



AGENDA

GOVERNANCE AND AUDIT COMMITTEE

Friday, 29th June, 2007, at 10.30 am
Medway Room, Sessions House, County
Hall, Maidstone

Ask for: **Andrew Tait**
Telephone

01622 694342

Tea/Coffee will be available 15 minutes before the start of the meeting

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

1. Substitutes
2. Minutes - 7 March 2007 (Pages 1 - 4)
3. Annual Audit and Inspection Letter (Pages 5 - 6)
4. External Audit Plan (Pages 7 - 8)
5. Ombudsman Complaints (Pages 9 - 14)
6. Ombudsman Report - Implications for the Authority (Pages 15 - 18)
7. Draft Statement of Accounts (Pages 19 - 134)
8. Treasury Management Annual Review (Pages 135 - 142)
9. Spending the Council's Money (Pages 143 - 222)
10. Strategic Risk Register (Pages 223 - 244)
11. Governance of Partnerships (Pages 245 - 274)
12. Internal Audit Annual Report 2006/07 (Pages 275 - 322)
13. Internal Audit Reporting (Pages 323 - 334)
14. Internal Audit Reporting - Irregularities (Pages 335 - 338)
15. Other items which the Chairman decides are urgent

EXEMPT ITEMS

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Peter Sass
Head of Democratic Services and Local Leadership
(01622) 694002

Thursday, 21 June 2007

Please note that any background documents referred to in the accompanying papers maybe inspected by arrangement with the officer responsible for preparing the relevant report.

KENT COUNTY COUNCIL

GOVERNANCE AND AUDIT COMMITTEE

MINUTES of a meeting of the Governance and Audit Committee held at County Hall, Maidstone on Wednesday, 7 March 2007.

PRESENT: Mr C G Findlay (Chairman), Mr R L H Long, TD (Vice-Chairman), Mr D L Brazier, Mr A R Chell, Mrs T Dean, Mr C J Law, Mr J F London, Mr T A Maddison (substitute for Mr D Smyth), Mrs M E Newell, Mr W V Newman, Mr R J Parry, Mr M V Snelling and Mr R Tolputt.

OFFICERS: The Head of Audit and Risk, Mr A Wood; the Director of Law and Governance, Mr G Wild; the Director – Finance and Corporate Services, Mr K Abbott (with Mr R Semens and Miss R Chapman); the Director – Operations, Dr I Craig; the Director of Property, Mr M Austerberry; the Head of Corporate Performance, Mrs S Garton and the Democratic Services Officer, Mr A Tait.

ALSO IN ATTENDANCE: Mrs J Eilbeck and Mr S Brown of PricewaterhouseCoopers; Mr D Wells, Mr S Mead and Mr M Stevenson from the Audit Commission.

UNRESTRICTED ITEMS

1. Minutes – 5 December 2006

(Item 2)

RESOLVED that the Minutes of the meeting held on 5 December 2006 are correctly recorded and that they be signed by the Chairman.

2. Update on Pre-Employment Checks

(Item 3 – Report by Managing Director – Children, Families and Education)

(1) A video entitled “People You Know” was shown to the Committee. This was part of a training package for e-Safety produced on behalf of the County Council in partnership with the Child Exploitation and On-line Protection Centre.

(2) RESOLVED that:-

(a) the responses contained in the report to queries raised at the meeting on 20 September 2006 be noted;

(b) a further report be made to the next meeting of the Committee incorporating the views of the three Group Leaders, who are invited to agree an approach to be taken to those Members who have not completed CRB Check Forms; and

(c) the Chairman write on behalf of the Committee to the Government expressing concern that current Governors are not required to be CRB checked.

3. Value for Money and the Review of School Clusters

(Item 4 – Report by Head of Audit and Risk)

RESOLVED that:-

- (a) the approach to delivering Value for Money reviews be noted;
- (b) the outcomes of the School Clusters review be noted; and
- (c) the report be forwarded to the Children and Families Policy Overview Committee together with the Committee's view that there is a democratic deficit within the Cluster system.

4. Enterprise Property Database

(Item 5 – Report by Director of Property)

RESOLVED that the report be noted.

5. Appointment of External Auditors

(Item 6 – Report by Head of Audit and Risk)

RESOLVED that the proposed appointment of the Audit Commission (Southern Region) as the County Council's external auditors with effect from 1 April 2007 be endorsed.

6. External Audit Plan and Fee

(Item 7 – Report by Head of Audit and Risk)

- (1) A covering report was tabled, which included recommendations to the Committee. These were agreed.
- (2) RESOLVED that the Chief Executive or his nominated representative be authorised to approve the Audit and Inspection Plan and fee for 2007/08 in consultation with the Chairman, Vice-Chairman, Labour and Liberal Democrat Spokesman of the Committee. This authority is on the assumption that the Audit Commission (Southern Region) will be appointed as the County Council's external auditor.

7. KCC Annual Plan

(Item 8 – Report by Director of Business Solutions and Policy)

RESOLVED that approval be given to the Director of Business Solutions and Policy in consultation with the Chairman, Vice-Chairman, Labour and Liberal Democrat Spokesman of the Committee to discharge the County Council's responsibility to check the compliance of the KCC Annual Plan with statutory reporting requirements prior to its publication by 30 June 2007.

8. Risk Management – Revised Directorate Risk Registers

(Item 9 – Report by Head of Audit and Risk)

RESOLVED that:-

- (a) the revised Directorate Risk Register, and the resulting highest ranked risks set out in Table 1 of the report be noted; and

- (b) the Directorate Risk Registers be considered by the appropriate Policy Overview Committees, with a report back to the Committee on any resulting issues.

9. Governance of Partnerships

(Item 10 – Report by Head of Audit and Risk)

RESOLVED that:-

- (a) the revised definition of “Partnership” be agreed as a basis for further consideration in the light of comments made during the meeting; and
- (b) the milestone dates set out in paragraph 13 of the report be agreed.

10. Auto-Forwarding of Emails

(Item 11 – Report by Head of Audit and Risk)

- (1) Mr R J Parry moved, seconded by Mr R Tolputt the motion set out in (2) below. This was agreed with no opposition.
- (2) RESOLVED that the Director of Business Solutions and Policy be advised of the Committee’s recommendation that the auto-formatting of KCC e-mails from the KCC mailbox to individuals’ own mailboxes should be made available for Members of the Council.

11. 2007/08 Internal Audit Plan

(Item 12 – Report by Head of Audit and Risk)

RESOLVED that approval be given to the Internal Audit Plan for the first six months of 2007/08 as proposed in the report.

12. Internal Audit Reporting

(Item 9 – Report by Head of Audit and Risk)

RESOLVED that the report be noted.

13. Internal Audit Reporting - Irregularities

(Item 13 – Report by Head of Audit and Risk)

- (1) The Committee agreed to take this item under Open Business.
- (2) RESOLVED that the report be noted.

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Item 3:

By: David Cockburn, Director of Business Solutions and Policy
To: Governance and Audit Committee – 29 June 2007
Subject: ANNUAL AUDIT AND INSPECTION LETTER
Classification: Unrestricted

Summary:

This report attaches a copy of the Audit Commission's 'Annual Audit and Inspection Letter'.

FOR INFORMATION

1. Introduction

1.1 This report attaches a copy of the 'Annual Audit and Inspection Letter' issued by the Audit Commission.

2. Status of the Annual Audit and Inspection Letter

2.1 The 'Annual Audit and Inspection Letter' provides an overall summary of the Audit Commission's assessment of KCC for 2006, drawing on audit, inspection and performance assessment work. It also summarises findings and conclusions from the statutory audit, which have previously been reported by our appointed auditors.

2.2 The 'Annual Audit and Inspection Letter' has been prepared by the Commission's Relationship Manager for KCC who will attend to answer any questions at this meeting.

3. Recommendation

3.1 Members are asked to NOTE the report.

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Chief Executives Dept.
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sue.garton@kent.gov.uk

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By: The Head of Audit & Risk

To: Governance & Audit Committee – 29 June 2007

Subject: External Audit Plan and Fee

Classification: Unrestricted

Summary: To seek Members approval to the external auditor's 2007/08 audit plan, and the associated fee.

FOR DECISION

INTRODUCTION

- 1 The Audit Commission (Southern Region) have been formally appointed as our external auditors for the period 1 April 2007 to 31 March 2012.
- 2 The draft external audit plan was presented to the March meeting of this Committee. This report now seeks final approval to the external audit plan and fee for the year ending 31 March 2008.

2007/08 AUDIT PLAN AND FEE

- 3 The external Audit & Inspection Plan is attached. The Plan is unchanged from that presented in draft to the March meeting of this Committee. The Plan has been widely circulated to senior staff, including the Chief Executive and Managing Directors, and no changes to the plan were proposed.
- 4 The Audit Commission (Southern Region) have proposed a fee for the 2007/08 audit, which is shown on page 4.14 of the agenda papers, and in slightly more detail on page 4.21. This proposed fee is at the mid point of the Audit Commission scale fee, reflecting the Commission's assessment that we remain as a medium risk / complexity Council. This fee excludes the audit of the Pension Fund, which is still being negotiated, and the audit of grant claims. The proposed fee of £368.9k compares to the 2006/07 fee of £378.5k on a like-for-like basis. As we face a Corporate Inspection, a further £76k is estimated for that process. In total, audit fees in 2007/08 are expected to be in the region of £600k.

RECOMMENDATIONS

- 5 Members are asked to approve the Audit and Inspection Plan and fee for 2007/08

Background Papers:

Governance & Audit Committee 7 March 2007; Item 7 – External Audit Plan and Fee

Andy Wood
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By: Chief Executive
To: Governance and Audit Committee – 29 June 2007
Subject: OMBUDSMAN COMPLAINTS
Accountable Officer: Head of Democratic Services
Classification: Unrestricted

Summary and Recommendations: To report:-
(a) the latest position on complaints to the Local Government Ombudsman against the County Council;
(b) the Local Government Ombudsman's Annual Letter to the County Council for 2006/07.

FOR INFORMATION

1. New Local Government Ombudsman Complaints since 1 October 2006

(1) In the six months from 1 October 2006 to 31 March 2007, 51 more complaints about the County Council were made to the Local Government Ombudsman. This excludes the 13 additional complaints which were classified by the Ombudsman as "premature" (ie the Council had not yet had an opportunity to consider them) and which will not therefore be included in the annual statistics on complaints published by the Ombudsman. The latest position in the Ombudsman's consideration of these 51 new complaints and brief details of them on a Directorate by Directorate basis are set out in Tables A and B below respectively:-

Table A

Total new complaints 1/10/06 - 31/3/07	51
<i>of which:-</i>	
Under investigation	0
Not to be investigated (ie no evidence of maladministration)	37
Settled locally	4
Ombudsman's decision awaited	10

Table B

Adult Social Services		5
Chief Executives		3
<i>of which:-</i>		
Insurance	2	
Property	1	
Children, Families and Education		20
<i>of which:-</i>		
Primary school reorganisation	5	
Special Educational Needs	5	
Internal School Matters <i>(outside Ombudsman's jurisdiction)</i>	4	
Children's Social Services	3	
Other	3	
Communities		0
Environment and Regeneration		23
<i>of which:-</i>		
Planning Applications <i>(NB 5 complaints all relate to the same development and 3 to another)</i>	13	
Kent Highway Services	8	
Environment and Waste	2	

2. Current Position on Cases Under Investigation

(1) Two complaints have been under formal investigation by the Ombudsman since the time of my previous report last December. The latest position on the two complaints is as follows:-

(a) **Complaint 05/A/04531 - Special Educational Needs**
(first reported to Members in December 2005)

This complaint from solicitors acting on behalf of a child with special educational needs alleged that the County Council failed to provide the child with proper education; failed to provide the support specified in the child's Statement of Special Educational Needs; failed to hold an Annual Review of the child's Statement of Special Educational Needs or respond to a request for statutory re-assessment; and failed to respond to correspondence from the solicitors acting for the child or deal with their complaints.

The solicitors also made a separate but related complaint against Essex County Council which 'looks after' the child and which placed him in a placement in Kent for a period.

Following his investigation the Ombudsman issued a report on this complaint last December. The Ombudsman found that there had been maladministration causing injustice by both Kent and Essex County Councils. Maladministration was found against KCC on the basis that it had failed to meet its duty to ensure that the child's Statement of Special Educational Needs was implemented while he was placed in Kent. The Ombudsman recommended that KCC pay compensation of £5,000; review the way in which it deals with special education provision, particularly for Looked After Children; and review arrangements for carrying out annual reviews to ensure that they are not missed.

The Cabinet Member for Children and Families accepted the Ombudsman's recommendations and the compensation was paid to the complainant. The Ombudsman then declared himself satisfied with the Council's response.

A report on the general lessons to be learned from the case is included elsewhere on the Committee's agenda.

(b) **Complaint 05/A/11943 - Special Educational Needs**
(first reported to Members in June 2006)

This complaint alleged that the County Council had delayed in dealing with the complainant's request for a re-assessment of her daughter's Statement of Special Educational Needs.

The Ombudsman's Investigator inspected the files and interviewed relevant officers last July. The Ombudsman has followed-up by letter on a number of issues and his decision on the complaint is still awaited.

3. Local Government Ombudsman Annual Letter 2006/07

(1) Each year the Local Government Ombudsman produces an individual Annual Letter for every Council. The County Council's Annual Letter for 2006/07 is attached as Appendix 1 to this report.

(2) The purpose of the Annual Letter is to help Councils learn from the outcome of complaints to the Ombudsman, underpin effective working relationships between Councils and the Ombudsman's office, identify opportunities for the Ombudsman and his staff to provide assistance that a Council may wish to seek in bringing about improvements to its internal complaint handling, and generally provide complaint-based information which the Ombudsman hopes Councils will find useful in assessing and reviewing their performance.

(3) The Annual Letter reflects the generally good working relationship which exists between the County Council and the Ombudsman's office.

4. Complaints Statistics

(1) Appendix 2 attached contains detailed statistics relating to complaints made to the Ombudsman against the County Council over the last three years. It also compares the annual percentage change in the number of complaints made against the County Council with the total number made for England as a whole (although the England total for 2006/07 is not yet available).

(2) Appendix 2 shows that after a large and steady increase in the number of complaints against the County Council over the previous four years, the number fell back slightly in 2006/07. The restructuring of the County Council's Directorates from 1 April 2006

makes direct comparison difficult but, even so, it is clear that the fall in the overall number of complaints is largely due to a significant fall in the number of Education complaints. This may reflect that the effect of better signposting to the Ombudsman for unsuccessful school admission appellants has now worked its way through the system.

5. Further Information

(1) Further information about any of the complaints or other matters mentioned in this report can be obtained from the Head of Democratic Services

Stuart Ballard
Head of Democratic Services
Ext 4002

Background Documents: Correspondence on individual case files, which is all exempt under paragraph 2 of Part I of Schedule 12A of the Local Government Act 1972 because it contains details of the identity of individual complainants.

COMPLAINTS AGAINST KCC RECEIVED BY LOCAL GOVERNMENT OMBUDSMAN OVER LAST 3 YEARS
(EXCLUDES PREMATURE COMPLAINTS)

Year		Corporate Services (Chief Exec's from 1/4/06)	Education & Libraries (CFE from 1/4/06)	Social Services (Adult Social Services from 1/4/06)	Strategic Planning (Environment and Regeneration from 1/4/06)	Communities (from 1/4/06)	Misc	Total	Percentage Change from Previous Year	
									Kent	England
04/05	Total Complaints Made	6	50	21	10		0	87	+19.2%	-1.5%
	Settled Locally (not investigated) Formally investigated Maladministration Found	0	24	1	1		0	26		
05/06	Total Complaints Made	2	86	18	17		2	125	+43.6%	-0.4%
	Settled Locally (not investigated) Formally investigated Maladministration Found	0	25	3	1		0	29		
06/07	Total Complaints Made	4	73	11	28	2	0	118	-5.6%	-
	Settled Locally (not investigated) Formally investigated Maladministration Found	0	10	0	1	0	0	11		
AS AT 07/06/07	Decision on whether to investigate awaited	0	2	1	8	0	0	11		
	Investigation in progress	0	1	0	0	0	0	1		

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Item 6:

By: David Cockburn, Director of Business Solutions and Policy
To: Governance and Audit Committee – 29 June 2007
Subject: OMBUDSMAN REPORT - IMPLICATIONS FOR THE AUTHORITY
Classification: Unrestricted

Summary:

To report the implications for the Authority of an investigation by the Local Government Ombudsman into a complaint against the County Council in respect of Services for Children and Special Educational Needs.

FOR INFORMATION

1. Introduction

1.1 Maladministration causing injustice has been found against the County Council by the Local Government Ombudsman. This involved a Looked After Child placed in Kent by Essex County Council.

1.2 The Portfolio Member for Children's Services has accepted the recommendations from the Ombudsman and payment of £5,000 has been agreed.

2. Summary of Complaint

2.1 On 22 June 2005 a complaint was made through The Children's Legal Centre to the Local Government Ombudsman that Kent County Council failed to:

- (i) Provide the complainant with any education between 27 November 2003 and 18 May 2004
- (ii) Provide full time education between 18 May 2004 to June 2005
- (iii) Provide the education and support specified in parts 3 and 4 of the complainants statement of Special Educational Needs from 27 November 2003 to June 2005
- (iv) Take account of the complainants wishes and needs in failing to find an appropriate school placement.

2.2 The case commenced in November 2003 when the complainant was placed in Kent, initially as an emergency and then in a long term residential placement. This move took place even though no suitable school place was identified and before funding for tuition had been confirmed by Essex County Council, causing a long delay before this was implemented. These actions resulted in the complainant having no schooling between November 2003 and May 2004 and then only part-time tuition between May 2004 and July 2005.

2.3 Essex County Council did not hold an annual review of the Special Education Needs statement in 2003, and the annual review held by Kent County Council in October 2004 was unsatisfactory. KCC failed to amend the complainants Special Education Needs statement and did not advise of their decision that a re-assessment

would not be carried out, therefore depriving the complainant the possibility of an appeal to tribunal.

2.4 The complainant absconded from the Kent County Council home in July 2005 and, after staying with friends and family for several weeks, was found a residential home place by Essex County Council. The complainant was placed back at his original school in September 2005.

2.5 The following recommendations have been extracted from the Ombudsman's report:

- Both councils should review the way they deal with special education provision, particularly for Looked After Children, to ensure that a situation such as this does not happen again. The review should include arrangements for liaison between and within councils, to ensure information is shared.

Essex should:

- Ensure all Social Services complaints are dealt with in accordance with the statutory procedure.

Kent should:

- Review its arrangements for carrying out annual reviews to ensure these are not missed
- Give due consideration to the issues highlighted by this complaint as part of a review of its special school provision, to ensure there is sufficient provision available for those who need it. (Though it may not be able to plan for every child that might be placed in Kent, it needs to ensure it meets its statutory duties to implement Statements for children.)

To remedy the injustice caused by the lack of education it was recommended that the Councils pay compensation, to be held in trust on the complainant's behalf.

The cost of provision would have been about £9,000 a year for Kent and £10,000 a year for Essex. It was concluded that an appropriate remedy would be compensation of:

- £8,000 to be paid by Essex County Council
- £5,000 to be paid by Kent County Council.

3. The Authority's Response

3.1 The Authority accepted the findings of the Ombudsman and the Portfolio Member for Children's Services agreed to make a payment of £5,000 to compensate for the injustice for the time and trouble taken by the complainant to pursue the complaint.

3.2 The Authority also agreed to put in place the following procedures.

3.3 Kent has reviewed its Annual Review arrangements to ensure that robust systems are in place and that the Annual Review process is not overlooked, especially when children and young people move into Kent.

3.4 This is reliant on Kent being notified as soon as a pupil with a Statement of Special Educational Needs moves into the area and this remains an issue. It is hoped that recent amendments to the Education (Special Educational Needs) (England) (Consolidation) Regulations 2001 that come into force on 1 March 2007 will ensure that where a child with a statement transfers from another local authority to another, the old authority will transfer the statement to the new authority within 15 working days beginning with the day on which they are informed of the move.

3.5 Arrangements are being put in place for liaison between Kent and other local authorities to ensure information is shared.

3.6 The review of special school provision has been based on the needs of Kent children to ensure there is sufficient provision for those who need it. It is extremely difficult if not impossible to plan for those children where a stay in Kent is both unplanned and can be transient. While Kent will always use best endeavours to ensure that all children in Kent receive appropriate education provision it remains the view of Kent that children such as the complainant should be placed in specialist provision within their own localities and communities. Recent guidance gives clear recommendations that Looked After Children should not be placed more than 20 miles away from home and Kent has drawn up best practice protocols for placement.

4. Conclusions

4.1 The findings of the Ombudsman have been accepted and Members of the Governance and Audit Committee can be assured that the Authority's response should ensure no re-occurrence regarding cases of this nature.

5. Recommendation

5.1 Members are asked to NOTE the findings of the Ombudsman and the Authority's response.

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Item No 7

By: The Director of Finance
To: Governance and Audit Committee – 29 June 2007
Subject: DRAFT STATEMENT OF ACCOUNTS 2006-07
Classification: Unrestricted

Summary: This report asks Members to consider and approve the draft Statement of Accounts for 2006-07.

FOR DECISION

1. INTRODUCTION

- 1.1 The draft Statement of Accounts of the County Council for 2006-07 is attached. These need to be approved by Members by 30 June 2007, prior to the issue of the external auditor's report and publication of the Statement of Accounts (Accounts).
- 1.2 Members are encouraged to scrutinise these Accounts and ask questions.
- 1.3 If any Member of this Committee has any questions in relation to these Accounts, then they can be raised prior to the meeting of the Committee with Cath Head, Chief Accountant, who will be happy to meet with any Member or group of Members to give a more detailed explanation of these Accounts.

2. STATEMENT OF ACCOUNTS - CONTENTS

- 2.1 The content and format of the Accounts is as prescribed in the Accounting Code of Practice issued by the Chartered Institute of Public Finance and Accountancy (CIPFA) which has approval from the Accounting Standards Board as a Statement of Recommended Practice (SORP).
- 2.2 The format of the Accounts has changed significantly to last year's to move towards compliance with UK Generally Accepted Accounting Practice (UK GAAP). The changes are outlined below:
 - The Summary Revenue Account has been replaced by an Income and Expenditure Account with a Statement of Movement on the General Fund Balance and a Reconciling Statement.
 - The County Fund Balance Sheet has been renamed the Balance Sheet.
 - The Statement of Total Movement in Reserves has been replaced by a Statement of Total Recognised Gains and Losses (STRGL).

- The order of the accounts has also changed. For the 2006-07 Accounts the core financial statements are grouped together followed by the notes.

There have also been some substantive accounting changes in the 2006 SORP. These include:

- The removal of the requirement to make a capital financing charge.
- A requirement to note gains and losses made on the disposal of fixed assets.

Within the Accounts are tables on pages 20 and 21 which detail the prior period adjustments that have been made to the 2005-06 accounts.

- 2.3 The remainder of Section 2 of this report highlights the key facts, figures and issues from the attached draft Accounts.

Foreword Pages 1-4

- 2.4 The details of the revenue outturn are shown on Pages 1 and 2. This shows an underspend of £7.7m, plus a £3.7m underspend on schools, giving a total underspend in the year of £11.4m. The reasons for these underspends were detailed in the Final Outturn report to Cabinet on 18 June.

- 2.5 The net income figures for the budget and outturn for the Education and School Improvement Portfolio on page 1 of the Accounts are the result of, specific grants, Standards Fund and teachers pay grants being greater than the net budget of the non-delegated service budgets.

- 2.6 There has been no reduction in the level of general revenue reserves and these still stand at £25.8m. This is an acceptable level based on the current budget and the Council's identified risks. Specific reserves and schools' reserves are detailed in paragraphs 2.23 to 2.25 in this report.

- 2.7 The capital expenditure for 2006/07 was £14m less than budgeted, which reflects the re-phasing of capital projects across all services. The capital reserves of £34.6m will be used to fund the re-profiling of the 2007/08 and future years' capital programme.

- 2.8 Schools have £12.9m of capital reserves.

- 2.9 The Insurance Fund continues to be fully funded, in accordance with Financial Reporting Standard (FRS) 12.

Statement of Responsibilities Page 5

- 2.10 This statement sets out the respective responsibilities of the Authority and the Director of Finance in relation to the production of the final accounts.

Statement of Internal Control Pages 6-7

- 2.11 The Accounts and Audit (Amendment) Regulations 2006 (A & A(A)R 2006) require that a Statement of Internal Control (SIC), signed by the Leader and the Chief Executive, is included in the Authority's approved Accounts.
- 2.12 The attached Accounts therefore include such a statement on pages 6 and 7. It confirms that, during the financial year 2006/07, overall Corporate Governance arrangements and internal controls in the Authority were in place and effective in terms of business as well as financial risk. It also confirms that areas where controls need to be developed or improved are known about and are being actioned.

The A & A(A)R 2006 also require all Councils to undertake a self-assessment of the effectiveness of the Internal Audit function that should be considered as part of the SIC. This review is attached at Appendix F to the Internal Audit Annual report which is agenda item 12 of this meeting.

Auditor's Report Pages 8-9

- 2.13 The external auditors will provide an independent opinion as to whether the Statement of Accounts presents fairly the financial position of Kent County Council at 31 March 2007 and its income and expenditure for the year ended 31 March 2007. The audit started in May and is progressing well. A member of the Audit team will provide a verbal update on progress at this meeting. Following approval of the Accounts by Members, the external auditor will issue a report when the audit is completed. The Accounts are expected to be formally signed on 23 July, assuming no material errors are found that remain uncorrected. Pages 8-9 are blank to accommodate this report.

Accounting Policies Pages 10-13

- 2.14 Our accounting policies remain consistent with the Statement of Recommended Practice (SORP). There have been minor changes to these to accommodate the 2006 SORP changes.

Income and Expenditure Account Page 14

- 2.15 The Income and Expenditure Account is accompanied by a set of explanatory notes. The account shows, in the format required by the Accounting Code of Practice, the income and expenditure for the year 2006-07. The revenue budget underspend in 2006/07 is transferred into the rolling budget reserve and is included in the Statement of Movement on the General Fund Balance and can be seen in detail in the Reconciling Items for the Statement of Movement on the General Fund as part of the net transfer to/from earmarked reserves.
- 2.16 The Accounting Code of Practice states that we must reflect the cost of using assets in the provision of services. We do this by including

depreciation within the net expenditure line for each of the service headings shown in the income and expenditure account. The deferred government grant credits are also reflected in the service lines in 2006-07. However, these charges do not impact on the Council Tax payer. The impact is therefore neutralised by entries made in the Statement of Movement on the General Fund Balance and can be seen in detail in the Reconciling Items for the Statement of Movement on the General Fund. This means that the revenue account is only charged with the true interest costs from borrowing and the statutory provision for the repayment of debt.

- 2.17 Note 14 on page 28 details the turnover and profit of Kent Top Temps Ltd. We have agreed with our auditors that this is not material enough to warrant the creation of Group Accounts for KCC. The accounts of KTT Ltd are separately audited and are available to Members on request.
- 2.18 Note 17 on page 30 summarises the position on Landfill Allowance Trading Scheme (LATS). The accounting entries for this are embedded in the Income and Expenditure Account and Balance Sheet. The estimated residual allowance of £17.98 per tonne gives a net income of £1.93m, which is represented in the balance sheet by debtors and creditors with the balance of £1.93m in an earmarked reserve. This reserve represents the value of cumulative unsold Landfill Allowance permits and is only realised when and if these permits are actually sold.

Balance Sheet and Notes

- 2.19 The Balance Sheet statement sets out the financial position of the Authority as at 31 March 2007, and is accompanied by explanatory notes. The statement shows the balances and reserves at the Authority's disposal, its long term indebtedness, and the fixed and net current assets employed. The principal movements on the balance sheet are described below.
- 2.20 Long-term assets have increased by £368m. This is due to three factors:
- Our significant levels of capital investment
 - The revaluation of our land and buildings. Note 18 details the basis of the valuation
 - Long term investments of £135m.
- 2.21 Current Liabilities are up by £52m, This is due to an increase in overdrawn bank balances, which are more-or-less off-set by the cash and bank balances held within current assets. This is a managed position and is informed by our cash-flow projections. There is also an increase in our level of general creditors as shown in Note 21.
- 2.22 Long-term liabilities have reduced by £13m, which is due to:
- An increase in our long-term borrowing of £69m, due to the borrowing required to fund our capital programme, partially off-set by debt repayment through 2006/07
 - A reduction in our 'pension fund deficit' of £82m. Note 26 provides the information on this movement.

2.23 Our net worth of £696m is made up of the various reserves, accounts and balances shown in the balance sheet on page 18. Each of those is described in more detail in the attached accounts in Note 25. The gains and losses in our net worth is shown in the STRGL on page 16 and reflects the movement in our net worth between 2005-06 and 2006-07.

Total Movements in Reserves

2.24 Earmarked revenue reserves total £81.1m, including £8.1m in the rolling budget reserve. Cabinet will consider the use of this reserve at their meeting in July. Details of each of the earmarked reserves are shown on Pages 41 and 42 of the Statement of Accounts.

2.25 Schools' reserves continue to grow. Schools now hold £63.1m of revenue reserves and £12.9m of capital reserves. In addition, there is £11.3m of unallocated schools' budgets that will be allocated to schools during 2007/08, based upon decisions by the Schools Forum and its sub-groups. The Budget IMG has commissioned a review of schools reserves.

2.26 Capital reserves stand at £34.6m and are needed to fund the re-phasing of the 2006/07 capital programme into future years. In addition to this, we do have funding within the current assets part of the balance sheet, which reflects our treasury management policy of borrowing when it is right to do so, and not specifically when that funding is needed to fund capital expenditure.

Cash Flow Statement Page 19

2.27 This statement summarises the inflows and outflows of cash arising from transactions with third parties for both revenue and capital purposes. The statement shows that there has been a net cash outflow of £28.6m.

Pension Fund Accounts Pages 52-63

2.28 These are a summarised extract of a more detailed statement produced for the Pension Fund.

Glossary Pages 64-65

2.29 A glossary of some of the terms used within the Accounts is provided.

Other Issues

2.30 Each year, our external auditors have to produce a letter setting-out how the audit went operationally, highlighting areas of concern, and listing all errors that they have found in the Accounts that we have decided not to adjust in the final Accounts. The list is known as the Statement of Unadjusted Differences (SUD), and the letter is the ISA260.

2.31 This year has again proved to be a significant challenge particularly in light of the restructure and the restating of 2005-06 Accounts to reflect this and

the accounting and format changes. However, this challenge has been met and we presented the attached draft of the Accounts to PwC on 8 June. Prior to that, PwC had already audited the Chief Executive's Dept, Commercial Services, Environment and Regeneration and Communities accounts. The audit of Kent Adult Social Services, Children Families and Education began on 18 June. All the paperwork requested by the auditors has been available to them on time, and the professionalism of their audit approach has been exemplary. Inevitably, there will be a number of issues. These will be reflected in the auditors' ISA260, which may also include issues where there is a differing approach recommended by PwC compared to our own plans. We will then need to decide whether or not to amend the Accounts to reflect those items. In deciding, we will take into account the time involved in correcting the errors compared to the benefit of making the corrections. The final decision on this will be subject to the approval of the Chairman of this Committee. If we decide not to correct any or some the errors, the contents of the ISA260 will be presented to the next meeting of this Committee for Members information and endorsement of our decision.

3. RECOMMENDATION

3.1 Members are asked to:

Consider and approve the Statement of Accounts for 2006-07 subject to The Chairman, Shadow Chairman and Liberal Democrat Spokesperson being informed of any changes which may be made to the Accounts following completion of the external audit.

Cath Head
Chief Accountant
Ext: 1135

Lynda McMullan
Director of Finance
Ext: 4550

Foreword

The purpose of this Statement of Accounts (Accounts) is to summarise the financial performance for the year 2006-07 and the overall financial position of the Council. This foreword aims to give a general guide to the main features of the information reported within the rest of the Accounts and provides a summary of the Council's overall financial position.

The framework within which these Accounts are prepared and published is regulated by the Chartered Institute of Public Finance and Accountancy (CIPFA), the Accounting Standards Board and the Government.

The accounting arrangements of any large organisation such as Kent County Council are complex, as is local government finance. These Accounts are presented as simply as possible whilst recognising that it is necessary for some technical terminology to be used. To help you understand the Accounts, the main statements are supported by explanatory notes and a glossary of terms used is shown on pages 64 and 65.

The Accounts consist of:

- An Income & Expenditure account, page 14, which shows income and expenditure for all services.
- A Statement of the Movement on the General Fund Balance on page 15.
- A Statement of Total Recognised Gains and Losses, page 16.
- The Balance Sheet, pages 17 and 18, which sets out the financial position of Kent County Council as at 31 March 2007.
- The Cash Flow Statement which summarises the inflows and outflows of cash, page 19.
- The Pension Fund Accounts - an extract from the more detailed published statement, pages 52-63.
- Notes to support the above primary statements pages 20 to 51.

Revenue Budget and Outturn

In February 2006 the Council approved a net revenue budget for 2006-07 of £709.958m. In addition £8.957m of 2005-06 underspending was rolled forward and added to the budget. The final outturn position for the year against the revised budget is set out in the table below together with the sources of income from which the Council's net revenue expenditure was financed.

PORTFOLIO	Budget £'000s	Outturn £'000s	Variance £'000s
Education & School Improvement - (Non Delegated)	-66,343	-68,685	-2,342
Children & Family Services	125,496	124,896	-600
Adult Social Services	258,978	259,979	1,001
Environment, Highways & Waste	114,089	111,703	-2,386
Regeneration & Supporting Independence	8,022	7,524	-498
Communities	56,895	57,522	627
Corporate Support & Health	28,918	28,853	-65
Policy & Performance	3,337	3,536	199
Finance	98,030	91,495	-6,535
	627,422	616,823	-10,599
Delegated Schools Budgets:			
Education & School Improvement - (Delegated Schools)	811,508	807,789	-3,719
- (unallocated Dedicated Schools Gra	622	0	-622
	1,439,552	1,424,612	-14,940
Dedicated Schools Grant	-720,637	-718,205	2,432
	718,915	706,407	-12,508

Foreword

FUNDED BY:-			
Reserves (rolling budget reserve)	8,957	8,957	0
Formula Grant	226,212	225,164	1,048
Council Tax	483,746	483,745	1
Total Funding	718,915	717,866	1,049
NET OUTTURN POSITION	0	-11,459	-11,459

The net underspending within the portfolios of £7.740m (excluding £3.719m delegated schools underspend) has been carried forward and will be added to the 2007-08 budget to support the re-scheduling of projects and to focus upon achieving the Council's key priorities and service improvements.

Schools

In total, schools underspent against their delegated budgets by £3.719m. Of this, £0.754m was in respect of underspending of delegated schools budgets. The remainder of the underspending is in respect of unallocated schools budgets of £2.965m. The closure of schools during the year, with an overall net surplus balance, resulted in the transfer of £0.207m from the delegated schools revenue budget reserves to the unallocated schools budget. Schools now have some £63.090m of revenue reserves and there is £11.286m of unallocated schools budget reserves.

In addition, £0.622m of Dedicated Schools Grant (DSG) was not distributed at the time of setting the schools budgets, as it was already anticipated at that time that there would be a shortfall in DSG compared to the budget assumption. The total shortfall in DSG compared to the budget was £2.432m. This shortfall has been offset by the £0.622m of unallocated DSG and £1.810m of the £2.342m underspend within the Education and School Improvement portfolio.

Revenue Reserves

The general reserve position at 31 March 2007 is £25.8m, which is unchanged from the position as at 31 March 2006.

Capital

Capital expenditure is defined as expenditure on purchase, improvement or enhancement of assets, the benefit of which impacts for longer than the year in which the expenditure is incurred. Capital expenditure for the year was £237.1m. The expenditure analysed by portfolio was:-

PORTFOLIO	Budget £'000s	Outturn £'000s	Variance £'000s
Education & School Improvement	111,722	97,771	-13,951
Children & Family Services	3,629	3,354	-275
Adult Social Services	11,728	10,719	-1,009
Environment, Highways & Waste	38,733	37,747	-986
Regeneration & Supporting Independence	27,087	24,490	-2,597
Communities	10,881	8,941	-1,940
Corporate Support & Health	2,434	2,332	-102
Policy & Performance	504	470	-34
Finance	7,201	6,309	-892
	213,919	192,133	-21,786
Devolved Capital to Schools	37,977	39,092	1,115
	251,896	231,225	-20,671
Property Enterprise Fund		5,834	5,834
TOTAL	251,896	237,059	-14,837

Expenditure excluding that incurred by schools under devolved arrangements and the Property Enterprise Fund was £21.786m less than cash limits. The underspend reflected re-phasing of capital expenditure plans across all services. These unspent capital resources will be carried forward into 2007-08 and beyond in order to accommodate the revised profiles of capital expenditure.

