
Subject: **BUSINESS CASE – SINGLE EAST KENT COUNCIL**

Meeting and Date: **Cabinet – 1 March 2017**
Scrutiny (Policy and Performance) – 13 March 2017
Cabinet – 20 March 2017
Council – 22 March 2017
Cabinet – 23 March 2017

Report of: **Nadeem Aziz, Chief Executive**

Portfolio Holder: **Cllr Paul Watkins, Leader of the Council**

Decision Type: **Key**

Classification: **Unrestricted**

Purpose of the report: Formal consideration of the independent business case for establishing a new single district council in East Kent.

Recommendation: Recommended that Council resolve:

1. That having considered the business case it becomes the policy of this Council to explore further the abolition of the local government district areas of Canterbury, Dover, Shepway and Thanet and the constitution of a new local government district area of East Kent comprising the areas of those districts.
2. That the unspent balance of the £20,000 previously agreed by the Council to fund the preparation of the business case be made available to fund a public consultation and engagement exercise
3. That the Cabinet be requested to ensure an appropriate public consultation and engagement exercise is undertaken to ascertain views on the proposal set out in 1 above.
4. That a further report be submitted to the Council prior to the making of any submission to the Secretary of state.

Cabinet:

1. Request that Canterbury City Council undertake a public and stakeholder consultation and engagement exercise to ascertain views on the proposal set out in 1 above that can be taken into account by the Secretary of State for Communities and Local Government in deciding to make regulations under the Cities and Local Government Devolution Act 2016.
 2. Agree that the Council will contribute to Canterbury City Council one quarter of the cost of undertaking the
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consultation and engagement referred to in 2 above.

3. That the Leader be requested, to establish the proposed governance structure for the project, as set out in Section 5 (Management Case) in the business case.
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1. Summary

- 1.1 Local Government faces the combined challenges of increased demand for services coupled with further downward pressure on funding. In order to take the steps required to make services more efficient, local government may need to be transformed and redesigned around new models. Furthermore, the Government has announced that by 2020, local authorities will be entirely dependent upon the income from local taxation (business rates and council tax) for their core funding, as core grant funding from central Government will be phased out.
- 1.2 Debates on the structure of local authorities and the viability of the two-tier system are nothing new, but they have been re-energised by the prospect of devolution, public sector reform and long-term changes to local government financing.
- 1.3 Councillors from all five East Kent authorities agreed in July 2016 to explore the advantages and disadvantages of a merger and examine how a single East Kent council could operate. Each council approved a joint Statement of Intent, which set out the purpose of a potential merger.
- 1.4 This report is the next stage in this process and seeks approval for the Council to explore further the abolition of the local government district area of Dover the constitution of a new local government district area of East Kent, including the use of stakeholder and public engagement to obtain views on the proposals.

2. Introduction and Background

- 2.1 The Local Government Association and Local Partnerships were commissioned by Ashford Borough Council, Canterbury City Council and Dover, Shepway and Thanet District Councils, to prepare an independent 'Five Way Business Case' for each council to consider, before any formal commitment by each council to progress the idea further. Key stakeholders were engaged during the development of the business case.
- 2.2 The Business Case uses an adapted HM Treasury five case model considering the case for change through a number of different perspectives including strategic, economic, financial, commercial and management cases, and includes:
 - The feasibility of a new single council and how it could operate;
 - The level of savings that could be achieved;
 - The potential impact on Council Tax;
 - The economic and commercial opportunities;
 - The potential for improvements to service delivery;
 - The likely set up costs.

- 2.3 Ashford Borough Council announced that it no longer intends to pursue discussions on the proposed creation of a single East Kent district council. A formal report was considered by Ashford Borough's Cabinet on 9 February 2017, followed by Ashford Borough's Full Council on 16 February 2017.
- 2.4 Ashford Borough Council took the decision to make this announcement early to allow the remaining four councils, the opportunity to progress a four way discussion, prior to formal decisions being made by their respective Council meetings, on 22 March 2017.
- 2.5 Following Ashford Borough Council's decision to exit the discussions, an independent 'Four Way Business Case' was commissioned by the remaining four councils and is attached to this report as Appendix 1.
- 2.6 The remaining four councils are asked to consider the four way business case, before any formal commitment is made, in relation to the creation of a single East Kent district council.

