certain decisions to be made.*
- To Resolve:**
- 1. That the operational arrangements of the East Kent Joint Arrangements Committee and the East Kent Joint Scrutiny Committee be reviewed by officers of the respective host authorities in six months and a report made.**
 - 2. The Committee may by invitation of the Chairman invite the Chairman of the East Kent Joint Scrutiny Committee or other persons to attend and speak to items on its Agenda.**
 - 3. That the dates for the Joint Committee Meetings set out in Appendix 1 be accepted and meetings set according to these arrangements.**
 - 4. The Committee adopt the arrangements in Appendix 3 of the report for recommending items to the Leaders of the respective Councils for inclusion on their Forward Plans.**
- Next stage in process** The East Kent Joint Arrangements Committee will commence work on the basis of these administrative arrangements.

SUPPORTING INFORMATION

- 1. Introduction**

This paper outlines the administrative processes for the East Kent (Joint Arrangements) Committee (EKJAC) and the East Kent (Joint Scrutiny) Committee (EKJSC). Members of EKJAC may wish to consider how to engage with EKJSC at the earliest opportunity.

2. Detail

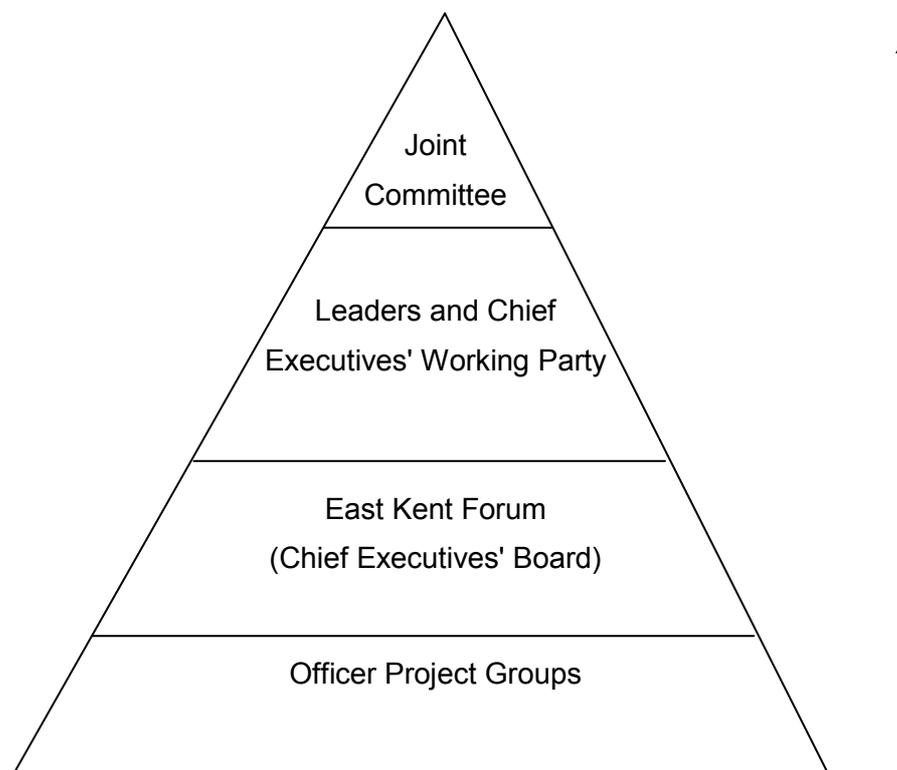
The terms of reference of the two Committees are contained in the previous report. Some liaison between the Committees is desirable particularly as the guiding principle for EKJSC is that its work should be consensual and positive.

The East Kent Chief Executives meeting which is the principal advisory body to the Committees has been called the 'East Kent Forum' and that title has been retained.

The two committees provide the governance framework and to work up and examine the business cases for each service. In relation to Joint Scrutiny the law does not contemplate a Joint Scrutiny Committee in this form, but by agreement the parties have created one for the purpose of making these joint arrangements more coherent and to provide a focus of scrutiny activity.

The next step is to identify the programme for joint service provision. When that is done each project within the programme should have an officer team and lead officer assigned to it. It is envisaged that decision making for EKJAC follows a pyramidal structure with officer project groups forming the base of the pyramid feeding up to a board composed of the Chief Executives of each subscribing authority or their nominees. Above them the leaders and chief executives meeting as a working party will review the work done and either pass back down the pyramid for further work or approve for formal submission to the joint committee which sits at the top of the pyramid.