Capital expenditure incurred directly by schools in 2006-07 was £39.1m and at 31 March 2007 schools have in hand some £12.9m of devolved capital funding, which will be carried forward to 2007-08 as part of the overall schools reserves position.

In 2006-07, the County Council approved the establishment of a Property Enterprise Fund, with the aim of maximising the value of the Council's land and property portfolio through:

- the investment of capital receipts from the disposal of non-operational property into assets with higher growth potential, and
- the strategic acquisition of land and property to add value to the Council's portfolio, aid the achievement of economic and regeneration objectives and the generation of income to supplement the Council's resources.

The Fund has an approved maximum permitted deficit of £10m to be funded by temporary borrowing, but is expected to be self-funding over a period of 10 years.

In 2006-07, £5.834m was spent through the Property Enterprise Fund, of which £3.120m was funded by capital receipts generated through the Fund from the disposal of non-operational property, and £2.714m was funded from the approved £10m temporary borrowing facility.

Details of the main items of capital expenditure are shown on page 34 and 35, and details of the financing of capital expenditure are on page 33.

Capital Reserves

At 31 March 2007 the Council has earmarked and other capital reserves of £34.6m as shown on page 18.

Insurance Fund

Financial Reporting Standard (FRS) 12 requires that full provision should be made for all known insurance

Based on current estimates of the amount and timing of fund liabilities the insurance provision at 31 March 2007 is established at a level sufficient to meet all known insurance claims where the likely cost can be estimated and there is reasonable certainty of payment. It is therefore in accordance with the requirements of FRS 12. Details can be found on page 39.

Pension Fund

Local authorities are required to comply with the disclosure requirements of FRS 17 - Retirement Benefits. Under FRS 17, the Authority is required to reflect in the primary statements of the Accounts, the assets and liabilities of the Pension Fund attributable to the Council and the cost of pensions. FRS 17 is based on the principle that the Council should account for retirement benefits when it is committed to give them even though the cash payments may be many years into the future. This commitment is accounted for in the year that an employee earns the right to receive a pension in the future. These disclosures are reflected in the Income and Expenditure Account, the Balance Sheet and the Statement of Movement in Reserves.

Current Borrowing & Capital Resources

All of the borrowing disclosed in the balance sheet relates to the financing of capital expenditure incurred in 2006-07, earlier years and for future years. The balance currently stands at £952.4m as shown on the balance sheet on page 17 and detailed in Note 23.

Future capital expenditure will be financed from borrowing, revenue contributions, sale of surplus fixed assets, capital grants and contributions, and relevant funds within earmarked reserves.

Further information about the Accounts can be obtained from Cath Head, Chief Accountant.

Telephone Maidstone (01622) 671411 or e-mail cath.head@kent.gov.uk.

The Authority's Responsibilities

The Authority is required:

- to make arrangements for the proper administration of its financial affairs and to ensure that one of its officers has the responsibility for the administration of those affairs. In this Authority, that officer is the Director of Finance;
- to manage its affairs to secure economic, efficient and effective use of resources and to safeguard its assets; and
- to approve the Statement of Accounts.

I confirm that these Accounts were approved by the Governance and Audit Committee at its meeting on 29 June 2007 on behalf of Kent County Council.

Councillor Charles Findlay
Chairman of the Governance and Audit Committee
XX July 2007

The Director of Finance's Responsibilities

The Director of Finance is responsible for the preparation of the Authority's Statement of Accounts in accordance with proper practices as set out in the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom ('the Code of Practice'), and is required to present fairly the financial position of the Authority at the accounting date and its income and expenditure for the year ended 31 March 2007.

In preparing this Statement of Accounts, the Director of Finance has:

- selected suitable accounting policies and then applied them consistently;
- made judgements and estimates that were reasonable and prudent; and
- complied with the Code.

The Director of Finance has also:

- kept proper accounting records which were up to date; and
- taken reasonable steps for the prevention and detection of fraud and other irregularities.

Certificate of the Director of Finance

I certify that the Statement of Accounts set out on pages 14 to 63 present fairly the financial position of Kent County Council at 31st March 2007 and its income and expenditure for that year.

Director of Finance
XX July 2007

1. Introduction

Kent County Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded, properly accounted for and used economically, efficiently and effectively. In order to ensure this, members and senior officers are responsible for putting in place proper arrangements for the governance of the Council's affairs and the stewardship of the resources at its disposal, and ensuring that an effective system of risk management and internal controls is maintained.

2. Summary Of Arrangements and their Effectiveness

Corporate Governance

In March 2003 the Council approved and adopted a Code of Corporate Governance, which is consistent with the principles, and reflects the requirements of, the CIPFA/SOLACE framework "Corporate Governance in Local Government: A Keystone for Community Governance". During 2005-06, this Code was updated to reflect new national guidance on the principles of good governance across all public services. The revised Code identifies the critical processes, policies and procedures which secure effective corporate governance and the Council's "Governance and Audit Committee" has oversight of its implementation on behalf of the Council. The Head of Audit and Risk has reported that the arrangements in place during 2006-07 to secure effective Governance gave us a substantial level of assurance.

Risk Management

The Head of Audit and Risk's scored opinion for risk management was 'Substantial', confirming that during 2006-07 there were arrangements in place to ensure the identification, prioritisation and assignment of high priority risks and that appropriate steps have been taken to mitigate them.

Management Arrangements

The Director of Law and Governance has management responsibility for overseeing the implementation and monitoring the operation of the Code of Corporate Governance and risk management arrangements.

3. Statement On The Financial Year 2006-07

We are satisfied that, except for the matters identified below which were addressed during the year, a sound system of corporate governance and internal control was in place throughout the financial year and is ongoing. This conclusion has been reached on the basis of a report from the Director of Finance which in turn was informed by:-

- Assurance statements provided by Managing Directors, based on their assessment of operational controls within their services;
- An assessment of internal financial control;
- The work of Internal Audit and the Head of Audit and Risk's independent annual opinion on corporate governance and risk management arrangements;
- The work of the external auditors and comments in their ISA 260 and the Annual Audit and Inspection Letter and other reports;

The following matters were addressed during the year 2006-07:

- A review of partnership arrangements and the production of the "Working with Partnerships - a guide to good practice" document which has been presented as a draft to Governance and Audit Committee.

Statement of Internal Control

- New or refined risk registers have been produced to support the restructured directorates.
- Improved self-evaluation processes with our partners in preparation for the Joint Area Review.
- Successful completion of the first phase of an equal pay audit for Kent Scheme staff.
- Development of an Enterprise Architecture methodology to ensure alignment of ICT outcomes with service
- Continued consolidation of performance and risk management.
- Continued good progress on the management of the capital programme.

4. Developments in 2007-08

In their individual Statements, Managing Directors and Directors of Services in the Chief Executive's Department have identified improvements in operational control to be undertaken in 2007-08 and we are satisfied that these are based on sound systems of identification. In addition, the following cross-cutting developments will be carried out in 2007-08:

- Improved controls and governance around our partnership arrangements.
- A review of the reporting and monitoring of capital slippage and capital receipts.
- Development and integration of financial and activity data within a number of directorates to improve management information.
- Further development of Children's Trust arrangements.
- Continued development of business continuity plans.
- Continued development and enhancement of Criminal Records Bureau (CRB) checks in schools.
- The implementation of SWIFT is seen as a major achievement but it is recognised that some bedding down and data quality management is required
- Increased demand for elderly services which demographic analysis suggests will continue indefinitely and the ongoing relationship with the Health Economy.

We will take steps over the coming year to address the above matters and will report on their implementation and operation as part of the assurance statement for 2007-08. We are satisfied that these steps will address any need for improvements that have been identified.

By Order of the Council

Leader

Chief Executive

On behalf of Kent County Council

General

The Accounts of Kent County Council have been compiled in accordance with the 2006 Code of Practice on Local Authority Accounting, Statements of Standard Accounting Practice (SSAPs) and Financial Reporting Standards (FRSs) relevant to local authorities.

Basis on which creditors and debtors at year end are included in the Accounts

Kent County Council's Accounts are kept on an accruals basis, in accordance with the Code of Practice.

In order to account for expenditure and income attributable to the financial year in respect of goods and services received or rendered, amounts are included in the Accounts based on actual invoices received or raised after the end of the financial year. Where actual amounts are not known estimates are included based on a professional assessment of the value of goods and services received or rendered, calculated using best available information regarding the prices or rates applicable.

Provisions and Reserves

It is the policy of Kent County Council to make provisions in the Accounts where there is a constructive obligation to make a payment but the amount or timing of the payment is uncertain. The most significant provision made is for insurance claims and details of the Insurance Fund can be found on page 39 of the Accounts. In addition, provision is made for outstanding income where there is doubt as to whether it will be realised.

Kent County Council holds general fund reserves as a consequence of income exceeding expenditure, budgeted contributions to reserves or where money has been earmarked for a specific purpose. These reserves are set at a level appropriate to the size of the budget and the level of assessed risk.

In the Income and Expenditure Account expenditure met from reserves is included in the cost of services. Transfers to and from reserves are shown after calculating net operating expenditure. Details of the Authority's reserves are shown in the notes to the Accounts on pages 40-45.

Fixed Assets

All expenditure on the acquisition, creation or enhancement of fixed assets has been capitalised on an accruals basis. In this context enhancement means work that has substantially increased the life, value or use of the assets. Work that is properly classified as capital expenditure but does not result in an increase in value is written off in the year to the Fixed Asset Restatement Account. Similarly, work that has not been completed by the end of the year is carried forward as "assets under construction". Assets acquired under finance leases that have been capitalised are included in the Balance Sheet together with the outstanding obligation to make future rental payments.

Valuation of Fixed

The authority has a policy in place to revalue 20% of its assets each year. All assets will therefore be revalued at least every five years. Assets will also be revalued following significant works occurring on that asset or some event that may impact on the value of that asset. Gains and losses on revaluation are written to the Fixed Asset Restatement Account. Impairment caused by a clear consumption of economic benefits e.g. physical damage, is recognised in the service revenue account, so is charged against net cost of services. It is then removed through the Statement of Movement on the General Fund Balance so that it does not have an impact on council tax.

Accounting Policies

Assets are valued as follows: -

- Non operational property is valued on the basis of open market value and is included in the balance sheet at the lower of net current replacement cost or net realisable value.
- Operational property is included in the balance sheet at the lower of net current replacement cost or net realisable value in existing use.
- Vehicles, plant and equipment are valued at the lower of net current replacement cost or net realisable value in existing use.
- Infrastructure, community assets and work in progress are valued at cost.

Loss on Disposal of Fixed Assets

Property assets are revalued to recognise the capital receipt received for the sale with the following exceptions; items that are not held on the balance sheet e.g. strips of land, which will be recognised as a gain and assets that are removed from the asset register for nil consideration e.g. transferred assets or assets that are demolished - these will be shown as a loss in the income and expenditure account. Gains and losses on the sale of vehicles, plant and equipment will be recognised in the income and expenditure account.

Depreciation

Depreciation is calculated on a straight-line basis over each asset's useful economic life and is charged to the relevant service revenue account.

The periods over which assets are depreciated are as follows:

Land	- nil
Buildings	- 60 years
Vehicles, plant and equipment	- 3-15 years
Temporary classrooms	- 20-25 years
Roads & other Highways infrastructure	- 20 years
Community assets	- nil
Work in progress	- nil
Surplus & non operational property	- nil

Capital receipts

Income from the disposal of fixed assets is either credited to the Usable Capital Receipts Account or the Capital Financing Account. Conditional receipts are not included in these figures until it is prudent to do so.

Repurchase of

Gains or losses arising on the repurchase or early settlement of borrowing are recognised in the Income and Expenditure account in the period during which the repurchase or early settlement is made. Where loans are restructured, the premium is written off to revenue over the period of the new loan.

Support service and central department costs

The cost of support services and central department costs are allocated to services on the following basis in accordance with CIPFA's Best Value Accounting Code of Practice (BVACOP):

- Office accommodation - on the basis of floor area used by various services
- All other support costs - on the basis of time spent in the delivery of services to other departments or in with other measures which reflect the level of service provided.

Stocks and stores

Stock is valued at the lower of cost or net realisable value. Spending on consumable items is accounted for in the year of purchase.

Deferred charges

Deferred charges represent expenditure which may be properly capitalised, but does not result in the creation of tangible assets. Deferred charges incurred during the year have been written off as expenditure to the relevant service revenue account.

Intangible Assets

Assets that do not result in the creation of a tangible asset, but are identifiable and are controlled by the Council, e.g. software licences, are classified as intangible assets. This expenditure is capitalised when it will bring benefits to the Council for more than one financial year. The balance is amortised to the relevant service revenue account over the life of the asset. For software licences this is normally between 3 to 5 years.

Accounting for Value Added Tax

VAT is separately accounted for in accordance with SSAP 5 and is not included as income or expenditure of the County Council, except where it is not recoverable, e.g. on the purchase of motor cars where there is an element of private use by staff.

Government grants

Government grants are accounted for on an accruals basis and income has been credited, in the case of revenue grants, to the appropriate revenue account or, in the case of capital grants, to a government grants deferred account if appropriate. Capital grants not put to the government grants deferred account are added to the general government grants line on the income and expenditure account and are then removed through the Statement of Movement on the General Fund Balance to negate the effect on council tax. Amounts are released from the government grants deferred account to offset any provision for depreciation charged to the revenue account in respect of assets to which the grants relate over the useful economic life of the asset.

If a specific revenue grant is not spent within the year it is allocated, and is not available for use on services other than those which it was intended for, then it is normally treated as a receipt in advance. If it is available for use on other services and not time limited, it is treated as an underspend.

Leasing

Finance and operating lease rentals paid during the year and an estimate of the undischarged operating lease obligations are shown as Note 10 to the Income and Expenditure Account and within Note 18 to the Balance Sheet. Rental payments under finance leases are apportioned between the finance charge and the reduction of the outstanding obligation, with the finance charge being allocated and charged to revenue over the term of the lease. Operating lease rentals are charged as revenue expenditure in the year to which the rental relates.

Pensions

The Council participates in two different pension schemes. Both schemes provide members with defined benefits related to pay and service. The schemes are as follows:

- Teachers

This is an unfunded scheme administered by the Department for Education and Skills. The pension cost charged to the Accounts is the contribution set by the Department on the basis of a notional fund.

- Other employees

Subject to certain qualifying criteria, non-teaching employees of the Council are eligible to join the Local Government Pension Scheme.

The pension costs that are charged to the Council's Accounts in respect of these employees are equal to the contributions paid to the funded pension scheme for employees.

Statutory provisions limit the Council to raising council tax to cover the cash payable to the pension fund in the year. Therefore, an appropriation is made in the Statement of Movement on the General Fund Balance to the Pensions Reserve to remove the notional debits and credits for retirement benefits.

Investments

The investments in the County Council's accounts are shown at cost. The policy on investments relating to the Pension Fund can be found on page 53.

PFI Accounting Policy

This is a new accounting policy, the impact of which can be found in Notes 1 and 20. The County Council has several long term PFI contracts including Westview and Westbrook which are two recuperative care facilities, Swan Valley Community School and a contract for the refurbishment and redevelopment of six schools, three of which became operational towards the end of 2006-07. It is our policy to write out the proportion of the assets that have been transferred and create a prepayment to recognise this transfer of our assets. This is then written down over the life of the contract. We also create a long term debtor to recognise the residual value of the asset returning to us at the end of the contract, which is built up over the life of the contract. Where buildings transferred are demolished, these are written out as a disposal.

The transactions relating to PFI contracts have been accounted for in accordance with the requirements of 'Application Note F - Private Finance Initiative and similar contracts as an amendment to FRS5 (Reporting the substance of transactions)'.

Income and Expenditure Account

This account summarises the expenditure and income generated and consumed on an accruals basis. It also includes transactions measuring the value of fixed assets consumed i.e. depreciation and the real projected value of retirement benefits earned by employees in the year.

	Notes	Year ended 31 March 2007			2005-2006
		Gross Expenditure	Gross Income	Net Expenditure	Net Expenditure
Service	1	£'000	£'000	£'000	£'000
Regulatory Services and Emergency Planning		9,912	3,028	6,884	3,337
Court Services		2,319	328	1,991	1,797
Arts & Libraries		27,666	2,466	25,200	28,155
Waste Management		55,365	4,664	50,701	43,120
Environmental, Planning and Other Services		52,271	24,408	27,863	23,979
Education Services		1,160,573	342,308	818,265	770,852
Highways, Roads and Transport Services		92,680	8,954	83,726	90,956
Social Services		547,987	176,027	371,960	320,725
Corporate and Democratic Core		26,666	11,930	14,736	23,699
Non Distributed Costs				16,254	16,221
Net Cost of Services	2	1,975,439	574,113	1,417,580	1,322,841
Loss on the disposal of fixed assets				8,633	30,131
Precepts and Levies	3			560	549
Net Surplus on trading accounts	4			-4,693	-3,646
Interest payable				54,425	52,843
Contribution by Medway to Loan Debt-Principal & Interest				-5,586	-5,897
Interest and Investment Income				-13,328	-10,178
Pensions interest cost and expected return on pensions assets	5			16,900	25,200
Net Operating Expenditure				1,474,491	1,411,843
This was financed by:					
General Government Grants				-288,661	-537,639
Non-Domestic Rates Redistribution					-410,515
Demand on Collection Fund				-483,745	-456,339
Dedicated Schools Grant	6			-718,205	0
Net General Fund Surplus(-)/ Deficit				-16,120	7,350

Statement of Movement on the General Fund Balance

The Income and Expenditure Account shows the council's actual financial performance for the year, measured in terms of the resources consumed and generated over the last twelve months. However, the authority is required to raise council tax on a different accounting basis, the main differences being:

- Capital investment is accounted for as it is financed, rather than when the fixed assets are consumed.
- Retirement benefits are charged as amounts become payable to pension funds and pensioners, rather than as benefits are earned.

The General Fund Balance compares the council's spending against the council tax it raised for the year, taking into account the use of reserves built up in the past and contributions to reserves earmarked for future expenditure. This reconciliation statement summarises the differences between the outturn on the Income and Expenditure account and the General Fund Balance.

	At 31 March 2007 £'000	At 31 March 2006 £'000
(Surplus)/deficit on the Income & Expenditure Account	-16,120	7,350
Amount required by statute to be debited/(credited) to General Fund	16,120	-4,850
Increase in General Fund balance for the year	0	2,500
General Fund balance brought forward	-25,835	-28,335
General Fund balance carried forward	-25,835	-25,835

Reconciling Items for the Statement of Movement on the General Fund

Amortisation of intangible assets	-1,444	-2,883
Depreciation and impairment of fixed assets	-85,552	-77,964
Government Grants deferred	16,080	14,895
Government Grants and Contributions received	63,497	59,586
Write down of deferred charges	-11,990	-15,367
Net loss on sale of fixed assets	-8,633	-30,131
PFI adjustments re transfer of assets	441	0
Net charges made in accordance with FRS17	-84,100	-78,850
	-111,701	-130,714
Provision for the payment of external loans	36,231	33,143
Direct revenue financing	8,554	8,718
Contributions to/(from) the Pension Reserve	71,700	63,500
	4,784	-25,353
Net transfer to/(from) earmarked reserves	11,336	20,503
Net additional amount required to be debited/(credited) to the General Fund Ba	16,120	-4,850

Statement of Total Recognised Gains and Losses

This statement brings together all the gains and losses of the council for the year and shows the aggregate increase in its net worth. In addition to the surplus generated on the Income and Expenditure Account, it includes gains and losses relating to the revaluation of fixed assets and re-measurement of the net liability to cover the cost of retirement benefits.

	At 31 March	At 31 March
	2007	2006
	£'000	£'000
(Surplus)/deficit for the year on the Income and Expenditure Account	-16,120	7,350
(Surplus)/deficit arising on revaluation of fixed assets	-195,509	-34,198
Actuarial (gains)/losses on pension fund assets and liabilities	-94,130	11,167
Other Movements	1,706	3,313
Total recognised (gains)/loss for the year	-304,053	-12,368

Balance Sheet

The County Fund Balance Sheet shows the financial position of Kent County Council as a whole at the end of the year. Balances on all accounts are brought together and items that reflect internal transactions are eliminated.

	Notes	31 March 2007		31 March 2006	
		£'000	£'000	£'000	£'000
Fixed assets					
Intangible Fixed Assets	19		4,732		5,935
Tangible Fixed Assets					
Operational assets					
Land and buildings		1,414,844		1,239,411	
Vehicles, plant and equipment		15,863		17,511	
Roads and other highways infrastructure		514,320		518,182	
Community assets		7,775		6,664	
Non-operational assets					
Investment Property		6,584		1,955	
Assets under construction		237,813		131,573	
Surplus and non-operational property		95,423		74,349	
Total Tangible Assets	18		<u>2,292,622</u>		<u>1,989,645</u>
Total fixed assets			2,297,354		1,995,580
Long-term investments			135,000		66,000
Long-term debtors	20		59,736		62,002
Deferred Premiums			20,990		21,940
PFI debtor			441		
Total long-term assets			<u>2,513,521</u>		<u>2,145,522</u>
Current assets					
Stocks and work in progress		5,905		6,809	
Debtors	20	175,613		173,145	
Investments		133,059		153,234	
Cash and bank balances		96,652		102,615	
Total current assets			411,229		435,803
Current liabilities					
Temporary borrowing		-38		-40	
Creditors	21	-266,856		-237,452	
Cash balances overdrawn		-124,609		-101,924	
			<u>-391,503</u>		<u>-339,416</u>
Total assets less current liabilities	22		<u>2,533,247</u>		<u>2,241,909</u>
(Net Assets Employed)					
Long-term liabilities					
Long-term borrowing	23	-952,365		-882,523	
Deferred liabilities		-957		-1,523	
Deferred credit - Medway Council		-55,609		-57,926	
Provisions	24	-13,534		-12,855	
Government grant deferred account		-174,435		-173,058	
Liability related to defined benefit pensions schemes	- KCC - DSO	26 26	-637,700 -2,487	-719,900 -2,017	
			<u>-1,837,087</u>		<u>-1,849,802</u>

Total assets less liabilities

696,160

392,107

Balance Sheet

Fixed asset restatement account	25	-664,125	-498,986
Capital financing account	25	-462,092	-416,820
Earmarked capital reserve	25	-26,698	-24,884
Usable capital receipt reserve	25	-7,942	-7,473
Pensions reserve			
- KCC	26	637,700	719,900
- DSO	26	2,487	2,017
Earmarked reserves	25	-81,181	-74,094
General Fund balance	25	-25,835	-25,835
Schools reserves	25	-67,639	-65,626
Surplus on trading accounts	27	-835	-306
Total net worth		<u><u>-696,160</u></u>	<u><u>-392,107</u></u>

Cash Flow Statement

The consolidated statement summarises the inflows and outflows of cash arising from transactions with third parties for revenue and capital purposes.

	Notes	2006-2007		2005-2006
		£'000	£'000	£'000
Revenue Activities				
Cash outflows				
Employee costs		1,061,009		998,688
Other operating costs		857,196		903,376
Precepts and levies paid		560		549
Cash inflows				
Dedicated Schools Grant		-718,205		0
Precepts on Collection funds		-483,745		-456,339
Non-domestic rate income		0		-410,515
Revenue support grant		-225,164		-478,053
Other government grants	31	-332,848		-354,081
Cash received for goods and services		-275,088		-286,573
Other operating cash receipts		-10,667		-9,535
Net cash inflow revenue activities	32		-126,952	-92,483
Returns on Investments and Servicing of Finance				
Cash outflows				
Interest paid		53,376		52,239
Interest element of finance lease rental		30		37
Cash inflows				
Interest received		-9,110		-8,666
			44,296	43,610
			-82,656	-48,873
Capital Activities				
Cash outflows				
Purchase of fixed assets		223,730		216,902
Expenditure on deferred charges		11,990		15,368
Cash inflows				
Sale of fixed assets		-46,633		-35,083
Capital grants received	31	-67,279		-79,537
Other capital cash receipts		-20,652		-5,418
			101,156	112,232
Net cash outflow before financing			18,500	63,359
Management of Liquid Resources				
Net increase/decrease(-) in short term investments			48,826	-20,092
Financing				
Cash outflows				
Repayments of amounts borrowed		239,360		74,295
Capital element of finance lease rentals		196		202
Repayment of Credit Liability		30,966		13,365
Cash inflows				
New loans raised		-309,200		-126,170
			-38,678	-38,308

Net decrease/increase(-) in cash

33

28,648

4,959

1. Prior Period Adjustments

In the 2006/07 Statement of Accounts, the council has adopted four significant new accounting policies that impact on the comparative figures for 2005/06 in the Income and Expenditure Account (I & E) as prescribed in the 2006 Statement of Recommended Practice (SORP):

- capital financing charges for the use of fixed assets are no longer made to service revenue accounts, support services and trading accounts
- credits for government grants deferred are now posted to service revenue accounts, support services and trading accounts rather than credited as a corporate income item. Those capital grants and contributions that are not deferred and are transferred directly to the capital financing account are now included in the General Government Grants line on the I & E.
- gains and losses on the disposal of fixed assets are recognised in the I & E account. The value shown in the table below relates primarily to the transfer of £20m of Magistrates Courts for nil consideration.
- the FRS 17 figures have been restated by the actuary on instruction by the council to reflect actual employer contributions and to account for the unfunded liabilities from the 1 April 1998 reorganisation.

These changes have had the following impact on the comparative figures for 2005-06 (only figures that have changes are included in the table):

	Consolidated Revenue Account in 2005/06 Statement of Accounts £000s	FRS 17 restatement re unfunded liabilities plus other £000's	Relocation of Gov grants Recognition of gains and losses on disposal of fixed assets £000s	Relocation of Gov grants deferred credits and grants received £000s	2005/06 comparatives in Income and Expenditure Account £000s
Regulatory Services and Emergency Planning	3,407		-70		3,337
Waste Management	43,243		-123		43,120
Environmental, Planning and Other Services	24,032	405	-458		23,979
Education Services	813,919	-557	-42,510		770,852
Highways, Roads and Transport	131,921		-26,070	-14,895	90,956
Social Services	321,807		-1,082		320,725
Corporate & Democratic Core	24,848		-1,149		23,699
Impact on Net Cost of Services	1,363,177	-152	-71,462	-14,895	0
Loss on disposal of fixed assets					30,131
Trading account surplus	-3,627	12	-31		-3,646
AMRA	-33,545		71,493	14,895	52,843
(Interest payable and similar charges)					
Pensions interest cost and expected return on pensions assets	21,340	3860			25,200
Impact on Net Operating Expenditure	1,347,345	3,720	0	0	30,131
General Government Grants	-478,053			-59,586	-537,639
Impact on Net General Fund Surplus(-)/Deficit	869,292	3,720	0	-59,586	843,557

Notes to the Core Financial Statements

The following are prior period adjustments to the balance sheet.

	Reason for adjustment
Land and buildings	193 Accumulated depreciation not written out in relation to PFI schools
Deferred Premiums	21,940 Repositioned to top half of the balance sheet
PFI payment in advance	6,216 Recognition of transfer of PFI assets
Government grant deferred account	-173,058 Repositioned to top half of the balance sheet
Liability related to defined benefit pensions scheme	-62,174 Restatement of figures from actuary in relation to unfunded liabilities
Deferred credit - Medway Council	-57,926 Repositioned to top half of the balance sheet
Impact on Net Worth	<u>-264,809</u>

2. Net Cost of Services

The figures included in the Accounts reflect expenditure and income on services rather than departmental or Portfolio structures. This is in accordance with CIPFA's Best Value Accounting Code of Practice (BVACOP).

3. Precepts

The following precepts were paid:

	2006-07	2005-06
	£000's	£000's
Environment Agency	324	323
Kent and Essex Sea Fisheries Committee	209	201
Sussex Sea Fisheries Committee	27	25
	<u>560</u>	<u>549</u>

4. Trading Operations

The results of the various trading operations for 2006-07 are shown below prior to transfers to and from

Business unit/activity	Turnover	Expenditure	Surplus/ Deficit(-)	Restated Surplus/ Deficit(-)
			2006-07	2005-06
	£'000	£'000	£'000	£'000
Kent County Supplies Provision of educational and office supplies (from warehouse stock and by direct delivery)	33,286	32,586	700	856
County Furniture Furniture manufacturing, including on-site projects	875	874	1	21
Technical Services Maintenance of audio-visual, computer, portable, fire fighting, gymnastic and general electrical equipment	1,362	1,286	76	59
Community Equipment services Procurement and distribution of living aids equipment	3347	3283	64	95
County Print Literature design and general printing	2,987	3,035	-48	94
Transport Services Provision of lease cars, minibuses, ambulances and lorries, plus vehicle maintenance and repairs	15,950	14,207	1,743	1099
Passenger Services Provider of bus services, including school transport	3,175	3,204	-29	24
Transport Integration Specifying and control of transport for Education and Social Services	7,375	7,236	139	157
LASER Energy purchasing consortium	162,254	160,806	1,448	707
Kent Cleaning and Contracting Services Cleaning services	0	0	0	-1
Landscape Services Grounds maintenance including constructing work	10,472	9,873	599	535
Total surplus	241,083	236,390	4,693	3,646

Notes to the Core Financial Statements

Kent Cleaning and Contracting Services closed in 2005-06 and is included only for comparative purposes.

Community Equipment Services in 2005-06 formed part of Kent County Supplies, therefore comparatives have been re-stated to reflect the current structure

5. Pension Costs

The costs of retirement benefits are recognised in the Net Cost of Services when they are earned by employees, rather than when they are paid as pensions. However, the charge we are required to make against the council tax is based on the cash payable in the year, so the real cost is reversed out of the Reconciling Items for the Statement of Movement on the General Fund.

Under the requirements of FRS17, the council is required to show the movement in the net pensions deficit for the year. This can be analysed as follows:

	Local Government Pension Scheme	
	2006-07	2005-06
	£000's	£000's
Net Cost of Services:		
• Current service cost	-65,000	-51,300
• Past service costs	-2,200	-2,350
Net Operating Expenditure:		
• Interest cost	-87,100	-80,600
• Expected return on assets in the scheme	70,200	55,400
Actual amount charged against council tax for pensions in that year:	-84,100	-78,850
• Employer's contributions payable to scheme	71,700	63,500
Amounts to be met from Government Grants and Local Taxation:		
• Movement on pensions reserve	-12,400	-15,350

Teachers

In 2006-07 Kent County Council paid £54.1m (£52.4m in 2005-06), to the Teachers Pension Agency in respect of teachers' pension costs, which represented 13.65% of teachers' pensionable pay. In addition, Kent County Council is responsible for all pension payments relating to added years benefits it has awarded, together with the related increases. In 2006-07 these amounted to £4.3m (£4.4m in 2005-06), representing 1.1% (1.1% in 2005-06) of pensionable pay.

Other Employees

Other employees of the County Council may participate in the Kent County Council Pension Fund, part of the Local Government Pension Scheme, a defined benefit statutory scheme.

In 2006-07 Kent County Council paid an employer's contribution of £71.7m (£63.5m in 2005-06) into the Pension Fund, representing 21.8% (20.4% in 2005-06) of pensionable pay. The employer's contribution rate is determined by the Fund's actuary based on triennial actuarial valuations, and for 2006-07 was based on the review carried out as at 31 March 2004. Under Pension Fund Regulations the rates are set to meet 100% of the overall liabilities of the Fund.

In addition Kent County Council is responsible for all pension payments relating to added years' benefits it has awarded, together with the related increases. However, Medway Council is required to contribute towards the liabilities incurred prior to reorganisation on 1 April 1998. Kent County Council is required to disclose the capital cost of the discretionary pension payments it has made using a formula recommended by CIPFA. The capital value of new discretionary increases in pension payments (i.e. discretionary added years) agreed by the council in 2006-07 is £1.131m (£1.250m in 2005-06). The capital value of payments agreed in earlier years is £55.1m (£56.9m in 2005-06).

An actuarial valuation was carried out on the fund as at 31 March 2004. The actuary has estimated that based on current contribution rates the deficiency on the Pension Fund at 31 March 2004 would be recovered over a period of 20 years.

6. Dedicated Schools Grant

The council's expenditure on schools is funded in the main by grant monies provided by the Department for Education and Skills, the Dedicated Schools Grant (DSG). DSG is ring-fenced and can only be applied to meet expenditure properly included in the Schools Budget. The Schools Budget includes elements for a restricted range of services provided on an authority-wide basis and for the Individual Schools Budget, which is divided into a budget share for each school. Over and underspends on the two elements are required to be accounted for separately. The council is able to supplement the schools Budget from its own resource and this year programmed an additional £0.5m spending by schools.

Details of the deployment of DSG receivable for 2006-07 are as follows

	Central Expenditure £'000	Individual Schools Budget £'000	Total £'000
Original grant allocation to Schools Budget for the current year in the authority's budget	78,599	642,038	720,637
Adjustment to finalised grant allocation DSG receivable for the year	-1,810	-622	-2,432
	<u>76,789</u>	<u>641,416</u>	<u>718,205</u>
Actual expenditure for the year	-75,130	-637,697	-712,827
(Over)/underspend for the year	1,659	3,719	5,378
Planned top-up funding of ISB from council resources	0	0	0
Use of schools balances brought forward	0	0	0
(Over)/underspend from prior year		0	0
(Over)/underspend carried forward to 2007-08	<u>1,659</u>	<u>3,719</u>	<u>5,378</u>

The individual schools budget includes schools contingency.

Other Notes to the Income and Expenditure Account

7. Publicity

Publicity is defined by the Local Government Act 1986 as any communication, in whatever form, addressed to the public at large or to a section of the public. However, a number of areas are exempt from inclusion in the account e.g. statutory publications. Kent County Council's expenditure on publicity was:

	2006-07 £'000	2005-06 £'000
Recruitment advertising	2,849	3,149
Other advertising	1,320	503
Other publicity	2,417	2,664
	<u>6,586</u>	<u>6,316</u>

8. Members Allowances

Members allowances paid in 2006-07 totalled £1,780,480.50 (£1,757,375 in 2005-06).

9. Local Authority (Goods and Services) Act 1970

Under the Local Authority (Goods and Services) Act the Council provides goods, materials and professional services to other public bodies, including other local authorities, health bodies, charities and voluntary organisations.

Income from the provision of professional services amounted to £32.3m (£33.8m (restated) in 2005-06). Supplies of goods and services totalled £22.2m (£24.3m in 2005-06). External business represented 46% (45.3% 2005-06) of the turnover of Commercial Services department.

10. Leases

Kent County Council has made use of leases to acquire vehicles and equipment. Lease rentals paid during the year in respect of current operating leases in respect of vehicle plant and equipment amounted to £6.277m and in respect of land and buildings amounted to £3.809m. A further £0.599m was paid in respect of finance leases.

11. Related Party Transactions

During the financial year 2006-07 there were no material transactions between Kent County Council and its Members and Chief Officers, other than payment of salaries and Members' allowances.

Related party transactions with central government departments and other bodies are listed below:-

- Kent County Council received a number of general and specific grants from central government totalling £1.1m.
- Kent County Council received Dedicated Schools Grant of £718.2m.
- Precepts amounting to £0.6m were paid to the Environment Agency, Kent and Essex Sea Fisheries and Sussex Sea Fisheries Committee.
- Payments to other local authorities and health bodies, excluding precepts, totalled £10.8m.
- Receipts from other local authorities and health bodies totalled £48.2m.
- In addition, payments of Employers' Pension Contributions were made to the Pension Fund in respect of the Local Government Pension Scheme and to the Teachers Pension Agency in respect of teachers. The details of these payments are detailed in notes to the Income and Expenditure Account, note 5 on pages 23 and 24 of the Accounts.

12. Summary of employees receiving remuneration of £50,000 or more during the period 1 April 2006 to 31 March 2007

This note shows the number of employees whose total remuneration in the financial year 2006-07, excluding pension contributions, was £50,000 or more.

Remuneration includes:-

- a) all sums paid to or receivable by an employee including non-taxable termination payments, redundancy payments and pay in lieu of notice;
- b) expense allowances chargeable to tax i.e. the profit element of car allowances; and
- c) the money value of benefits such as car loans, leased cars, travel cards, health insurance and mobile phones.