3. East Kent Devolution

- 3.1 The East Kent district councils are keen to build on the economic and social cohesion of the area of East Kent. In response to this, the districts have been engaging in further complimentary activity with the county, to explore devolution options around; Highways, Public Health and Community Safety.
- 3.2 Strategically, a single East Kent district could enable the development of strong, strategic leadership at all levels throughout East Kent, offering economies of scale, greater resilience and the capacity and capability to further enhance and improve the value for money and quality of the services delivered, placing East Kent in a stronger position.
- 3.3 The business case addresses the financial issues and implications, but also highlights the need to consider and address other significant issues such as the potential for a democratic deficit, the need for fewer councillors and the resultant increase in council wards, reduced access to senior management and the impact of a much larger council on the delivery of council services.

4. Consultation

- 4.1 The East Kent councils have agreed to procure a shared public and stakeholder consultation and engagement exercise, spanning all four districts, to ascertain views on the proposal that can be taken into account by the Secretary of State for Communities and Local Government in deciding to make regulations under the Cities and Local Government Devolution Act 2016. Details of the consultation and engagement proposal with the stakeholders and public are provided at Appendix 2. .

5. Next Steps

- 5.1 If the decision is to proceed with the creation of a single East Kent district, an indicative timetable for progressing has been set out below (subject to further confirmation from the Department of Communities and Local Government):

Activity	Indicative Timings
Engagement with DCLG on draft business case	Early 2017
Each council to agree to proceed with business case subject to any engagement required / agreed	22 March 2017
Public consultation and engagement period	24 March – 19 May 2017
Executive decision by cabinet of each council whether to proceed with project for a new East Kent Council ¹	July 2017

From the July decision, these dates are subject to change through discussions with DCLG and the Boundary Commission. However, they give an indication of the process based on conversations to date with DCLG and the Boundary Commission:

<i>Proposals to create a new council submitted to DCLG (demonstrating clear political commitment from Districts involved)</i>	<i>July 2017</i>
<i>DCLG works with East Kent councils to formulate the Order</i>	<i>July to Autumn 2017</i>
<i>Secretary of State agrees order for formal approval by the four council's Cabinet/Council</i>	<i>Autumn 2017</i>
<i>Final Decisions by Secretary of State</i>	<i>Autumn 2017</i>
<i>DCLG to prepare necessary statutory instruments modifying existing legislation where required (in order to establish new organisation, wind up the old ones and make transitional arrangements)</i>	<i>Autumn 2017</i>
<i>Each council invited to give formal consent to creation of the new entity</i>	<i>Autumn 2017</i>
<i>New entity considered by Houses of Parliament</i>	<i>Autumn 2017</i>
<i>Secretary of State decision</i>	<i>Autumn 2017</i>
<i>Boundary Commission undertake electoral review (NB this is optional but preferred approach of DCLG – alternative is an Order that creates a new council, using temporary wards as basis for the first election, and subsequent election boundaries considered by Boundary Commission).</i>	<i>Autumn 2017 to Autumn 2018</i>
<i>Establish Implementation Executive or similar body (which will be the decision making body until members of the new authority are elected)</i>	<i>Nov / Dec 2017</i>
<i>Agree initial structure for the new council</i>	<i>Dec 2017</i>
<i>Likely TUPE consultation period commences (to be confirmed on the basis of legal advice)</i>	<i>Dec 2017 / Jan 2018</i>
<i>Implementation Executive commences recruitment of senior posts (externally advertised)</i>	<i>Early 2018</i>

¹ Cabinet will take views of Council before taking this decision.

<i>Implementation Executive agrees Council tax harmonisation discretionary order with DCLG</i>	<i>2018</i>
<i>Implementation Executive sets first year budget for the new authority and council tax rate</i>	<i>Late 2018/ early 2019</i>
<i>First year budget for the new authority and council tax rate confirmed by all Councillors</i>	<i>Late 2018/ early 2019</i>
<i>New council legally takes effect (Vesting Day)</i>	<i>April 2019</i>
<i>Elections to new council</i>	<i>May 2019</i>

5.2 **Negotiations with DCLG**

Discussions have been held through this process with DCLG and the four East Kent district Leaders will be recommending the following (if agreed to proceed post July):

1. As part of the Order, to propose to DCLG that a new East Kent Council should be based on a committee system and include local area working for planning and licensing, as a minimum.
2. That DCLG be asked to support this project through a contribution towards the transition costs for the project to reduce the impact on the Council tax setting for a new council.