As previously indicated council and/or cabinet approvals to delegate will be required before services become shared. The pyramid is shown below with the Joint Committee which sits at the apex; please also see later section "Reporting and Consideration of Reports". Whilst EKJAC will meet in public the other meetings will not.



The administration burdens on the two host authorities and the joint committee system itself must be kept under review. It is suggested that next December/January is a good time to make a first assessment.

3. The practicalities of doing business

Time/Venue

The East Kent (Joint Arrangements) Committee meets at 10.30am in the Guildhall, Canterbury.

Proposed meeting dates

| EKJAC | EKJSC |
|---|--|
| <ul style="list-style-type: none"> • 25 June 2008 • 10 September 2008 • 3 December 2008 • 11 March 2009 | <ul style="list-style-type: none"> • 2 July 2008 (it is assumed that following this first meeting a fortnight will elapse following EKJAC to allow for call in) • 24 September 2008 • 17 December 2008 • 25 March 2009 |

Officer support

Democratic Services, Legal and Finance officer support will be from Canterbury City Council for the first year. In practice, the Legal and Financial officer support will be a co-ordinating role ensuring that the project groups working on the detail of the proposals are producing robust and well resourced material. There should be liaison between these officers and those advising EKJSC to avoid conflicting advice.

Preparation and consideration of draft reports

1. Officers prepare reports for circulation at the appropriate meeting of the East Kent Forum (EKF). Prior to this the officer project groups with their nominated lead officers will have worked up the proposals with any input from the respective council's own Management Teams.
2. The EKF debate the reports and recommend any amendments.
3. Amendments will be reported back to the report author by the respective Chief Executive, with supporting notes provided by the EKF administrator

The joint committee meeting arrangements

4. The Access to Information Act 1985 provisions apply where 'key' decisions are taken or will be taken within 28 days and an officer is present.
5. Where meetings are open every report must be available for inspection ie there can be no oral reports.

6. Notification must be given to the Joint Scrutiny Committee Chairman if Key matters are to be decided that are not included in the relevant Forward Plan. Public notice to be given and the five clear day rule must be observed.
7. Urgent matters need consent from the Joint Scrutiny Committee Chairman or Vice-Chairman if the five day clear rule cannot be observed and Key decisions are to be made. See the report on the Joint Committee's Procedure Rules elsewhere on this agenda.
8. Final reports to be submitted to the Democratic Services Officer at Canterbury City Council, 10 working days before the date of the meeting.
9. Notice of the meeting given, agenda collated and dispatched to members and the DS team at each authority no later than five working days prior to the meeting. DS teams to receive agenda, reports and notice electronically and post public notice of meeting in accordance with their own practices.
10. A meeting of the EK Leaders and Chief Executives will take place at 8.30am on the date of the meeting, which will provide an opportunity for an informal briefing.
11. A public meeting takes place at 10.30am.
12. The approved minutes are issued by close of business on the Friday following the meeting. These need to include reasons, show alternative options and any interests declared.

(Note – for practical reasons the Chairman, the host Chief Executive, Legal and Finance officers only approve the minutes and any comments be taken at the next meeting.)
13. Rules on background documents are the same as for the Local Government Act 1972 as amended by the 1985 Act. There are rules relating to Key decisions taken by individual Executive members but these will not apply to the workings of this Committee.

**Call-in arrangements
EKJC**

14. Notification of a call-in (which should be received by 10am on the following Thursday) would be received by the Shepway District Council Democratic Services team. Decision suspended pending completion of the call-in process.
15. (Note – it is assumed that there will be a standard pro-forma with set criteria that Members of the Scrutiny Committee would need to complete)
16. SDC issue the relevant notices and invitations to attend a meeting at 10.30am at SDC on the dates stated in the committee deadlines.
17. Meeting held (generally two weeks after the date of the EKJAC) and recommendations for consideration referred back to the joint committee. Once it is known an EKJSC call-in meeting is to take place provisional dates would need to be found for an EKJAC reconsideration meeting.

18. EKJAC to reconvene to consider recommendations and make final decision.

By individual authorities

19. Because decisions of the Joint Committee remain the responsibility of individual authorities and their Executives, decisions may also be called in by members of each council. (Because of practical concerns (see below) it may be this should be discouraged and members directed to their council members on EKJSC to voice concerns and suggest call-ins.)
20. Notification of call-in would be received by the individual council's Democratic Services team. SDC Democratic Services would be notified by them and a notice posted both at their offices and at the offices of the authority making the call-in of a meeting. CCC must also be notified as the host authority of EKJAC. It could be held at SDC's offices by the call-in council's Scrutiny Committee at the rising of EKJSC. This would allow project officers or relevant members to be at the same place on the same day which should ensure their attendance and avoid diary clashes. However the legislation states that the call in relates to functions which are the "responsibility" of the Executive. Thus it is that only the officers or relevant Executive members of the authority making the call in that can be compelled to attend; other officers or members could only be invited to do so. It may be more convenient for such meetings to take place at the at the call in authority's premises although it would have to be expected that, for example, the project officer from another authority may not attend.