Remuneration (£)	Total number of employees	
	31 March 2007	31 March 2006
50,000 - 59,999	462	338
60,000 - 69,999	117	89
70,000 - 79,999	64	48
80,000 - 89,999	31	29
90,000 - 99,999	23	19
100,000 - 109,999	3	4
110,000 - 119,999	2	2
120,000 - 129,999	2	2
130,000 - 139,999	4	2
140,000 - 149,999	1	0
150,000 - 159,999	1	0
160,000 - 169,999	1	1
170,000 - 179,999	1	1
180,000 - 189,999	0	1
190,000 - 199,999	0	0
200,000 - 209,999	0	0
210,000 - 219,999	0	0
220,000 - 229,999	1	1
Total	713	537

Notes to the Core Financial Statements

13. Audit Costs

In 2006-07 the following fees were paid relating to external audit and inspection :

	2006-07 £'000	2005-06 £'000
Fees payable for external audit services carried out by the appointed auditor	474	360
Fees payable to the Audit Commission in respect of statutory inspection	13	12
Fees payable to the appointed auditor for the certification of grant claims and returns	71	98
Fees payable in respect of other services provided by the appointed auditor	148	
	706	470

14. Subsidiary Undertakings

Kent Top Temps LTD (KTT) is a wholly owned subsidiary of Kent County Council. It commenced trading on the 4th April 2005. KTT is an employment agency providing temporary and permanent solutions across a variety of disciplines within the public and private sectors in Kent and the South East. It is a member of the Recruitment and Employment Confederation. KTT had a turnover in 2006-07 of £4.5m with a net profit of £0.2m before tax. This does not have a material impact on Kent County Council's accounts and therefore it is not necessary to produce group accounts in 2006-07.

15. Health Act 1999 - Pooled Budget

Under Section 31 of the above Act, the authority entered into S31 agreements with Primary Care Trusts (PCT) for Kent Drug and Alcohol Action Team (KDAAT) which provides advice and information for Adults, and Registered Nursing Care Contribution (RNCC) in Care Homes.

KDAAT	£000's 2006-07	£000's RNCC 2005-06	£000's 2006-07	£000's 2005-06
Gross Funding			Gross Funding	
Swanley PCT			Ashford PCT	486
National Treatment Agency	2,503	11,741	Canterbury & Coastal PCT	834
KCC	6,937		East Kent Coastal PCT	1,195
	1,593		Shepway PCT	538
			Dartford, Gravesham & Swale PCT	1,399
			Maidstone Weald PCT	949
			South West Kent PCT	829
			Swale PCT	187
	11,033	11,741		6,417
Expenditure	11,033	11,741	Expenditure	6,417
	0	0		0
				-2

Notes to the Core Financial Statements

Westbrook/West View PFI	£000's	£000's ICES		£000's	£000's
Gross Funding	2006-07	2005-06	Gross Funding	2006-07	2005-06
Ashford PCT	0	1,192	Ashford PCT	48	36
Coastal PCT	2,678	1,063	East Kent Coastal PCT	286	82
KCC - Social Services	2,800	2,578	Dartford, Gravesham &		
PFI Credits	1,381	2,257	Swanley PCT	21	11
			Maidstone Weald PCT	92	51
			South West Kent PCT	51	29
			Swale PCT	8	10
			Medway PCT	13	23
			Medway Council	52	36
			KCC - Social Services	476	515
	6,860	7,090		1,048	793
Expenditure	6,860	7,090	Expenditure	1,048	793
	0	0		0	0

16. Long Term

PFI

West View and Victoria House

In 2007-08 the authority is committed to making payments of £2.8m under a PFI contract with Integrated Care Services (ICS) for the maintenance and operation of Westview and Victoria House recuperative care facilities. The actual amount will depend on the performance of ICS in delivering the services under the contract (£2.8m was paid in 2006-07). The contract will run until April 2033.

Swan Valley and Craylands and 6 new schools

On 24 May 2001, the Council contracted with New Schools (Swanscombe) Ltd to provide Swan Valley secondary school and Craylands primary school under a Private Finance Initiative (PFI). The schools opened in October 2002. Under the PFI contract the Council pays an agreed charge for the services provided by the PFI contractor. The unitary charge commenced in October 2002, PFI credits were received from April 2003. This charge is included in the Council's revenue budget and outturn figures. At the time the contract was signed the total estimated contract payments were £65.5m over the 25 year (termination end of September 2027) contract period.

On 7 October 2005, the Council contracted with Kent Education Partnership to provide 6 new secondary schools (Hugh Christie, Holmesdale, The North, Ellington School for Girls, The Malling and Aylesford) under a Private Finance Initiative (PFI). The development of these schools straddles both the 2006-07 and 2007-08 financial years. Three of these schools opened part of their new buildings during the 2006-07 financial year (Hugh Christie on 30 October 2006, Holmesdale on 10 November 2006 and The North on 5 February 2007). The unitary charge commenced in November 2006, PFI credits were not received during 2006-07, and will not start until June 2007. This charge is included in the Council's revenue budget and outturn figures. At the time the contract was signed the total estimated contract payments were £157.7 million over the 28 year contract period.

Under the terms of the PFI, the design and build of the school facilities and their subsequent maintenance are the responsibility, and risk, of the PFI provider. These assets will then transfer to the Council at nil cost at the end of the contract. Any differences between the residual value and the fair value of the assets will be accounted for in future years. As a result of the treatment of the assets, there is no obligation on the Council to provide credit cover for the construction of the schools.

Notes to the Core Financial Statements

The Council has classified these PFI schemes as “off balance sheet”, and payments to contractors will be treated as revenue expenditure.

Central Government provides a grant to support the PFI schemes. This Revenue Support Grant is based on a formula related to the Capital Expenditure in the scheme: this is called the notional credit approval, and amounts to £11.62m of credits for Swan Valley and Craylands and £80.75m for the 6 schools. This approval triggers the payment of a Revenue Support Grant over the life of the schemes of 25 and 28 years respectively. This grant amounts to just under £21m and just over £171m over the respective periods.

17. Landfill Allowance Trading Scheme

No trading of 2006-07 landfill allowances has taken place. DEFRA officials have calculated the weighted average value at which 2006-07 vintage allowances have traded during the financial year as £17.98 per tonne. Estimated usage is 300,280 tonnes which is 107,562 tonnes less than our allowance for 2006-07. These transactions are reflected in the balance sheet against debtors, creditors and earmarked reserves. 20,000 of 2007-08 vintage allowances have been traded at £5 per allowance. The receipt in advance of £100,000 has been recognised in 2006-07.

Notes to the Balance Sheet

18. Movement on Fixed Assets

	Land and buildings	Vehicles, plant and equipment	Roads and other Highways Infrastructure	Community assets	Assets Under Construction	Surplus, non-operational and investment property	Total
	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Gross Book Value as at 31 March 2006	1,301,380	37,869	840,395	6,664	131,573	76,304	2,394,185
Accumulated depreciation	-61,969	-20,358	-322,213				-404,540
Net book value as at 31st March 2006	1,239,411	17,511	518,182	6,664	131,573	76,304	1,989,645
Movement in 2006-07							
Additions	52,402	1,835	21,584	1,111	139,256	8,639	224,827
Disposals (net)	-16,794	-10				-7,148	-23,952
Revaluations / Adjustments	178,425	816	-12		-12,898	22,418	188,749
Depreciation	-38,852	-4,289	-42,019				-85,160
Impairments	-392						-392
Net transfer from operational to non-operational	-1,794					1,794	0
Trans from/to WIP	2,438		16,585		-19,023		0
Trans from WIP to revenue					-1,095		-1,095
Net book value as at 31 March 2007	1,414,844	15,863	514,320	7,775	237,813	102,007	2,292,622

Valuations of Fixed Assets carried at current value

The following statement shows the progress of Kent County Council's rolling programme for the revaluation of fixed assets. The valuations were carried out by Nigel Godden MRICS of Mouchel Parkman. R N H Dodson FRICS, S R B Smith MRICS and R M Whittaker MRICS of Cushman & Wakefield carried out the valuation of Kings Hill. The basis for valuation is set out in the statement of accounting policies, and further explained below.

	Land and buildings	Investment Properties	Total
	£'000	£'000	£'000
Valued at current value in:			
2004/05	1,275,765		1,275,765
2005/06	549,970	960	550,930
2006/07	840,189	0	840,189

Basis of valuation

All valuations of land and buildings were carried out in accordance with the Statements of Asset Valuation Practice and Guidance Notes of The Royal Institution of Chartered Surveyors. In 2004-05 approximately 20% of the properties were inspected, the remainder being valued on a beacon basis of valuation. In 2006-07 all secondary schools have been valued. For each operational asset an Existing Use Value (EUV) was provided. In the case of specialised properties, that is, those properties which are rarely, if ever, sold for existing use on the open market, the valuation basis used is Depreciated Replacement Cost (DRC).

The sources of information and assumptions made in producing the various valuations are set out in a valuation certificate and report.

Assets held under finance leases

Included within the totals for vehicles, plant and equipment are assets that have been acquired under finance leases. Values are as follows:

	At 31 March 2007	At 31 March 2006
	£'000	£'000
Gross Book Value	8,091	8,157
Accumulated Depreciation	-7,134	-6,634
Value at 31 March 2007	957	1,523

Outstanding commitments in relation to finance leases at 31 March are as follows:

	2006-07	2005-06
	£'000	£'000
Less than one year	388	624
Between 2-5 years	716	974
	1,104	1,598

Aggregate finance charges allocated for the period up to the 31 March 2007 are £0.2m in respect of finance leases

Notes to the Core Financial Statements

The Council was committed at 31 March 2006 to making payments of £10.086m under operating leases in 2006/07, comprising the following elements:

	Land and Buildings	Vehicle Plant and Equipment
	£000's	£000's
Leases expiring in 2006/07	0	1960
Leases expiring between 2007/08 and 2010/2011	1,976	4,197
Leases expiring after 2010/2011	1,833	120
	3,809	6,277

Capital Expenditure and Financing

Capital expenditure was financed as follows:

	2006-07	2005-06
	£000's	£000's
Opening Capital financing requirement	913,331	827,675
Capital investment		
Fixed Assets	224,478	220,962
Intangible assets	241	1,119
Deferred charges	11,990	15,367
Increase in finance leases	7	463
	1,150,047	1,065,586
Sources of finance		
Capital receipts	15,111	22,889
Government grants and other contributions	80,024	87,866
Revenue contributions (including MRP)	44,785	41,500
Closing capital financing Requirement	1,010,127	913,331
Movement	96,796	85,656
Explanation of movements in year		
Increase in underlying need to borrow (supported by Government financial assistance)	33,867	55,324
Increase in underlying need to borrow (unsupported by Government financial assistance)	62,929	30,332
Increase/(decrease) in Capital Financing Requirement	96,796	85,656

Capital expenditure 2006-07

The main items of capital expenditure during the year were:

Highways Schemes	£'000	
Bridge Strengthening/Maintenance Schemes	20,771	
A228 Leybourne and West Malling Bypass	8,655	
East Kent Access Road	7,762	
Integrated Transport Schemes	6,838	
Edenbridge Improvements	3,277	
Kent Highway Services Accommodation	2,959	
Fastrack	1,825	
Ashford Ring Road	<u>1,437</u>	53,524
Education Schemes		
Westgate Primary School	5,456	
Emergency Building Maintenance	4,333	
6 Schools PFI	3,800	
Building Maintenance (Condition) Programme	3,435	
Schools Access Initiative	3,384	
Ifield School	3,102	
Furness School	3,084	
St Nicholas School	3,063	
Harbour School	3,038	
The North School, Ashford	2,671	
Building Schools for the future - Development Costs	2,662	
Meadowfield School	2,564	
Thanet Skills Centre	2,152	
Leigh Technology School	2,100	
Oaktree Primary, Ashford	1,739	
Targeted Funding (Whitfield & Aspen Unit)	1,602	
Goldwyn School	1,425	
Herne Bay Junior	1,323	
Mascalls School	1,238	
Hythe Bay CEPS	1,234	
Planned Preventative Maintenance	1,206	
Asbestos Removal	1,178	
Development and Sustainability - Children's Centres	1,170	
The Sunrise Centre	1,169	
Milestone School	1,121	
Angley School	1,047	
Harrietsham CEPS	<u>1,014</u>	61,310

Notes to the Core Financial Statements

Kent Adults Social Services

Broadmeadow	5,100	
Improving Information Management	<u>3,200</u>	8,300

Chief Executive's

Oakwood House Extension		1,103
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Communities

Big Lottery Fund - Physical Education and Sport	4,360	
Sevenoaks Library, Museum and Gallery	1,622	

Property Enterprise Fund		5,624
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135,843

Capital Devolved to Schools	39,092	
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Projects less than £1m	62,124	
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Total Capital Expenditure	<u>237,059</u>	
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Future capital expenditure commitments

At 31 March 2007 contractually committed capital expenditure to be incurred in 2007-08 and later years includes the following major projects:

	£'000
Highway Schemes	
Kent Thameside Fastrack	4,008
East Kent Access Road	2,320
Education Schemes	
Meadowfield	5,580
Goldwyn Community Special School	3,268
Ifield School	2,337
Whitfield School	1,950
King Ethelberts' School	1,750
St Nicholas School	1,253
Hythe Bay CEPS	1,079
Hayesbrook School	965
Highsted Grammar	751
Reculver CEPS	698
Clarendon House Grammar School	600
Borden Grammar School	599
Social Services	
Social Services replacement systems programme (SRP)	848
Total Commitments	<u>28,006</u>

Analysis of major operational asset holdings

	At 31 March 2007	At 31 March 2006
Schools (excludes voluntary aided schools)	504	510
Adult education, discovery and youth centres	122	121
Smallholdings	8	8
Homes and day centres for the elderly	20	23
Facilities for children and their families	45	29
Facilities for people with disabilities	11	12
Recreation sites	30	29
Household Waste sites	18	18
County roads	8382 km	8248km
County offices	10	10

19. Movement in intangible assets

	Purchased Software licences £000s	Total £000s
Balance at 1 April 2006	5,935	5,935
Expenditure in year	241	241
Written off to revenue in year	-1,444	-1,444
Balance at 31 March 2007	4,732	4,732

Software licences were purchased for E Government, Social Services replacement systems and various Commercial Services replacement systems. The cost is being written off over the life of the licences; between 3 and 5 years.

20. Amounts owed to the Council by debtors

	At 31 March 2007 £000's	At 31 March 2006 £000's
Long Term debtors:		
Housing Act advances (mortgages)	16	19
Medway Council (transferred debtor)	55,608	57,926
Public bodies	3,301	3,601
Other (incl PFI debtor)	1,252	456
	60,177	62,002
Other debtors:		
Staff advances	87	129
Government Departments	37,211	52,895
Payments in advance (incl PFI)	29,805	27,215
General debtors	108,510	92,906
	175,613	173,145

Capital debtors amounting to £13.1m are included in the Accounts at 31 March 2007 (£20.4m in 2005-06). Capital debtors relate to grants towards capital expenditure incurred in 2006-07 which had not been received by 31 March 2007.

PFI

	At 31 March 2007 £000's	At 31 March 2006 £000's
Long term PFI debtors		
Long term prepayment	-385	0
Long term debtor in relation to residual	826	0
	441	0

PFI

	At 31 March 2007 £000's	At 31 March 2006 £000's
Short term PFI Prepayment	6,418	6,216
	6,418	6,216

21. Amounts owed by the Council to creditors

	At 31 March 2007 £'000	At 31 March 2006 £'000
Kent and Essex Sea Fisheries	582	644
Receipts in advance	47,861	42,798
General creditors	194,230	169,043
Other local authorities	2,663	4,606
Deferred capital receipts	16	19
Deferred income	1,779	
Government departments	19,725	20,342
	266,856	237,452

Capital creditors amounting to £39.3m are included in the Accounts at 31 March 2007 (£37.9m in 2005-06).

22. Net Assets Employed

Net assets analysed between Kent County Council and trading operations.

	At 31 March 2007 £'000	At 31 March 2006 £'000
General Fund	2,526,594	2,236,103
Trading Accounts	6,653	5,806
	<u>2,533,247</u>	<u>2,241,909</u>

23. Long term borrowing

The external debt of Kent County Council repayable in more than 1 year is analysed as follows:

	At 31 March 2007 £'000	At 31 March 2006 £'000
Public Works Loan Board	666,665	641,823
Money market loans	285,700	240,700
	<u>952,365</u>	<u>882,523</u>

The loans above are repayable within the following periods:

	£'000	£'000
Between 1-5 years	10,146	139
Between 5-10 years	129,779	72,643
Between 10-15 years	87,003	111,003
More than 15 years	725,437	698,738
	<u>952,365</u>	<u>882,523</u>

24. Provisions

The Council has made a provision for insurance claims. The Council's Insurance arrangements involve both internal and external cover. For internal cover an Insurance fund has been established to provide cover for property, combined liability and motor insurance claims. The fund comprises a Provision for all claims notified to the Council at 31 March each year and a Reserve for claims not yet reported but likely to have been incurred.

	Balance at 1 April 06 £'000	Movement in year £'000	Balance at 31 March 07 £'000
Insurance Provision	-9,040	-181	-9,221
Pension Fund Provision for ex DSO staff*	-616	161	-455
Other Provisions	-3,199	-659	-3,858
	<u>-12,855</u>	<u>-679</u>	<u>-13,534</u>

*The current prediction is that this fund will be exhausted during 2008-09. Our Medium Term Financial Plan for 2007 -10 acknowledges this and builds in up to £200k per annum to fund the ongoing commitments. which

for 2007. To address these and other issues in up to \$200K per annum to fund the ongoing commitments, which will reduce over time.

Notes to the Core Financial Statements

25. Reserves

The council keeps a number of reserves in the Balance Sheet. Some are required to be held for statutory reasons, some are needed to comply with proper accounting practice, and others have been set up voluntarily to earmarked resources for future spending plans.

Reserve	Balance	Net	Balance	Purpose of Reserve
	1 April	Movement	31 March	
	2006	in year	2007	
	£'000	£'000	£'000	
Fixed Asset Restatement Account	-498,986	-165,139	-664,125	Store of gains on revaluation of fixed assets
Capital Financing Account	-416,820	-45,272	-462,092	Store of capital resources set aside for past expenditure
Usable Capital Receipts	-7,473	-469	-7,942	Proceeds of fixed assets available to meet future capital investment
Pensions Reserves				Balancing account to allow inclusion of Pensions
- KCC	719,900	-82,200	637,700	Liability in Balance Sheet
- DSO	2,017	470	2,487	
General Fund	-25,835	0	-25,835	Resources available to meet future pressures
Earmarked Capital Reserve	-24,884	-1,814	-26,698	See separate note
Earmarked Reserves	-74,094	-7,087	-81,181	See separate note
Schools Reserve	-65,626	-2,013	-67,639	See separate note
Surplus on Trading Accounts	-306	-529	-835	
Total	-392,107	-304,053	-696,160	

Earmarked Reserves

The following describes each of the Earmarked Reserve accounts where the balance is in excess of £0.5m, the sum of which are shown in the table on page 43.

Vehicles, plant and equipment

This is a reserve for the replacement and acquisition of vehicles, plant and equipment.

Special funds

These are reserves held primarily to facilitate the implementation of economic development and tourism initiatives and policy and regeneration expenditure.

Office strategy

This is a reserve to support the implementation of major office strategy projects.

Kings Hill development smoothing reserve

Comprises the County Council share of distribution from proceeds of the Kings Hill development received in accordance with the terms of the Development Agreement. These distributions can vary considerably from year to year so this reserve is used to smooth the impact on the revenue budget over the medium term.

Swan Valley School PFI equalisation reserve

This has been established to equalise, over time, the budget impact of unitary charge payments for the Swan Valley School PFI scheme. The reserve will comprise contributions from the Education revenue budget and a proportion of grant funding received from the government. This reserve is drawn down as appropriate to reduce the impact on council tax.

Gravesham North Kent (GNK) reserve

A reserve which comprises funds received from Dartford, Gravesham and Swanley Primary Care Trust to be used to cover revenue pressures following the opening of the GNK PFI project, a project undertaken in partnership between Kent Social services and Gravesham & North Kent Hospital.

Asylum reserve

A reserve to cover the impact of any shortfall in grant funding following changes to grant rules.

Supporting People reserve

This is unspent 2004/05, 2005/06 and 2006/07 grant which will be used to smooth out the loss of grant funding in future years.

Assistive Technology reserve

A reserve to cover the re-phased costs of Telecare, technology designed to assist people to stay in their own homes longer rather than go into care. The annual costs will be drawn down over the next four years as the programme is rolled-out.

Environmental Initiatives reserve

This reserve represents funds in hand relating to a variety of environmental initiatives involving other partners. The reserve largely comprises resources received from external funders against which expenditure will be incurred.

Rolling budget reserve

This reserve represents the roll forward of funds to cover the scheduling of revenue expenditure from previous years.

Emergency Conditions reserve

This reserve is to cover the cost of emergencies which cannot be accommodated within normal revenue allocations, such as the costs associated with severe weather conditions.

East Kent Access reserve

This reserve has been fully utilised in 2006-07 to assist in the funding of the East Kent Access capital project.

Dilapidations reserve

This reserve is to provide for the potential dilapidation costs that the Council faces when existing leases for office accommodation cease.

Workforce reduction reserve

This reserve is to provide for the redundancy and other costs of potential staffing reductions required to achieve budget savings.

Kent Pay Scheme

A reserve to cover the costs in 2007-08 and beyond of the restructure of the Kent Pay Scheme.

IT Asset Maintenance reserve

This reserve will contribute to the funding of the IT refresh programme which will give the Council ongoing and sustainable capacity to replace ageing technology.

Performance Reward Grant (PRG)

This reserve comprises funding from the ODPM Performance Reward Grant to fund projects aimed at improving performance over the medium term.

Brenchley House Sinking Fund

This reserve will be drawn down over the next few years as we pay revenue streams for the occupation of Brenchley House as opposed to the original plan of immediate capital expenditure.

Lenders Option Borrowers Option (LOBO) Equalisation Reserve

A reserve to smooth the impact on the revenue budget over the medium term of stepped interest rates on the costs of borrowing.

Prudential Equalisation Reserve

A reserve to smooth the impact on the revenue budget over the medium term of prudential borrowing costs i.e. the costs of borrowing to support the capital programme, which are not supported by Government grant.

Six Schools PFI Reserve

A reserve to cushion the shortfall at the end of the PFI contract caused by a delay in the completion of the scheme in year 1 for three of the schools.

Insurance reserve

This is a reserve for the cost of insurance claims in excess of the amount provided for in the insurance fund provision.

Landfill Allowance Taxation Scheme Reserve

The government allocates each Waste Disposal Authority a quota of Landfill Allowance permits. This determines the amount of biodegradable waste the authority can send to landfill sites. The authority can either use these permits, bank them for future use or trade with other waste disposal authorities. This reserve represents the value of cumulative unsold Landfill Allowance permits. National guidance on the value per permit is used to calculate the value of this reserve. The reserve is only realised when and if these permits are actually sold.

Notes to the Core Financial Statements

Other

These mainly comprise various reserves held in respect of initiatives commenced in previous years for which remaining planned financial provision will be utilised in 2007-08 or future years as initiatives are completed.

Other Earmarked Reserves	Balance at 1 April 2006 £'000	Movement £'000	Balance at 31 Mar 2007 £'000
VPE Reserve	-3,331	-215	-3,546
Special funds	-2,453	-133	-2,586
Office Strategy	-414	-217	-631
Kings Hill development - Colts Hill & Leybourne/West Malling Bypass	-1,846	-750	-2,596
Swan Valley school PFI equalisation reserve	-3,567	-838	-4,405
Gravesham North Kent Reserve (from D G & S PCT)	-2,000	980	-1,020
Asylum Reserve	-3,791	2,670	-1,121
Supporting People Reserve	-3,409	-2,332	-5,741
Assistive Technology	-1,531	596	-935
Environmental initiatives reserve	-2,086	-1,304	-3,390
Rolling budget reserve	-10,267	2,119	-8,148
Emergency Conditions Reserve	-450	-363	-813
East Kent Access reserve	-1,831	1,831	0
Dilapidations reserve	-1,827	0	-1,827
Workforce Reduction reserve	-1,985	0	-1,985
Kent Pay Scheme	-708	0	-708
IT Asset Maintenance reserve	-2,479	-3,060	-5,539
PRG Reserve	-7,169	2,457	-4,712
Brenchley House Sinking Fund	-530	173	-357
LOBOs Equalisation Reserve	-1,435	0	-1,435
Prudential Equalisation Reserve	-6,016	-4,293	-10,309
Six schools PFI	0	-848	-848
Other	-4,587	-806	-5,393
Total	-63,712	-4,333	-68,045
Insurance Reserve			
KCC	-10,206	0	-10,206
LATS Reserve			
Landfill Allowance Taxation Scheme	0	-1,934	-1,934
	-73,918	-6,267	-80,185
Commercial Services Earmarked Reserves	-176	-820	-996
Total Earmarked Reserves	-74,094	-7,087	-81,181
Trading Reserves			
Commercial Services Trading Account	-226	-529	-755
Personnel	-79	0	-79
Schools Reserves	-70,657	-3,719	-74,376
Total Movement as per I & E	-145,056	-11,335	-156,391
Balance Sheet	-140,025	-9,629	-149,654
Difference - schools reserves	5,031	1,706	6,737

School Reserves

At 31 March 2007 funds held in school revenue reserves stand at £67.639m. These reserves are detailed in the table below.

	Balance at 1 April 2006	Movement	Balance at 31 Mar 2007
	£'000	£'000	£'000
School delegated revenue budget reserves - committed	-38,739	1,183	-37,556
School delegated revenue budget reserves - uncommitted	-23,804	-1,574	-25,378
Unallocated Schools budget	-8,114	-3,172	-11,286
Community Focused Extended School Reserves	0	-156	-156
Reserves used to fund school loans *	5,031	1,706	6,737
Total	-65,626	-2,013	-67,639

* under the school loans scheme, loans to schools are financed from the aggregate of school reserves. The sum of such reserves is accordingly reduced by the value of loans outstanding.

The increase in reserves of £2.013m is made up of the following:

	2006-07	2005-06
	£'000	£'000
Underspend (as per page 1)	-3,719	-7,834
Increase in school loans	1,706	2,906
	-2,013	-4,928

26. Liability related to defined benefit pensions schemes

The underlying assets and liabilities for retirement benefits attributable to the authority at 31 March are as follows:

	Local Government Pension Scheme			
	2006-07	2005-06	2004-05	2003-04
	£000's	£000's	£000's	£000's
Estimated liabilities in scheme	-1,779,500	-1,764,800	-1,486,700	-1,193,000
Estimated assets in scheme	1,141,800	1,044,900	791,300	706,000
Net asset (+)/liability(-)	-637,700	-719,900	-695,400	-487,000

This liability reflects the underlying commitment that the authority has in the long - term to pay retirement benefits. The total liability of £637.7m has a substantial impact on the net worth of the authority as recorded in the balance sheet.

The actuary has calculated the value of assets held by the Pension Fund that are attributable to Kent County Council at 31 March 2007. In carrying out this valuation they have made the following assumptions:

Assumptions as at	31 Mar 2007	31 Mar 2006	31 Mar 2005	31 Mar 2004
	% per annum	% per annum	% per annum	% per annum
Price increases	3.20%	3.10%	2.90%	2.90%
Salary increases	4.70%	4.60%	4.40%	4.40%
Pension increases	3.20%	3.10%	2.90%	2.90%
Discount rate	5.40%	4.90%	5.40%	6.50%

Pensions Reserve

The actuarial gains and losses	Local Government Pension Scheme			
	2006-07		2005-06	
	£000's	%	£000's	%
Difference between the expected and actual return on assets	-7,200	-0.6	171,800	16.4
Difference between actuarial assumptions about liabilities and actual experience	200	-	-150	-
Changes in the demographic and financial assumptions used to estimate liabilities	97,400	5.1	-184,900	-0.8
	90,400		-13,250	

The £97,400k comprises £122,900k in respect of the change in financial assumptions, £19,800k in respect of the allowance for 25% of future retirements to elect additional tax free cash and (£45,300k) in respect of an allowance for longevity improvements in the year to 31 March 2007

Notes to the Core Financial Statements

	2004-05	
	£000's	%
Difference between the expected and actual return on assets	20,600	2.6
Difference between actuarial assumptions about liabilities and actual experience	42	-
Changes in the demographic and financial assumptions used to estimate liabilities	-223,900	-13.7
	<u>-203,258</u>	

Analysis of Amount Recognised in Statement of Total Recognised Gains and Losses (STRGL)

	2006-07	2005-06	2004-05
	£000's	£000's	£000's
Actual return less expected return on pension scheme assets	-7,200	171,800	20,600
Experience gains and losses arising on the scheme liabilities	200	-150	42
Changes in assumptions underlying the present value of the scheme liabilities	97,400	-184,900	-223,900
Actuarial gain / (loss) in pension plan	<u>90,400</u>	<u>-13,250</u>	<u>-203,258</u>
Increase / (Decrease) in irrecoverable surplus from membership fall and other factors	3,730	2,083	-
Actuarial Gain / (loss) recognised in STRGL	<u>94,130</u>	<u>-11,167</u>	<u>-203,258</u>

The value of the Fund at 31 March and the expected return on the assets of the Fund is shown in the following

Assets (Employer)

	Long Term Rate of Return Expected	Fund Value at 31 March 2005	Long Term Rate of Return Expected	Fund Value at 31 March 2004
	% per annum	£'000	% per annum	£'000
Equities	7.70%	546,000	7.70%	543,600
Bonds	4.80%	102,900	5.10%	91,800
Property	5.70%	79,100	6.50%	56,500
Cash	4.80%	63,300	4.00%	14,100

Notes to the Core Financial Statements

	Long Term Rate of Return Expected % per annum	Fund Value at 31 March 2007 £'000	Long Term Rate of Return Expected % per annum	Fund Value at 31 March 2006 £'000
Equities	7.80%	800,700	7.40%	741,900
Bonds	4.90%	141,800	4.60%	135,800
Property	5.80%	116,700	5.50%	94,000
Cash	4.90%	82,600	4.60%	73,100
Total		1,141,800		1,044,800

DSO Pensions

The figure in the balance sheet reflects the unfunded liability as calculated by the actuary in March 2007 on a minimum risk basis. This basis represents a more prudent set of assumptions and is closest to an FRS 17 figure. A fund was established in 1993-94 and further detail of this and how it is being managed is shown in Note 7 - Provisions.

27. Surplus on Trading Accounts

	Balance at 1 April 06 £'000	Movement in the year £'000	Balance at 31 March 07 £'000
Commercial Services	-227	-529	-756
Personnel and Development	-79	0	-79
	-306	-529	-835

The Commercial Services figure differs from that shown in the Income and Expenditure Account as this note does not reflect the adjustments that have to be made in line with BVACOP.

Other Notes

28. Pension Fund

Once credited to the Pension Fund, monies may only be used to provide for the statutory determined pension and other payments attributable to staff covered by the Fund. The assets and liabilities of the Pension Fund are shown separately from those of Kent County Council, although the legal position is that they are all in the ownership of Kent County Council as the administering authority. Any actuarial surplus or deficit is apportioned to the constituent member bodies of the Fund. Details of the Fund are disclosed in the Pension Fund Accounts found on pages 52 to 63.

29. The Euro

The impact of the possible introduction of the Euro in the United Kingdom is being monitored and no costs were incurred in 2006-07.

Notes to the Core Financial Statements

30. Contingent Liabilities

Land, Planning & Highways

Kent County Council faces a very significant claim for compensation which is being fiercely resisted. It is a very complex case and a preliminary hearing is set for May. While the claim is for several million pounds, it is not possible to predict the outcome. The estimate of legal fees incurred so far is £450,000.

There is also a claim in the High Court in which approximately £0.5m is being claimed by a developer against Kent's Highway Service. Every effort is being made to vigorously defend the claim.

There are ongoing claims seeking eviction/remedial action to bring licensees on one of the County Council's caravan sites to compliance with the terms of their licence. The site also suffers from significant fly tipping which if the Council is not able to get the offenders to clear, could cost the Council in excess of £10k.

Contract Claims

The County Council is seeking to recover through mediation losses it has suffered associated with the abandoned plans to build the Turner Centre in Margate as per the original design. The losses if not recovered will remain in the region of £5m. Legal costs to date have already exceeded £10k. KCC is hopeful that it will recover a significant portion if not all of the £5m lost.

Insurance Claim

There is a claim in relation to work undertaken by Kent County Council and we are hopeful that the claim will be met. However, the insurers have issued a Reservation of Rights and so it has been noted as a contingent liability.

Non-compliance

There is one matter where for remedial works carried out by KCC on land belonging to the Highways Agency, KCC could face a damages claim for trespass, breach of planning laws and prosecution under the Environment Protection Act 1990. At present no legal action has been taken by the Environment Agency nor by the local planning authority. Indeed the Environment Agency has indicated that it is unlikely to take legal action. The Council is in negotiation with the Highways Agency and no legal action has yet been taken. However, if this case does proceed and the Council loses the case, KCC could be required to carry out remedial works or pay damages of around £0.25m. In addition KCC would be liable to pay the claimant's legal costs which could be significant.

There is potential for one class action under the Equal Pay Act 1970 which if brought and is successful could result in damages being awarded to the employees in the region of £0.4m.

Employment

There are fourteen potential claims relating to discrimination and breach of contract in employment. In ten of these cases where the damages being sought have been quantified, the total is approximately £0.7m. The Council has not admitted liability in any of these cases. There is one further case which may proceed to the Employment Tribunal. If proceedings commence, then KCC will incur legal costs in defending the claim. It should be noted that as there is no cap on damages in discrimination cases, if this or the other cases where discrimination has been pleaded are lost, significant damages could be awarded.

Notes to the Core Financial Statements

There are a significant number of claims (98) from part-time workers claiming backdated membership of the Local Government or Teacher's Pension Scheme. The cost to the Council, if cases are lost or settled, is calculated by the application of a complicated formula. Any costs resulting from these claims are met by an increase in the Council's contribution to the Pension Scheme.

Education

There are 3 cases pending or progressing which if pursued fully through the judicial review/statutory appeals process in the High Court could lead to legal costs in excess of £10k being incurred on each. However KCC believes that these cases will not progress and therefore legal costs in excess of £10k are unlikely to be incurred.

Immigration

There are 4 cases which if successful could result in KCC incurring costs to provide support which will exceed £10k. In addition the costs of legal representation on 3 of these could exceed £10k

Mental Health

There is one case which if successful could result in KCC paying its own and the claimant's legal costs plus

31. Cash flow Grant analysis

Revenue Grants	2006-07	2005-06
	£'000	£'000
Department for Education and Skills	231,760	238,513
Department of Health	29,745	49,549
Home Office	7,582	21,630
Department for Transport	59	59
European Community	563	748
Department for Communities and Local Government	61,615	41,768
Cabinet Office	274	538
Department of the Environment, Food and Rural Affairs	663	630
Department of Work and Pensions	151	54
Seeda - South East England Development Agency	17	342
Department of Cultural, Media & Sport	44	
NOF - New Opportunity Fund (Lottery)	375	250
	332,848	354,081
Capital Grants		
Department for Education and Skills	42,940	40,617
Department for Transport, Local Government and the Regions	4,535	24,461
Department for Communities and Local Government	12,710	6,555
Department of Health	833	650
Lottery and other	6,261	7,254
	67,279	79,537

32. Reconciliation of revenue surplus to revenue cashflow

	2006-07	2005-06
	£'000	£'000
Surplus(-)/Deficit for the year	0	2,500
Non-cash transactions		
Minimum revenue provision and amounts set aside from revenue	-36,231	-33,143
Contributions to reserves	-19,890	-29,638
Contributions to provisions	337	7,677
	-55,784	-52,604
Items on an accruals basis		
Increase/decrease(-) in revenue debtors	-2,084	3,754
Increase(-)/decrease in revenue creditors	-27,083	-2,299
Increase/decrease(-) in stocks	-904	1427
	-85,855	-49,722
Items shown later in the cashflow statement		
Servicing of finance	-41,097	-42,665
Net cashflow from revenue activities	-126,952	-92,387

33. Reconciliation of movement in cash to the movement in net debt

	Balance	Balance	Movement
	1 April 2006	31 Mar 2007	in the year
	£'000	£'000	£'000
Cash and bank balances	102,615	96,652	5,963
Cash overdrawn	-101,924	-124,609	22,685
Decrease in cash			28,648
Debt repayable within 1 year	-40	-38	2
Debt repayable after 1 year	-882,523	-952,365	-69,842
Current investments	219,234	268,059	48,825
Increase in net debt			-21,015

34. Definition of Liquid Resources

Liquid resources have been defined as the short term investments that are disclosed on the face of the balance sheet.