6. **Identification of Options**

6.1 Agree the report recommendations.

6.2 Continue with the current status quo and maintain the four separate councils.

7. **Evaluation of Options**

7.1 Creating a single new council is a logical next step and would provide a stable and sustainable long-term solution for the locality. Offering economies of scale, greater resilience and the capacity and capability to further enhance and improve the value for money and quality of the services delivered.

7.2 Alongside the rest of local government, the East Kent districts are under considerable financial pressure. In response, all have reduced staff numbers which has inevitably led to loss of both capacity and capability, with some areas affected more than others (in order to preserve front-line services as far as possible). For this reason maintaining the status quo is not a preferred option.

8. **Resource Implications**

8.1 Please see the attached Business Case at Appendix 1.

9. **Corporate Implications**

9.1 Comment from the Section 151 Officer:

Creating a single East Kent district council is primarily a political decision.

However, the options of creating a single council or maintaining the status quo both involve a number of financial implications, variables and uncertainties which Members will have to weigh when considering which option to adopt.

Dover has plans in place to address the savings required in the Medium Term Financial Strategy and the efficiency plan, in accordance with the Government's four-year financial settlement. However, the creation of a single East Kent council has the potential to make an even greater contribution to the total savings currently required by the 4 councils, over the six year period to 2024/25. The larger size of the new authority also offers greater scope to manage risks, increased capacity to invest strategically, and a greater voice at the local, regional and national level.

The new authority will probably have to set a "balanced budget". It is not yet certain what reserves and balances will be available to the new authority in the first year to support the budget, but the main controllable income stream available to the new authority will be Council Tax. It is anticipated that when setting the first Council Tax for the new authority, there will be no "prior year" Council Tax against which any capping limitations would apply.

Similarly, the current Council Tax Reduction Schemes in operation across the new Council area will also need to be aligned since if the current schemes were to be maintained in their geographic areas, they would result in very significant disparities for people with similar financial circumstances living in different areas, but within the one East Kent District Council.

It is also important to consider the level of transition costs and the timing of savings. Major projects always carry a risk that the investment required in areas such as ICT is understated.

Similarly, the timing for delivery of savings will have a margin of error. If these margins remain within reasonable levels, then they would not undermine the overall business case. However it would be prudent to ensure that all four councils earmark sufficient reserves to allow for the margins of error in the value of the initial investment and / or the timing of savings.

If Members decide to proceed with the consultation on the creation of an East Kent District further due diligence work will also be undertaken by the four s151 officers to ensure that all significant financial risks, assets and liabilities, for each of the four councils, have been identified and considered before the final decision to proceed is taken in July.

The "Generic Financial Implications" below have been agreed between the four S151 Officers as a broad statement of the implications.

Generic Financial Implications

Each S151 Officer provided the raw data for the financial case and supports the conclusions drawn from the financial outputs in the business case. The detailed workings were carried out by consultants and have not been independently reproduced or checked, but overall, the S151 Officers judge the level of savings to be realistic and achievable, subject to the due diligence work which will be completed before the final go/no go decision.

The financial modelling has tried to anticipate the pathway to harmonisation of the four districts' Council Tax levels. It will be for the new Council to decide Council Tax from April 2020 onwards. Also any harmonisation that results in variable levels of Council Tax according to geography (i.e. the old districts) within a single authority is not normally permitted; such an arrangement would need to be subject to legal advice and, if permissible, the agreement and correct implementation by DCLG. The

current Council Tax Reduction Schemes in operation across the new Council area will need to be aligned.

Future Government funding has been assumed to be neutral, whether the four districts remain separate, or if they form a new single district (with aggregated funding). Whilst there should be more capacity for the East Kent Authority to access and bid for external funding, there is a risk that central government and other funding could amount to less than the sum of its parts, if the Government or other bodies deem that efficiencies have been achieved by the formation of a single entity and that therefore funding could be reduced further than would be the case for the status quo.