In order to make scrutiny arrangements work in a way which is most beneficial to all concerned a further inter authority protocol may be required, which can be considered as part of the review previously mentioned.

21. The meeting would be held and the recommendations would be to the "decision maker" under the legislation and therefore it does appear EKJAC will need to reconvene to consider them before such decisions are implemented.

Committee deadlines and Committee report template

See attached sheets as Appendix 1 and Appendix 2.

Forward plan

For the suggested method by which items get into the respective council's Forward Plans, see Appendix 3.

Speaking Rights

Members are not obliged to do so but may wish to consider the question of speaking rights, both of fellow Councillors and members of the public. The nature of the work of the Committee and the point at which decisions are taken about Joint Services means the individual Councils maintain their relationship with their own populations.

Individual Councils will make the decision on whether or not a service of theirs becomes shared. Apart from any consultation that EKJSC may carry out, individual authorities may wish to consult or be advised by EKJAC to do so. Thus there is no compelling case for public speaking rights at the Committee. The same reasoning applies to members of the individual Councils although the Joint Committee may wish

to extend invitations for particular purposes. There may also be other individuals whom the committee may wish to hear from. It would be anticipated that the chairs of EKJAC and EKJSC could each address the other's Committee by invitation.

A recommendation has been included to reflect these points, but it is entirely up to members to consider whether they wish to accept it.

4. Relevant Council Documents

The four East Kent District Councils joint working protocol. They and the County Council have also signed up to the Kent Commitment to be applied to this Joint Committee on the current two tier arrangements.

5. Consultation planned or undertaken

Each Council has gone through its own processes to establish the two Joint Committees.

6. Options available with reasons for suitability

To some extent Member options are limited because the operational arrangements outlined in this report follow the decisions each of the Councils has already made. Nevertheless when and where to meet are within the control of EKJAC and, to an extent, how it relates to other members, the public and other bodies. What is proposed in this report is an appropriate start to this new venture, but a pragmatic approach will be the key to success. All these arrangements must be kept under review.

7. Reasons for supporting option recommended, with risk assessment

The recommendations are consistent with the decisions which the Councils have already taken and any risk associated with them is unlikely to seriously inhibit the working of the Committee.

8. Implications

Financial implications – the host authorities carry the burdens of staffing and resourcing these Committees.

Legal implications – whatever operational arrangements the Joint Committee adopts it must ensure all decisions are properly made and based on material considerations.

9. Conclusions

These arrangements provide a sound basis upon which EKJAC can commence work.

10. Background Papers (other than published works)

E-mail exchange with Counsel.

Contact Officer: Mark Ellender Telephone: 01227 862 011

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Appendix 1

EAST KENT JOINT COMMITTEE REPORT DEADLINES

| Joint Committee date | Reports to CCC for inclusion in EKF agenda | EKF meeting - considers draft reports | Deadline for final reports to CCC | Agenda for joint committee dispatched | Consideration by the Leaders/CE | Deadline for call-in (10am) | Date reserved for call-in |
|----------------------|--|---------------------------------------|-----------------------------------|---------------------------------------|---------------------------------|-----------------------------|---------------------------|
| 25-Jun-08 | 30-May-08 | 04-Jun-08 | 11-Jun-08 | 17-Jun-08 | 25-Jun-08 | 03-Jul-08 | 09-Jul-08 |
| 10-Sep-08 | 08-Aug-08 | 13-Aug-08 | 27-Aug-08 | 02-Sep-08 | 10-Sep-08 | 18-Sep-08 | 18-Sep-08 |
| 03-Dec-08 | 07-Nov-08 | 12-Nov-08 | 19-Nov-08 | 25-Nov-08 | 03-Dec-08 | 11-Dec-08 | 17-Dec-08 |
| 01-Mar-09 | 30-Jan-09 | 04-Feb-09 | 25-Feb-09 | 3-Mar-09 | 11-Mar-09 | 17-Mar-09 | 25-Mar-09 |

Dover would like to see a new column three inserted. This would be a date for CCC to despatch the agenda and all items to the Management Teams of the individual Councils. This date would need to fall on the Friday preceding the meeting of the EKF. The despatch would have to be by noon on that Friday at the latest.