Trust Funds

Kent County Council is responsible for the application of income from Trust Funds which have been provided from gifts and legacies for items such as school prizes. These are not included in the County Council's balance sheet.

Balance Sheet at 31 March

	2006-07	2005-06
	£	£
Current assets		
Investments	46,241	46,241
Debtors	902	861
Cash	101,612	98,603
	148,755	145,705
Represented by		
Trust funds -		
Capital	-45,115	-45,115
Revenue	-103,640	-100,590
	-148,755	-145,705

Pension Fund Accounts

This is an extract from a more detailed published statement, a copy of which is available for inspection at County Hall. Further information about the Pension Fund Accounts can be obtained from Nick Vickers, Head of Financial Services. Telephone Maidstone (01622) 671411 or e-mail nick.vickers@kent.gov.uk.

Under the provisions of the consolidated Local Government Pension Scheme Regulation 1997, a Pension Fund has been established and is administered by Kent County Council for the purpose of providing pensions and other benefits for the pensionable employees of Kent County Council, Medway Council (unitary authority), the district councils in Kent and of other employing bodies established within the county area. Teachers are not included as they have their own national pension scheme.

The Fund is maintained by investing in stock market securities, both in this country and overseas, and in real property and property units trusts within the UK. Contributions are made to the fund by employees at the rate of 6% of their pensionable remuneration for officers and new members of the scheme. Existing manual staff entitled to pay 5% will continue to contribute at 5% whilst they remain in continuous employment in the same capacity. The rate of employer's contribution is determined by the Fund's actuary at a level necessary to assure that the Fund is able to meet 100% of its existing and prospective liabilities. Any shortfall is being spread over a period of 20 years for Local Authority employers and average future working life time for other employers in the Fund.

A triennial valuation of the Fund was carried out as at 31 March 2004 and this set Kent County Council's employer contribution rate at 22.8% of payroll for the three year period commencing 1 April 2005. This increase is being phased in over the three years with rates payable of 20.4%, 21.7% and 23.1%.

The market value of the Fund's assets at the valuation date was £1,589.3m and the Actuary placed a value of £1,603m on the assets. The main actuarial assumptions used were as follows -

Valuation of assets:-	assets have been valued at a 12 month smoothed market value
Discount rate:-	6.3% p.a.
Rate of general pay increases:-	4.4% p.a.
Rate of increases to pensions in payment (in excess of guaranteed minimum pension):-	2.9% p.a.

The main result of this valuation was to show that the funding level had decreased from 76% to 63%.

The next actuarial valuation is due as at 31 March 2007 and any change in employer contribution rates as a result of that valuation will take effect from 1 April 2008.

The Fund has been accepted by the Inland Revenue as a registered pension scheme in accordance with paragraph 1(1) of Schedule 36 to the Finance Act 2004 and, as such, qualifies for exemption from tax on investment income, underwriting commission and gains on selling transactions. By virtue of Kent County Council being the administering authority, VAT input tax is recoverable on all Fund activities including investment and property expenses.

Administrative costs of paying pensions, allowances and other benefits, maintaining employees' records, arranging transfer values etc. are borne by the Fund. Costs relating to the investment of the Fund are also charged in this way

Pension Fund Accounts

With the exception of market pricing for fixed interest securities, the Pension Fund accounts have been prepared in accordance with the accounting recommendations of the Financial Reports of Pension Schemes - a Statement of Recommended Practice. However, disclosures have been limited to those required by the Code of Practice on Local Authority Accounting in the United Kingdom: a Statement of Recommended Practice.

A small part of the daily cash balance of the Fund awaiting investment is used by the County Council as part of its temporary borrowing requirements. The regulations require that interest on such balances be credited to the Fund at not less than 7 days notice money market rates. The remaining cash is split between Investment Fund Managers, who hold it on deposit for interest until required.

Employing Bodies. These include Scheduled Bodies which are Local Authorities and similar bodies whose staff are automatically entitled to be members of the Fund; and Admitted Bodies which participate in the Fund by virtue of an admission agreement made between the Authority and the relevant body. Admitted bodies may be either voluntary, charitable or similar bodies or private contractors undertaking a local authority function following a specific business transfer to the private sector.

As required by statute the council has approved a Statement of Investment Principles. It was prepared with assistance from the Fund's Investment consultants Hymans Robertson and after consultation with interested parties. It provides the basis for the future development of the Committee's principles for managing the investments of the Fund. The statement will be subject to review by the Committee on a biennial basis. It is available on the Authority's website www.kent.gov.uk. Alternatively, a copy may be obtained on request from Nick Vickers, Head of Financial Services, Sessions House, County Hall, Maidstone, Kent, ME14 1XQ.

Summary of Main Accounting Policies:

1. The Pension Fund Accounts are accounted for on an accruals basis for income and expenditure with the exception of transfers in and out, which are accounted for on a cash basis.
2. No account is taken of the long term liabilities to pay pensions and other benefits after the period end.
3. Quoted equity investments are stated at market value based on the middle market quotation and quoted fixed interest investments are stated at market value based on the bid market quotation on the relevant stock exchange ruling on 31 March 2007. Unit Trusts and managed funds are valued at the average of the bid and offer prices provided by the relevant fund managers, which reflect the market value of the underlying investment. Unquoted investments are valued by the fund managers at the year end in accordance with generally accepted guidelines.
4. Industrial and Commercial properties were valued at open market prices as at 31 December 2006 and then indexed in line with the Investment Property Databank Monthly Index movement to 31 March 2007.
5. Investments held in foreign currencies have been valued on the same basis and translated into sterling at the rate ruling on 31 March 2007. All foreign currency transactions are translated into sterling at exchange rates ruling at the transaction date.
6. Dividends, rents and cash deposits have been accounted for on an accruals basis and where appropriate from the date quoted as ex-dividend (XD). Foreign income has been translated into sterling at the rate ruling at the date of the transaction. Income arising from overseas investments is subject to deduction of withholding tax unless exemption is permitted by and obtained from the country of origin.

Pension Fund Accounts

7. Normal contributions from members and employers, are accounted for in the payroll month to which they relate at rates as specified in the rates and adjustments certificate. Payment of pensions and pensions increases are accounted for on an accruals basis. Lump sum payments are accounted for on the date of retirement or on death. Transfer values into and out of the Fund, return of contributions and other intermittent transactions are not dealt with on an accruals basis but are included in the accounts when the transactions occur.

Pension Fund Accounts

Fund Account for the year ended 31 March 2007

	Notes	2007		2006
		£'000	£'000	£'000
Contributions and Benefits				
Contributions Receivable:				
From employers	1	149,772		139,933
From employees	1	40,217		38,303
Transfers In	2	14,101		28,144
			204,090	206,380
Benefits Payable				
Pensions	3	-99,479		-93,699
Lump Sums	3	-24,102		-20,667
Payments to and on account of leavers				
Refunds of contributions		-30		-1544
Transfers Out	4	-10,655		-14,622
Administrative & other expenses borne by the schem	5	-2,472		-2,437
			-136,738	-132,969
Net additions/withdrawals(-) from dealings with Members			67,352	73,411
Returns on Investments				
Investment Income	6	68,964		65,762
Change in Market Value of Investments	7	69,216		446,207
Overseas Irrecoverable Taxation		-958		-793
			137,222	511,176
Investment Management Expenses				
Investment Managers		-5,738		-4,122
Actuarial		-11		-17
Performance Measurement		-49		-45
Other expenses		-326		-242
		-6,124		-4,426
Net Return on Investments			131,098	506,750
Net increase/decrease(-) in Fund during the year			198,450	580,161
Opening Net Assets of the Scheme			2,375,106	1,794,945
Closing Net Assets of the Scheme			2,573,556	2,375,106

Pension Fund Accounts

Net Assets Statement as at 31 March 2007

	Notes	2007		2006	
		£'000	£'000	£'000	£'000
Investments at Market Value	7				
Fixed Interest Securities					
- Public		88,363		81,813	
- Other		63,673		73,699	
			152,036		155,512
Equities					
- UK		856,498		993,573	
- Overseas		585,815		513,167	
			1,442,313		1,506,740
Pooled Investment Vehicles					
- UK		218,124		189,102	
- Overseas		287,449		127,966	
- Property		26,016		12,941	
			531,589		330,009
Property - Freehold			230,183		189,372
Global Tactical Asset Allocation			100,912		150,512
Cash Deposits			61,900		23,389
Other Investments			11,329		5881
			<u>2,530,262</u>		<u>2,361,415</u>
Current Assets and Liabilities	8		43,294		13,691
Net Assets			<u>2,573,556</u>		<u>2,375,106</u>

Notes to the Pension Fund Account

1. Contributions Receivable

		2007	2006
		£'000	£'000
From Employers	Normal	138,547	128,517
	Special (Early Retirements)	11,225	11,416
		<u>149,772</u>	<u>139,933</u>
Analysis of Employers' Contributions	Kent County Council	68,964	61,169
	Scheduled Bodies	71,356	66,505
	Admitted Bodies	9,452	12,259
		<u>149,772</u>	<u>139,933</u>
From Employees	Kent County Council	18,064	16,912
	Scheduled Bodies	19,657	18,797
	Admitted Bodies	2,384	2,392
	Lump Sum Contributions	112	202
		<u>40,217</u>	<u>38,303</u>
Note:	As at 31 March the comparative numbers of members are:	2007	2006
	Kent County Council	20,304	20,001
	Scheduled Bodies	18,368	17,489
	Admitted Bodies	1,914	1,909
		<u>40,586</u>	<u>39,399</u>

2. Transfers In

		2007	2006
		£'000	£'000
Individual		14,101	28,144
Bulk		0	0
		<u>14,101</u>	<u>28,144</u>

3. Benefits Payable

	KCC	Scheduled Bodies	Admitted Bodies	2007	2006
	£'000	£'000	£'000	£'000	£'000
Pensions					
Retirement pensions	31,136	32,932	2,868	66,936	63,114
Widows' pensions	1,884	2,530	196	4,610	4,474
Children's allowances	50	123	4	177	163
Pensions increase	14,886	16,421	771	32,078	30,227
Less benefits recovered direct from employing authorities	0	-4,205	-117	-4,322	-4,279
	<u>47,956</u>	<u>47,801</u>	<u>3,722</u>	<u>99,479</u>	<u>93,699</u>
Lump Sums					
Retirement	7,989	12,756	1,484	22,229	18,341
Death gratuities	793	988	92	1,873	2,326
	<u>8,782</u>	<u>13,744</u>	<u>1,576</u>	<u>24,102</u>	<u>20,667</u>

The amount stated as pensions increase represents the year on year cumulative increase on the nominal retirement pension payable for the year to the end of the year.

retirement pension received at the start date of retirement.

Notes to the Pension Fund Account

4. Transfers Out

	2007	2006
	£'000	£'000
Individual	10,655	12,813
Bulk	0	1,809
	10,655	14,622

5. Administrative and other Expenses borne by the Scheme

	2007	2006
	£'000	£'000
Internal Administration	2,131	2,064
Actuarial Fees	166	219
Payments to external auditors - audit fee	67	67
- non audit services fee	0	20
Legal and Other Professional Fees	85	32
Other miscellaneous expenses	23	35
	2,472	2,437

6. Summary of Income from Investments

	2007		2006	
	£'000	%	£'000	%
Fixed Interest				
- UK	8,381	12.15	7,500	11.40
- Overseas	864	1.25	661	1.01
Equities				
- UK	34,241	49.65	31,866	48.46
- Overseas	11,246	16.31	9,074	13.80
Pooled Investment Vehicles				
- UK	320	0.46	140	0.21
- Overseas	618	0.90	3,516	5.35
- Property	664	0.96	777	1.17
Property - Freehold	10,435	15.13	10,046	15.28
Total Income From Investments	66,769	96.81	63,580	96.68
Currency Deposit Accounts	36	0.05	8	0.01
Cash Balances	2,147	3.11	2,145	3.26
Sub-Underwriting Commission/other	12	0.03	29	0.05
Total Income From Investments	68,964	100.00	65,762	100.00

Notes to the Pension Fund Account

7. Analysis of Change in Market Value of Investments

	Market Value 31.03.06 £'000	Purchases at Cost £'000	Sales Proceeds £'000	Change in Market Value £'000	Market Value 31.03.07 £'000
<u>Fixed Interest Securities</u>					
- UK Public	76,230	182,418	-182,042	-4,275	72,331
- Index Linked	0	231	-231	0	0
- UK quoted	72,968	96,859	-73,741	-2,819	93,267
- UK future contracts	5,583	52,709	-45,964	-38	12,290
- Overseas Public	0	11,330	-7,580	-8	3,742
- Overseas quoted	14,180	12,154	-10,425	-1,003	14,906
- Overseas future contracts	-13,449	232,440	-263,488	-3	-44,500
<u>Equities</u>					
- UK quoted	993,573	413,207	-590,043	39,661	856,398
- UK future contracts	0	11,151	-11,051	0	100
- Overseas quoted	507,420	531,337	-460,573	1,984	580,168
- Overseas unquoted	0	3,074	0	823	3,897
- Overseas future contracts	5,747	58,682	-63,154	475	1,750
<u>Pooled Investment Vehicles</u>					
<u>Managed Funds</u>					
- UK	32,489	137,128	-119,390	3,181	53,408
- Overseas	10,735	302,236	-167,985	22,782	167,768
<u>Unit Trusts</u>					
- UK Public/Fixed Interest	134,297	143,299	-132,855	1,170	145,911
- UK	22,316	0	-6,387	2,876	18,805
- Overseas	117,231	169,716	-171,786	4,520	119,681
- Property	12,941	9,102	0	3,091	25,134
- Property Overseas	0	869	0	13	882
Property - Freehold	189,372	17,900	-7,690	30,601	230,183
Global Tactical Asset Allocation	150,513	0	-16,000	-33,601	100,912
	<u>2,332,146</u>	<u>2,385,842</u>	<u>-2,330,385</u>	<u>69,430</u>	<u>2,457,033</u>
<u>Cash</u>					
- Cash Deposits	21,290			-214	31,140
- Cash backing open future contracts	2,098				30,760
<u>Other Investments</u>					
- Debtors - Outstanding Sales	7,558				1,397
- Creditors - Outstanding Purchases	-12,739				-2,979
- Profit/Loss on Forward Currency	-353				659
- Investment Income Accruals	11,415				12,252
	<u>2,361,415</u>			<u>69,216</u>	<u>2,530,262</u>

The following reflects the monetary and percentage split of the investments of the Fund at 31 March 2007 and previous year comparisons.

	2007		2006	
	£000's	%	£000's	%
Alliance Bernstein	277,548	11.0	0	0.0
Baillie Gifford	379,086	15.1	369,782	15.8
DTZ	256,994	10.2	202,845	8.6
GMO	167,768	6.7	0	0.0
Goldman Sachs	289,352	11.5	667,872	28.4
Henderson	9,485	0.4	433	0.0
MLIM (Transition)	938	0.0	0	0.0
Schroders	688,009	27.3	702,616	29.9
Societe Generale	448,594	17.8	406,452	17.3
YFM	236	0.0	0	0.0
	<u>2,518,010</u>	<u>100</u>	<u>2,350,000</u>	<u>100</u>



Notes to the Pension Fund Account

8. Current Assets and Liabilities

	2007	2006
	£'000	£'000
Cash	37,910	7,915
Contributions due from		
-Scheduled Bodies	7,536	6,613
- Admitted Bodies	1,198	1,771
	8,734	8,384
Other Debtors	658	869
Benefits payable	-1,206	-925
Other Creditors	-2,802	-2,552
Total	43,294	13,691

9. Additional Voluntary Contributions

Scheme members have the option to make additional voluntary contributions to enhance their pension benefits. These contributions are invested separately from the Pension Fund, with either Equitable Life Assurance Company, Prudential Assurance Company or Standard Life Assurance Company.

The policy with Equitable Life has an anniversary date of 30 September. Equitable Life has not been able to provide financial statements for 31 March year end dates.

The value of funds at 30 September 2006 was £1,642,978. Equitable Life has been asked to change the anniversary date of the policy to 31 March to enable the disclosure to be made in future years.

The disclosure for Prudential and Standard Life is set out below.

	2007			2006		
	Prudential £000	Standard Life £000	Total £000	Prudential £000	Standard Life £000	Total £000
Value at 1 April	2,180	1,932	4,112	1,949	1,416	3,365
Income						
Contributions Received	204	176	380	177	162	339
Transfer Values Received	106	4	110	206	111	317
Interest & bonuses	190	8	198	93	0	93
Total	500	188	688	476	273	749
						0
Expenditure						0
Retirement Benefits Paid	-250	-171	-421	-95	-52	-147
Transfer Values Paid	-82	-13	-95	-10	-38	-48
Refund of Contributions	-60	0	-60	-141	0	-141
Total	-392	-184	-576	-246	-90	-336
Change in Market Value	4	182	186	1	333	334
Value at 31 March	2,292	2,118	4,410	2,180	1,932	4,112

Notes to the Pension Fund Account

10. Related Party Transactions	2007	2006
	£'000	£'000
Transactions between the KCC Pension Fund and Kent County Council, in respect of Pensions administration costs, investment monitoring and other services.	2,131	2,064
Transactions between Scheduled and Admitted bodies participating in the Pension Fund, in respect of employee and employer contributions payable.	93	632

Included within the employer related investment figure of £92,623 are balances due at the year end from the following related parties: Town & Country Housing Group £19,431, High Weald Housing Association £14,364, Weald of Kent Grammar School for Girls £14,251, Mascalls School £12,468.

Financial Reporting Standard 8 requires that related party transactions are disclosed where material. The remaining items which make up the £92,623 balance, are individually below £10,000 and relate to a number of scheduled and admitted bodies. These have not been listed individually.

There were no related party transactions with members or senior officers.

11. Contingent Liability

As at 31 March 2007 the Pension Fund has a future commitment to invest in the following Funds:

Fund	Total Commitment	Invested	Outstanding
Henderson PFI	£10m	£9.5m	£0.5m
YFM Private Equity	£4m	£0.4m	£3.6m
Aurora European fund	26.3m euros	1.3m euros	25m euros

During April 2007 a further £0.6million was invested in YFM Private Equity Fund, and 6.2million euros in the Aurora European Property Fund. The outstanding commitment for future years is £3m and 18.8million euros respectively.

Scheduled Bodies

Local Authority and District Councils

Ashford Borough Council	Medway Council
Canterbury City Council	Sevenoaks District Council
Dartford Borough Council	Shepway District Council
Dover District Council	Swale Borough Council
Gravesham Borough Council	Thanet District Council
Kent County Council	Tonbridge and Malling Borough Council
Maidstone Borough Council	Tunbridge Wells Borough Council

Schools

Allington Primary School	Montgomery GM School
All Souls County Primary School	New Brompton College
Angley School	Newington Junior School
Archbishops CE School	Northfleet School for Boys
Aylesford School	Oakwood Park Grammar School
Barton Court Grammar School	Oldborough Manor Community College
Bennett Memorial School	Our Lady of Hartley RC Primary School
Borough Green Primary School	Park Farm County Primary School
Bradbourne School	Pent Valley Secondary School
Brockhill Park School	Queen Elizabeth's Grammar School
Canterbury High School	Rainham Mark Grammar School
Charles Dickens High School	Robert Napier School
Chatham Grammar School for Girls	Rochester Grammar School for Girls
Chatham House Grammar School for Boys	Roseacre Junior School
Chaucer Technology School	Sandwich High School
Cheyne Middle School	Senacre Technology School
Cornwallis School, Maidstone	Simon Langton Grammar School for Boys
Cranbrook School	Sir Roger Manwood School
Dane Court Grammar School	Skinner's School
Dartford Grammar School for Boys	Snodland County Primary School
Dartford Grammar School for Girls	Southlands Community Comprehensive
Ditton Infant School	St Anselm's RC Comprehensive School
Ditton CE Junior School	St Bartholomew County Primary School
Dover Grammar School for Boys	St Botolphs County Primary School
Folkestone School for Girls	St Edmund of Canterbury Comprehensive
Fulston Manor School, Sittingbourne	St Francis County Primary School
Gravesend Grammar School for Boys	St George's School, Broadstairs
Gravesend Grammar School for Girls	St George's School, Gravesend
Greatstone County Primary School	St Gregory's Catholic Comprehensive
Halfway Houses County Primary School	St John Fisher RC School
Harcourt County Primary School	St John RC Comprehensive
Hayesbrook High School for Boys	St Joseph RC Primary School
Herne Bay High School	St Simon Stock School
Herne Bay Junior School	Stella Maris RC Primary School
Hillview School for Girls	Sutton at Hone County Primary School
Holy Family RC Primary	Thamesview School
Holy Trinity County Primary School, Dartford	Thomas Aveling School
Holy Trinity County Primary School, Gravesend	Tonbridge Grammar School for Girls
Homewood School, Tenterden	Tunbridge Wells High School

Horton Kirby County Primary School
 Howard School
 Hugh Christie School
 Larkfield Brookfield Junior School
 Malling School
 Maplesden Noakes School, Maidstone
 Mascalls School
 Meopham School
 Minster College

Westlands School
 Wildernesse School
 Willesborough County Primary Junior School
 Wilmington County Primary School
 Wilmington Grammar School for Boys
 Wilmington Grammar School for Girls
 Wincheap County Primary School
 Wrotham School

Further Education Colleges

Canterbury College
 Hadlow College
 Hilderstone College
 Mid Kent College

North West Kent College
 South Kent College
 Thanet College
 West Kent College

Other Scheduled Bodies

Ash Parish Council
 Birchington Parish Council
 Borough Green Parish Council
 Broadstairs and St Peter's Town Council
 Charter Trustees of Folkestone
 Chestfield Parish Council
 Cranbrook Parish Council
 Darenth Parish Council
 Deal Town Council
 Ditton Parish Council
 Dover Town Council
 East Malling and Larkfield Parish Council
 Eastry Parish Council
 Edenbridge Town Council
 Farningham Parish Council
 Faversham Town Council
 Great Mongeham Parish Council
 Hartley Parish Council
 Hawkhurst Parish Council
 Hawkinge Parish Council
 Herne & Broomfield Parish Council
 Horton Kirby and South Darenth Parish Council
 Hythe Town Council
 Kent and Essex Sea Fisheries Committee
 Kent and Medway Towns Fire Authority
 Kent Institute of Art and Design
 Kent Magistrates Courts Committee
 Kent Police Authority

Kent Probation and After Care Committee
 Kent Top Temps Limited
 Kent Valuation Tribunal
 Leigh Parish Council
 Longfield and New Barn Parish Council
 Lower Medway Internal Drainage Board
 Minster on Sea Parish Council
 Minster Parish Council
 Otford Parish Council
 Pembury Parish Council
 Ramsgate Charter Trustees
 River Stour Internal Drainage Board
 Romney Marsh Levels Internal Drainage Board
 Sandwich Town Council
 Seal Parish Council
 Sevenoaks Town Council
 Snodland Town Council
 Southborough Town Council
 Staplehurst Parish Council
 Stone Parish Council
 Swanley Town Council
 Swanscombe and Greenhithe Town Council
 Temple Ewell Parish Council
 Tenterden Town Council
 Upper Medway Internal Drainage Board
 West Kingsdown Parish Council
 Westerham Parish Council
 Woodnesborough Parish Council
 Yalding Parish Council

Academies

Glossary of terms

Agency

The provision of services by one local authority, on behalf of and reimbursed by the responsible local authority or central government.

Best Value Accounting

The system of local authority accounting and reporting has been modernised to meet the changed needs of modern local government particularly the duty to secure and demonstrate Best Value in the provision of services. The Best Value Accounting Code of Practice provides guidance on the content and presentation of costs of service activities.

Budget

A statement defining the Council's policy over a specified period and expressed in financial or other terms.

Capital expenditure

Expenditure on the provision and improvement of permanent assets such as land, buildings and roads.

Capital receipts

Money obtained on the sale of a capital asset.

Credit arrangements

An arrangement other than borrowing where the use of a capital asset is acquired and paid for over a period of more than one year. The main types of credit arrangements are leases of buildings, land and equipment.

Deferred charges

Deferred charges include expenditure that has been treated as capital expenditure but does not lead to the acquisition by the Council of a tangible asset.

Employee expenditure

The salaries and wages of employees together with national insurance, superannuation and all other pay-related allowances. Training expenses and professional fees are also included.

Government grants

Part of the cost of local government's services is paid for by central government from its own tax income. These grants are of two main types. Some (specific grants and supplementary grants) are for particular services such as Highways and Transportation. Others are in aid of local services generally.

Intangible Assets

Capital spend on items such as software licences and patents.

Long-term debtors

Amounts due to Kent County Council where payment is to be made over a period of time in excess of one year.

Minimum Revenue Provision

The amount that the Council is required to charge to the revenue account each year to provide for the repayment of debt.

Glossary of terms

Net operating expenditure

This comprises all expenditure minus all income, other than the precept and transfers from reserves.

Non Delegated

Spend on Education Services which is not delegated to schools.

Precept

The levying of a rate by one authority which is collected by another. Kent County Council precepts upon the district councils collection funds for its income but some bodies, e.g. the Environment Agency, precept upon Kent County Council.

Public Works Loans Board

A government controlled agency that provides a source of borrowing for public authorities.

Related party transaction

A related party transaction is the transfer of assets or liabilities or the performance of services by, to or for a related party irrespective of whether a charge is made.

Revenue expenditure

Expenditure to meet the continuing cost of services including salaries, purchase of materials and capital financing charges.

Specific grants

See 'government grants'.

Support service costs

The 'overhead' cost to Service Directorates of support services, such as architects, accountants and solicitors.

Usable capital receipts

The proportion of the proceeds arising from the sale of fixed assets that can be used to finance capital

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Kent County Council 2006/07 Report to those charged with governance - Draft



Members of the Governance and Audit Committee
Kent County Council
County Hall
Sessions House
Maidstone
ME14 1XG

June 2007

Ladies and Gentlemen

2006/07 Report to those charged with governance

We are pleased to present our report in connection with the audit of the 2006-07 Financial Statements. At the time of writing this report the external clearance meeting between officers and the audit team had not taken place and there are several matters that are still under discussion. As in previous years we would propose to clear an updated version of this report with the Chairman of the Committee and others as you agree at the forthcoming meeting of Governance and Audit Committee.

We would like to express our thanks to the management and staff at Kent County Council for the assistance given to us during the course of our work.

Yours faithfully

PricewaterhouseCoopers LLP

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Code of Audit Practice and Statement of Responsibilities of Auditors and of Audited Bodies

In March 2005 the Audit Commission issued a revised version of the 'Statement of responsibilities of auditors and of audited bodies'. It is available from the Chief Executive of each audited body. The purpose of the statement is to assist auditors and audited bodies by explaining where the responsibilities of auditors begin and end and what is to be expected of the audited body in certain areas. Our reports and management letters are prepared in the context of this Statement. Reports and letters prepared by appointed auditors and addressed to members or officers are prepared for the sole use of the audited body and no responsibility is taken by auditors to any Member or officer in their individual capacity or to any third party.

Executive summary

The purpose of this report

This report summarises the results of our 2006/07 audit of accounts.

It includes the issues arising from our audit of the financial statements and those issues which we are formally required to report to you under the Audit Commission's Code of Audit Practice and International Standard of Auditing (UK & Ireland) (ISA(UK&I)) 260 - "Communication of audit matters with those charged with governance".

It also includes the results of the work we have undertaken on 'Use of Resources' under the Code of Audit Practice, to support our formal conclusion in this area.

Our work during the year was performed in line with the plan that we presented to you on 30 June 2006. We have issued or plan to issue a number of reports during the audit year, detailing the findings from our work and making recommendations for improvement, where appropriate. A list of these reports is included at Appendix A to this letter.

We have set out below the most important issues and recommendations that we have discussed with you in the course of our work.

Financial Statements

We have now completed a significant part of our audit of the Authority's 2006/07 Financial Statements. We have noted several matters that we wish to bring to your attention including:

- Contract Services (DSO) pension provision;
- Prior period adjustment for the Kent Pension Fund Liability;
- Provision for the costs and recognition of income for the Kent Police HQ roof;
- Accounting for PFI Schemes;
- Restructuring of debt;
- Accounting for prepayments;
- Bad and doubtful debt provisions;
- Accounting for archives and libraries IT services; and
- Shepway collaboration.

These matters have been set out in more detail within the financial statements section of this report.

We anticipate, at the time of writing this report, that we will issue an unqualified audit opinion on the financial statements, subject to the audit being completed with no significant errors individually or in aggregate being identified.

The following audit areas are still to be completed:

- Pension Fund Audit;
- Audit of the Adult Services and Children, Families and Education Directorates;
- Capital Testing;
- Review of the supporting evidence for the Statement of Internal Control; and
- Some areas of the directorate consolidation process.

Use of Resources

Under the Audit Code of Practice we are required to give an opinion on the Authority's use of resources. This opinion has been arrived at following an assessment of the Authority against a set of criteria issued by the Audit Commission. We are pleased to confirm that at the time of writing this report we propose to issue an unqualified opinion on Use of Resources, subject to the successful completion of our review of the management arrangements covering the Authority's Best Value Performance Indicators.

During 2006/07 we have also completed our Use of Resources Assessment. This differs from the opinion and feeds into the Authority's wider Comprehensive Performance Assessment (CPA) score. The Authority achieved an excellent Level 4 score for the CPA Use of Resources assessment.

We have been working with the Council on a number of targeted reviews. The one completed review, on School Clusters, has been reported to the Governance & Audit Committee. The remaining reviews are work-in-progress and will be reported to the same Committee as they are completed.

Financial statements

Accounts

We have completed the audit of the Authority's accounts in line with the Code of Audit Practice and Auditing Standards. At the time of writing this report we anticipate issuing an unqualified audit opinion on the financial statements, subject to the completion of work in the following areas:

- Pension Fund Audit;
- Audit of the Adult Services and Children, Families and Education Directorates;
- Capital Testing;
- Review of the supporting evidence for the Statement of Internal Control; and
- Some areas of the directorate consolidation process.

A verbal update will be provided to the Governance and Audit Committee on the above outstandings and any further matters that may have arisen between the time of writing this report and the Governance and Audit Committee meeting.

Accounting matters for consideration

ISA 260 requires us to report to you any material weaknesses in the accounting and internal control systems identified during the audit. We have

detailed below those matters that we have identified as part of our audit that fall to be reported to those charged with governance.

Direct Service Organisation (DSO) Pension Provision

As identified in our 2005/06 ISA 260 Report the Contract Services Division was externalised in 1999. At this point, the Authority recognised that they would be liable for the additional unfunded pension liability for the 102 people who worked in this area and who took early retirement just before or shortly after the transfer. The cost of this pension 'top up' is met directly by the directorates, and is paid through the payroll system, rather than being met through the pension fund.

At the time of the transfer an actuarial valuation was performed and a liability set up within Strategic Planning for the future cost of these pensions. This provision, which currently stands at £455k, is not sufficient to meet the expected total liability as valued by the actuaries Hymans Robertson. However, the actuarial valuation is now included as a 'liability related to defined benefit pension schemes' alongside the main pension liability on the balance sheet, and amounts to £2,487k as at 31 March 2007. Currently the original provision is also included on the balance sheet within 'provisions'. We therefore suggest that the provision moves to reserves.

As with the pensions prior period adjustment (see below) we have noted that the actuary does not appear to have been in receipt of all relevant information needed to calculate the FRS 17 entries, for example, the value of any assets (provision) and the ongoing contributions being paid to meet the costs of the additional pensions. Therefore the full set of FRS 17 figures required to meet

the FRS 17 disclosure requirements has not been provided by the actuary.

Whilst the funds set aside (as a provision/reserve) to meet the pension costs are currently significantly less than the liability, funding has been formally built into the Medium Term Financial Plan from 2009/10, when the existing provision set aside to meet the ongoing contributions is expected to run out.

Contract Services pension provision

The £455k 'provision' currently set aside to meet the cost of the Contract Services pension liability should be transferred to a Contract Services Pension Reserve as the liability has already been recognised in the Authority's FRS 17 liability.

We recommend that a thorough review is carried out to ensure that all relevant information has been disclosed to the actuary for both this and the full pension fund, to allow them to carry out and prepare accurate and complete FRS 17 figures to meet the disclosure requirements of the standard.

Prior period adjustment for the Kent Pension Fund liability

During 2006/07 the Authority identified a £4.2 million 'unfunded liability' that arose when officers took early retirement and the Authority agreed to top up their full pension. These unfunded liabilities were incurred between the restructurings of 1974 and 1998. This information had not been forwarded to the actuaries since the requirement to implement FRS 17 disclosures in 2002/03. As a result the related actuarial liabilities have been omitted from the total liabilities since 2002/03 financial year.

The actuaries have now been informed of this additional amount and have included the unfunded liability in their calculations of the FRS 17 figures for 2006/07. This has resulted in a prior period adjustment being required to restate the 2005/06 figures. The prior period adjustment has resulted in a £62m increase in the pension liability for 2005/06.

Pension liabilities

We recommend that the Authority carries out a thorough investigation of pension fund information supplied to the actuaries to ensure that it is meeting its obligation to supply its actuaries with full details of its pension obligations.

Provision for the costs and recognition of income for the Kent Police HQ roof

The Authority provided the design plans for the Kent Police HQ roof. During 2005/06 the Authority contributed to the costs of emergency repairs to the Police HQ building's roof and identified a potential liability for costs of a replacement roof. No provision was made at this stage for the potential cost of replacing the roof as no actual claim had been made against the Authority, liability had yet to be determined and it was not possible to estimate the potential liability at that stage.

There continues to be no provision for the costs to replace the roof in the 2006/07 accounts and there has been no correspondence between the two organisations to progress this issue during the year. However, there has been liaison with the council's insurers.

A long term debtor of £417k has been recognised in the 2006/07 accounts to recognise anticipated income against the costs of repairs from an insurance claim. However, although officers are confident that the insurance claim will be paid the insurers have not confirmed this in writing. The legal team responsible for the claim considers that there is still an element of risk that the Authority may not receive the proceeds of this claim. We would advise that the debtor should not be recognised in the accounts as there is still an element of uncertainty that the claim will be settled. Once the letter confirming that the insurers will settle claim has been received then it would be appropriate to recognise the debtor and associated income. This item appears on our unadjusted differences in Appendix B.

Kent Police HQ roof

Due to the element of uncertainty still surrounding the insurance claim for £417k, the income and associated debtor should be removed from the 2006/07 financial statements.

When discussions with the insurer are concluded, the authority should enter into discussions with Kent Police Authority to resolve the issue of the repairs required to the police HQ roof. Any costs which are likely to be incurred should be provided for within the budget and medium term financial plan and in turn the financial statements.

Accounting for PFI Schemes

In the 2005/06 ISA 260 report we noted the complexity of accounting for PFI schemes. We have worked with the Authority over the course of 2006/07 to ensure that the correct accounting treatment has been applied to these schemes in the 2006/07 accounts.

One of the required accounting entries is to build up the estimated residual value of the asset at the end of contract's life, at which point the asset is transferred to the Authority for nil cost. The estimated value has been arrived at through discussions with the Authority's valuer. However, no formal valuation has been obtained.

Restructuring of debt

During 2004/05 the Authority restructured its debt financing, and incurred a cost of £2.1 million for the early redemption of the existing loans (a 'premium'). This cost was being spread over the lives of the replacement loans, which average 30 years.

In 2006/07 the replacement loans were themselves replaced with loans of a similar nature and duration. As a result, the premia incurred in 2004/05 continue to be spread over the life of the replacement loans. Whilst this approach can be justified under the current regulations, it now appears likely that the ability to do this in future will cease. It is possible that the cost of any future premia that are incurred on the restructuring of debt will have to be met in full in the year that they are incurred. There could be a requirement for

prior period adjustment.

Monitoring the developments and entering into the debate (where possible) will be important to help to ensure that any future decisions on the restructuring of debt also consider the accounting impact (not just the cash position) that may result from the changes in the regulations within this area.