The assumptions regarding transition costs are based on the best available information, however as there has never been a similar attempt to merge four districts, there is some uncertainty as to these costs. Merging four districts is a large and challenging project, so some transition costs may be understated. If they were to be exceeded, this would diminish the financial benefits, but the revised transition costs alone would not change the fundamental case for the creation of an East Kent Authority.

The quantum of estimated savings is considered to be realistic, and there could be scope for greater savings in the longer term as a result of transformational change. The risk regarding savings is related to their timing: some 75% of the annual savings have been assumed to be delivered in 2019-20, with the remainder in 2020-21 and thereafter. To deliver the 2019-20 savings, organisational change processes will need to have started in 2018-19 within the existing districts. This could have a negative impact on staff morale, capacity and retention. There will be the “business as usual” workload and the need to access skills and knowledge to manage the process of transition (beyond the forward-focused work of the transition team). These represent significant risks either to the successful implementation of the change, or the timing of delivery of savings. Some of these risks can be managed by good governance and transitional management arrangements, although concerns regarding transition cost estimates should be noted.

Whilst the business case makes a strong case for an East Kent Authority, modelling of future savings, costs and income streams for a new authority can only be illustrative. The assumptions behind the calculations are generally sound, but a relatively small change in assumptions can have a large impact on the numbers.

9.2 Comment from the Solicitor to the Council:

There are two statutory routes which can be used to effect structural change in local government:

- The procedures under the Local Government and Public Involvement in Health Act 2007 – the relevant one of which is a 'Merger Review' through a 'Principal Area Boundary Review'; or
- Under Section 15 of the Cities and Local Government Devolution Act 2016 by regulations made by the Secretary of State

Discussions to date with the Governance Reform and Democracy Unit at DCLG, have been on the basis that that the Cities and Local Government Devolution Act route will be followed. It should be noted that the procedure and timetable set out at paragraph 5.1 of this report is indicative. It will only become clear which elements are included once the Secretary of State produces a draft Order. In particular it

remains unclear as to whether the Councils have the opportunity to signify any further agreement to the proposals to create a new council once the proposals have been submitted to the Secretary of State and whether certain functions ascribed to the councils actually fall to be discharged by the Implementation Executive.

The business case addresses the legal and governance issues at a high level and it is recommended that legal advisors are engaged to advise further at the appropriate times.

Appendix 2 proposes that the consultation period will run from 24 March 2017 to 19 May 2017. This period substantially coincides with the so called 'Purdah' period for the KCC elections will run from publication of the Notice of Election on Friday 24th March 2017 up to and including Polling Day on Thursday 4 May 2017.

Revised Guidance issued by the Local Government Association in February 2017 and entitled "**Purdah: A short guide to publicity during the pre-election period**" states

"You should also **think carefully** before you:

- Continue to run campaign material to support your own local campaigns. If the campaign is already running and is non-controversial (for example, on issues like recycling or foster care) and would be a waste of public money to cancel or postpone them, then continue. However, you should always think carefully if a campaign could be deemed likely to influence the outcome of the election and you should not use councillors in press releases and events in pre-election periods. In such cases you should stop or defer them. An example might be a campaign on an issue which has been subject of local political debate and/or disagreement.
- Launch any new consultations. Unless it is a statutory duty, don't start any new consultations or publish report findings from consultation exercises, which could be politically sensitive."

It should be noted that this is guidance issued by the LGA only: It is not statutory guidance but nevertheless it is consistent with the restriction on local authority publicity under section 2 of the Local Government Act 1996 and the provisions of the Code of Recommended Practice on local authority publicity issued under section 4 of that act to which local authorities are required to have regard.

The guidance does not suggest a complete prohibition on commencing consultations during the purdah period but rather, exhorts local authorities to "think carefully" before doing so. In this instance it is considered that unless the consultation is conducted over this period it will not be possible to make submissions to the Secretary of State in time to enable the necessary statutory instruments to be made and laid before parliament so as to enable and implementation date of 1 April 2019

9.3 Comment from the Equalities Officer: A detailed Equalities Impact Assessment is provided at Appendix 3.

10. **Appendices**

Appendix 1 – Full Four Way Business Case

Appendix 2 – Public and Stakeholder Consultation and Engagement Arrangements

Appendix 3 – Four Way Equalities Impact Assessment

11. **Background Papers**

[Full Council Report – Statement of Intent](#)
[Full 5 Way Business Case](#)