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22 July 2022

Dear Councillor

NOTICE OF DECISION TAKEN BETWEEN MEETINGS – (DPH01 22) FUTURE OF EAST KENT ICT

Please find attached details of a decision taken by Councillor Chris Vinson, Portfolio Holder for Finance, Governance, Digital and Climate Change, to disband East Kent ICT and bring the service back in house.

The deadline for call-in of this decision is **10.00am on Thursday, 28 July 2022**.

If call-in is not activated, the implementation date for this decision will be noon on 28 July.

Members of the public who require further information are asked to contact Kate Batty-Smith, Democratic Services Officer, on 01304 872303 or by e-mail at democraticservices@dover.gov.uk.

Yours sincerely

A handwritten signature in purple ink that reads "Kate Batty-Smith". Below the signature is a short horizontal line.

Democratic Services Officer

ENCL

1 **NOTICE OF DECISION TAKEN BETWEEN MEETINGS - (DPH01 22) FUTURE OF EAST KENT ICT** (Pages 2-7)

Decision Notice

Decision Taken Between Meetings

Decision No:	DPH01
Subject:	FUTURE OF EAST KENT ICT
Notification Date:	22 July 2022
Implementation Date:	28 July 2022
Decision taken by:	Councillor Chris Vinson, Portfolio Holder for Finance, Governance, Digital and Climate Change
Authority:	Paragraph 12 (General Responsibilities Delegated to all Members of the Executive) of Section 3C of Part 3 (Responsibility for Functions) of the Constitution
Decision Type:	Executive Non-Key Decision
Call-In to Apply?	Yes (<i>call-in will expire at 10.00am on 28 July 2022</i>)
Classification:	Unrestricted
Reason for the Decision:	To disband East Kent ICT and bring the services back in house.
Decision:	<ol style="list-style-type: none"> 1. That East Kent ICT be disbanded and the ICT service returned in house. 2. That authority be delegated to each of the Chief Executive and Head of Community and Digital Services to: <ol style="list-style-type: none"> (a) Make any further decisions and to carry out all necessary processes to give effect to the decision to disband EKICT; (b) To approve and enter into any agreement necessary to give effect to the decision including, but not limited to, the novation of any contracts between all or any of the three councils and any third parties. 3. That the attached report be provided to the East Kent Services Committee.

1. **Consideration and Alternatives (*if applicable*)**
 - 1.1 See attached report.
2. **Any Conflicts of Interest Declared?**
 - 2.1 None.
3. **Supporting Information (*as applicable*)**
 - 3.1 See attached report.

Subject:	THE FUTURE OF EAST KENT ICT (EKICT)
Date:	22 July 2022
Report of:	Nadeem Aziz, Chief Executive
Portfolio Holder:	Councillor Chris Vinson, Portfolio Holder for Finance, Governance, Digital and Climate Change
Decision Type:	Non-Key Decision
Classification:	Unrestricted
Purpose of the report:	To disband East Kent ICT and bring the services back in-house.
Recommendation:	<ol style="list-style-type: none"> 1. That East Kent ICT be disbanded and the ICT service returned in house. 2. That authority be delegated to each of the Chief Executive and Head of Community and Digital Services to: <ol style="list-style-type: none"> (a) Make any further decisions and to carry out all necessary processes to give effect to the decision to disband EKICT; (b) To approve and enter into any agreement necessary to give effect to the decision, including but not limited to novation of any contracts between all or any of the three councils and any third parties. 3. That this report be provided to the East Kent Services Committee.

1. Summary

East Kent ICT ('EKICT') has been a shared service for Canterbury City Council (CCC), Dover District Council (DDC) and Thanet District Council (TDC) since 2010, with TDC being the host authority.

As the ICT requirements and expectation of the three Councils have changed over time it has become apparent that their requirements of the shared service have diverged. It is considered that this divergence has now reach a point where a shared service delivery model is no longer the optimal and most viable approach. This report proposes the dissolution of EKICT on a consensual basis with the other two councils and the return of the services in-house.

The services will come back in a phased approach from October 2022 running through to April 2024.