Accounting for prepayments

Prepayments are calculated monthly so that any element of an invoice for services (eg rentals) relating to March 2007 may have been excluded for accounting purposes and allowed to remain within the prepayment, rather than being separated out as expenditure in the year. This could lead to an understatement of expenditure and overstatement of prepayments, although it is noted that any expenditure misstatement due to incorrect accounting treatment in 2006/07 will be largely off-set by the application of the same policy in 2005/06, leaving only the balance sheet impact.

Through testing of prepayments in the Chief Executive's and the Environment and Regeneration directorates we identified £77,388 of 'prepayment' that was actually 2006/07 expenditure.

As a result of the consistent application year on year and given the relatively small scale of the errors identified to date, we believe that the risk of material misstatement to the accounts as a result of this accounting treatment is likely to be low.

Prepayments

The Authority should review its accounting treatment for prepayments and consider whether it would be more appropriate to separate out expenditure relating to the year of account on a daily, rather than a monthly, basis.

Bad and doubtful debt provisions

The Communities directorate has provided £27k for bad and doubtful debts, on a total debtor balance of £4.1 million. This provision was inherited from the Social Services and Strategic Planning directorates when the Authority was

restructured on 1st April 2006 and has not moved since the prior year. At present, it is not possible to identify whether the debts to which this provision related are still outstanding as at 31 March 2007.

The directorate has not made any other provision for bad and doubtful debts at year end.

Bad and doubtful debt provisions

In the light of the restructuring that took place in 2006/07 the Authority should review its policies for providing for bad and doubtful debts to determine whether these are adequate. Following any revisions the policy should be re-communicated to all directorates to ensure that it is consistently applied. Where directorates feel that they require their own policy for providing bad and doubtful debts this should be fully documented, applied consistently and communicated to the relevant officers.

Accounting for archives and libraries IT services

Archives and libraries have a contract with BT which provides a managed service for provision and management of IT services to libraries. Contractual change requests are charged in addition to the core services. These cover new items of equipment, such as additional computers and printers, along with maintenance of the existing network. Under the terms of the contract, the cost of change requests can be paid immediately or spread over the life of the contract, in which case it will be subject to inflation. As a result, it was decided within Archives and Libraries that, wherever it is possible to meet these expenses within budget, they would be paid immediately and expensed in the year.

However, the appropriate accounting treatment would be to expense only the elements of change requests relating to maintenance work in the year (£283k in 2006/07). Costs relating to provision of additional equipment (£233k in 2006/07) should be set up as a prepayment and expensed over the life of the remaining contract in recognition of the fact that the equipment is being leased over this period.

Whilst expenditure in any one year will be overstated, through expensing change requests related to IT equipment added in year, this is offset by the understatement of the leasing expense for equipment added through change requests in prior years. Therefore, we have deemed the risk of material misstatement as a result of this incorrect accounting treatment to be low.

Accounting for archives and libraries IT service

The directorate finance teams should review any new contractual arrangements, or changes to existing arrangements, to ensure that the accounting treatment adopted is in line with financial reporting standards.

Shepway collaboration

As noted in our 2005/06 ISA 260 Report, the Landscape Services Division of Commercial Services has been providing services to Shepway District Council since August 2004. Whilst a 'heads of agreement' setting out the broad areas covered by the arrangement was drawn up at the start of the arrangement, no formal service level agreement setting out the detailed service requirement has ever been in place.

In 2006/07, the Authority agreed to the provision of services to the value of £457k in addition to provision of core services of £3,388k. The costs for the additional services were met by the Authority.

We understand that provision of services to Shepway District Council is to be discontinued during 2007/08.

Pension Fund

At the time of writing the audit of the Pension Fund had only just commenced. On completion of this element of the audit any matters arising will be included within this section of the ISA 260 Report.

Unadjusted differences

We are required to report to you all unadjusted differences which we have identified during the course of our audit, other than those of a trivial nature. These misstatements are set out in Appendix B to this report.

Elector's questions

We have received several Electors' Questions since the presentation of our 2005/06 ISA 260 Report. The areas on which we have received questions are:

- The level of the Chief Executive's pay;
- Manston Airport;
- The Authority's investment in the Manston to Virginia flight service; and
- The cancellation of the recycling service in Cherry Lane.

Several of the issues raised have been included in our audit programme and are reported elsewhere in this letter, where appropriate. We have yet to receive the information requested in respect of the query relating to the Chief Executive.

Financial standing

During 2006/07 the Authority under-spent by £7,740k (excluding the delegated schools budget and the unallocated dedicated schools grant) at portfolio level, most of which was due to the re-phasing of revenue funded projects. The main areas of this under-spend were:

- Education and School Improvement – £2,342k
- Environment Highways and Waste - £2,386k
- Finance - £6,535k

This is the second year that the council has reported a significant underspend at portfolio level (2005/06: £8,957k).

The reserves balances as at 31 March 2007 were:

- General Fund - £25,835k (£25,835k in 2005/06)

- Earmarked Capital Reserve - £26,698k (£24,884k in 2005/06)
 - Earmarked Revenue Reserves - £81,181k (£74,094k in 2005/06)
- Schools' reserves were £67,639k as at 31 March 2007, an increase of £2,013k (3%) on 2005/06.

The Authority therefore scores well for financial standing in our CPA assessment.

Capital budget outturn

Capital outturn for 2006/07 was £237,059k, £39,092k of which was delegated to schools and £5,834k to the Property Enterprise Fund. The total capital budget for the year was £251,896k, although final approval to spend is only given when the project is approved. There was therefore re-phasing of £14,837k into future years.

The Property Enterprise Fund was established in 2006/07 with the aim of maximising the value of the Authority's land and property portfolio. To achieve this, capital receipts from the disposal of non operational property will be reinvested into assets with higher growth potential and also via the strategic acquisition of land and property to add value to the Authority's portfolio. The Fund received an approval to operate a £10m temporary borrowing facility. In 2006/07, £2.714m of temporary borrowing was utilised to finance the activities of the Fund.

Capital outturn can be split across portfolios as shown below.

Portfolio	£000's
Education and Schools Improvement	97,771
Children and Family Services	3,354
Adult Social Services	10,719
Environment, Highways and Waste	37,747
Regeneration and Supporting Independence	24,490
Communities	8,941
Corporate Support and Health	2,332
Policy and Performance	470
Finance	6,309
Total (excluding schools)	192,133
Capital devolved to Schools	39,092
Total	231,225
Property Enterprise Fund	5,834
Total including PEF	237,059

Trading operations

Trading operations have, for the most part, performed well during the year. A total operational surplus of £4,693k was achieved, a 29% increase on 2005/06. Surpluses were achieved by all but 2 of the 11 trading operations, with County Print and Passenger Services reporting small deficits of £48k and £29k respectively.

The directorate's turnover has expanded by 15% during the year to 2006/07, with the majority of this increase being attributable to the LASER business unit. The profit achieved on the LASER turnover in 2006/07 was £1.4m,

The working capital position for the Commercial Services directorate has worsened during the course of 2006/07. Debtors in the Sales Ledger Control Account have increased by 32% to £29.7m, compared with only an 11% increase in creditors in the Purchase Ledger Control Account to £11m. The directorate's overdraft has increased by 83% to £7.8m.

This worsening of the working capital position is mainly attributed to delays in the receipt of invoices from energy suppliers within the LASER trading operation, which means that billing of customers by KCC is in turn delayed. This situation has been exacerbated in 2006/07 as a result of mergers of suppliers which led to further delays in the Authority receiving invoices. There has been no significant increase in the provision for bad and doubtful debts within LASER, as the majority of the debtors are less than 6 months old (£21.2 million of the total LASER debtor of £21.6m), attracting a 0% provision in line with the directorate's bad debt policy.

Although as a division of the Authority there is not a going concern risk regarding Commercial Services, there is a risk that the Division may require additional working capital from central Finance.

We have also noted that the dividend which the directorate is expected to achieve and contribute to the Authority in future years continues to rise and the directorate remains under pressure to exceed these dividends to generate excess profit to invest in capital projects or to enable it to make investments in new or existing operations.

The amount of income received by the Authority from Commercial Services is small compared to the total income receivable by the Authority. However, there is a risk that the Authority is relying upon these trading dividends to fund future activities and that, if Commercial Services are unable to meet the dividend, a funding gap, albeit potentially small, may appear in the Authority's budget.

Working capital position and dividend payment

We understand that the directorate has been reviewing the situation to identify possible solutions to ease the problems with cash flow. This review should be continued, and extended to identify whether all business units are sustainable in the long term, that the risk profile of the business units continue to be acceptable to the authority and whether the financial structure of the division is appropriate to support future plans.

In addition the Authority should continue to closely monitor the financial position of Commercial Services to ensure that dividends are achievable.

The Authority currently only discloses activities undertaken by its Commercial Services directorate as trading operations within the financial statements. However, the Authority also undertakes a number of other activities that meet the CIPFA definition of a trading activity. These include:

- Oakwood House;
- Personnel and Development services;
- Legal Services; and
- Schools Support Services.

The SORP gives the Authority discretion on what it discloses as a trading operation in the financial statements. However, as suggested in our 2005/06 ISA 260 Report, consideration should be given to disclosing some or all of the above in the financial statements as trading operations.

Financial outlook for 2007/08

Gross expenditure of £2,115m has been budgeted in 2007/08 (£1,987m in 2006/07). The main causes of this rise are:

- Pay and price increases - £27.7m
- Government/legislative pressures - £4.6m

- Demand-led pressures & delivering "Towards 2010" targets - £17.4m
- Delegated schools budget - £33.8m
- Service strategies and improvements - £24.4m

Within the 2007/08 budget there are proposed savings and additional income of £41.8m along with an increase in the dedicated schools budget of £38.8m. The above increases in costs have required a council tax increase of 4.95%.

Internal audit

We have maintained a good working relationship with Kent Audit (the Authority's internal audit service) during 2006/07.

As part of our wider assessment of the Authority's control environment we are required to review the internal audit arrangements. We have reviewed the 2006/07 Internal Audit plan and, where applicable to our audit approach, individual audit reports.

We have been able to place reliance on the work performed by Kent Audit in areas of our financial statements audit. This enables us to perform a more focused audit in higher risk areas and to minimise any risk of duplication of work.

Systems of internal control

We are required to report to you any material weaknesses in the accounting and internal control systems identified during the audit. At the time of writing this report the most significant weaknesses in the internal control systems that we wish to bring the attention of members are set out below.

Communities budget monitoring

Communities was a new directorate created during the restructuring. Communities has had a number of new staff appointed to senior positions and the new systems and processes have taken time to bed in. Of the 20 units within the Communities directorate, 5 have not supplied budget monitoring returns since the restructuring on 1 April 2006. As a result, under

or over spends on budget may not be identified and appropriate action may not be taken to address adverse variances.

Monitoring of IT network activity

There is limited evidence of proactive and formal monitoring of IT network activity, powerful access to, and changes to, the IT environment. There is, therefore, a risk that unauthorised or unusual activity will not be detected promptly.

Review of IT segregation of duties

There has been no periodic review of the segregation of duties for users of the IT network to ensure that access to sensitive or conflicting functions has been prevented. This may provide an opportunity for fraud or misuse that could be prevented.

Standards of Financial Conduct and the Prevention and Detection of Fraud and Corruption

At the time of writing this report we have reviewed the reports produced by Internal Audit for the Governance and Audit Committee on cases of fraud and irregularity that they have investigated. There have been no other matters raised in this area in the period.

The Legality of Financial Transactions

At the time of writing this report and with the exception of matters raised with us by electors, and those which we have discussed with officers, there have been no matters raised in this area in the period.

Use of Resources

Work performed

In accordance with the Code of Audit Practice, we have performed work to conclude on the Authority's arrangements for achieving economy, efficiency and effectiveness in its use of resources. Our work to support our conclusion comprised the following elements:

- Use of Resources assessment for CPA:
 - Financial Reporting
 - Financial Management
 - Financial Standing
 - Internal Control
 - Value for Money
- Mandatory Data Quality Review work
- Review of the Statement on Internal control
- Audit of the Best Value Performance Plan (the Authority's Annual Plan).

Use of Resources Opinion

Under the Code of Audit Practice we are required to provide a conclusion on the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources. This conclusion is reached by assessing the Authority's arrangements against a set of criteria issued by the Audit Commission. Our conclusion is based on the use of resources assessment undertaken in October 2007 as part of the CPA process and updated as necessary, our Local Government data quality work, and other information that came to our attention during the course of our audit work.

At the time of writing this report, we intend to issue an unqualified use of resources conclusion.

Use of Resources Assessment

During 2006/07 we have completed the annual Use of Resources assessment for the Authority. This assessment was submitted to the Audit Commission and formed part of the overall CPA assessment. This assessment covers five key areas:

- Financial reporting;
- Financial management;
- Financial standing;
- Internal control; and
- Value for money.

Overall the Authority achieved a level 4 score. This was an excellent result and officers should be congratulated for their efforts in achieving this score.

The score is broken down into the following scores for each Use of Resources area as follows:

- Financial reporting - 4
- Financial management - 4
- Financial standing - 4
- Internal control - 3
- Value for money – 4

Targeted work

During 2006/07 we have also undertaken or have commenced several pieces of targeted performance work. These include:

- A review of Highways Management;
- A Value for Money (VfM) review of the Schools Clusters Arrangement;
- A VfM review of Libraries;
- A VfM review of Waste Management;
- A VfM review of Learning Disabilities Day Care;
- Review of Carbon Management Policies; and
- The provision of risk management training.

The results of the VfM review of Schools Clusters Arrangements have been reported to Members at a previous Governance and Audit Committee meeting. The remaining reviews are still in progress and the findings from these reviews will be reported to Members or Management, as appropriate.

Data Quality work

At the time of writing the Stage 1 of the Data Quality work had only just commenced. The outcomes of this work will be reported in the final ISA 260 Report.

Statement on Internal Control

Local Authorities are required to produce a Statement on Internal Control (SIC) which is consistent with guidance issued by CIPFA / SOLACE. The SIC was included in the financial statements.

We reviewed the SIC to consider whether it complied with the CIPFA / SOLACE guidance and whether it is misleading or inconsistent with other information known to us from our audit work. We found no areas of concern to report in this context.

Best Value Performance Plan

Our work on the 2006/07 Best Value Performance Plan (BVPP), issued by the Authority in June 2006. Our audit report on the BVPP was issued in December 2006 and concluded that the Best Value Plan was prepared in accordance with section 7 of the Local Government Act 1999 and the Audit Commission's statutory Code of Audit Practice. The work on the 2007/08 BVPP forms part of the 2007/08 audit to be undertaken by the Audit Commission as part of their 2007/08 Audit Plan.

Audit plans and fee update

Audit Plan 2006/07

We issued our Audit Plan for 2006/07 and presented it to Members on 30 June 2006.

We have performed appropriate reporting procedures for each of the risks identified in our Audit Plan of 2006/07. In this report we comment only on those areas where we believe we need to communicate with those charged with governance.

Audit fees update for 2006/07

We reported our fee proposals as part of the Audit Plan for 2006/07.

Our actual fees are expected to be in line with our proposals.

Our fees charged were:

	2006/07 Outturn	2006/07 Fee proposal
Accounts	£253,098*	£253,098
Use of Resources	£125,440	£125,440
Total	£378,538	£378,538

* Subject to the successful completion of the financial statements audit and the assumptions set out in the 2006/07 Joint Audit and Inspection Plan still being met.

The fees set out above do not include an amount of approximately £12,000 charged by the Audit Commission's Relationship Manager.

In addition, we performed work which fell outside of the Code of Audit Practice relating to a review of Passenger Services. Our fee for this work was £24,134.

Appendix A: 2006/07 targeted audit work

Below we set out the status of the targeted audit work that we have completed or are currently completing as part of 2006/07 audit plan:

- Value for Money (VfM) review of the Schools Clusters Arrangement – Report has been issued as final and presented to members.
- The provision of risk management training – No report is to be issued as part of this work.
- Review of Highways Management – Report has been issued as final to management.
- VfM review of Libraries – Report is in draft format and is with management for their responses.
- A VfM review of Waste Management - Report is in draft format and is with management for their responses.
- A VfM review of Learning Disabilities Day Care – Fieldwork is well advanced.
- Review of Carbon Management Policies – Fieldwork is in progress.

Appendix B: Summary of unadjusted differences

We have identified the following errors during our audit of the financial statements that have not been adjusted by management. The Audit Committee are requested formally to consider the listed unadjusted errors and determine whether the accounts should be amended. If the errors are not adjusted we will require a written representation from you explaining your reasons for not making the adjustments.

Unadjusted Misstatement	Income and Expenditure Account		Balance Sheet	
	Dr	Cr	Dr	Cr
CORPORATE SERVICES				
<p>Prepayments – Charges for the final week in March and quarter 1 for various properties rented by the Chief Executive's directorate have all been accounted for as a prepayment.</p> <p>The rent for the last week of March should actually be accounted for as 2006/07 expenditure.</p>	<p>Rent Expenditure £76,572</p>		<p>Prepayments £76,572</p>	

Unadjusted Misstatement	Income and Expenditure Account		Balance Sheet	
	Dr	Cr	Dr	Cr
<p>Debtors - A debtor has been set up for re-claiming of damages paid by KCC on a property at Foster Street. Whilst evidence from the external lawyer has suggested the money will be reclaimed, the time elapsed since the damages were initially paid (in 04/05) does create an element of doubt. However, no bad debt provision has been set up against this debt. The adjustment assumes a 100% specific provision against this debt.</p>	<p>Bad and Doubtful debt expense £71,230</p>		<p>Bad and doubtful debt provision £71,230</p>	
<p>Long term debtor for the police HQ roof - In 2005/06 KCC included expenditure in their accounts for the costs of emergency repairs to the Kent Police HQ roof. As the building originally belonged to KCC and was designed with KCC input, it was argued they were liable for repairs. The insurance claim in respect of this expenditure is included as a debtor in the 2006/07 accounts. However, as no confirmation has been received from the insurers</p>	<p>Corporate Services Income £ 417,379</p>			<p>Long term debtors £ 417,379</p>

Unadjusted Misstatement	Income and Expenditure Account		Balance Sheet	
	Dr	Cr	Dr	Cr
that this will be paid, the reimbursement is not 'virtually certain' and should not be recognised as a debtor.				
COMMERCIAL SERVICES				
Miscellaneous provision for excess mileage - This provision relates to excess mileage on vehicles transferred from Corporate Services in 2004/05. Given that the charge is not expected to be levied until the vehicles are returned, the entire provision is being held for 6 years following the date of transfer. The total estimated cost of the excess mileage at the time of the transfer was £153,360. However, a provision for £175k is included in the accounts. The difference between the estimated cost and the actual provision should be written back.		Commercial services income £21,640	Miscellaneous provisions £21,640	

Unadjusted Misstatement	Income and Expenditure Account		Balance Sheet	
	Dr	Cr	Dr	Cr
ENVIRONMENT AND REGENERATION				
Creditors - A capital creditor for Ringway infrastructure services was set up at year end. It was subsequently realised that this creditor should not have been set up.		Expenditure £20,237	Creditors £20,237	
COMMUNITIES				
Income - Two post year end income receipts (amounting to £7,156 & £960) relating to 2006/07 have not been included as year end debtors.		Income £8,116	Debtors £8,116	
Short-term debtors - A payment in advance was incorrectly classified as a sundry debtor.			Debtors (payment in advance) £114,331	Debtors (sundry debtors - general) £114,331
Creditors - A £35,000 creditor was raised in respect of a new joint post of Website Officer to be shared with Kent Police. The officer has yet to be appointed, so the associated expenditure represents a roll forward of budget rather than a true year end creditor.		Expenditure £35,000	Creditor £35,000	
Net effect	£565,181	£84,993	£199,324	£679,512

Appendix C: Use of Resources conclusion

The Audit Commission has published 12 Code of Practice criteria on which auditors will be required to reach a conclusion on the adequacy of an audited body's arrangements for economy, efficiency and effectiveness in its Use of Resources.

These code criteria are linked to the CPA and Data Quality Review Key Lines of Enquiry (KLoEs). A score of Level 2 or higher under the KLoEs will result in an assessment of adequate for the purposes of the Code criteria. The Code criteria and the linked KLoEs are shown in the table below:

Code Criteria	Description	Associated KLoE	CPA Score	Use of Resources Conclusion
1	The body has put in place arrangements for setting, reviewing and implementing its strategic and operational objectives.	N/A	N/A	Adequate
2	The body has put in place channels of communication with service users and other stakeholders including partners, and there are monitoring arrangements to ensure that key messages about services are taken into account.	N/A	N/A	Adequate
3	The body has put in place arrangements for monitoring and scrutiny of performance, to identify potential variances against strategic objectives, standards and targets, for taking action where necessary, and reporting to members.	N/A	N/A	Adequate
4	The body has put in place arrangements to monitor the quality of its published performance information, and to report the results to members.	[L-G DQ Stage 1]	1 / 2 /3 / 4	TBC – Data Quality work is still in progress
5	The body has put in place arrangements to maintain a sound system of internal control	4.2	3	Adequate

Code Criteria	Description	Associated KLoE	CPA Score	Use of Resources Conclusion
6	The body has put in place arrangements to manage its significant business risks.	4.1	3	Adequate
7	The body has put in place arrangements to manage and improve value for money.	5.2	3	Adequate
8	The body has put in place a medium-term financial strategy, budgets and a capital programme that are soundly based and designed to deliver its strategic priorities.	2.1	4	Adequate
9	The body has put in place arrangements to ensure that its spending matches its available resources.	3.1	4	Adequate
10	The body has put in place arrangements for managing performance against budgets.	2.2	4	Adequate
11	The body has put in place arrangements for the management of its asset base.	2.3	3	Adequate
12	The body has put in place arrangements that are designed to promote and ensure probity and propriety in the conduct of its business.	4.3	4	Adequate

Appendix D: Summary of recommendations contained in this letter

Page	Recommendation	Management Response	Target Implementation Date
8	<p>Contract Services pension provision</p> <p>The £455k 'provision' currently set aside to meet the cost of the Contract Services pension liability should be transferred to a Contract Services Pension Reserve to prevent double counting.</p> <p>We recommend that a thorough review is carried out to ensure that all relevant information has been disclosed to the actuary for both this and the full pension fund, to allow them to carry out and prepare accurate and complete FRS 17 figures to meet the disclosure requirements of the standard.</p>		
8	<p>Pension liabilities</p> <p>We recommend that the Authority carries out a thorough investigation of pension fund information supplied to the actuaries to ensure that it is meeting its obligation to supply its actuaries with full details of its pension obligations.</p>		

Page	Recommendation	Management Response	Target Implementation Date
9	<p>Kent Police HQ roof</p> <p>Due to the uncertainty surrounding the insurance claim for £417k, the income and associated debtor should be removed from the 2006/07 financial statements.</p> <p>When discussions with the insurer are concluded, the authority should enter into discussions with Kent Police Authority to resolve the issue. Any costs which are likely to be incurred should be provided for within the budget and medium term financial plan and in turn the financial statements.</p>		
9	<p>Prepayments</p> <p>The Authority should review its accounting treatment for prepayments and consider whether it would be more appropriate to separate out expenditure relating to the year of account on a daily, rather than a monthly, basis.</p>		
10	<p>Bad and doubtful debt provisions</p> <p>The Authority should review its policies for providing for bad and doubtful debts to determine whether these are adequate. The policy should be communicated to all directorates to ensure that it is consistently applied. Where directorates feel that they require their own policy for providing bad and doubtful debts this should be fully documented, applied consistently and communicated to the relevant officers.</p>		
10	<p>Accounting for archives and libraries IT service</p> <p>The directorate finance teams should review any new contractual arrangements, or changes to existing arrangements, to ensure that the accounting treatment adopted is in line with financial reporting standards.</p>		

Page	Recommendation	Management Response	Target Implementation Date
13	<p>Working capital position and dividend payment</p> <p>We understand that the directorate has been reviewing the situation to identify possible solutions to ease the problems with cash flow. This review should be continued, and extended to identify whether all business units are sustainable in the long term, that the risk profile of the business units continue to be acceptable to the authority and whether the financial structure of the division is appropriate to support future plans.</p> <p>In addition the Authority should continue to closely monitor the financial position of Commercial Services to ensure that dividends are achievable.</p>		

In the event that, pursuant to a request which Kent County Council has received under the Freedom of Information Act 2000, it is required to disclose any information contained in this report, it will notify PwC promptly and consult with PwC prior to disclosing such report. Kent County Council agrees to pay due regard to any representations which PwC may make in connection with such disclosure and Kent County Council shall apply any relevant exemptions which may exist under the Act to such report. If, following consultation with PwC, Kent County Council discloses this report or any part thereof, it shall ensure that any disclaimer which PwC has included or may subsequently wish to include in the information is reproduced in full in any copies disclosed.

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By: Director of Finance
 To: Governance and Audit Committee – 29 June 2007
 Subject: **TREASURY MANAGEMENT ANNUAL REVIEW**
 Classification: Unrestricted

Summary: To report on treasury management activity in 2006-07.

FOR INFORMATION

INTRODUCTION

1. The purpose of this report is to review the main aspects of treasury management activity during the year in accordance with the CIPFA Code of Practice on Treasury Management.
2. Treasury Management is a key aspect of KCC's finances due to:
 - (1) The governance and control issues related to the large sums invested and borrowed.
 - (2) The criticality of investment income and reducing borrowing costs for KCC's revenue budget.

This is an area where good management can make a real difference to the Council's finances.

LONG TERM BORROWING

3. Borrowing

- (1) In 2006-07 borrowing totalled

Date	Amount	Interest Rate	Period of Loan Years	Source	Type
	£m	%			
25/04/06	20	3.7	50	DEPFA Dublin	Market LOBO
31/08/06	10	4.2	48	PWLB	
3/11/06	20	4.1	36.5	PWLB	
6/11/06	10	4.1	41.5	PWLB	
10/3/07	10	4.3	42.5	PWLB	
Total	70				

- (2) Loans were taken both from the PWLB and the market. The LOBO (lender option, borrower option) have fixed rates for an initial period, after which the lender has the option to increase the rate or we can repay the loan.
- (3) Our strategy on borrowing is to spread the borrowing through the year taking advantage of short term fluctuations to borrow advantageously. In 2006-07 there was a rising trend in short term interest rates reflecting strengthening economic activity and rising inflation. The first rise in base rate came in August 2006 with an increase from 4.5% to 4.75% - rates at the end of the year were 5.25%. Long term interest rates (PWLB) broadly followed the upward trend but short term events did create dips and we try to take advantage of these favourable opportunities.

4. Debt Restructuring

- (1) As at 31 March 2007 long term borrowing was £952.4m of which £55.5m is attributable to Medway Council.
- (2) During the year we were very active in restructuring debt and the work undertaken is summarised in the Appendix 1 and 2.
- (3) In total we restructured £124.3m of 'normal' debt and this will save annually £505k, and we structured out the stepped LOBO's totalling £135m freeing up provision of £3.5m making an annual saving of £326k.

5. Performance Summary

Overall the average rate of interest paid in 2006-07 reduced from 5.82% to 5.77% and an underspend of £3,200k was achieved on the total interest cost budget.

INVESTMENTS

6. During 2006-07 we have been able to achieve a substantial improvement in investment returns from 2 main factors:
 - (1) Improvements in the level of funds available to be invested.
 - (2) Investing for longer periods.

7. Balances

During 2006-07 the average daily balance increased to £308m compared with £259m in 2005-06 and £242m in 2004-05. This increase reflects a strengthening of the balance sheet and higher short term cashflows.

8. Duration

- (1) During the year we undertook a number of deals for over 365 days and these are set out in Appendix 2. We committed substantially more into these arrangements during the year almost doubling the total.
- (2) The impact of this strategy on returns will be highlighted when we look at the outcomes of the CIPFA Benchmarking.

9. Performance Summary

The investment return achieved was 4.96% against a 7 day LIBID benchmark of 4.82%.

RISK

10. The Authority has complied with all relevant statutory and regulatory requirements which limit the levels of risk associated with treasury management activities. In particular in our adoption and implementation of the CIPFA Code of Practice for Treasury Management Prudential Code we have ensured that capital expenditure is prudent, affordable and sustainable; and that treasury practices demonstrate a low risk approach.
11. With advice from Butlers, our treasury advisers, we have looked to spread borrowing decisions so that we are not caught out by major unexpected movements. We have continued to borrow at fixed rates utilising long term loans. Short term rates determine investment returns and by their nature are more volatile. We deal directly in the markets on a nearly daily basis and through strict investment limits with counter-parties spread our risk.

CIPFA BENCHMARKING

12. KCC participates in the CIPFA benchmarking group for Treasury Management along with around 90 other Authorities.

13. The key results on investments are:

Performance Compared with All Members

	KCC Return %	Average Return %
Cash Managed In-House (< 365 days)	4.84	4.87
Money on Call	4.79	4.82
Money Market Funds	-	4.67
Callable Deposit	5.23	5.10
Externally Managed Funds	-	4.15
Combined Investments	4.96	4.84

Once again we have beaten the average return by the same amount as last year 12 basis points. Many authorities use External Fund Managers and from the table it is clear that once again they delivered very poor returns.

We do not yet have CIPFA data on our peer group councils but this will be provided when we have the results.

The Combined Investments performance was the 9th best of the 90 Councils.

14. Local authorities can invest in a wide variety of financial investments and higher returns are linked to higher risk. All the investments undertaken by KCC have had a guarantee of the capital invested. So the performance achieved has been with very low risk financial investments.

RECOMMENDATION

15. Members are asked to note this report

Nick Vickers
Head of Financial Services
☎ 01622 694603

APPENDIX 1

Debt Restructuring 2006 -07

Rescheduling opportunities were taken on 5 May, 29 June, 11 August. The first exercise was to partially repay a high coupon loan in a bundle with loans earning discount to offset premium incurred. The second was to restructure PWLB maturity loans to a lower coupon market LOBO loan. The third restructured PWLB loans to like at lower coupon rate.

DATE	AMOUNT £	INTEREST RATE %	REMAINING PERIOD OF LOAN YEARS	MATURITY DATE	ANNUAL SAVING	SOURCE	TYPE
Old Loans							
05/05/06	2,477,993.05 (partial repayment)	9.125	7.77	10/02/14	67,798.24	PWLB	Maturity
05/05/06	4,000,000	4.5	18.77	10/02/24	12,586.56	PWLB	Maturity
05/05/06	10,000,000	4.5	19.77	10/02/25	32,003.58	PWLB	Maturity
05/05/06	8,000,000	4.5	21.01	10/05/26	15,575.49	PWLB	Maturity
05/05/06	20,000,000	4.5	21.52	10/11/26	39,065.03	PWLB	Maturity
05/05/06	15,000,000	4.5	22.7	10/02/28	29,526.62	PWLB	Maturity
05/05/06	5,000,000	4.5	23.52	10/11/28	9,885.68	PWLB	Maturity
05/05/06	10,000,000	4.5	24.52	10/11/29	19,882.97	PWLB	Maturity
29/06/06	5,000,000	4.875	15.87	10/05/22	27,565	PWLB	Maturity
29/06/06	5,000,000	4.875	16.37	10/11/22	27,565	PWLB	Maturity
29/06/06	15,000,000	4.75	19.37	10/11/25	73,878	PWLB	Maturity
11/08/06	341,464.63 (Partial)	9.125	7.50	10/02/14	14,329	PWLB	Maturity
11/08/06	14,500,000	4.75	19.01	10/08/25	59.972	PWLB	Maturity
New Loans							
05/05/06	25,000,000	4.35	45.5	10/05/2051		PWLB	Maturity
05/05/06	25,000,000	4.35	46.5	10/05/2052		PWLB	Maturity
05/05/06	24,400,000	4.35	47.5	10/05/2053		PWLB	Maturity
29/06/06	25,000,000	4.27	50	29/06/2056		Barclays	LOBO
11/08/06	14,800,000	4.2	40.5	10/02/47		PWLB	Maturity

Restructuring of Stepped LOBO Loans:

Arrangements have been made to restructure existing stepped rate LOBO loans. This is pre-empt the proposed changes to accounting regulations for stepped loan instruments and to make savings against the longer-term stepped interest rates.

Date	Principal Amount £	Interest Rate	Stepped Interest Rate	Step Date	Maturity Date	Lender
Old Loans						
29/01/07	15,000,000	4.5	5.02	30/07/09	29/07/2039	Barclays
20/02/07	25,000,000	4.55	4.99	20/08/11	20/08/2043	Barclays
20/02/07	25,000,000	4.65	4.99	20/08/12	20/08/2044	Barclays
26/03/07	15,000,000	3.85	4.99	25/03/08	25/03/2033	Dexia
26/03/07	25,000,000	3.85	4.99	25/03/08	27/03/2034	Dexia
30/03/07	20,000,000	4.75	5.05	30/09/08	30/09/2034	Barclays
20/04/07	10,000,000	3.85	4.99	20/04/08	20/04/2033	Dexia
New Loans						
29/01/07	15,000,000	4.87	n/a	n/a	29/01/2066	Barclays
20/02/07	25,000,000	4.84	n/a	n/a	20/02/2067	Barclays
20/02/07	25,000,000	4.84	n/a	n/a	20/02/2067	Barclays
26/03/07	15,000,000	4.31	n/a	n/a	25/03/2065	Dexia
26/03/07	25,000,000	4.34	n/a	n/a	25/03/2065	Dexia
30/03/07	20,000,000	4.92	n/a	n/a	30/03/2066	Barclays
20/04/07	10,000,000	4.30	n/a	n/a	20/04/2065	Dexia

APPENDIX 2

Longer Term Investments

Currently we have **£124m** invested for periods over 364 days (as per Prudential indicators).

Counterparty	Principal Amount £	Start Date	End date	Interest Rate %	Call Options
Chelsea BS	5,000,000	06/08/04	06/08/07	5.15	None – interest rate decreases annually
Chelsea BS	5,000,000	20/08/05	20/08/08	5.30	None – interest rate decreases annually
Chelsea BS	5,000,000	19/01/05	21/04/08	5.155	None
HSBC	5,000,000	02/06/05	02/06/08	5.07	6 monthly
HSBC	5,000,000	18/07/05	16/07/10	5.30	6 monthly
HSBC	5,000,000	04/08/05	04/08/10	5.35	6 monthly
HSBC	5,000,000	05/09/05	07/09/09	4.95	6 monthly
Toronto Dominion Bank	4,000,000	05/08/05	05/08/10	5.37	6 monthly
Toronto Dominion Bank	5,000,000	25/10/05	27/10/08	5.05	6 monthly
HSBC	5,000,000	06/10/06	06/10/09	5.62	1 st year fixed then 6 monthly
National Australia Bank	5,000,000	03/11/05	05/11/07	4.80	Quarterly
National Australia Bank	4,000,000	12/12/05	14/12/09	5.25	6 monthly
Citibank NA	5,000,000	04/04/06	06/04/10	5.33	6 monthly
Coventry Building Society	5,000,000	03/05/06	05/05/09	5.43	None
EBS Building Society	5,000,000	18/05/06	18/05/11	6.02	6 monthly
HBOS	5,000,000	18/08/06	18/08/11	5.40	Annual – interest rate increases if not exercised.
National Australia Bank	6,000,000	15/03/07	15/03/11	6.26	Quarterly
RBS	5,000,000	12/01/07	12/01/11	8.84/3.00	Tied to 6 month LIBOR within 0-5.75% otherwise 3%. 6 month calls
HSBC	5,000,000	19/01/06	19/01/10	5.13	6 monthly
HSBC	5,000,000	03/07/06	01/07/11	5.52	Annual call, annual interest
HSBC	5,000,000	06/12/06	06/12/09	6.17	Tied to 6 month LIBOR within 0 - 6.25% else 0% interest
Newcastle Building Society	5,000,000	12/04/06	14/04/09	5.18	None
National Australia Bank	5,000,000	05/03/07	07/03/11	5.85	Quarterly
Landsbanki Islands	10,000,000	01/02/07	01/08/08	6.00	None
Total	124,000,000				

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Item No. 9

By: Director of Finance
To: Governance & Audit Committee – 29 June 2007
Subject: **Spending The Council's Money**
Classification: Unrestricted

Summary: To agree the replacement of the Code of Practice for Contracts and Tenders.

FOR DECISION

INTRODUCTION

1. The Code of Practice for Contracts and Tenders forms part of the Council's overall governance arrangement and key parts are included in an Appendix of the Constitution. The Procurement Strategy identified a need to modernise the Code to make it more useable and relevant to managers across the Council engaged in procurement activity. "Spending The Council's Money" is the title of the document being proposed to replace the Code of Practice.
2. At the December meeting I reported on progress to update the Code of Practice for Contracts and Tenders. It was agreed that after consultation with Offices and Members the new document be brought to this meeting for a decision.