The above would mean that the dates in the existing column two would need to come forward – say by two days. Therefore, in the case of the first meeting the date would need to come back to 28 May.

It also occurs to us that we need some sort of safety valve so as to recirculate if any fundamental changes are required by a Management Team.

COMMITTEE

DATE

Subject: **Heading of Report**

Director/Head of Service: (Insert Title)

Decision Issues: These matters are within the authority of the Council/Executive/Committee/Board
(delete as appropriate)

Decision type: Key/Non-key * *(delete as appropriate)*

(If Key decision involved indicate the date when the issue first appeared in the List of Forthcoming Decisions. In addition, indicate if it has been considered by the relevant Area Member Panel and/or the Overview and Scrutiny Committee).

Classification: *Please select one of the following options and delete the others*

This report is open to the public.

This report includes an annex containing confidential information and may be discussed without the press and public present.

This report is confidential.

REASON: *(for the justification for making any report or part of report confidential please see the FOI exemption guidance on PAPA giving a list of exemptions and the public interest test. Full reasons must be given. If in doubt please consult the Committee Administrator in the first instance)*

Summary: *[italics]*

**To Recommend/
Resolve/Consider:** **[bold]**

Next stage in process

SUPPORTING INFORMATION

1. **Introduction**

(text)

2. **Detail**

[text]

3. **Relevant Council Policy/Strategies/Budgetary Documents**

[text]

4. **Consultation planned or undertaken**

[text]

5. **Options available with reasons for suitability**

[text]

6. **Reasons for supporting option recommended, with risk assessment**

[text]

7. **Implications**

(a) Financial Implications

(b) Legal Implications

Other implications

(c) Staffing/resource

(d) Property Portfolio

(e) Environmental/Sustainability

(f) Planning/Building Regulations

(g) Human Rights issues

(h) Crime and Disorder

(i) Biodiversity

(j) Safeguarding Children

(k) Energy efficiency

8. **Conclusions**

[text]

Contact Officer: [name] **Telephone:** [number]

ANNEX CONTAINING CONFIDENTIAL INFORMATION

(see page xy)(to be placed at back of Agenda)

#Filename, Version #, Date #, Time #

Report to East Kent (Joint Arrangements) Committee (EKJAC)

Re. Administrative arrangements

EKJAC

EKJAC will develop a work programme but will not have its own Forward Plan as such. The Forward Plan remains the responsibility of each individual Leader. As progress reports are presented to EKJAC it will be asked to give guidance to the Leaders on what are key decisions which should be reflected in their Forward Plans and, to ensure consistency, it is expected that guidance will be followed. We shall need interim arrangements given the three month gap between meetings. It is suggested the East Kent Forum advise the Chair of EKJAC of a forthcoming item and then guidance is issued in the Chair's name to the Leaders. In case time does not allow for advice from the East Kent Forum then the Chair will take advice from the Chief Finance Officer and lawyer advising EKJAC and issue guidance accordingly.

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Report to East Kent (Joint Arrangements) Committee (EKJAC)

Re. Administrative arrangements

1. Introduction

- 1.1 On behalf of the EKJAC Mark Ellender, Head of Legal and Democratic Services with Canterbury City Council, commissioned a review of the administrative arrangements established in 2008 in relation to the EKJAC and the East Kent Joint Scrutiny Committee (EKJSC). It was also made clear that any other relevant comments which occur as a result of the review may also be included in the report
- 1.2 SOLACE Enterprises Limited were approached to put forward nominees to undertake the review and as a result Douglas Bradbury, an Associate Consultant with SOLACE Enterprises Limited and a former local authority Chief Executive, was appointed to undertake the review.

2. The review

- 2.1 An initial desk top study of the following documentation took place:-
 - (1) The Kent Commitment.
 - (2) The East Kent Joint Working Protocol.
 - (3) Note of a Joint Management Team meeting held on 20 May 2008 between the Management Teams of the four district councils.
 - (4) The report sent in standard form to each of the Executives/ Cabinets of the parties entitled 'Establishment of joint committees for discharge of functions and for scrutiny'.
 - (5) Report to the EKJAC 25 June 2008 re administrative processes for the two committees.
 - (6) Report to the EKJAC 25 June 2008 – procedure rules.
 - (7) Report to the EKJAC 25 June 2008 – proposal for future development of a shared service programme.
 - (8) Report to the EKJAC 3 December 2008 regarding allocation of funding.
 - (9) EKJAC procedure notes prepared by Democratic Services Officers.

2.2 There then followed a briefing by Mark Ellender, accompanied by Matthew Archer. At this briefing it was agreed that Matthew Archer would set up a series of meetings between Douglas Bradbury and relevant Council nominees.