2. Background

- 2.1 EKICT is a team within East Kent Services (EKS)¹ and currently employs 42 FTEs. It provides ICT services to the three Councils and Civica. The staff are employed by TDC and are physically located at all three sites. The Interim Head of Shared Services is employed by and is an officer at TDC but manages EKS on behalf of all three Councils under the direction of the East Kent Services Committee.

¹ EKS also provide Revenues and Benefits through a contract with Civica. East Kent HR moved back in house in 2021.

- 2.2 At the time of its creation EKICT was the last of the shared services to be created alongside Revenues and Benefits. Since then, significant changes in the three partner councils include:
- (a) The creation of East Kent Services as a whole, providing ICT, HR and Revenues and Benefits to the three Councils and the subsequent transfer to revenues and benefits functions to CIVICA and the disbanding of EKHR;
 - (b) The creation and subsequent dissolution of East Kent Housing;
 - (c) CCC has recently taken its waste management service back in house from Serco under its newly formed company Canenco;
 - (d) The creation of a separate trust for the Marlow Theatre at Canterbury;
 - (e) The on-going expansion of the Port Health Authority function at DDC following Brexit.
 - (f) The transition of many applications from being domestically hosted to cloud-based solutions.
 - (g) The Councils have adopted different productivity solutions with two of the councils being primarily reliant on Google products and the other, Microsoft.
- 2.3 Discussions at the East Kent Services Board (comprising the three Chief Executives, and the emergence of a joint consensus, is that the Board would like to disband EKICT and take each Council's ICT service in house.
- 2.4 EKICT staff are currently employed by TDC and they are located across all three sites. To mitigate the impact on staff (and to comply with TUPE and COSOP requirements – please see below), the ICT Clients has suggested that a model of transferring the staff into roles as identical to their current roles as possible within each Council will be adopted. There are currently 42 FTEs within EKICT.
- 2.5 The Head of ICT and TDC's Human Resources Business Partner have worked through the current establishment and cross referenced against the draft structures identified by each of the councils based upon their current and future needs. It has been assumed that all current secondments will cease on March 2023 at the latest and any assessment will therefore be based upon substantive posts. On this basis, the following approach will be proposed:

TUPE

The Transfer of Undertaking (Protection of Employment) Regulations 2006 (TUPE) apply where a service is transferred and a grouping of employees whose principal purpose is the carrying out of the activities on behalf of the client is identified. These employees transfer to the new service provider under TUPE with their existing terms and conditions of employment, including but not limited to salary, holiday, pension etc.

A small number of staff who are identified as having a principal purpose delivering services to one client have been identified to transfer to the Councils under TUPE

COSOP

In order to protect public sector jobs where a function has been contracted out and is then brought back in house on the termination of the contract, and where TUPE does not apply, the Government issued a Cabinet Office Statement of Practice on Staff Transfers (referred to as COSOP transfer hereinafter).

In brief, this sets out an expectation that employers will transfer employees back to the public sector, on the same terms as TUPE, even where TUPE does not strictly apply. It affords these employees the benefit of having their terms and conditions protected as if that had been TUPE transferred.

It is proposed that the first step in allocating employees to the councils for an offer of COSOP transfer would be to request the employees to put forward a non-binding indication of which councils they would prefer to transfer to with their reasons. Employees will be given the option to state first, second, third and fourth preferences, taking into account the potential to move to one of the three councils or to remain as part of the small residual EKS team that will support Civica.

If this proposal does not result in an appropriate allocation of staff to councils, the below criteria will be applied by the Head of ICT and the Head of Shared Services with support from Human Resources:

- 1) Shortest travel time between their home address and a council (considering method of transport);
- 2) Specific skills and experience the councils' require to support future ICT activity;
- 3) Geographical location that the employee would primarily work at;
- 4) The Council they primarily do work for i.e. the Council they perform the majority of their work for.

2.6 A project Board has been established consisting of the Head of ICT and ICT Clients for Each Council. As EKICT staff are employed by TDC, the costs are shared with CCC and DDC.