WHY ARE CHANGES NECESSARY?

3. Although the Code of Practice forms part of the Council's overall governance arrangement and key parts are included in an Appendix of the Constitution the Council's current procurement related policies are published in a number of separate documents. No single document contains them all.
4. The need to modernise reflects the highly devolved approach to procurement across the Council and the need to give very clear guidance to ensure that managers procure legally, efficiently and effectively. It is important to emphasise that the 'rules and regulations' reflected in the Code of Practice are not fundamentally changed by the new document, it is mostly the style and presentation that is different.
5. "Spending the Council's Money" is more than an updating of the Code and includes guidance on the implementation of these policies and procedures. It is intended to be a helpful, useable, reference for all those involved within the

Council at whatever stage, whether they are specifying, contracting, ordering, managing or scrutinising.

CONSULTATION PROCESS

6. An extensive consultation process with officers has been undertaken in 2007. Over forty officers have been directly involved including resource directors and senior finance managers from all Directorates, as well as the senior procurement practitioners responsible for the major areas of external spend across the Council. The full list of consultees is included at Appendix 1.
7. Officer reaction has been universally positive with a strong acknowledgement of the need for this type of comprehensive guidance.

APPROVAL PROCESS

8. Constitutionally this Committee has the power to agree changes to the Code of Practice but the elements included as an Appendix to the Council's Constitution can only be revised by a meeting of the full council.
9. I intend to take, subject to the Committee's approval, a report to the full Council meeting in September requesting appropriate amendments to the Constitution. Only after that Council meeting can Spending The Council's Money be fully implemented. The proposed replacement Appendix to the Constitution is attached as Appendix 3.
10. The Committee is asked to note that:
 - to avoid confusion, the wording in the two documents is identical wherever possible. The exceptions, other than the introductory paragraph 1, are few in number and minor in impact.
 - to achieve the conformity wording in just three chapters of Spending The Council's Money has had to be amended from the version circulated in May. These three chapters (4, 9 & 13) are attached as Appendix 2.

IMPLEMENTATION

11. Although this is not about a major change to the Council's rules and regulations it is nonetheless a significant redefinition and refinement. Resource has been allocated to promote and explain the new approach from its adoption through until early 2008. This is intended to cover Officers, Members and the supplier community.

RECOMMENDATIONS

12. Members are asked to agree to
 - (a) 'Spending The Council's Money' replacing the current 'Code of Practice on Tenders and Contracts'; and
 - (b) the proposed changes to the relevant Appendix in the Constitution to be put to the September Council meeting.

Clive Greaves
Head of Procurement
Ext 6672

Appendix 1

Officer Consultation

UNIT	NAME	JOB TITLE
<u>Chief Executives Department</u>		
Commercial Services	Kevin Harlock	Commercial Services Director
Purchasing Services	Paul Richardson	Procurement Group Manager
Kent County Supplies	Tarryn Kerr	Senior Product Manager
Passenger Transport Services	Tim Edwards	School Transport Manager
Legal Services	Geoff Wild	Director of Law and Governance
Legal Services	Peter Mulholland	Group Leader, Property and Commercial
ISG	Peter Bole	Head of ICT Commissioning
ISG	Ann Cook	Performance Monitoring Manager
ISG	Terry Hazlewood	Strategic Supplier Manager
Property	Peter Binnie	Head of Operations
Property	Therese Hammond	Performance Improvement Manager
Property	Emma Saunders-Foard	Information Manager
Personnel & Development	Amanda Beer	Director of Personnel and Development
Personnel & Development	Jo Richardson	Inclusive Services Policy Manager
Audit & Risk	Andy Wood	Head of Audit and Risk
Audit	Janet Armstrong	Audit Manager
Finance	Nick Vickers	Head of Financial Services
Finance	John Carter	FBS Programme Manager
Exchequer	Linda Arnold	Exchequer Services Manager
<u>Communities</u>		
Communities	Judy Edwards	Director, Policy and Resources
Communities	Jed Shipton	Head of Financial and Asset Management
KDAAT	Hud Manuel	Finance Manager
<u>Environment & Regeneration</u>		
E & R	Alan Loft	Director of Resources
E & R	Barry Gould	Strategic Finance Advisor
Kent Highway Services	David Thomas	Procurement Manager
Kent Highway Services	Mike Murphy	Contracts Manager

Waste	Rob Howard	Procurement and Projects Manager
<u>Children & Families</u>		
CFE	Grahame Ward	Director, Resources
CFE	Keith Abbott	Director, Finance and Corporate Services
Additional Educational Needs and Resources	Colin Feltham	Head of AEN and Resources
Additional Educational Needs and Resources	Marlene Morrissey	County AEN Manager
<u>Kent Adult Social Services</u>		
Resources	Caroline Highwood	Director, Resources
Finance	Michelle Goldsmith	Directorate Finance Manager
Contracting	Cathi Sacco	Head of Contracting and Quality Assurance
Business and Performance Management	Maggie Singleton	Contracts Manager
Contracting and Planning	Jo Empson	Contracting Manager – East Kent
Service, Policy & Standards	Linda Hardware	Contracts Manager
Supporting People	Ian McCartney	Contracting and Monitoring Review Manager
Specialist Services	Mark Hogan	Contracts Manager
Specialist Services	Julie Harris	Contracts Manager
Business and Performance Management	Rita Wakeman	Operational Contracts Manager – Mental Health
Service, Policy & Standards	Michelle Hall	Contracts Standards Officer
<u>South East Centre of Excellence</u>		
	Andrew Larner	Director
	Steve Dunkerley	Assistant Director

Business Case

A **Business Case** boils down to the answering of two fundamental questions:

- should I be doing this; and
- should I be doing it this way?

The required scale of the tasks detailed here, probably more so than for any of the other activities in the procurement process, is dependent upon the value and risk of the overall procurement.

When is one needed?

As stated in the **Introduction** the principles apply to all transactions but the business case activity for buying some copy paper should be a few moments thought, whilst for a multi-million pound road scheme will be an extensive formal report.

All procurements from £100,000* must have a formally recorded business case. Capital projects from £1m+ have their own, additional, requirements. Guidance on which can be found at:

<http://kent304/cgi-bin/wdbcgiw/CS/docs/CAPITALGUIDANCE/CAPITAL+PROGRAMME+PROCESS+AND+PROCEDURES.DOC>

* The value here is taken from the total cost implication of the decision and not the narrower valuation of a particular contract.

The Financial Regulations state:

A.22 The Chief Executive and Managing Directors are responsible for:

- i ensuring that capital proposals reflect agreed service plans, are prepared in line with guidance issued, are realistic, that necessary business case development and option appraisals have been carried out and any risks identified. Any impact of capital expenditure proposals on service running costs must be identified and included in revenue budget estimates or forecasts;

There is no requirement for an individual business case for each contract. Linked procurements or more formally established programmes will give the opportunity for an all-encompassing business case. Where this is applicable there must still be sufficient detail for appropriate judgements to be made for each contract.

What is it used for?

A well prepared business case will:

- challenge the options and allow an informed decision as to whether to commit to the expenditure or not;
- provide a benchmark against which to review progress; and
- provide the means against which to judge success.

In preparing your business case beware of similar activities potentially happening in parallel across the Council, i.e. be mindful that others may have a similar requirement which would be better if linked.

What should be in a business case?

As a minimum a business case will include the following:-

- description of the need ¹;
- linkages into wider Council objectives;
- details of all options looked at ²;
- description, including estimated quantities, of the resources necessary to cover the total impact of the decision ³;
- where the resources, including funding, will be provided from ⁴;
- description of benefits; and
- how success will be measured.

The business case will be completed with information gained from the **Understanding the Market** activity which is carried out in parallel.

¹ The medium term planning process and unit Business Plans will inform the planned needs across the Council. As part of those processes early work on resource allocation may also have been done.

² 'all options' should include those being put forward, those already dismissed and the 'do nothing' option.

³ It is not expected at this stage of the process that you will have detailed and firm figures on quantities and / or costs. However, no business case can be completed without meaningful figures.

A business case must reflect all costs and activities directly or indirectly caused by a particular option. For example the procurement might obtain some new equipment but there are knock on costs for maintenance, consumables and training that need to be included

⁴ It can be a well constructed business case but if you haven't got, or can't get, the resources the process goes no further. However, a well constructed business case could support a bid for the reprioritising of resources to this project that, if granted, would lead to the business case going through to the approval process. In general terms, Council/Cabinet approval of the revenue and capital budgets provides the authority to incur expenditure within those limits. It should be expected that the business case should detail where the resources will be provided from rather than the generic "from within existing budgets".

For contracts where there may be a change of contractor, the TUPE Regulations may apply. This is especially important if an in-house unit is involved where the full implications to the Council must be considered. Reference should be made to the "KCC TUPE Guide for Managers" but it should be realised that the interpretation and implications of the TUPE Regulations are always liable to change with case law. Specialist legal and personnel advice should be sought from the very beginning of a tendering exercise whenever the outcome could lead to a TUPE transfer, including the transfer of staff between two commercial companies.

[Insert KNet link here](#) Is there one?

Where employee data is or will be required as part of the information to enable information to be gleaned make sure the incumbent is aware and more importantly make the relevant staff aware. Do not underestimate the amount of work involved with staff transfers.

Detailed guidance on the creation of business cases is provided in “**The Green Book, Appraisal and Evaluation in Central Government.**” published by HM Treasury.

<http://greenbook.treasury.gov.uk/>

It advises that all new policies, programmes and projects, whether revenue, capital or regulatory, should be subject to comprehensive but proportionate assessment, wherever it is practicable, so as best to promote the public interest. The Green Book presents the techniques and issues that should be considered when carrying out assessments and describes how the economic, financial, social and environmental assessments of a policy, programme or project should be combined.

Corporate Finance can assist with Green Book interpretation and can be contacted at:

ben.smith@kent.gov.uk

or by telephone on:

Maidstone (01622) 694597
Freecall 7000 4597

Words of caution

There is a demonstrated, systematic, tendency for project appraisers to be overly optimistic. This is a worldwide phenomenon that affects both the private and public sectors. Many project parameters are affected by optimism – appraisers tend to overstate benefits, and understate timings and costs, both capital and operational.

Taken from “The Green Book” published by HM Treasury 2003

A business case does not have to be positive. Whilst this may sound obvious there are examples where people have been engaged to prepare a business case who believed that they failed when they couldn't show a positive case for proceeding. A well prepared business case will research and show the facts allowing a well-informed decision to be made.

The Council's business cases are of potential interest to a number of parties and requests may be received for them under the Freedom of Information Act. There can be no standard response and each case will need to be treated individually as determining the correct response may be affected by the timing, in the procurement process, of the request. This is a specialist area and guidance should always be sought, initially from your directorate Freedom of Information co-ordinator.

Insert details of Directorate FOI co-ordinators here

Decision Point

Having prepared a business case now is the first major decision point in the process.

The Financial Regulations state:

A.22 The Chief Executive and Managing Directors are responsible for:

- iii ensuring that projects only proceed when they have received the necessary approval and confirmation that any external funding is secured. For schemes and headings where the total cost is estimated to be £1m or more this consent must be obtained from the Leader following procedures issued by the Director of Finance. The Leader may take the decision himself/herself or specifically delegate the decision to Cabinet or the relevant Cabinet Member. For schemes where the total cost is estimated to be less than £1m consent must be obtained from the relevant Cabinet Member.

Budgetary provision must exist before any business case is approved. This provision should be explicit in a budget, programme or resolution of the Council or a Committee where a budget, programme or other report contains a block allocation for multiple contracts for a class of service provision.

Where budgetary approval exists specifically for an item further Member approval is not required. The Cabinet Member/portfolio holder may need to be informed especially when the procurement is strategic or particularly sensitive.

Where there is no specific budget line, the Chief Executive and Managing Directors may approve expenditure of up to £100,000, provided the expenditure can be met within budget. Above £100,000 a formal decision by the Leader, the Cabinet or an authorised Cabinet Member is required in accordance with the Council's Constitution.

The Chief Executive and Managing Directors are free to determine the management processes and levels of delegation around non-capital business cases appropriate for their directorate. However decisions for all business cases from £100,000 upwards must be documented, making it clear who made what decision, and then retained with the other documents relevant to the procurement.

In view of the business case's importance throughout the procurement process it should be treated as a 'living' document and not frozen at the 'Decision Point'. However you need to be careful that whilst keeping it up to date you neither fundamentally change the basis on which the original decision was made nor move the procurement to a different authorisation level. The **Procurement Management** chapter covers this in more detail.

Procuring People

An approved business case will have said where the resources are to be provided from. Where these resources are people the business case should have detailed whether these are already employed within the Council or are additional. If additional, it will further detail whether the preferred route is to employ them and pay through the Council's payroll system or contract for them and pay against an invoice.

If individuals are to be paid through the payroll system then they must be sourced via the Council's HR recruitment processes resulting in a contract of employment. All other contracts are sourced in compliance with the Code.

Competition

Thresholds

The financial values (exclusive of Value Added Tax) at which processes become mandatory are:

£8,000 to £49,999 - three written quotations must be sought from appropriate sources.

£50,000 and above – the competitive tender process must be followed.

However both the overall obligations of the Code and the statutory requirement to achieve value for money apply to all transactions and don't just apply from the above amounts and, as such a competitive tender process may be appropriate for procurements below £50,000.

In addition European Union Directives, enacted in UK Law, set limits for public contracts above which specific procedures are required to be followed. The procedures cover the advertising of contracts, the rejection of suppliers, technical specifications, evaluation, selection and award criteria. All procurements for goods, services and works above the financial thresholds are covered by the legislation but not all procurements for services, social care for example, are subject to the full process. (See 'Where to get help' in **Introduction**.)

The current levels at which these apply are for goods and services, £144,371 and for works, £3,611,319.

There must be no attempt to avoid any of these limits by deliberately manipulating the requirement or frequency of ordering.

The "financial value" here refers to:

- the total amount payable over the contract period, i.e. the Council's total liability under the contract, and not the budget available in the current year; or
- the reasonable expectation of the cost of the consequence of the decision; or
- the 'net benefit' to the contractor. See **"No fee" contractors** at end of this chapter.

whichever is the greater.

For example, if something you are going to buy needs regular maintenance from the supplier then the cost of the annual maintenance for the life of the product must be included.

Avoiding competition

The Council's preferred, and thus default, position is that competition is required for all purchases. As a consequence occasions where competition can be avoided must be treated as exceptions requiring authorisation and reporting above that normally required for a purchase of that size.

For a procurement to be classed as competitive at least three, legitimate, suppliers must have been invited to submit a response. This section applies where there is no plan to invite competition. It does not apply where appropriate competition has been properly sought but only one, or two, suppliers submit a response.

Additionally, the Treaty of Rome requires that competition will be part of the overall procurement approach to securing works goods and services. The Treaty of Rome obligations override specific EU Directives and UK legislation and it is therefore possible that contracts below the EU Directives financial thresholds could be challenged where the European Commission feels that competition has been stifled.

Competition is not compulsory where:

- goods or services are purchased internally, i.e. from within the Council or a Council owned company; or
- urgent works, supplies or services are necessary for the immediate protection of life or property, or to maintain the immediate functioning of a public service for which the Council is responsible; or
- works, supplies or services are required which must be provided by a public utility, a local authority other than the Council or a similar body in pursuance of their statutory powers; or
- works, supplies or services are estimated to cost less than £8,000; or
- the purchasing of adult and children's services are required by law under the National Assistance Act 1948 and the Children Act 1989. Alternative processes are set out in Directorate Operational Procedures; or
- Property Group purchase or sell land or property; or
- the Chief Executive or Managing Director has decided that special circumstances exist.

The Chief Executive and Managing Directors are free to determine the management processes and levels of delegation around non competitive procurements appropriate for their directorate.

However they should, in determining these arrangements, consider the impact of the mandatory reporting requirements detailed in the **Contract Award** section. With the reporting required after the contract has been awarded there is no opportunity at that stage to revisit a decision.

'Special circumstances' are unlikely to exist where it is claimed that:

- only one firm is capable of supplying if;
 - there is no evidence of reasonable research of the market supporting this; and
 - the opportunity was not advertised on the South East Business Portal; or
 - the requirement was written specifically to exclude competition; or
 - an evaluation took place prior to competition being sought that excluded potential suppliers.
- prices or costs would be negatively impacted. Irrespective of indicative or published prices the only way of determining the price the Council will pay is by competition.

Factors other than their costs, i.e. obtaining market share, may influence a firm's offer.

- there is an urgent need if the timescales were within the Council's control. Failure to adequately plan or act is not usually sufficient justification to avoid competition.

The ability to avoid competition is severely limited where the EU Procurement Directives apply. Expert assistance should always be sought early in the process both for a new requirement or possible extension of an existing one.

With appropriate regard for the process costs and administrative effort for all parties it is far better that firms are given the opportunity to compete and they then decline than the Council makes an arbitrary decision to exclude them.

In order to meet your reporting obligations the reasoning behind the decision not to invite competition must be recorded and retained with the other records for the procurement. See the Procurement Management chapter.

Even where competition is deemed inappropriate the Council retains a competitive advantage by not advising the potential contractor of that decision until a contract has been agreed.

Competition and internal providers

There is no requirement for an internal provider, or Council owned company, to routinely bid competitively against external suppliers. However, where there is an internal provider of the goods or service and a Directorate seeks tenders/quotations for the purpose of market testing the internal provider must be included in the competition.

Tenders

What is a tender for?

It is important to remember that a Council tender is designed to explain to potential suppliers what is wanted, to encourage them to compete for the opportunity and, by combining the requirement with the supplier's proposal, provide the basis for the written contract.

Deciding who to invite

Fair and open competition relies on potential suppliers having the opportunity to participate in the competition. Crucial to this is that it should be the potential supplier's choice and not the Council's. There are two ways of determining the list of firms to be involved in tendering for a Council contract:

- by advertising the requirement and requesting that firms express interest; or
- by use of a pre-determined Council Approved List.

As Approved Lists are created via a process that starts with advertising its clear that appropriate advertising is fundamental to this stage.

Advertising

Whether it's for an individual contract or to create or update an Approved List the adverts will be placed in the same locations. These will include:

- the South East Business Portal;
- the Official Journal of the European Union, 'OJEU'; and
- specialist press.

The **South East Business Portal**, (the Portal), must be used for all opportunities. Using the Portal removes the need to place the advert on the Council's website although Directorates may choose to use their particular site as well as the Portal. The Portal is free to use both to place opportunities and for suppliers to find them and register their interest. Suppliers can register their interest in areas of work and the Portal will e-mail them when a relevant opportunity is placed. Whether they're responding to an e-mail alert or for a particular opportunity they've found they are obliged to formally register against each opportunity they wish to compete for.

Advertising in **OJEU** is mandatory for procurements above the EU thresholds for:

- all goods;
- all works; and
- some services. Part A services only.

There are no costs in placing the notice. If an OJEU notice is required you must not place adverts elsewhere that are published before the one in OJEU nor must they contain additional information.

OJEU adverts must include details of both the short listing criteria and the selection criteria. The criteria are required to be stated with their appropriate weightings, usually in percentage terms. You must consider the issues in some detail to arrive at the best mix as changing the weightings during the evaluation is forbidden.

Using the **specialist press** may be the most appropriate way to attract interest from relevant firms. In some areas, waste disposal for example, advertising in the specialist press is a legislative requirement.

Adverts can be used to increase interest in a general way for a contract or area or can serve a dual purpose, by focussing on the specific which will attract the more appropriate firms whilst discouraging the generalists. Which type is appropriate depends on the state of the market. The work done in **Understanding The Market** will inform your decision here.

Provided advertising is done in an open and fair manner there is no requirement that only firms who respond to the advert are included. Both Officers and Members may put forward additional names to be included during this stage. The sharing of personal knowledge that may benefit competition for the Council's business should be encouraged. The only issues around this are that:

- the list of respondents is kept confidential to avoid allegations that firms were only put forward either because another was or was not already on the list;
- at no stage should any firm be told not to respond to an advert or that they will be added to any list without responding;
- the list is closed to additional entrants at the date and time specified in the advert; and
- either all firms are invited to compete or all firms are included in the same selection process from this stage onwards.

The Council is fortunate that, due to its scale and reputation, it has, in most of its markets, a healthy number of potential suppliers interested in providing goods and services to it. This can result in too many potential suppliers expressing interest in opportunities. Where this happens the number of firms has to be reduced to maintain an efficient and cost-effective process. It is important to remember that potential suppliers benefit from, and appreciate, competition with reasonable rather than large numbers.

Reducing Numbers

Any reduction must be done in a fair and transparent way using objective criteria. To maintain the objectivity there is no opportunity or allowance for Officer or Member choice. Both Officers and members are reminded of their obligations under their respective Codes of Conduct referred to in **Overarching Principles**.

The most common approach to reducing numbers objectively is to use a questionnaire, sometimes referred to as a Pre-Qualification Questionnaire or PQQ.

PQQ's are used solely to reduce the number of potential suppliers to be included.

When preparing a PQQ you should:

- never ask a question unless you know what an acceptable, or unacceptable, answer looks like;
 - you should be preparing the marking criteria at the same time as the PQQ. The marking criteria must be those that can be done objectively by someone not involved with the project;
 - firms progress because they have passed the criteria not because they are better than other responses. Responses must not be compared with each other;
 - be cautious of relying too heavily on scoring. Whilst scoring can be a useful tool, because it can also include elements of subjectivity the totals need to be judged as approximate rather than absolute. For example, failing a firm for being 1 short out of a possible 100 is potentially dangerous.
- use questions that require factual responses. Free text responses are hard to judge objectively;
- only use questions and acceptance criteria that are relevant to this requirement;
 - ensure questions and acceptance criteria are appropriate for the circumstances and risk, i.e. don't automatically require three year's accounts if the risk is such that a 'young' company would be acceptable or that the company turnover must be a standard factor larger than the contract value.
- never ask a question or ask for information that you're not going to do anything with;
- remember that, unless you give them additional information, firms have only seen an advert so you shouldn't ask questions around their potential solution;
- be prepared for either too many or too few passing your pre-determined criteria;
 - you can prepare more than one set of criteria to allow for this situation as long as you apply them in the pre-determined order. It's useful in these cases if the criteria are applied by someone not directly involved as this allows those directly involved to make decisions around whether the number having passed is acceptable or not without being able to be influenced by the names of the firms involved.

The EU Directives impose additional restrictions on what can be asked at this stage and the acceptance criteria must be applied with the weightings you used in the OJEU notice.

For all procurements it is difficult, and for those subject to the EU Directive it is illegal, to ask the same question and / or apply different criteria later in the process, i.e. at the tender stage. If you have passed something at this PQQ stage then that answer has to be acceptable to you and cannot be used as a factor in not awarding a contract.

Having determined the list of firms to be invited to compete you should inform those who have not passed your criteria and be prepared to give feedback as to your reasons. Whilst there is no requirement to share the marking criteria before the PQQ's are completed and returned you should release this, if asked, after the event including how the individual response was marked.

There is a movement across the Public Sector to minimise the work firms need to do to apply for opportunities. Accreditation schemes and standardising PQQ's are being put forward to achieve this. Whilst both have merits you need to ensure that both the number and quality of firms you invite to compete for the Council's business are appropriate to the requirement that you're responsible for.

It must be stressed to all firms that not taking part in a tender process will not preclude them from future opportunities. It is far better that firms submit realistic competitive tenders or not submit one at all than submit an unreasonably high, or unsatisfactory bid because they didn't really want the work but felt obliged to respond.

Approved Lists

Firms are invited to apply to be included on the list and a range of checks are made on them. However there is no pricing arrangement or any form of competition and thus using an approved list supplier does not, by itself, provide any value for money justification.

As a consequence purchases from an Approved List are required to follow the competitive processes.

If you use an Approved List you need to ensure that firms are very clear:

- that Approved Lists are used by the Council as a form of pre-vetting;
- that being on the Approved List does not guarantee any work; and
- that being on the Approved List does not guarantee that they will be invited to quote or tender for work to the exclusion of firms not on the list.

Approved Lists can be operated in two ways:

- Creating and reviewing on a regular cycle:
It's arguable that any fixed period will prevent new suppliers being able to compete during that period but it's more true the longer the period.
- Constant review:
Although this allows great flexibility it is very 'resource hungry'.

You need to be aware that how Approved Lists are used can be seen by both suppliers and potential suppliers as a 'black art' which they cannot understand or influence. This is not beneficial to the Council or its competition-based approach. Consequently the selection processes, both to go on the Approved List and to be selected to compete for individual contracts, should be both clear and transparent to all parties.

For units where Approved Lists are deemed appropriate the rationale for that decision and the detail on how they will be operated must be documented and made available for inspection by Members. This rationale must also be regularly reviewed.

Words of caution

By creating an Approved List you are acknowledging that there are ongoing needs for the same or similar requirements. Care must be taken that this doesn't breach the aggregation rules of the EU Directives. Good practice would indicate that the creation and use of a contractual framework should be considered rather than an Approved List.

If you're going to allow firms to be involved who aren't on the Approved List then you should question, because the firms on the list will, the value of having an Approved List.

What should be in a tender?

This section can only give brief coverage of the relevant issues.

Assistance with preparation of tenders can be obtained from:

Legal Services

peter.mulholland@kent.gov.uk

or by telephone on:

Maidstone (01622) 694400
Freecall 7000 4400

or Purchasing Services

purchasing@kent.gov.uk

or by telephone on:

Maidstone (01622) 605790
Freecall 7000 5790

The tender you issue should contain everything that a firm needs to be able to submit a complete, priced response to your needs. This breaks down into four distinct areas:

- Information;
- What you want the appointed Contractor to do;
- Terms and Conditions for the Contract; and
- Schedules you want the firm to complete.

Information

Background

It is easy to think that if you give firms a detailed requirement that they don't need to know anything else. Even with the requirement if they don't know why you want the goods or service they aren't necessarily able to think creatively in preparing a solution and even might decide not to respond at all.

Firms make judgements on which tenders they should respond to and you should provide them with sufficient information and encouragement to decide to respond to yours. It's especially important in encouraging firms who have not worked for the Council before to submit a tender.

Consider giving them information on your current and past operation:

- volume, usage, demand and trends;

- cost of services purchased or provided in-house - consider each case on its merits as to how much, if any, information you provide here, withholding data only where specific reasons exist to do so; and
- technical details where appropriate e.g. equipment type.

Whatever you decide to include make sure it's accurate and relevant to this contract. Including generic information just because you always do is of no benefit.

Firms frequently ask about the budget for a particular procurement so why not include it here? Opinion is divided about the merits or disadvantages of doing so but the following points should be considered:

- for some 'discrete' procurements it is already possible to determine the available budget from budget information already in the public arena via committee papers etc. and there is consequently nothing to be gained by not providing the information with the tender;
- on rare occasions it is the only practical way of scoping the opportunity so on these occasions the figure should be disclosed; and
- for most procurements the requirement is best shown in volume rather than value terms. If affordability becomes an issue because of the tendered price potential resolutions are within the Council's control such as, reducing the quantity or required quality.

Process

You must tell all invited firms precisely what they are required to do to submit a response. This will include:

- the time, date and location responses must be submitted to:
 - tenders covered by the EU legislation have set minimum periods that firms have to submit their response. The legislation requires that these are 'whole' days and consequently the time should be set for at least the day after the minimum period.
 - where legislation does not apply there is no minimum or standard period. What you decide must be reasonable to give firms sufficient time to consider, complete and return their submission. The complexity, subject matter and the detail you require in the submission should all be taken into account. Your objective is to receive quality competitive responses so make sure that poor planning does not get translated into an unreasonably short tender period.
- what happens if the tender is not returned by the specified time;
- what documentation is required in their submission:
 - this will include the completed forms you've sent in the Schedules section including a signature sheet formalising the firm's offer. This section should also be used to specify any additional information you want to assist your evaluation.
- how the submission should be packaged and marked;
- the period for which the tender shall be open to acceptance by the Council.
 - this is the period when the price and other issues are fixed and should not be altered by the firm. No offer can remain like this indefinitely and you should determine how long you will need to evaluate the offers and make a decision. Do not make this period longer than necessary as the firm is taking a risk on their costs changing in that period. The longer time you want the more likely they will have added something in the pricing to cover that risk.
- the number of copies of the submission you require.

- where multiple copies are requested it's helpful that one be identified as the master version. This document can be used for the opening process and retained for the contract file.
- for tenders covered by the EU legislation you must include the detailed weightings to be used in the evaluation of the submissions. These might have been included in the OJEU notice but it's usual for the notice to include these at a high level only.

Evaluation

Especially for complex service contracts you will want to know how the firm proposes to deliver the service. How much information you will need will vary depending on the requirement.

Beware of firms who try to avoid giving this information. 'Why, as we're guaranteeing performance, would you want to know? How we meet the contract is our problem.' is not an unusual response.

Whilst this view has superficial merit there are four reasons you need to know how the contract will be delivered:

- it will show that the firm has thought through how they are going to actually deliver. It should therefore give you confidence that they've properly considered the risks and costs and thus the pricing should be accurate;
- the detail will show their understanding, or lack of it, of your requirement;
- allows you to focus on their experience and references appropriate to their proposed solution; and
- allows you to check the impacts on the Council. The solution may be the most cost effective for the firm but it's not necessarily appropriate if the way they deliver imposes additional costs on your budget.

In some cases this information will only be wanted to assist your evaluation but for others the way they intend to deliver is necessary and you will want it to be part of the contract. If it's not part of the contract the contractor can change their approach without your involvement, let alone your agreement.

Alternatives

Must firms match the requirement? Can they propose something different? If they want to offer an alternative approach must they also submit a bid that matches the requirement? All three are valid options depending on your particular circumstances but beware if you allow alternatives then you must evaluate them all as valid offers and you cannot so easily reject them as not meeting the requirement. However if you specify that proposals must match the requirement and that alternatives cannot be offered you must reject an alternative proposal no matter how attractive it looks.

What you want the Contractor to do

Where the Information section is crucial for the tendering process this section is important as it forms the fundamental basis for the contract.

You will have completed most of this section from the **Requirement** chapter. That chapter concentrated on the description of the goods or service you require whilst this section needs details of the other issues you need the contractor to do. Things like:

- where and when you want the items delivered or the period the service must cover;

- the management arrangements of the contract, including how performance will be measured;
- whether the prices are fixed for the whole contract or if not the arrangements to handle price movements;
- how other changes are handled; and
- if not already included and it's appropriate to the contract what happens at the end of the contract.

Conditions of Contract

No organisation should have a standard set of Terms and Conditions that are applied to all their procurements. Terms and Conditions are there to protect the effects of certain events happening. The effects on your requirement are possibly unique to that requirement and the terms and conditions need to reflect those individual circumstances.

The terms and conditions should also reflect the size and possible impact of the contract to or on the Council. The value of the contract is often not a good indicator of the possible impact or Council exposure.

Although there can be no standard set the types of clauses will be similar but they can't be applied without regard to their appropriateness.

Guidance and assistance with appropriate terms and conditions for your contract must be obtained from Legal Services.

peter.mulholland@kent.gov.uk

or by telephone on:

Maidstone (01622) 694400
Freecall 7000 4400

Your tender should detail the required terms and conditions as it provides clarity for the contract and a level playing field for the competition.

The preferred route is a Council set specifically prepared for the individual requirement. This does impose a 'natural order' for the preparation of the tender with the requirement having to be completed before the terms and conditions can be finalised.

Value for money can sometimes be achieved by using industry standard terms and conditions. The chosen 'industry standard' must of course be relevant to the requirement. These terms and conditions should be included in full in the tender. Where this is not possible they must be described sufficiently to ensure there is no doubt as to which terms and conditions are being referred to.

In exceptional cases it may be appropriate not to include terms and conditions in the tender but ask firms to include their proposed set in their submission. A licence for software is a good example of where there may be no choice other than the firm's conditions. However, even where this is appropriate there may be statutory or other requirements that you must insist are adequately covered in what is submitted.

Legislation

If a law applies then it applies whether it's written in the contract or not so there is an argument to say that references to laws do not need to be included in your tender. However as it's a Council contract it is probable that the impact of the law remains with the Council even though a third party is performing the activity. Consequently it is in the Council's interests to ensure that the contract is performed in accordance with the relevant legislation and that firms are aware of their statutory obligations when preparing their submissions.

Health and Safety is one obvious example but there are many more, some related to specific trades or business. The requirement to involve Legal Services in constructing the terms and conditions for your tender will ensure that the appropriate legislation is covered.

Firms should be made aware that, if a complaint is made about their actions when undertaking work for the Council, they could be subject to investigation by the Ombudsman. The contract conditions need to ensure that documents are made available and the contractor co-operates in other ways with the investigation in such circumstances.

In circumstances where maladministration is found due to the actions of the contractor, the contract should provide for recovery of any compensation payments made to injured third parties.

Contractor's Liabilities and Insurance

Where conditions other than those found in the standard forms of construction contract are used, provision must be made for the contractor to take out those insurances (in particular Public Liability insurance) which are deemed by the Managing Director, in consultation with Insurance and Risk Management Section, as necessary to indemnify the Council against losses or claims for injuries or damage arising from the contract. The conditions should also provide for access to the documents by an authorised officer of the Council.

Steps should be taken to ensure for all contracts that such insurance is in effect at the commencement of the contract and that, where applicable, the policy is renewed during the course of the contract. This can be achieved by stating clearly your needs within the tender documentation and either requesting current documents are sent or stating that they will need to be seen before the contract award is made.

The types of insurance that might be necessary are:

- Employers Liability – statutory minimum - £5m
- Public Liability – Council minimum - £5m
- Professional Indemnity – no set minimum. Amount should be determined from an assessment of the level of risk and contract value.

The Council will not secure insurance at its cost and risk on behalf of contractors as this could be considered anti-competitive.

Detailed guidance can be obtained from the Insurance and Risk Management Section:

darryl.mattingly@kent.gov.uk

or by telephone on:

Maidstone (01622) 694632
Freecall 7000 4632

Terms of Payment

The Council's standard payment terms are payment within 30 days of receiving a correctly presented invoice.

Terms of payment, including when invoices can be submitted and for what amounts (can be expressed as a percentage of the contract value) must be clearly detailed in the tender.

Payments can only be made against invoices where clear deliverables for the Council's benefit have been made.

No contract can be entered into which allows for payment for the provision of works, goods or services to be made in advance without obtaining the prior approval of the Director of Finance.

HM Treasury published detailed guidance on payments to the third sector in "Improving financial relationships with the third sector: Guidance to funders and purchasers" in May 2006. This can be found at:

<http://www.hm-treasury.gov.uk/media/485/B9/guidncefunders1505061v1.pdf>

In it they state that:

"Payments to third sector organisations should be made on the basis of need and therefore can and should, where appropriate and necessary, be made in advance of expenditure, in order to achieve better value for money. A blanket exemption for all third sector organisations is obviously inappropriate."

What happens when things go wrong?

The terms and conditions you issue with your tender should detail what the actions and obligations are for both parties when things don't go the way the contract, and you, expect.

To decide what is needed you'll have to run through a number of 'what if?' scenarios, determine how likely they are and what you expect to happen. Depending on their severity and likelihood you can decide to include the actions in the terms and conditions. Things you might want to consider including are:

- detailing the process to bring the contract back on track;
 - do you expect the contractor to provide more resources at their cost?
 - would you want the ability to bring in a different supplier to 'fix' the problem but charge this to your contractor?
- detailing the financial compensation. This can include;
 - liquidated damages – which are an up front estimate of your genuine financial losses caused by an event. These are not a penalty and must, if challenged, be able to be shown as reasonable.
 - service credits – which are a method of reducing the charge if a service doesn't meet the agreed contract standards. It is not unusual for firms to attempt to reject the concept of service credits or, if they accept the concept, attempting to minimise their impact, sometimes just to part of their potential profit. This should be rejected. If you ordered a quantity of goods and less were delivered you would expect to pay less and the same principle must apply to services.

Determining the level of service credits depends entirely on the service you're contracting for. In critical areas a contractor missing the service levels by 10% may make the service entirely unacceptable and just reducing your charge by 10% is therefore inadequate compensation.

- performance bonds – sometimes also referred to as a parent company or bank guarantee – which are where a third party provides a legal guarantee to the performance of the contractor and are responsible for paying the compensation where the contractor can't or won't.

Any form of financial guarantee will potentially affect the firm's income from the contract and will be seen by them as a risk. In evaluating contract opportunities firms will assess risk, cost it, and include it in their tendered price. It is good practice to adequately address up front the consequences of things going wrong but beware of a too heavy handed approach that either puts firms off from competing or adds unnecessary costs.