2.3 One to one meeting then took place between Douglas Bradbury and the following:-

- Councillor John Gilbey, Chairman of EKJAC.
- Dave Randall, Dover DC.
- Harvey Rudd, Dover DC.
- Nadeem Aziz, Dover DC.
- John Bunnnett, Thanet DC.
- Lorraine Burley, Shepway DC.
- Councillor Kevin Mills, Vice Chair of EKJSC.
- Councillor Tim Prater, Chair of EKJSC.
- Alistair Stewart, Shepway DC.
- Keith Carr, Shepway DC.
- Jeremy Chambers, Shepway DC.

2.4 A telephone conference also took place with Wendy Head, of Shepway DC.

2.5 Subsequently Matthew Archer and Mark Ellender of Canterbury CC also provided their views.

2.6 A desk top review also took place of:

- The Agenda, reports and minutes of the meetings of the EKJAC held on 25th June 2008, 3rd December 2008 and 8th April 2009 and the EKJSC held on 9th July 2008, 22nd December 2008 and 28th April 2009.
- Minutes of the East Kent (Joint Scrutiny) Committee Waste Management Working Sub Group held on 9th September 2008, 3rd December 2008, 15th January and 9th February 2009.
- A sample of the agenda, minutes and reports of various meetings of the East Kent Chief Executives Form when joint arrangement matters had been discussed.

3. Summary of the views expressed

3.1 Generally

3.1.1 There was a consensus that there has not really been a thorough test of the arrangements which would ascertain how well the detailed arrangements might work “under pressure” as :-

- There had been too few meetings (only 2 of each committee) at the time of interviews which lead to this report.

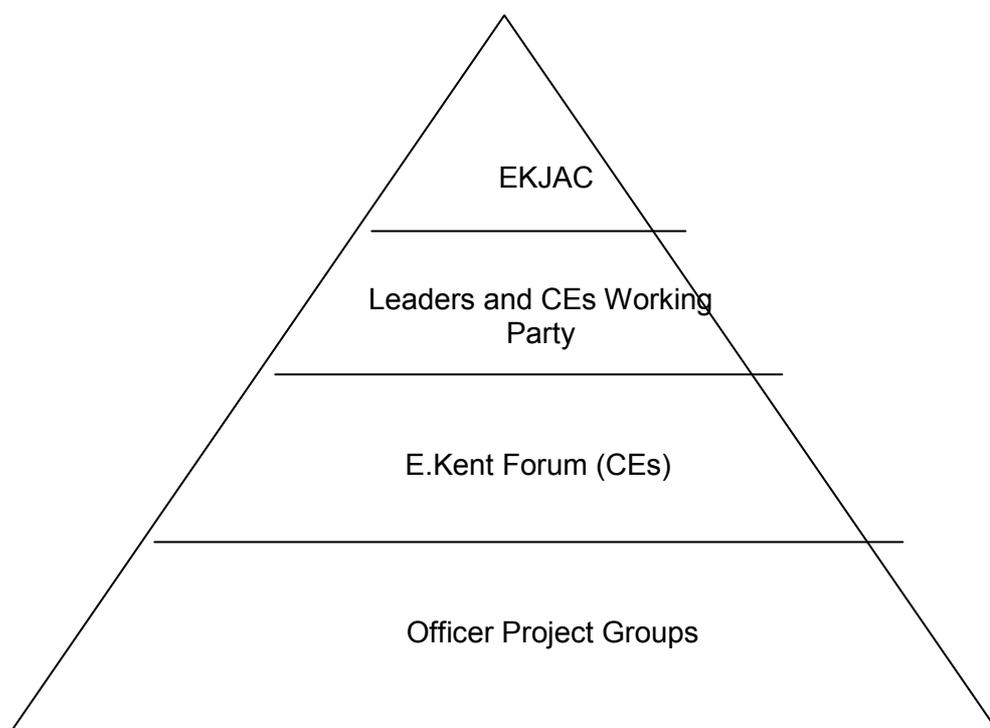
- The issues discussed so far have been relatively none contentious matters. (although it is understood that subsequently the EKJSC at its meeting on 28th April 2009 decided to seek further information before deciding whether or not it would approve certain decisions made by the EKJAC on 8th April 2009 in relation to HR services).

3.1.2 The overwhelming view was that the arrangements were clear, familiar and well drafted.

3.1.3 There are however some significant concerns but they do not relate so much to details of the current administrative arrangements but rather as to how they do or do not drive the Joint Arrangements agenda forward quickly enough. The concerns are widely shared, although expressed in different ways, and relate in the main to the aspiration that there might be more streamlined arrangements with less need to have recourse back to individual authorities. These issues are considered in greater depth later in this report.

