

Decision Notice

Delegated Decision

Decision No:	DD07
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Subject:	BUSINESS TRANSFER AGREEMENT
Date of Decision:	28 September 2020
Notification Date:	29 September 2020
Implementation Date:	29 September 2020
Decision taken by:	Mike Davis, Strategic Director (Corporate Resources)
Delegated Authority:	Decision of Cabinet dated 20 February 2020 (CAB 136 (e)) to delegate to the Strategic Director (Corporate Resources), in consultation with the Portfolio Holder for Housing and Health, the authority to take such decisions as may be necessary to facilitate the process of bringing the housing service in-house
Decision Type:	Executive Non-Key Decision
Call-In to Apply?	No (<i>Call-in does not apply to Non-Key Officer Decisions</i>)
Classification:	Unrestricted

Reason for the Decision:	To enter into a Business Transfer Agreement with East Kent Housing Limited, Canterbury City Council, Folkestone & Hythe District Council and Thanet District Council, the effect of which will be to terminate the arrangements under which East Kent Housing Limited currently manages the Council's housing stock, and to split and transfer the business of East Kent Housing Limited to the councils.
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Decision:	That Dover District Council enters into a Business Transfer Agreement with East Kent Housing Limited, Canterbury City Council, Folkestone & Hythe District Council and Thanet District Council, to be effective from 1 October 2020.
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1. **Consideration and Alternatives (*if applicable*)**
- 1.1 On 20 February 2020 Cabinet decided that the function of managing the Council's housing stock should be brought back in house. Cabinet authorised the Strategic Director (Corporate Resources), in consultation with the Portfolio Holder for Housing and Health, to take such decisions as may be necessary to facilitate that process and to terminate the management agreement with East Kent Housing Limited (EKH), under which it currently manages the housing stock (Cabinet Decision CAB 136).
- 1.2 Arrangements are now in place which will see EKH ceasing to manage the Council's housing stock on 1 October 2020, upon which date the Council will itself assume the discharge of the management functions. In order to give effect to these arrangements, the Council needs to enter into a Business Transfer Agreement with EKH and its other members (Canterbury City Council, Folkestone & Hythe District Council and Thanet District Council).

- 1.3 The legal effect of the Business Transfer Agreement will be to terminate the Council's management agreement with EKH and also certain related agreements. It will split and transfer the business of EKH to the four councils who are its members, such that each council will then assume the responsibility and the means to manage its own housing stock. The agreement makes ancillary provisions for such matters as the transfer of assets and liabilities and the transfer of staff. The Business Transfer Agreement will take effect at 00.01 hours on 1 October 2020. The intention is that EKH, having no business other than managing the housing stock of the four councils, will be dissolved and removed from the register of companies in the first half of 2021.
- 1.4 The termination of the management agreements with EKH and its subsequent dissolution is a technical legal process and the Council has been advised by specialist external solicitors (Bevan Brittan LLP) throughout. Bevan Brittan have advised upon and drafted the Business Transfer Agreement.
2. **Any Conflicts of Interest Declared?**
- 2.1 The Council's Chief Executive is also a director of East Kent Housing Limited having been appointed to that role by the Council.
3. **Supporting Information (as applicable)**
- 3.1 Not applicable.