If you're considering using bonds or guarantees assistance must be sought from your directorate Finance Manager.

Assignment and Sub-Letting

If you've gone through a competitive exercise, advertising, short listing, tendering and awarding a contract why would you then allow the work to be done by someone completely different? Almost certainly your answer is that you wouldn't, but that is what could happen if you allow the contract to be assigned or sub-let.

Consequently a contract should not be passed onto a third party even if it is deemed in the Council's interest without the Council's prior approval and contracts must contain a clause that states this.

Clear identification of who the contract is with is crucial so that we know who is responsible in the case of non-performance or in a worst case scenario who to sue. Also the issue of knowing the identity of contractors working on high risk sites is important so that appropriate police checks can be carried out. It is of little benefit if names of operatives are submitted to the police only to find that the delivery of the contract has been passed down the supply chain ending up with operatives who may not have been subject to a Criminal Records Bureau (CRB) check.

Schedules

In essence all the bits that you provide that you want the firm to complete as part of their submission. Not all tenders need them but they do help you control how submissions are presented. Allowing firms complete freedom will add to the difficulty of finding the required information and will usually extend your evaluation.

The section could contain:

- pricing schedule;
- signature sheet; and
- questionnaires.

Issuing the tender

Tender documentation can be issued by almost any method. The overriding principle must be that all tenderers are treated fairly.

For example sending some by e-mail with others via the post would be unfair.

The three most common methods are:

- by post - produce the complete document in paper, or transfer everything to a disk, and send it using post or courier;
- by e-mail – this is legitimate in all circumstances even if you are not allowing them to be returned electronically. If you e-mail the documents be careful not to show where else the tender is being sent. Either use the 'blind copy', (BCC), facility or send individual e-mails;
- by placing the documents on the website to allow firms to download them. There are two approaches here. Just placing the documents on the website potentially removes the ability to determine who competes. To resolve this it is possible to use a secure site where only those given the password can access the documents. This facility is only currently available for social care tenders.

What can be done whilst tenders are out?

Contact with Tenderers

No matter how careful you are in the preparation of the tender documentation someone will almost always find something they need to question.

As the preparation of a response to a tender is expensive firms will try to make sure that they properly understand the requirement but you should be alert to prevent an unfair competitive advantage being gained.

To ensure that all firms are treated equally it is important that contact with firms is controlled, preferably through just one person. This can be difficult where the firm is an existing contractor but all Council staff involved in the existing contract need to be aware that any discussion on the competitive process is inappropriate and must be referred to the Council's nominated contact. You should also recognise that it is not always immediately obvious that a conversation will assist a tenderer and consequently extreme care should be taken with all contacts.

Despite all the restrictions the process of enhancing tenderers' understanding of the Council's requirement is to be supported.

Except for very minor, administrative, issues all requests and responses should be in writing (fax or email) to ensure a permanent record is kept.

Meetings

During this period meetings with individual tenderers should be avoided wherever possible. Tenderers can be quite insistent but you need to answer the following questions before agreeing to meet:

- how will the Council benefit from the meeting?
- what will be achieved in a meeting that couldn't be done in writing?
- are other tenderers being disadvantaged?

In some situations a meeting with **all** tenderers is a way of informing the process without the inherent risks of meeting them individually. However you do need to determine why you're having a meeting. If the meeting is being held in order for the requirement to be refined or explained then why wasn't this included in the published requirement?

It is not unusual for the responses from tenderers at these open meetings to be disappointing. One way to help stimulate responses from those present is to state up front

that all questions received after the event, i.e. asked on a one to one basis will be shared so it might be prudent to ask them now.

Tender meetings should always be well structured and records kept. It is good practice to confirm the outcomes of the meeting in writing.

Equality of treatment

There is no requirement to give the identical information to all tenderers. Where clarification is sought because of a tenderer's particular approach then this information should not be shared with the others. However where a weakness or error in the Council's requirement is discovered then it is in the Council's interests that this is rectified with all tenderers immediately.

Extension to Tender period

You will have determined the closing date for the tenders to be returned from your understanding of what the market would expect as reasonable in conjunction with the time pressures of your requirement. Despite this it is not unusual for tenderers to request an extension to this deadline.

The Council is under no obligation to extend a tender period. Who asked for an extension cannot be a factor in the decision. The questions you should ask are:

- is the competition improved by the additional time and if so will these outweigh the delay?
- is anyone being treated unfairly because of an extension?

Unfairness can arise because:

- a firm may have declined to tender because the original time was too short. Their decision may have been different if the revised date had been known at the start;
- firms have worked to the original date yet a late request is granted by someone who may not have planned their activity so well. This is especially true for 'last minute' requests.

Only formal requests, i.e. those made in writing, should be considered. The decision making process and decision should be formally recorded and filed in the contract file.

There can be no definitive rule applied but there is a stronger case for an extension where more than one tenderer asks.

Where an extension is given all tenderers must be told immediately and as close together as possible preferably in writing by e-mail or fax.

Receiving the tender responses

The fundamental principles around both the receipt and opening of tenders are that:

- no one should be aware of, or be able to find out, either what is being tendered or who is actually tendering until all tenders are opened together; and
- there are no opportunities for tenders to be altered once received.

The following processes are the minimum necessary to meet these principles and protect both the Council and those involved from accusations of impropriety.

Receipt

Firms will deliver their submissions via post, carrier, courier or by hand. It is possible therefore that they could be received in a number of different places within the same site. It is important that staff in these areas, reception, post room or goods inwards, are made aware that tenders are due and that they know what to do with them.

Those delivering the submissions must not be required to sign a form or otherwise indicate where the delivery is from. Should they wish to take away a signed receipt then a simple date and time receipt should be issued. At no time should they be able to see or identify either how many tenders have been received or their origin.

Electronic submission is covered separately, although it is important to note that tender responses, other than where only one firm was invited, cannot be accepted via e-mail as this defeats the objective of a formal opening process.

Where tender submissions are received along with other deliveries, including the post, there is the possibility of them being opened inadvertently. Should this happen all the papers as well as the original envelope/packaging must be kept together. Repack all the papers and the original envelope into new packaging, mark it with the tender number and take it specifically, not in the normal post round, to the appropriate receipting officer for recording and retention. A written record must be made of the circumstances and retained in the contract file.

Storage

All received tenders should be secured as soon as practicable in an area / cupboard allowing access to be restricted. The restriction should apply generally but specifically from those directly involved in the evaluation and award processes.

An officer must be nominated as responsible for the recording of the receipt of the tenders and their security.

Tenders must remain secure in this location until immediately prior to the opening process.

Where any damage to the packaging of tenders has occurred the tender should be repacked in another suitable container.

Opening the tender responses

The opening of tenders is an administrative process and therefore attendance by others is neither necessary nor helpful.

Despite the formal receipt process detailed above it is good practice to check all possible receipt locations again just before commencing the tender opening process. Appropriate diligence in doing this will prove useful if tenders are received after the official opening.

Although tenders should always be marked appropriately such that they can be easily identified the size of some responses means they could be delivered as parcels rather than via the post. In some locations tenders are received in different parts of the building, hence the need to check all locations before opening takes place.

Tenders must always be opened with a minimum of two people present as an 'opener' and 'witness'. The two people should be independent of each other and anyone directly concerned with the evaluation or contract award cannot be involved in the opening process.

No person can be involved in the opening process who:

- has any pecuniary interest in any supplier used by the Council;
- is serving a probationary period;
- is the subject of disciplinary proceedings;
- has any outstanding dispute with the Council; or
- has tendered their resignation.

It is best practice that the opener and witness should not be part of the Directorate responsible for the tender however it is recognised that this may not always be achievable.

The main function of the opening process is to provide independent verification of what is actually submitted as part of the tender thus preventing removal, addition or modification of pages in the subsequent evaluation.

To achieve this all finance related pages must be initialled by both of the opening officers. However, where costs/figures etc are not clearly presented then this process may not be easy.

Where multiple copies of the tenders have been requested only the master copy needs to be checked and initialled.

Purchasing Services, within Commercial Services, provide, along with other services, a tender receipt and opening service.

Purchasing Services can be contacted at:

procurement@kent.gov.uk

or by telephone on:

Maidstone (01622) 605790

Freecall 7000 5790

Does this apply to 'single' tenders?

The only aspect that varies for a 'single tender' process is the ability to move the opening to as soon as the tender response has been received. For all other occasions whether two firms were invited or a competitive exercise undertaken the opening cannot happen until after the closing date even if the number of responses received matches the number of firms invited.

The reason behind tenders not being opened early is because firms may discover errors or omissions and submit an additional response, before the deadline, to correct their proposal. Also, as a consequence of the requirement that responses must not be identifiable you can never be sure that either all responses have been received or that an additional response is not to be submitted.

"Late Tenders"

A tender is 'late' if it is not available to be opened at the specified opening time and date. Such late tenders shall not be opened until after the acceptance of the successful tender.

Providing the appropriate checks were made at the start of the process there should be only the rare occasion where the tender was received by the stated time but mislaid / misdirected when received. Only where there is reasonable evidence that it was within the Council's 'control' by the required time can it be considered further.

Where the submission can not be opened the outer package must be marked with the word 'Late' along with the time and date it was received. The tender opening record should be completed with the number of late tenders received. This record can be updated by a responsible officer, not necessarily the opener or witness, if the submission is received after the opening process.

“Marked Tenders”

A tender is 'marked' if it is possible to identify the tenderer from the outer packaging. Such tenders shall not be opened until after the acceptance of the successful tender, i.e. the contract has been awarded and/or the procurement completed.

Where the outer package is marked it must be clearly highlighted. The tender opening record should be completed with the number of marked tenders received.

Record keeping

A formal record of the opening must be made and should contain as a minimum:

- tender name;
- time and date of opening;
- names of opener and witness;
- list of firms submitting tenders;
- number of late tenders; and
- number of marked tenders.

Both the opener and witness should sign the record confirming it as correct. Any concerns you have must be raised immediately rather than sign and comment later.

When the opening process is complete the documents must still be retained securely until the evaluation process starts. The security issue now moves from protecting the integrity of the receipt process to joint concerns around a fair evaluation and the commercial confidentiality of tenderers' submissions.

For the avoidance of any doubt in this area it is worth remembering that third parties, either public or private sector, undertaking procurements specifically on the Council's behalf must be required to do so in compliance with the Code.

Quotations

This chapter has concentrated on the formal tender processes which become mandatory at £50,000. Although quotations require less formality the principles of the tender process apply.

This means:

- there must be some rationale in who is asked to quote;
- you must ensure that all quotations are given against the same requirement. If the requirement is clarified or changed through the process all invited firms must have the opportunity to quote against that revision;

- no price or other information from a quotation will be shared with any firm during the process;
- although you may not require Council terms and conditions to apply you must understand what the terms and conditions are that are being proposed for the contract. Acceptance of a quote, either formally or by placing an order, accepts the conditions and their acceptability must be a factor in your decision.
- if you decide to contract with other than the lowest quotation you must have recorded your reasons.

Quotations do not have to be obtained all at the same time. There is no requirement for a formal opening process although you may choose to set a specific date and time by when they must be received.

You are required to seek a minimum of three written quotations but the underlying requirement is to get genuine competition resulting in good pricing. If that needs more than three or you need to seek additional quotes after your initial request then that is what you should do.

Pilots

Pilots, also sometimes referred to as ‘proof of concepts’, can be ‘tests’ of either a particular service or type of product or a solution from a particular firm and the procurement approach is different for both.

For either of them if it’s a genuine pilot and there is no intention of doing anything beyond the pilot phase then the standard competitive approach applies reporting non-competition as appropriate.

If however you anticipate the pilot being a success and you would want to roll out the solution further then you have the following options:

- you can choose to competitively tender for the full roll out before the pilot but initially contract just for the pilot; or
- contract for the pilot and competitively tender for the roll out.

For both options the required competition is dependent on the value. What you can’t do is use either a competitive process for the lower value pilot or the success of the pilot and the consequent advantage the pilot firm has as reasons to justify avoiding the competition for the overall contract.

The best approach is to have determined your likely preferred outcome and use that value to decide which rules apply from the start.

“No fee” contractors

It is possible to consider opportunities for work being undertaken at no cost to the Council as not being a procurement. However this approach should be treated with caution as the issue really relates to the net benefit received by the firm from working for us. The net benefit can be derived from areas such as income received from other sources or a percentage of savings they generate on Council spending.

These arrangements must be treated as any other procurement and it’s this net benefit that will determine the necessary competitive process.

Electronic Processes

Products are commercially available that allow the issue, receipt and analysis of tenders to be done electronically. Separate products exist that facilitate the use of electronic auctions. Nothing in this Code should be seen as preventing their appropriate use indeed social care contracting is already done exclusively via a Council written software package.

<http://www.kent.gov.uk/SocialCare/social-care-and-business/contracting-and-e-tendering>

Currently no other part of the Council has access to equivalent software.

Electronic auctions, otherwise known as a reverse auction can provide significant additional cost reductions. Their use needs to be planned carefully and included from the start of the procurement. It is important to remember that they are an additional activity at the end of the process and do not replace the usual advertising and tendering processes.

Not all markets will benefit from using a reverse auction but where you believe they will bring benefits you should be cautious of potential tenderers attempting to manipulate your process by putting forward obstacles to their use.

Contract Award

What do you need for a contract?

A contract may be defined as a bargain agreed between two (or more) parties that is binding in law and may be enforced in the courts. In law it can be created verbally or in writing.

The agreement will generate rights and obligations on each party. To be legal, a contract must fulfil the following requirements:

- there must be “offer and acceptance” i.e. one party has made an offer that has been accepted by the other;
- it must be the intention of each party to be legally bound;
- there must be valuable consideration on each side i.e. one party may deliver, or undertake to deliver, goods, works or services which the other party will pay for;
- the parties must have the legal capacity to enter into the contract;
- the contract must be legal; and
- the contract must not be procured by force, coercion or undue influence; nor must it rest on fraud or misrepresentation.

There is no link between when a contract exists and the Council’s financial thresholds for obtaining quotes or tenders. A contract can exist from even the smallest order.

All contracts shall be entered into on behalf of and in the name of “The Kent County Council”, this being the name of the Council prescribed by Section 2 of the Local Government Act 1972. Contracts cannot be entered into by committees, directorates, Members or officers because they do not have a legal entity. Kent County Council alone has that status. It follows that the whole authority is ultimately responsible for all contracts entered into in its name no matter that it is on behalf of an individual committee or directorate.

It is not possible for the Council to enter into a contract with itself, e.g. one Directorate / unit with another.

1. Any contract should always be in writing and set out all the terms of that appointment. This is regardless of whether it is for an individual to give personal advice on a small matter or the appointment of a large firm to work on a major project.
2. In all cases the paperwork documenting the terms of the contract should be agreed, accepted and signed by all parties, before work commences. In the case of urgent matters the temptation is often to ask the contractor to commence work and resolve the detailed terms of contract later. This is almost always prejudicial to the best interests of the Council, because once the work has started the Council is effectively committed to using them and so its bargaining power in terms of the conditions is greatly reduced. The Council is then open to claims for increased costs as a condition of accepting what should be standard conditions.
3. Council policy is not to issue letters of intent. Letters of intent are typically suggested in cases where the parties are keen for work to commence but where all the terms of the deal are not agreed. A letter of intent issued in such a case can be a dangerous instrument as it can commit the Council to have services carried out and to pay for them, but without the protections that a full contract would provide.

4. The key issue in contracts is that they should set out specifically in writing all of the terms that the parties want to govern the deal. A common problem with contracts entered into by persons who are specialists in their own fields but not specialists in contracting is that they assume that certain terms which are obvious to them (as part of their specialist area) must form part of the contract even though they are not in any document. The problem comes when it turns out later that the other side never did in fact agree that this was obviously part of the contract. So in any contract make sure that there is set out all of the terms that affect the deal.

5. The following are the minimum matters that should be considered when entering into a contract, and appropriate provisions to cover these should be in each contract. These cover the points covered in “What should be in a tender?” section of the **Competition** chapter:

- Details of who the legal persons are who are the parties to the contract. This is, surprisingly, a major issue in some parts of the Council. There are a number of contracts entered into where the Council cannot say with certainty who the other contracting party is.
 - In the case of a limited company the details required are full company name, country of registration, registered company number and address of registered office.
 - In the case of a standard partnership, generally the full names and addresses of the partners – sufficient so that you know who to sue if it comes to it.
 - In the case of a sole trader, his/her full name and personal address, together with any trading address.

It is NOT sufficient to enter into a contract with a trading name, e.g. a contract with “Sunnyview homes” or “B&S Consultancy Services” gives us no information as to the legal persons who we are contracting with, so we will have difficulty enforcing the contract against anyone if trouble arises. A contract should rather be with “Samuel Smith of 34, X Street, Rochester trading as Sunnyview homes at Y street Maidstone”, or “Samuel Smith Limited (registered in England under company number xxxxx) whose registered office is at 34, Y Street, Rochester trading as Sunnyview homes”. That level of detail gives us some certainty.

- Exactly what is to be done or produced. How will we know if the Council has got all that it wanted from the contract?
- What duties the Council has.
- The timescales by which the work is to be completed, and any intermediate milestones.
- Exactly what payment is to be made for what level of performance, and when such payment is to be made. Is there to be provision for stage payments against performance?
- How the Council gets compensation if the services are not done properly or fully. Would a bond or guarantee be appropriate? Is it appropriate to specify liquidated damages – bearing in mind that penalties are unenforceable and therefore useless? [The difference is that liquidated damages are supposed to be a fair estimate of loss in certain circumstances – so that in those circumstances the Council can just claim (or withhold) that set sum rather than having to resort to court proceedings to determine the quantum of damages. A penalty is a sum which does not represent a fair and reasonable estimate of loss, but which is designed to scare the contractor or consultant into compliance, e.g. a clause which said “if the advice is not produced by 31st March then xxxxx / name shall pay to the Council £10million” would generally be a penalty and not enforceable (unless exceptionally the Council could show that it would lose £10m by not having the advice by that actual day)].
- Is the quoted price inclusive of VAT?

- When the contract starts and when and how it ends. When and how can it be terminated early and for what reason?
- Who will own what rights or what property at the end of the contract? E.g. if a report is to be produced, who will own the copyright in it? If a design or logo is to be produced, who will own the rights in it? If data is to be produced or stored, who will own the rights in it? A lot of problems are caused by people assuming that if the Council pays for something to be produced (or produced in a particular format) then the Council automatically owns all of the rights in that thing. This is not the case.
- Can the contractor or consultant assign the contract? Does the Council want to specify that certain individuals shall carry out the services? If there is no intention that third parties should be able to enforce the contract, does it need to say so?
- What happens if circumstances beyond the control of the parties prevent completion of the services – whose risk is that? Does the Council still have to pay?
- Whether there is any need for a confidentiality clause, for the contractor or consultant to keep confidential any information received in connection with the contract?
- If there are any other documents which set out matters relevant to the contract then if there can be any doubt as to what these documents might say then these should be attached to (or kept with) the contract and initialled by both parties as being the document referred to in the contract.
- Whether there are any matters in respect of which the contractor should be required to indemnify the Council and/or maintain insurance.
- For consultants it should be made explicit (where there is any possible doubt) that the consultant is not an employee of the Council who is managed by the Council on a day to day basis. This has implications for (among other things) the Council's liability to deduct tax and National Insurance payments.
- For sole traders undertaking training contracts the Council may be liable for the National Insurance payments. In these cases payments have to be paid via payroll to deal with the National Insurance, but there are no income tax issues.

Assistance with arrangements for National Insurance deductions can be obtained from your directorate payroll contact or by telephone to the general payroll number on:

Maidstone (01622) 605570
Freecall 7000 5570

6. In the case of a contract for professional services connected with building, i.e. where the contractor or consultant is an architect, surveyor, engineer or other similar building industry professional, the contract is usually in a standard form produced by the relevant professional body, with no unusual or particularly onerous amendments or additions. In the case of building related professionals, the fee is sometimes fixed by reference to the final build cost. Where this is the case, the contract should specifically say so. Where this is not stated in terms but a fee is specified, then the contract will be taken to be for a fixed fee regardless of the final build cost.

7. A contract can be just signed ("under hand") or can be sealed as a deed. The difference in practical terms is that claims under a deed can generally be enforced for 12 years, whereas if the contract is just signed the relevant time limit is just 6 years. So, where a contract relates to a situation where it might be desirable to make a claim many years later (e.g. where it is a contract for architectural works for a building) it might be advisable to have the contract executed as a deed. From the Council's side this would usually be carried out by Legal Services, but it is for the client department to provide an authority for this to be done – which will either be a decision of a Cabinet member or a decision of a Managing Director (or delegate duly authorised to do this).

8. Advice and assistance on the production of contracts can be obtained from the Contracts and Procurement Team of KCC Legal Services. It is suggested that in the first instance you address your query to Fiona Webb, the Group Secretary, on:

fiona.webb@kent.gov.uk

or by telephone on:

Maidstone (01622) 694409
Freecall 7000 4409

and the matter will be allocated to a lawyer to assist you.

Before the award

Authority

All transactions must fall within the powers delegated to the Chief Executive or Managing Director or have been approved by a decision (in accordance with the Council's Constitution) of the Cabinet, the Leader, an authorised Cabinet Member, the Council or one of its committees or sub-committees.

No contract, agreement or other document shall be signed or sealed unless it gives effect to:-

- a decision or resolution (in accordance with the Council's Constitution) of the Leader, the Cabinet, an authorised Cabinet Member or one of its committees or sub-committees; or
- a decision by an officer exercising delegated powers.

You should satisfy yourself that the contract you are proposing to award is covered by the appropriate fundamental authorisation. NB This is not the same as authorising this particular award. Where the root of the delegated power is not obvious, perhaps because it's a fundamentally new service, the details should be recorded in the Award Report.

Award Report

The Code requires a Contract File to be kept which contains, amongst other things, the information around the award decision. This information should be brought together in an 'Award Report' which will:

- be 'complete' in its own right, allowing the reader to understand the process and the decision. Reference should be made to any additional information available in the contract file.
- show the recommendation and authorisation process with appropriate signatures Approvals – delegations, records who actually recommended and approved the award
- be used, where appropriate, for:
 - Member scrutiny;
 - the basis of debriefs; and
 - answering FOIA requests.

It is good practice to prepare and sign an Award Report, as a record of the decision, even where the author is the contract approver and thus the only signatory of the report.

Where a contract for a Consultant is estimated to cost £20,000 or more the Award Report must be forwarded to the relevant Cabinet Member prior to the appropriate officer approving the report.

In this context a 'Consultant' is defined as a named individual (i.e. the Council states it wants individual x) taken on to perform a particular, temporary and defined, task.

It should be obvious that the officer approving the report, and thus the award, should not do so until the Cabinet Member has had an opportunity to review the report's contents.

Key Decisions

It is unlikely that a decision to award a particular contract will be classed as a "Key Decision". Where appropriate the Key Decision process will more probably have been applied at the **Decision Point** as described in the **Business Case** chapter.

Standstill Period

For all contracts resulting from an EU procurement there is a mandatory period between the decision being made on who to award a contract to and the actual award - commonly known as the Alcatel period.

This is a minimum 10 day period which starts from when you notify all the unsuccessful firms of your intention to award to your chosen firm. The period allows the unsuccessful firms to seek clarification around the decision and challenge it, if appropriate, before the contract is awarded. Without this period unsuccessful firms could only obtain damages if they could show the basis of the decision was unsound but with the standstill period the decision can be reviewed in light of the challenge.

Although there is a minimum period there is no maximum set. No contract can be awarded with a challenge outstanding. There are specific obligations on the Council to respond within certain periods but there is also an overriding benefit to the Council of resolving issues as soon as possible.

There are no legitimate shortcuts to this process. You must be in a position to be able to actually award a contract to your chosen firm(s) before you can inform the unsuccessful firms and start the 'Alcatel period'.

Words of caution

Any verbal communication to a tenderer may lead to a legal contract existing from that moment. Acceptance of tenders shall always be in writing.

In no circumstances shall a letter of intent be sent, they have no legal value in the United Kingdom in establishing a contract. Letters of intent give rise to more problems than they solve and can lead to unnecessary legal problems. 'Letters of intent' here include all forms of communication to tenderers that they are to be, or are likely to be, awarded a contract.

If work/service has to start before the formal award decision can be made then this should be separated from the main contract. Dependent on the value a separate quotation for the work which has to be done prior to the decision taking effect should be obtained and an order raised. If ordering this pre-decision work/service would, in effect, force the complete contract award to that firm then this would be seen as bypassing the Council's delegated decision making process and is consequently forbidden.

Care must be taken to ensure that where pre-decision work/service is ordered the Council is not committed to either pay or have the work/service done twice.

The award

In simple terms an award can be made by a written acceptance, e-mail or letter, of a firm's offer. Where the award is for neither the original offer or for all parts of the offer the written acceptance must be explicit as to what is being accepted. Ambiguity here will undoubtedly cause confusion later and may technically not actually form a contract.

Alternatively all the papers forming the contract should be brought together as one contractual document and signed by appropriate representatives of both parties.

The Chief Executive, Managing Directors and the Director of Law and Governance may sign documents on behalf of the Council or authorise officers to do so. This authority may be given by inclusion in the nominated officers' terms of appointment, by specific resolution or as part of a system implementing delegation arrangements within the directorate.

Any contract with a value in excess of £1m must be made in writing and either:

- affixed with the common seal of the Council and be attested by at least one authorised officer, or
- signed by at least two authorised officers.

The common seal of the Council shall be affixed to any document or agreement if the Director of Law and Governance considers it appropriate for the purpose of transacting the Council's business or safeguarding its interests.

The seal may be fixed and witnessed only by the Director of Law and Governance or officers authorised in writing to do so.

The Director of Law and Governance shall ensure a register is maintained of all documents and agreements which are sealed including the name of the person who witnessed the affixing of the seal.

Where not already required to do so before the award all tenderers must be notified of the award decision as soon as possible after the event. This notification should include details of who the contract was awarded to and the reasons for the firm being unsuccessful. Where appropriate, the values of tenders received, in order of value and, if considered relevant the names of the tenderers in alphabetical order. At no time should any firm be informed of, or be able to determine, the value of any other firm's tender.

After the award

Member notification

For contracts of £50,000 or more where:

- quality issues as well as price (to achieve Best Value), have been taken into account such that it's more advantageous to accept a tender(s) other than the lowest; or
- acceptance of the most favourable tender(s) means that the approved budget will be exceeded; or
- a non-competitive process was used to determine the contractor*;

the approved Award Report # must be sent to the Head of Democratic Services, and the relevant Cabinet Member, within 14 days of the contract being awarded so that s/he may notify Members of the Cabinet Scrutiny Committee.

* Contracts awarded without competition of adult and children's services required by law under the National Assistance Act 1948 and the Children Act 1989 are exempt from this reporting requirement.

The signed copy should be retained in the Contract File. The copy sent to the Head of Democratic Services must include the names of the officers who recommend and approved the report.

Where multiple firms are awarded contracts the rationale for the awards must be reported where any of the contractors has tendered a higher price than any of the unsuccessful firms.

Being a named individual a 'Consultant' must, by definition, have been sourced via a non-competitive process. All contracts for a Consultant from £20,000 must be reported, as a non-competitive procurement, to the Head of Democratic Services within 14 days of the contract being awarded so that s/he may notify Members of the Cabinet Scrutiny Committee.

Updating the Portal

The South East Business Portal must be updated with the details of the award including the electronic copy of the contract within 14 days of the contract being awarded.

Debriefs

Debriefing firms after a competitive procurement have similar benefits for both parties. For the Council it's about improving the quality of future tenders and for firms it's about gaining a further understanding of the process and what they need to do to improve their chances of winning future opportunities from the Council and other public sector bodies.

Even the appointed contractor may benefit from a formal debrief.

A debrief should be offered to all tenderers when they are told of the award decision and should take place as soon as practicable.

If the reason for them not being awarded the contract is included in sufficient detail when they are told of the award decision many firms will not ask for a debrief. Of those that do most will probably be happy with a short phone conversation. The actual number requesting a formal face-to-face debrief at the Council's offices is quite small. Firms must not be pressured into accepting a phone debrief.

A debrief is an integral part of the procurement and should be done by the senior officers closely involved in the procurement.

Firms should be free to ask any questions but you should concentrate your answers on:

- the award decision reasons detailed in the award report including the strengths and weaknesses of the firm's submission;
- details of the actual process; and
- any information you would release under the Freedom of Information Act.

Be careful that whilst trying to be helpful you do not directly compare the submissions nor release information that should remain commercially confidential.

In cases where the procurement and subsequent award has been particularly sensitive it is good practice to:

- not undertake the debrief on your own; and
- make and retain a written record of the meeting.

General points that may apply are:

- the Council is always looking for a firm to meet the published requirement. A proposal should concentrate on showing how they meet that requirement;
- the evaluation process does not compare bids;
- firms generally do better asking for clarification than making incorrect assumptions; and
- the evaluation is done against what they submit and information, good or bad, that the Council has before the procurement is not used.

For procurements covered by the EU directive:

- The contracting authority is required within 15 days of receipt of a written request to inform any eliminated candidate or tenderer of the reasons for the rejection of his application or his tender. Any tenderer who submitted an admissible tender must also be advised of the characteristics and relevant advantages of the tender selected as well as the name of the successful tenderer. Purchasers may however withhold information which would impede law enforcement, be contrary to the public interest, prejudice the legitimate commercial interest of public or private undertakings, or might prejudice fair competition.
- Contracting authorities which have issued an invitation to tender must also promptly inform candidates and tenderers, in writing, if required, of the decision and the reasons for not making a contract award or for starting the process again.

OJEU Notice

For all contracts that are subject to the EU Procurement Directive a contract award notice must be placed in OJEU, within 48 days of the contract being awarded.

It is important to note that this applies to all contracts covered by the Directive even those classed as “Residual Services” where advertising and the other requirements are not mandatory.

Contracts and Tenders Standing Orders

- 1** It is the responsibility of the Chief Executive and Managing Directors to ensure that all purchases of goods and services comply with:
 - (a) legal requirements;
 - (b) EU Directives;
 - (c) the Council's Financial Regulations;
 - (d) the Code contained in 'Spending The Council's Money' (as approved by the Governance & Audit Committee);
 - (e) standards for the management of property, information technology resources and staff; and
 - (f) any conditions attached by the Leader or the Council to the exercise of powers delegated by them.

Authority

- 2**
 - (a) All transactions must fall within the powers delegated to the Chief Executive or Managing Director or have been approved by a decision (in accordance with the Council's Constitution) of the Cabinet, the Leader, an authorised Cabinet Member, the Council or one of its committees or sub-committees.
 - (b) No contract, agreement or other document shall be signed or sealed unless it gives effect to:-
 - (i) a decision or resolution (in accordance with the Council's Constitution) of the Leader, the Cabinet, an authorised Cabinet Member or one of its committees or sub committees; or
 - (ii) a decision by an officer exercising delegated powers.
- 3**
 - (a) Budgetary provision must exist before any contract can be entered into. This provision should be explicit in a budget approved by resolution of the Council. Where budgetary approval exists for a specific item further Member approval is not generally required.
 - (b) Where there is no specific budget line, the Chief Executive and Managing Directors may approve expenditure up to £100,000, provided the expenditure can be met within budget. Above £100,000 a formal decision by the Leader, the Cabinet or an authorised Cabinet Member is required in accordance with the Council's Constitution.

4 Thresholds

(a) **The financial values (exclusive of Value Added Tax) at which processes become mandatory are:**

- (i) £8,000 to £49,999 - three written quotations must be sought from appropriate sources.
- (ii) £50,000 and above – the competitive tender process, as defined in ‘Spending The Council’s Money’, must be followed.

However both the overall obligations of the Code and the statutory requirement to achieve value for money apply to all transactions and don’t just apply from the above amounts and, as such a competitive tender process may be appropriate for procurements below £50,000.

(b) In addition European Union Directives, enacted in UK Law, set limits for public contracts above which specific procedures are required to be followed. The procedures cover the advertising of contracts, the rejection of suppliers, technical specifications, evaluation, selection and award criteria. All procurements for goods, services and works above the financial thresholds are covered by the legislation but not all procurements for services, social care for example, are subject to the full process.

The current levels at which these apply are for goods and services, £144,371 and for works, £3,611,319.

(c) There must be no attempt to avoid any of these limits by deliberately manipulating the requirement or frequency of ordering.

(d) The ‘financial values’ here refers to:

- (i) the total amount payable over the contract period, i.e. the Council’s total liability under the contract, and not the budget available in the current year; or
- (ii) the reasonable expectation of the cost of the consequence of the decision; or
- (iii) the ‘net benefit’ to the contractor

whichever is the greater.

The award

5 The Chief Executive, Managing Directors and the Director of Law and Governance may sign documents on behalf of the Council or authorise officers to do so. This authority may be given by inclusion in the nominated officers’ terms of appointment, by specific resolution or as part of a system implementing delegation arrangements within a directorate.

- 6** Where a contract for a Consultant is estimated to cost £20,000 or more details of the proposed award must be forwarded to the relevant Cabinet Member prior to the appropriate officer making the award. In this context a Consultant is defined as a named individual (i.e. the Council states it wants individual x) taken on to perform a particular, temporary, and defined, task.
- 7** (a) Any contract with a value in excess of £1m must be made in writing and either:
- (i) affixed with the common seal of the Council and be attested by at least one authorised officer, or
 - (ii) signed by at least two authorised officers.
- 8** The common seal of the Council shall be affixed to any document or agreement if the Director of Law and Governance considers it appropriate for the purpose of transacting the Council's business or safeguarding its interests.
- 9** The seal may be fixed and witnessed only by the Director of Law and Governance or officers authorised in writing to do so.
- 10** The Director of Law and Governance shall ensure a register is maintained of all documents and agreements which are sealed including the name of the person who witnessed the affixing of the seal.

After the award

- 11** (a) For contracts of £50,000 or more where:
- (i) quality issues as well as price (to achieve Best Value), have been taken into account such that it's more advantageous to accept a tender(s) other than the lowest; or
 - (ii) acceptance of the most favourable tender(s) means that the approved budget will be exceeded; or
 - (iii) a non-competitive process was used to determine the contractor*;
- the approved Award Report must be sent to the Head of Democratic Services within 14 days of the contract being awarded so that s/he may notify Members of the Cabinet Scrutiny Committee.
- * Contracts awarded without competition of adult and children's services required by law under the National Assistance Act 1948 and the Children Act 1989 are exempt from this reporting requirement.
- (b) Where multiple firms are awarded contracts the rationale for the awards must be reported where any of the contractors has tendered a higher price than any of the unsuccessful firms.

- (c) Being a named individual a 'Consultant' must, by definition, have been sourced via a non-competitive process. All contracts for a Consultant for £20,000 or more must be reported, as a non-competitive procurement, to the Head of Democratic Services within 14 days of the contract being awarded so that s/he may notify Members of the Cabinet Scrutiny Committee.

Business Case

A **Business Case** boils down to the answering of two fundamental questions:

- should I be doing this; and
- should I be doing it this way?

The required scale of the tasks detailed here, probably more so than for any of the other activities in the procurement process, is dependent upon the value and risk of the overall procurement.

When is one needed?

As stated in the **Introduction** the principles apply to all transactions but the business case activity for buying some copy paper should be a few moments thought, whilst for a multi-million pound road scheme will be an extensive formal report.

All procurements from £100,000* must have a formally recorded business case. Capital projects from £1m+ have their own, additional, requirements. Guidance on which can be found at:

<http://kent304/cgi-bin/wdbcgw/CS/docs/CAPITALGUIDANCE/CAPITAL+PROGRAMME+PROCESS+AND+PROCEDURES.DOC>

* The value here is taken from the total cost implication of the decision and not the narrower valuation of a particular contract.

The Financial Regulations state:

A.22 The Chief Executive and Managing Directors are responsible for:

- i ensuring that capital proposals reflect agreed service plans, are prepared in line with guidance issued, are realistic, that necessary business case development and option appraisals have been carried out and any risks identified. Any impact of capital expenditure proposals on service running costs must be identified and included in revenue budget estimates or forecasts;

There is no requirement for an individual business case for each contract. Linked procurements or more formally established programmes will give the opportunity for an all-encompassing business case. Where this is applicable there must still be sufficient detail for appropriate judgements to be made for each contract.

What is it used for?

A well prepared business case will:

- challenge the options and allow an informed decision as to whether to commit to the expenditure or not;
- provide a benchmark against which to review progress; and
- provide the means against which to judge success.