3.2 The Pyramid.

3.2.1 The pyramid system for considering issues was discussed i.e.



3.2.2 This was thought to work well in practice and by the time reports get to the EKJAC there is a far measure of consensus and the Committee itself is seen by some as a 'rubber stamping' body. The view was also expressed that greater progress has been made in relation to Joint Arrangements in the less than 12 months of the EKJAC's existence than for a much lengthier period beforehand - whether or not this is coincidental may be debatable.

3.2.3 There was a strong view from one authority that it was essential to use the pyramid process and that taking reports in the first instance to a sub group of the EKJSC was wrong in principle and practice.

3.2.4 The Chief Executives' Forum is seen as a particularly effective group in resolving problems and it was also commented that it might be useful to provide more delegated authority to this group.

3.3 Rotation of Administration and Chairmanship.

3.3.1 EKJAC.

- It is understood that the initial arrangements for Canterbury City Council to take on the administrative arrangements and chairmanship of the EKJAC for the first year is to be extended for a further year, with each authority agreeing to put £5K forward to assist with the costs. A general, but not unanimous view, was that Canterbury City Council should take on the administrative arrangements for a longer period. Reasons for this are:
 - Greater stability through accumulation of experience and expertise.
 - Canterbury City Council also administers the CE's forum and this provides a synergy.

- In addition a view was expressed that the authority providing administrative services should also lead in providing financial and legal advice. (N.B. This view seems complementary to a view also expressed - see later - regarding the involvement of section 151 and Monitoring Officers)

- No consensus on whether or not the position of Chairman should rotate, although some views favoured rotation in the interests of spreading accountability and being more democratic; other views were that efficiency suggested the chairman should come from the administering authority.

3.3.2 EKJSC .

There was much more support for scrutiny administration and chairmanship rotating. It was considered very important by some that there should be rotation annually and that administration and chairmanship should be with same authority and never with the authority administering and holding chairmanship of the EKJAC.

3.4 Scrutiny

A wide range of views were expressed i.e.

(note – some of the views overlap)

- a) That Scrutiny was a waste of time in relation to consideration of Joint Arrangements.

- b) Another view was that scrutiny hasn't added much value to the process so far in relation to joint services although it was accepted that at its first two meetings the EKJSC had not had a lot to "get its teeth into."

- c) Legislative change may require, or give opportunities, in due course for changing the current arrangements.
- d) There was considerable support for having a Joint Scrutiny Committee even though each authority still has the right to scrutinise and 'call in' decisions.
- e) A protocol to limit local Scrutiny was a non starter. (note: - in June 2008 it was suggested that scrutiny might be revisited at the time of this review).
- f) The Joint Scrutiny Committee should have attached to it a dedicated officer resource to undertake research etc.
- g) There should be more meetings of the Scrutiny Committee than the ones programmed in for the fortnight after the EKJAC meeting, to enable there to be more in depth study of proposals before they were signed off finally.
- h) Rather than just having meetings a couple of weeks after the EKJAC meeting to review that committee's decisions there should be a greater pro activity to consider selective items before they went to EKJAC i.e. some selective pre scrutiny.
- i) All officer working papers, including discarded options, should be made available to the EKJSC.
- j) There should be a specialist independent (i.e. from outside Kent) resource available to assist the EKJSC.
- k) There should be a separate identity, and possibly a separate website, for the EKJSC to make work on Joint Arrangements accessible to a wider public.

3.5 The key concerns re. the EKJAC

The views expressed can be summarised as follows-

(note – again some of the views overlap)

- a) That the number of "hoops to go through" to obtain a decision are too great and what is needed is a greater empowerment of the EKJAC to take decisions without the need to refer matters back to the respective councils so often.
- b) A lot of work can be done in relation to particular services before there is any solid indication from some authorities that they wish to proceed, even in principle, to have a particular service provided jointly. Therefore a mechanism is needed to get a level of pre commitment earlier than has been the case e.g. for HR and Payroll Services.
- c) When there is a request for funding in relation to a particular project it is imperative that all authorities who may wish to participate recognise that they must make a commitment to fund explorative work from the outset.