2.7 If Cabinet decide² to disband EKICT and the other councils are in agreement, the process of consultation with staff will commence 1st September to 3rd October 2022 with the following phased approach:

Date Period	Phase Detail
April 22 – August 22	Agreement of all councils and Planning
1 st September 22 – 3 rd October 22	Consultation
October 2022	Preferences and Selection
October 22 – November 22	4 x Dedicated Support Teams. Individual virtual service desks created
December 22 – January 23	4 x Dedicated Teams for Software, Security and Compliance
February 23 – March 23	4 x Dedicated Teams for Infrastructure
1 st April 2023	Staff Transfer back in house
March 23 – March 24	Finalising of Projects, Orchestrating Infrastructure Migrations and Separations, Close down of EKICT

2.8 Staff within EKICT have been informed of the process, but not of the proposed structures. The Interim Head of Shared Services and Head of ICT meet regularly with the staff to provide updates. The Board will maintain an open communication channel, as part of the support to staff throughout the process.

3. Identification of Options

3.1 There are two options:

- (a) Modify the current service to the partners separate needs while maintain a shared service

² Members should note that TDC and CCC have already made their own decision to disband EKICT.

- (b) Dissolve EKICT and take back the service in-house.

4. Evaluation of Options

- 4.1 Option a – Modify the current service – Modifying the current service could align it more closely with the councils' separate requirements. However, it would be likely to do so at the detriment of any remaining economies of scale and is likely to become unwieldy and complex to manage and recharge. Furthermore, Cabinet should note that CCC and TDC are making the decisions to take their ICT service back in house also. For these reasons this is not the recommended option.
- 4.2 Option b – Dissolve EKICT and take the service back in house – Taking the service back in house will enable each council to design the service to meet their specific needs, gives councils direct control over an essential service area and avoids unwieldy service management and recharging arrangements. For these reasons this is the recommended option.

5. Resource Implications

- 5.1 Consultation starts on 1st September and will end on 3rd October (as per 2.7). The opportunity for cost savings will be explored through the consultation process. There could be potential savings for each of the Councils once this process has concluded.
- 5.2 To deliver the EKICT In House project the following workstreams have been identified and agreed:

Workstream	Duration	Membership
Change Board (Technical)	May 22 – April 24	Head of Shared Service, Head of ICT, Digital Clients and Managers, Head of HR
Staff	May 22 – April 23	HR Manager, Head of ICT, Head of Shared Service, Digital Leads, HR
HR and Payroll	June 22 – April 23	HR Manager, Head of ICT, Head of Shared Services, HR and Payroll
Finance	June 22 – April 24	Head of Shared Services, Head of ICT, EKS Finance, S151 Officers, Council Finance Officers
Contracts and Legal	June 22 – April 24	Head of Shared Services, Head of ICT, Contract and Client Services Manager, Council Legal and Procurement Officers
Infrastructure and Systems Disaggregation	June 22 – April 24	Head of ICT, ICT Staff, ICT Managers, Digital Teams
Security	May 22 – April 24	Head of ICT, ICT Staff, ICT Managers, Digital Teams

6. Risk Assessment
- 6.1 The main risks involved in the recommended option concern the effects on staff within EKICT and smooth transition from a shared service to an in-house service. The ICT service will need to keep running whilst ICT go through the consultation. It is important to note that we will be putting measures in place to continue to protect our estate from security breaches.
7. **Climate Change and Environmental Implications**

No implications.
8. **Corporate Implications**
- 8.1 Comment from the Director of Finance (linked to the MTFP): Accountancy has been consulted on the report and have no further comments to add. (LS)
- 8.2 Comment from the Solicitor to the Council: The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make.
- 8.3 Comment from the Equalities Officer: The report does not specifically highlight any equality implications, however in discharging their duties members are required to comply with the public sector equality duty as set out in Section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/section/149>
9. **Appendices**

None.
10. **Background Papers**

Relevant papers held by Head of ICT

Contact Officer:

Nadeem Aziz, Chief Executive
Brinley Hill, Head of Community and Digital
Abi Robinson, Digital Services Manager
Dan Evans, Head of ICT