- d) There must be consistency in how different projects are progressed. It was pointed out that a detailed business case was asked for in relation to HR and Payroll services but in relation to Housing matters are progressing in a more piecemeal basis. On the other hand there was a view that after a “first business” case has been considered it might be possible, if the savings or other advantages of joint working were very clear, to then “fast track” further consideration regarding this particular service compared to a more measured approach where savings or advantages were not so clearly apparent.
- e) Before the EKJAC commission any significant work all potential participating authorities should have made an in principle decision that they want to be on board.
- f) A different approach is needed if work on joint services is to proceed in a meaningful and reasonably quick way and one approach may be to convene joint Cabinet meetings, or even joint Council meetings to consider recommendations from the EKJAC – followed immediately by individual decision making meetings of each individual body.
- g) Any reports going to the EKJAC should be seen by each individual authority’s Section 151 Officer and Monitoring Officer before consideration by the EKJAC.
- h) A more responsive body than the current EKJAC is required.
- i) Matters are not turning out as originally envisaged as it was thought that there would be more discussions and a greater degree of commitment within individual authorities before matters went to EKJAC.
- j) Difficulties are not due to the current ‘constitutional’ arrangements but in ‘cutting a deal’ in relation to political and practical issues.
- k) The lawyers have been over cautious and this is reflected in a more long winded process than is needed and as a consequence progress will be much slower or even frustrated completely. Although it was also pointed out that under the current arrangements Chief Executives in particular have “challenged” submissions made and asked for more detail on most projects and this illustrates the need for a rather more “cautious” approach.
- l) Reports in relation to particular services must be signed off by all professional disciplines and not just the subject specialist for the particular service under consideration. This view was also supported as it would remove the need, which has arisen up to now, of various last minute amendments to EKJAC recommendations.
- m) That final draft reports (or as near as possible to “final draft”) reports should be submitted to the Chief Executives’ Forum 2 weeks before the EKJAC meeting date – and that the timetable already provides for this to be done.

4. Conclusions

4.1 Conclusions - Administration & chairmanship

- 4.1.1 The idea of Canterbury City Council taking on administration of the EKJAC for say the first few years is sound. It should last for a minimum of 3 years and be backed up with a service level agreement between Canterbury City Council and EKJAC with provision for reasonable and quantifiable financial recompense.
- 4.1.2 The “administering” authority should also “lead” on financial and legal advice (subject to what is said below regarding earlier involvement of section 151 and Monitoring Officers).
- 4.1.3 From a practical point of view the chairmanship should remain with the administering authority.
- 4.1.4 Administration and chairmanship of the Joint Scrutiny Committee should continue to rotate, apart from not being taken on by the authority administering EKJAC.

4.2 Conclusions - Scrutiny

- 4.2.1 If the EKJAC continues in its present format then the EKJSC should continue as at present.
- 4.2.2 A protocol to limit local scrutiny is not likely to have any practical advantages and therefore should not be pursued further.
- 4.2.3 Depending on resource availability, some specialist officer resource should be put at the disposal of the EKJSC.
- 4.2.4 The various views regarding number of meetings, what should be considered at meetings and a separate identity for the EKJSC should be considered by that Committee itself.

4.3 Conclusions - The key concerns

- 4.3.1 The difficulties are understood of an autonomous local authority voluntarily delegating control of any of its services to a body which it does not itself control, even more so in relation to front line services such as waste collection compared to support services. Before any service can actually be delegated each Authority must be satisfied politically that it wishes for the period of delegation to relinquish control and before consideration can be given to such a crucial decision there are a number of obstacles to be overcome.
- 4.3.2 However currently the arrangements are such that the EKJAC doesn't have

powers to move forward on the more sensitive service areas without regular recourse back to individual authorities. Even if it had the powers it doesn't have realistic financial resources. It is perhaps notable that once a decision has been made to go ahead with joint arrangements in relation to specific services the EKJAC does have a very wide range of powers and would have adequate budgetary provision.

4.3.3 The difficulties before even getting to the point where a business and political decision can be taken is perhaps illustrated by some of the things that have or have not happened in the past few months e.g.

- On 3rd December 2008 the EKJAC recommended each authority to agree the principle of a holding fund to enable the EKJAC to agree the funding of projects without the need of a referral back to the constituent authorities. As at 1st April 2009 there is no holding fund, although it is understood the CE's are considering recycling some grant monies available to their authorities to provide a fund for the EKJAC.
- The same meeting on 3rd December 2008 recommended to each authority that they delegate to the EKJAC funds to pay for further work regarding housing matters. It is understood that as at 1st April 2009 one authority has still not agreed to make the requisite funds available.
- Each authority was also recommended on 3rd December 2008 to contribute £10K to develop the HR/Payroll project. It is understood that only 3 authorities committed to this before 1st April 2009.

4.3.4 These examples and the lack of real authority (and concomitant budget) within EKJAC do not augur well for reasonably rapid progress on entry into more joint arrangements.

4.3.5 In order to provide this authority there must be some mechanism for each Council to delegate meaningful powers and budget to the EKJAC or perhaps to the Chief Executives who are accountable to the EKJAC. This will, however, require each authority to consider the services which it might have delivered jointly in some depth and with a willingness to delegate all that it is necessary to do, short of "pressing the button", to enable entry into legally binding Joint Arrangements.

4.3.6 Before turning to a preferred solution some consideration might be given to alternatives to the EKJAC i.e.

(a) Cut the top off the Pyramid by abolishing EKJAC (and EKJSC) and instead have all relevant matters referred by the Leaders and CEs Working Party back to individual Cabinets (and where necessary Councils). This may have the advantage of flexibility and confidential consideration of inter authority differences but it would conversely reduce potential public involvement and would in practice hardly expedite matters in overall terms. or

(b) The alternative suggested by the officer during the round of consultations is

novel i.e. Joint Cabinet (and where necessary joint Council) meetings to consider proposals from the Leaders and CEs Working Party followed immediately by individual executive meetings of each Cabinet (or Council). This may be worth trying on particular issues but doesn't seem to present a better overall alternative than an amended role for the EKJAC. or

4.3.7 However the clear balance of opinion seemed to favour retaining the current model and empowering it by a greater degree of delegation and resourcing.

4.3.8 Under current arrangements a business case is supposed to be worked up for each set of potential joint services before a project plan can be initiated. One way of expediting matters would be to remove this requirement and in its place build upon the perceived strength of the Chief Executive's Forum arrangements (see 3.2.4) and for each individual authority to **delegate to its Chief Executive, in consultation with its Leader, authority to do what ever they consider necessary in terms of commissioning work to enable the EKJAC to recommend each Authority whether or not to 'press the button'**. Crucially this will require each Leader to decide what level of debate and detail is required within his own authority before the Chief Executives can commission whatever work they considers necessary. This in itself may require some introductory work being done by the Chief Executives jointly (probably via the Officer Project Groups) to give some advice to their leaders. However it must be accepted that this would be far from being a detailed assessment or a business case for the services in question.

4.3.9 Rather than delegate to Chief Executives it would be possible to delegate straight to the EKJAC but this would provide more scope for reference back to individual authorities, potential prevarication and delays due to scrutiny or political opposition.

4.3.10 The important objective is to have sorted out all technical, practical, logistical, legal and financial considerations before a political decision is made whether or not to "press the button".

4.3.11 In terms of a budget to enable Chief Executives to commission work there must be something approaching an act of faith if the Gordian knot of going backwards and forwards between the EKJAC and individual authorities is to be severed. This budget would have to be realistic in quantum terms.

4.3.12 How a realistic budget can be provided by each authority so soon after the commencement of the financial year will no doubt be difficult to achieve, however it is encouraging that the detailed business care regarding HR and payroll is forecasting healthy savings and part or the whole of a reasonable budget might be set against such savings.

4.4 Conclusions - Some further details

Whilst the overwhelming view that the current arrangements are clear and well drafted the following minor issues are brought forward as possible improvements-

a) To understand the current arrangements it is necessary to look at three different

documents which are reports to the EKJAC and as such contain details other than the arrangements, rules, etc. Putting the arrangements, rules etc. in a single document would be useful (i.e. in effect a constitution for both the EKJAC and the EKJSC).

- b) It is not clear whether or not either Committee has decided on speaking rights for fellow councillors and/or members of the public. This should be clarified.
- c) There doesn't appear any provision for a Chairman's casting vote. Conversely there is no provision to the contrary. It might be useful to make it clear that the Chairmen should not have a casting vote, thereby requiring a majority vote for any decision to be made.
- d) If it is decided not to pursue further the suggestion in this report regarding greater powers and resources for the EKJAC then consideration might be given to setting down time limits in the rules for individual authorities to respond to recommendations from the EKJAC (and this may include encouraging special cabinet meetings to assist with compliance) – although there will be no way of enforcing legal compliance with either time limits or special meetings.
- e) Any reasonable, additional costs brought about to individual authorities by using “in house” resources in working on Joint Services projects should in principle be reimbursable from EKJAC funds – although it is realised that this may provide resourcing difficulties.
- f) All reports to EKJAC should be seen in advance by all appropriate professionals, including individual Section 151 and Monitoring Officers and not just the lead officer and specialists.
- g) Greater efforts should be made to get completed draft reports to the EK Forum at least 2 weeks before scheduled meetings of the EKJAC.

Douglas Bradbury

29th April 2009