In preparing your business case beware of similar activities potentially happening in parallel across the Council, i.e. be mindful that others may have a similar requirement which would be better if linked.

What should be in a business case?

As a minimum a business case will include the following:-

- description of the need ¹;
- linkages into wider Council objectives;
- details of all options looked at ²;
- description, including estimated quantities, of the resources necessary to cover the total impact of the decision ³;
- where the resources, including funding, will be provided from ⁴;
- description of benefits; and
- how success will be measured.

The business case will be completed with information gained from the **Understanding the Market** activity which is carried out in parallel.

¹ The medium term planning process and unit Business Plans will inform the planned needs across the Council. As part of those processes early work on resource allocation may also have been done.

² 'all options' should include those being put forward, those already dismissed and the 'do nothing' option.

³ It is not expected at this stage of the process that you will have detailed and firm figures on quantities and / or costs. However, no business case can be completed without meaningful figures.

A business case must reflect all costs and activities directly or indirectly caused by a particular option. For example the procurement might obtain some new equipment but there are knock on costs for maintenance, consumables and training that need to be included

⁴ It can be a well constructed business case but if you haven't got, or can't get, the resources the process goes no further. However, a well constructed business case could support a bid for the reprioritising of resources to this project that, if granted, would lead to the business case going through to the approval process. In general terms, Council/Cabinet approval of the revenue and capital budgets provides the authority to incur expenditure within those limits. It should be expected that the business case should detail where the resources will be provided from rather than the generic "from within existing budgets".

For contracts where there may be a change of contractor, the TUPE Regulations may apply. This is especially important if an in-house unit is involved where the full implications to the Council must be considered. Reference should be made to the "KCC TUPE Guide for Managers" but it should be realised that the interpretation and implications of the TUPE Regulations are always liable to change with case law. Specialist legal and personnel advice should be sought from the very beginning of a tendering exercise whenever the outcome could lead to a TUPE transfer, including the transfer of staff between two commercial companies.

[Insert KNet link here](#)

Is there one?

Where employee data is or will be required as part of the information to enable information to be gleaned make sure the incumbent is aware and more importantly make the relevant staff aware. Do not underestimate the amount of work involved with staff transfers.

Detailed guidance on the creation of business cases is provided in “**The Green Book, Appraisal and Evaluation in Central Government.**” published by HM Treasury.

<http://greenbook.treasury.gov.uk/>

It advises that all new policies, programmes and projects, whether revenue, capital or regulatory, should be subject to comprehensive but proportionate assessment, wherever it is practicable, so as best to promote the public interest. The Green Book presents the techniques and issues that should be considered when carrying out assessments and describes how the economic, financial, social and environmental assessments of a policy, programme or project should be combined.

Corporate Finance can assist with Green Book interpretation and can be contacted at:

ben.smith@kent.gov.uk

or by telephone on:

Maidstone (01622) 694597
Freecall 7000 4597

Words of caution

There is a demonstrated, systematic, tendency for project appraisers to be overly optimistic. This is a worldwide phenomenon that affects both the private and public sectors. Many project parameters are affected by optimism – appraisers tend to overstate benefits, and understate timings and costs, both capital and operational.

Taken from “The Green Book” published by HM Treasury 2003

A business case does not have to be positive. Whilst this may sound obvious there are examples where people have been engaged to prepare a business case who believed that they failed when they couldn’t show a positive case for proceeding. A well prepared business case will research and show the facts allowing a well-informed decision to be made.

The Council’s business cases are of potential interest to a number of parties and requests may be received for them under the Freedom of Information Act. There can be no standard response and each case will need to be treated individually as determining the correct response may be affected by the timing, in the procurement process, of the request. This is a specialist area and guidance should always be sought, initially from your directorate Freedom of Information co-ordinator.

Insert details of Directorate FOI co-ordinators here

Decision Point

Having prepared a business case now is the first major decision point in the process.

The Financial Regulations state:

A.22 The Chief Executive and Managing Directors are responsible for:

- iii ensuring that projects only proceed when they have received the necessary approval and confirmation that any external funding is secured. For schemes and headings where the total cost is estimated to be £1m or more this consent must be obtained from the Leader following procedures issued by the Director of Finance. The Leader may take the decision himself/herself or specifically delegate the decision to Cabinet or the relevant Cabinet Member. For schemes where the total cost is estimated to be less than £1m consent must be obtained from the relevant Cabinet Member.

Budgetary provision must exist before any business case is approved. This provision should be explicit in a budget, programme or resolution of the Council or a Committee where a budget, programme or other report contains a block allocation for multiple contracts for a class of service provision.

Where budgetary approval exists specifically for an item further Member approval is not required. The Cabinet Member/portfolio holder may need to be informed especially when the procurement is strategic or particularly sensitive.

Where there is no specific budget line, the Chief Executive and Managing Directors may approve expenditure of up to £100,000, provided the expenditure can be met within budget. Above £100,000 a formal decision by the Leader, the Cabinet or an authorised Cabinet Member is required in accordance with the Council's Constitution.

The Chief Executive and Managing Directors are free to determine the management processes and levels of delegation around non-capital business cases appropriate for their directorate. However decisions for all business cases from £100,000 upwards must be documented, making it clear who made what decision, and then retained with the other documents relevant to the procurement.

In view of the business case's importance throughout the procurement process it should be treated as a 'living' document and not frozen at the 'Decision Point'. However you need to be careful that whilst keeping it up to date you neither fundamentally change the basis on which the original decision was made nor move the procurement to a different authorisation level. The **Procurement Management** chapter covers this in more detail.

Procuring People

An approved business case will have said where the resources are to be provided from. Where these resources are people the business case should have detailed whether these are already employed within the Council or are additional. If additional, it will further detail whether the preferred route is to employ them and pay through the Council's payroll system or contract for them and pay against an invoice.

If individuals are to be paid through the payroll system then they must be sourced via the Council's HR recruitment processes resulting in a contract of employment. All other contracts are sourced in compliance with the Code.

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Competition

Thresholds

The financial values (exclusive of Value Added Tax) at which processes become mandatory are:

£8,000 to £49,999 - three written quotations must be sought from appropriate sources.

£50,000 and above – the competitive tender process must be followed.

However both the overall obligations of the Code and the statutory requirement to achieve value for money apply to all transactions and don't just apply from the above amounts and, as such a competitive tender process may be appropriate for procurements below £50,000.

In addition European Union Directives, enacted in UK Law, set limits for public contracts above which specific procedures are required to be followed. The procedures cover the advertising of contracts, the rejection of suppliers, technical specifications, evaluation, selection and award criteria. All procurements for goods, services and works above the financial thresholds are covered by the legislation but not all procurements for services, social care for example, are subject to the full process. (See 'Where to get help' in **'Introduction'**.)

The current levels at which these apply are for goods and services, £144,371 and for works, £3,611,319.

There must be no attempt to avoid any of these limits by deliberately manipulating the requirement or frequency of ordering.

The "financial value" here refers to:

- the total amount payable over the contract period, i.e. the Council's total liability under the contract, and not the budget available in the current year; or
- the reasonable expectation of the cost of the consequence of the decision; or
- the 'net benefit' to the contractor. See **"No fee" contractors** at end of this chapter.

whichever is the greater.

For example, if something you are going to buy needs regular maintenance from the supplier then the cost of the annual maintenance for the life of the product must be included.

Avoiding competition

The Council's preferred, and thus default, position is that competition is required for all purchases. As a consequence occasions where competition can be avoided must be treated as exceptions requiring authorisation and reporting above that normally required for a purchase of that size.

For a procurement to be classed as competitive at least three, legitimate, suppliers must have been invited to submit a response. This section applies where there is no plan to invite competition. It does not apply where appropriate competition has been properly sought but only one, or two, suppliers submit a response.

Additionally, the Treaty of Rome requires that competition will be part of the overall procurement approach to securing works goods and services. The Treaty of Rome obligations override specific EU Directives and UK legislation and it is therefore possible that contracts below the EU Directives financial thresholds could be challenged where the European Commission feels that competition has been stifled.

Competition is not compulsory where:

- goods or services are purchased internally, i.e. from within the Council or a Council owned company; or
- urgent works, supplies or services are necessary for the immediate protection of life or property, or to maintain the immediate functioning of a public service for which the Council is responsible; or
- works, supplies or services are required which must be provided by a public utility, a local authority other than the Council or a similar body in pursuance of their statutory powers; or
- works, supplies or services are estimated to cost less than £8,000; or
- the purchasing of adult and children's services are required by law under the National Assistance Act 1948 and the Children Act 1989. Alternative processes are set out in Directorate Operational Procedures; or
- Property Group purchase or sell land or property; or
- the Chief Executive or Managing Director has decided that special circumstances exist.

The Chief Executive and Managing Directors are free to determine the management processes and levels of delegation around non competitive procurements appropriate for their directorate.

However they should, in determining these arrangements, consider the impact of the mandatory reporting requirements detailed in the **Contract Award** section. With the reporting required after the contract has been awarded there is no opportunity at that stage to revisit a decision.

'Special circumstances' are unlikely to exist where it is claimed that:

- only one firm is capable of supplying if;
 - there is no evidence of reasonable research of the market supporting this; and
 - the opportunity was not advertised on the South East Business Portal; or
 - the requirement was written specifically to exclude competition; or
 - an evaluation took place prior to competition being sought that excluded potential suppliers.
- prices or costs would be negatively impacted. Irrespective of indicative or published prices the only way of determining the price the Council will pay is by competition. Factors other than their costs, i.e. obtaining market share, may influence a firm's offer.
- there is an urgent need if the timescales were within the Council's control. Failure to adequately plan or act is not usually sufficient justification to avoid competition.

The ability to avoid competition is severely limited where the EU Procurement Directives apply. Expert assistance should always be sought early in the process both for a new requirement or possible extension of an existing one.

With appropriate regard for the process costs and administrative effort for all parties it is far better that firms are given the opportunity to compete and they then decline than the Council makes an arbitrary decision to exclude them.

In order to meet your reporting obligations the reasoning behind the decision not to invite competition must be recorded and retained with the other records for the procurement. See the **Procurement Management** chapter.

Even where competition is deemed inappropriate the Council retains a competitive advantage by not advising the potential contractor of that decision until a contract has been agreed.

Competition and internal providers

There is no requirement for an internal provider, or Council owned company, to routinely bid competitively against external suppliers. However, where there is an internal provider of the goods or service and a Directorate seeks tenders/quotations for the purpose of market testing the internal provider must be included in the competition.

Tenders

What is a tender for?

It is important to remember that a Council tender is designed to explain to potential suppliers what is wanted, to encourage them to compete for the opportunity and, by combining the requirement with the supplier's proposal, provide the basis for the written contract.

Deciding who to invite

Fair and open competition relies on potential suppliers having the opportunity to participate in the competition. Crucial to this is that it should be the potential supplier's choice and not the Council's. There are two ways of determining the list of firms to be involved in tendering for a Council contract:

- by advertising the requirement and requesting that firms express interest; or
- by use of a pre-determined Council Approved List.

As Approved Lists are created via a process that starts with advertising its clear that appropriate advertising is fundamental to this stage.

Advertising

Whether it's for an individual contract or to create or update an Approved List the adverts will be placed in the same locations. These will include:

- the South East Business Portal;
- the Official Journal of the European Union, 'OJEU'; and
- specialist press.

The **South East Business Portal**, (the Portal), must be used for all opportunities. Using the Portal removes the need to place the advert on the Council's website although Directorates may choose to use their particular site as well as the Portal. The Portal is free to use both to place opportunities and for suppliers to find them and register their interest. Suppliers can register their interest in areas of work and the Portal will e-mail them when a relevant opportunity is placed. Whether they're responding to an e-mail alert or for a particular opportunity they've found they are obliged to formally register against each opportunity they wish to compete for.

Advertising in **OJEU** is mandatory for procurements above the EU thresholds for:

- all goods;
- all works; and
- some services. Part A services only.

There are no costs in placing the notice. If an OJEU notice is required you must not place adverts elsewhere that are published before the one in OJEU nor must they contain additional information.

OJEU adverts must include details of both the short listing criteria and the selection criteria. The criteria are required to be stated with their appropriate weightings, usually in percentage terms. You must consider the issues in some detail to arrive at the best mix as changing the weightings during the evaluation is forbidden.

Using the **specialist press** may be the most appropriate way to attract interest from relevant firms. In some areas, waste disposal for example, advertising in the specialist press is a legislative requirement.

Adverts can be used to increase interest in a general way for a contract or area or can serve a dual purpose, by focussing on the specific which will attract the more appropriate firms whilst discouraging the generalists. Which type is appropriate depends on the state of the market. The work done in **Understanding The Market** will inform your decision here.

Provided advertising is done in an open and fair manner there is no requirement that only firms who respond to the advert are included. Both Officers and Members may put forward additional names to be included during this stage. The sharing of personal knowledge that may benefit competition for the Council's business should be encouraged. The only issues around this are that:

- the list of respondents is kept confidential to avoid allegations that firms were only put forward either because another was or was not already on the list;
- at no stage should any firm be told not to respond to an advert or that they will be added to any list without responding;
- the list is closed to additional entrants at the date and time specified in the advert; and
- either all firms are invited to compete or all firms are included in the same selection process from this stage onwards.

The Council is fortunate that, due to its scale and reputation, it has, in most of its markets, a healthy number of potential suppliers interested in providing goods and services to it. This can result in too many potential suppliers expressing interest in opportunities. Where this happens the number of firms has to be reduced to maintain an efficient and cost-effective process. It is important to remember that potential suppliers benefit from, and appreciate, competition with reasonable rather than large numbers.

Reducing Numbers

Any reduction must be done in a fair and transparent way using objective criteria. To maintain the objectivity there is no opportunity or allowance for Officer or Member choice. Both Officers and members are reminded of their obligations under their respective Codes of Conduct referred to in **Overarching Principles**.

The most common approach to reducing numbers objectively is to use a questionnaire, sometimes referred to as a Pre-Qualification Questionnaire or PQQ.

PQQ's are used solely to reduce the number of potential suppliers to be included.

When preparing a PQQ you should:

- never ask a question unless you know what an acceptable, or unacceptable, answer looks like;
 - you should be preparing the marking criteria at the same time as the PQQ. The marking criteria must be those that can be done objectively by someone not involved with the project;
 - firms progress because they have passed the criteria not because they are better than other responses. Responses must not be compared with each other;
 - be cautious of relying too heavily on scoring. Whilst scoring can be a useful tool, because it can also include elements of subjectivity the totals need to be judged as approximate rather than absolute. For example, failing a firm for being 1 short out of a possible 100 is potentially dangerous.
- use questions that require factual responses. Free text responses are hard to judge objectively;
- only use questions and acceptance criteria that are relevant to this requirement;
 - ensure questions and acceptance criteria are appropriate for the circumstances and risk, i.e. don't automatically require three year's accounts if the risk is such that a 'young' company would be acceptable or that the company turnover must be a standard factor larger than the contract value.
- never ask a question or ask for information that you're not going to do anything with;
- remember that, unless you give them additional information, firms have only seen an advert so you shouldn't ask questions around their potential solution;
- be prepared for either too many or too few passing your pre-determined criteria;
 - you can prepare more than one set of criteria to allow for this situation as long as you apply them in the pre-determined order. It's useful in these cases if the criteria are applied by someone not directly involved as this allows those directly involved to make decisions around whether the number having passed is acceptable or not without being able to be influenced by the names of the firms involved.

The EU Directives impose additional restrictions on what can be asked at this stage and the acceptance criteria must be applied with the weightings you used in the OJEU notice.

For all procurements it is difficult, and for those subject to the EU Directive it is illegal, to ask the same question and / or apply different criteria later in the process, i.e. at the tender stage. If you have passed something at this PQQ stage then that answer has to be acceptable to you and cannot be used as a factor in not awarding a contract.

Having determined the list of firms to be invited to compete you should inform those who have not passed your criteria and be prepared to give feedback as to your reasons. Whilst there is no requirement to share the marking criteria before the PQQ's are completed and

returned you should release this, if asked, after the event including how the individual response was marked.

There is a movement across the Public Sector to minimise the work firms need to do to apply for opportunities. Accreditation schemes and standardising PQQ's are being put forward to achieve this. Whilst both have merits you need to ensure that both the number and quality of firms you invite to compete for the Council's business are appropriate to the requirement that you're responsible for.

It must be stressed to all firms that not taking part in a tender process will not preclude them from future opportunities. It is far better that firms submit realistic competitive tenders or not submit one at all than submit an unreasonably high, or unsatisfactory bid because they didn't really want the work but felt obliged to respond.

Approved Lists

Firms are invited to apply to be included on the list and a range of checks are made on them. However there is no pricing arrangement or any form of competition and thus using an approved list supplier does not, by itself, provide any value for money justification.

As a consequence purchases from an Approved List are required to follow the competitive processes.

If you use an Approved List you need to ensure that firms are very clear:

- that Approved Lists are used by the Council as a form of pre-vetting;
- that being on the Approved List does not guarantee any work; and
- that being on the Approved List does not guarantee that they will be invited to quote or tender for work to the exclusion of firms not on the list.

Approved Lists can be operated in two ways:

- Creating and reviewing on a regular cycle:
It's arguable that any fixed period will prevent new suppliers being able to compete during that period but it's more true the longer the period.
- Constant review:
Although this allows great flexibility it is very 'resource hungry'.

You need to be aware that how Approved Lists are used can be seen by both suppliers and potential suppliers as a 'black art' which they cannot understand or influence. This is not beneficial to the Council or its competition-based approach. Consequently the selection processes, both to go on the Approved List and to be selected to compete for individual contracts, should be both clear and transparent to all parties.

For units where Approved Lists are deemed appropriate the rationale for that decision and the detail on how they will be operated must be documented and made available for inspection by Members. This rationale must also be regularly reviewed.

Words of caution

By creating an Approved List you are acknowledging that there are ongoing needs for the same or similar requirements. Care must be taken that this doesn't breach the aggregation rules of the EU Directives. Good practice would indicate that the creation and use of a contractual framework should be considered rather than an Approved List.

If you're going to allow firms to be involved who aren't on the Approved List then you should question, because the firms on the list will, the value of having an Approved List.

What should be in a tender?

This section can only give brief coverage of the relevant issues.

Assistance with preparation of tenders can be obtained from:

Legal Services

peter.mulholland@kent.gov.uk

or by telephone on:

Maidstone (01622) 694400
Freecall 7000 4400

or Purchasing Services

purchasing@kent.gov.uk

or by telephone on:

Maidstone (01622) 605790
Freecall 7000 5790

The tender you issue should contain everything that a firm needs to be able to submit a complete, priced response to your needs. This breaks down into four distinct areas:

- Information;
- What you want the appointed Contractor to do;
- Terms and Conditions for the Contract; and
- Schedules you want the firm to complete.

Information

Background

It is easy to think that if you give firms a detailed requirement that they don't need to know anything else. Even with the requirement if they don't know why you want the goods or service they aren't necessarily able to think creatively in preparing a solution and even might decide not to respond at all.

Firms make judgements on which tenders they should respond to and you should provide them with sufficient information and encouragement to decide to respond to yours. It's especially important in encouraging firms who have not worked for the Council before to submit a tender.

Consider giving them information on your current and past operation:

- volume, usage, demand and trends;
- cost of services purchased or provided in-house - consider each case on its merits as to how much, if any, information you provide here, withholding data only where specific reasons exist to do so; and
- technical details where appropriate e.g. equipment type.

Whatever you decide to include make sure it's accurate and relevant to this contract. Including generic information just because you always do is of no benefit.

Firms frequently ask about the budget for a particular procurement so why not include it here? Opinion is divided about the merits or disadvantages of doing so but the following points should be considered:

- for some 'discrete' procurements it is already possible to determine the available budget from budget information already in the public arena via committee papers etc. and there is consequently nothing to be gained by not providing the information with the tender;
- on rare occasions it is the only practical way of scoping the opportunity so on these occasions the figure should be disclosed; and
- for most procurements the requirement is best shown in volume rather than value terms. If affordability becomes an issue because of the tendered price potential resolutions are within the Council's control such as, reducing the quantity or required quality.

Process

You must tell all invited firms precisely what they are required to do to submit a response. This will include:

- the time, date and location responses must be submitted to:
 - tenders covered by the EU legislation have set minimum periods that firms have to submit their response. The legislation requires that these are 'whole' days and consequently the time should be set for at least the day after the minimum period.
 - where legislation does not apply there is no minimum or standard period. What you decide must be reasonable to give firms sufficient time to consider, complete and return their submission. The complexity, subject matter and the detail you require in the submission should all be taken into account. Your objective is to receive quality competitive responses so make sure that poor planning does not get translated into an unreasonably short tender period.
- what happens if the tender is not returned by the specified time;
- what documentation is required in their submission:
 - this will include the completed forms you've sent in the Schedules section including a signature sheet formalising the firm's offer. This section should also be used to specify any additional information you want to assist your evaluation.
- how the submission should be packaged and marked;
- the period for which the tender shall be open to acceptance by the Council.
 - this is the period when the price and other issues are fixed and should not be altered by the firm. No offer can remain like this indefinitely and you should determine how long you will need to evaluate the offers and make a decision. Do not make this period longer than necessary as the firm is taking a risk on their costs changing in that period. The longer time you want the more likely they will have added something in the pricing to cover that risk.
- the number of copies of the submission you require.
 - where multiple copies are requested it's helpful that one be identified as the master version. This document can be used for the opening process and retained for the contract file.
- for tenders covered by the EU legislation you must include the detailed weightings to be used in the evaluation of the submissions. These might have been included in the OJEU notice but it's usual for the notice to include these at a high level only.

Evaluation

Especially for complex service contracts you will want to know how the firm proposes to deliver the service. How much information you will need will vary depending on the requirement.

Beware of firms who try to avoid giving this information. 'Why, as we're guaranteeing performance, would you want to know? How we meet the contract is our problem.' is not an unusual response.

Whilst this view has superficial merit there are four reasons you need to know how the contract will be delivered:

- it will show that the firm has thought through how they are going to actually deliver. It should therefore give you confidence that they've properly considered the risks and costs and thus the pricing should be accurate;
- the detail will show their understanding, or lack of it, of your requirement;
- allows you to focus on their experience and references appropriate to their proposed solution; and
- allows you to check the impacts on the Council. The solution may be the most cost effective for the firm but it's not necessarily appropriate if the way they deliver imposes additional costs on your budget.

In some cases this information will only be wanted to assist your evaluation but for others the way they intend to deliver is necessary and you will want it to be part of the contract. If it's not part of the contract the contractor can change their approach without your involvement, let alone your agreement.

Alternatives

Must firms match the requirement? Can they propose something different? If they want to offer an alternative approach must they also submit a bid that matches the requirement? All three are valid options depending on your particular circumstances but beware if you allow alternatives then you must evaluate them all as valid offers and you cannot so easily reject them as not meeting the requirement. However if you specify that proposals must match the requirement and that alternatives cannot be offered you must reject an alternative proposal no matter how attractive it looks.

What you want the Contractor to do

Where the Information section is crucial for the tendering process this section is important as it forms the fundamental basis for the contract.

You will have completed most of this section from the **Requirement** chapter. That chapter concentrated on the description of the goods or service you require whilst this section needs details of the other issues you need the contractor to do. Things like:

- where and when you want the items delivered or the period the service must cover;
- the management arrangements of the contract, including how performance will be measured;
- whether the prices are fixed for the whole contract or if not the arrangements to handle price movements;
- how other changes are handled; and
- if not already included and it's appropriate to the contract what happens at the end of the contract.

Conditions of Contract

No organisation should have a standard set of Terms and Conditions that are applied to all their procurements. Terms and Conditions are there to protect the effects of certain events happening. The effects on your requirement are possibly unique to that requirement and the terms and conditions need to reflect those individual circumstances.

The terms and conditions should also reflect the size and possible impact of the contract to or on the Council. The value of the contract is often not a good indicator of the possible impact or Council exposure.

Although there can be no standard set the types of clauses will be similar but they can't be applied without regard to their appropriateness.

Guidance and assistance with appropriate terms and conditions for your contract must be obtained from Legal Services.

peter.mulholland@kent.gov.uk

or by telephone on:

Maidstone (01622) 694400
Freecall 7000 4400

Your tender should detail the required terms and conditions as it provides clarity for the contract and a level playing field for the competition.

The preferred route is a Council set specifically prepared for the individual requirement. This does impose a 'natural order' for the preparation of the tender with the requirement having to be completed before the terms and conditions can be finalised.

Value for money can sometimes be achieved by using industry standard terms and conditions. The chosen 'industry standard' must of course be relevant to the requirement. These terms and conditions should be included in full in the tender. Where this is not possible they must be described sufficiently to ensure there is no doubt as to which terms and conditions are being referred to.

In exceptional cases it may be appropriate not to include terms and conditions in the tender but ask firms to include their proposed set in their submission. A licence for software is a good example of where there may be no choice other than the firm's conditions. However, even where this is appropriate there may be statutory or other requirements that you must insist are adequately covered in what is submitted.

Legislation

If a law applies then it applies whether it's written in the contract or not so there is an argument to say that references to laws do not need to be included in your tender. However as it's a Council contract it is probable that the impact of the law remains with the Council even though a third party is performing the activity. Consequently it is in the Council's interests to ensure that the contract is performed in accordance with the relevant legislation and that firms are aware of their statutory obligations when preparing their submissions.

Health and Safety is one obvious example but there are many more, some related to specific trades or business. The requirement to involve Legal Services in constructing the terms and conditions for your tender will ensure that the appropriate legislation is covered.

Firms should be made aware that, if a complaint is made about their actions when undertaking work for the Council, they could be subject to investigation by the Ombudsman. The contract conditions need to ensure that documents are made available and the contractor co-operates in other ways with the investigation in such circumstances.

In circumstances where maladministration is found due to the actions of the contractor, the contract should provide for recovery of any compensation payments made to injured third parties.

Contractor's Liabilities and Insurance

Where conditions other than those found in the standard forms of construction contract are used, provision must be made for the contractor to take out those insurances (in particular Public Liability insurance) which are deemed by the Managing Director, in consultation with Insurance and Risk Management Section, as necessary to indemnify the Council against losses or claims for injuries or damage arising from the contract. The conditions should also provide for access to the documents by an authorised officer of the Council.

Steps should be taken to ensure for all contracts that such insurance is in effect at the commencement of the contract and that, where applicable, the policy is renewed during the course of the contract. This can be achieved by stating clearly your needs within the tender documentation and either requesting current documents are sent or stating that they will need to be seen before the contract award is made.

The types of insurance that might be necessary are:

- Employers Liability – statutory minimum - £5m
- Public Liability – Council minimum - £5m
- Professional Indemnity – no set minimum. Amount should be determined from an assessment of the level of risk and contract value.

The Council will not secure insurance at its cost and risk on behalf of contractors as this could be considered anti-competitive.

Detailed guidance can be obtained from the Insurance and Risk Management Section:

darryl.mattingly@kent.gov.uk

or by telephone on:

Maidstone (01622) 694632
Freecall 7000 4632

Terms of Payment

The Council's standard payment terms are payment within 30 days of receiving a correctly presented invoice.

Terms of payment, including when invoices can be submitted and for what amounts (can be expressed as a percentage of the contract value) must be clearly detailed in the tender.

Payments can only be made against invoices where clear deliverables for the Council's benefit have been made.

No contract can be entered into which allows for payment for the provision of works, goods or services to be made in advance without obtaining the prior approval of the Director of Finance.

HM Treasury published detailed guidance on payments to the third sector in “Improving financial relationships with the third sector: Guidance to funders and purchasers” in May 2006. This can be found at:

<http://www.hm-treasury.gov.uk./media/485/B9/guidncefunders1505061v1.pdf>

In it they state that:

“Payments to third sector organisations should be made on the basis of need and therefore can and should, where appropriate and necessary, be made in advance of expenditure, in order to achieve better value for money. A blanket exemption for all third sector organisations is obviously inappropriate.”

What happens when things go wrong?

The terms and conditions you issue with your tender should detail what the actions and obligations are for both parties when things don't go the way the contract, and you, expect.

To decide what is needed you'll have to run through a number of 'what if?' scenarios, determine how likely they are and what you expect to happen. Depending on their severity and likelihood you can decide to include the actions in the terms and conditions. Things you might want to consider including are:

- detailing the process to bring the contract back on track;
 - do you expect the contractor to provide more resources at their cost?
 - would you want the ability to bring in a different supplier to 'fix' the problem but charge this to your contractor?
- detailing the financial compensation. This can include;
 - liquidated damages – which are an up front estimate of your genuine financial losses caused by an event. These are not a penalty and must, if challenged, be able to be shown as reasonable.
 - service credits – which are a method of reducing the charge if a service doesn't meet the agreed contract standards. It is not unusual for firms to attempt to reject the concept of service credits or, if they accept the concept, attempting to minimise their impact, sometimes just to part of their potential profit. This should be rejected. If you ordered a quantity of goods and less were delivered you would expect to pay less and the same principle must apply to services.
Determining the level of service credits depends entirely on the service you're contracting for. In critical areas a contractor missing the service levels by 10% may make the service entirely unacceptable and just reducing your charge by 10% is therefore inadequate compensation.
 - performance bonds – sometimes also referred to as a parent company or bank guarantee – which are where a third party provides a legal guarantee to the performance of the contractor and are responsible for paying the compensation where the contractor can't or won't.

Any form of financial guarantee will potentially affect the firm's income from the contract and will be seen by them as a risk. In evaluating contract opportunities firms will assess risk, cost it, and include it in their tendered price. It is good practice to adequately address up front the consequences of things going wrong but beware of a too heavy handed approach that either puts firms off from competing or adds unnecessary costs.

If you're considering using bonds or guarantees assistance must be sought from your directorate Finance Manager.

Assignment and Sub-Letting

If you've gone through a competitive exercise, advertising, short listing, tendering and awarding a contract why would you then allow the work to be done by someone completely different? Almost certainly your answer is that you wouldn't, but that is what could happen if you allow the contract to be assigned or sub-let.

Consequently a contract should not be passed onto a third party even if it is deemed in the Council's interest without the Council's prior approval and contracts must contain a clause that states this.

Clear identification of who the contract is with is crucial so that we know who is responsible in the case of non-performance or in a worst case scenario who to sue. Also the issue of knowing the identity of contractors working on high risk sites is important so that appropriate police checks can be carried out. It is of little benefit if names of operatives are submitted to the police only to find that the delivery of the contract has been passed down the supply chain ending up with operatives who may not have been subject to a Criminal Records Bureau (CRB) check.

Schedules

In essence all the bits that you provide that you want the firm to complete as part of their submission. Not all tenders need them but they do help you control how submissions are presented. Allowing firms complete freedom will add to the difficulty of finding the required information and will usually extend your evaluation.

The section could contain:

- pricing schedule;
- signature sheet; and
- questionnaires.

Issuing the tender

Tender documentation can be issued by almost any method. The overriding principle must be that all tenderers are treated fairly.

For example sending some by e-mail with others via the post would be unfair.

The three most common methods are:

- by post - produce the complete document in paper, or transfer everything to a disk, and send it using post or courier;
- by e-mail – this is legitimate in all circumstances even if you are not allowing them to be returned electronically. If you e-mail the documents be careful not to show where else the tender is being sent. Either use the 'blind copy', (BCC), facility or send individual e-mails;
- by placing the documents on the website to allow firms to download them. There are two approaches here. Just placing the documents on the website potentially removes the ability to determine who competes. To resolve this it is possible to use a secure site where only those given the password can access the documents. This facility is only currently available for social care tenders.

What can be done whilst tenders are out?

Contact with Tenderers

No matter how careful you are in the preparation of the tender documentation someone will almost always find something they need to question.

As the preparation of a response to a tender is expensive firms will try to make sure that they properly understand the requirement but you should be alert to prevent an unfair competitive advantage being gained.

To ensure that all firms are treated equally it is important that contact with firms is controlled, preferably through just one person. This can be difficult where the firm is an existing contractor but all Council staff involved in the existing contract need to be aware that any discussion on the competitive process is inappropriate and must be referred to the Council's nominated contact. You should also recognise that it is not always immediately obvious that a conversation will assist a tenderer and consequently extreme care should be taken with all contacts.

Despite all the restrictions the process of enhancing tenderers' understanding of the Council's requirement is to be supported.

Except for very minor, administrative, issues all requests and responses should be in writing (fax or email) to ensure a permanent record is kept.

Meetings

During this period meetings with individual tenderers should be avoided wherever possible. Tenderers can be quite insistent but you need to answer the following questions before agreeing to meet:

- how will the Council benefit from the meeting?
- what will be achieved in a meeting that couldn't be done in writing?
- are other tenderers being disadvantaged?

In some situations a meeting with **all** tenderers is a way of informing the process without the inherent risks of meeting them individually. However you do need to determine why you're having a meeting. If the meeting is being held in order for the requirement to be refined or explained then why wasn't this included in the published requirement?

It is not unusual for the responses from tenderers at these open meetings to be disappointing. One way to help stimulate responses from those present is to state up front that all questions received after the event, i.e. asked on a one to one basis will be shared so it might be prudent to ask them now.

Tender meetings should always be well structured and records kept. It is good practice to confirm the outcomes of the meeting in writing.

Equality of treatment

There is no requirement to give the identical information to all tenderers. Where clarification is sought because of a tenderer's particular approach then this information should not be shared with the others. However where a weakness or error in the Council's requirement is discovered then it is in the Council's interests that this is rectified with all tenderers immediately.

Extension to Tender period

You will have determined the closing date for the tenders to be returned from your understanding of what the market would expect as reasonable in conjunction with the time pressures of your requirement. Despite this it is not unusual for tenderers to request an extension to this deadline.

The Council is under no obligation to extend a tender period. Who asked for an extension cannot be a factor in the decision. The questions you should ask are:

- is the competition improved by the additional time and if so will these outweigh the delay?
- is anyone being treated unfairly because of an extension?

Unfairness can arise because:

- a firm may have declined to tender because the original time was too short. Their decision may have been different if the revised date had been known at the start;
- firms have worked to the original date yet a late request is granted by someone who may not have planned their activity so well. This is especially true for 'last minute' requests.

Only formal requests, i.e. those made in writing, should be considered. The decision making process and decision should be formally recorded and filed in the contract file.

There can be no definitive rule applied but there is a stronger case for an extension where more than one tenderer asks.

Where an extension is given all tenderers must be told immediately and as close together as possible preferably in writing by e-mail or fax.

Receiving the tender responses

The fundamental principles around both the receipt and opening of tenders are that:

- no one should be aware of, or be able to find out, either what is being tendered or who is actually tendering until all tenders are opened together; and
- there are no opportunities for tenders to be altered once received.

The following processes are the minimum necessary to meet these principles and protect both the Council and those involved from accusations of impropriety.

Receipt

Firms will deliver their submissions via post, carrier, courier or by hand. It is possible therefore that they could be received in a number of different places within the same site. It is important that staff in these areas, reception, post room or goods inwards, are made aware that tenders are due and that they know what to do with them.

Those delivering the submissions must not be required to sign a form or otherwise indicate where the delivery is from. Should they wish to take away a signed receipt then a simple date and time receipt should be issued. At no time should they be able to see or identify either how many tenders have been received or their origin.

Electronic submission is covered separately, although it is important to note that tender responses, other than where only one firm was invited, cannot be accepted via e-mail as this defeats the objective of a formal opening process.

Where tender submissions are received along with other deliveries, including the post, there is the possibility of them being opened inadvertently. Should this happen all the papers as well as the original envelope/packaging must be kept together. Repack all the papers and the original envelope into new packaging, mark it with the tender number and take it specifically, not in the normal post round, to the appropriate receipting officer for recording and retention. A written record must be made of the circumstances and retained in the contract file.

Storage

All received tenders should be secured as soon as practicable in an area / cupboard allowing access to be restricted. The restriction should apply generally but specifically from those directly involved in the evaluation and award processes.

An officer must be nominated as responsible for the recording of the receipt of the tenders and their security.

Tenders must remain secure in this location until immediately prior to the opening process.

Where any damage to the packaging of tenders has occurred the tender should be repacked in another suitable container.

Opening the tender responses

The opening of tenders is an administrative process and therefore attendance by others is neither necessary nor helpful.

Despite the formal receipt process detailed above it is good practice to check all possible receipt locations again just before commencing the tender opening process. Appropriate diligence in doing this will prove useful if tenders are received after the official opening.

Although tenders should always be marked appropriately such that they can be easily identified the size of some responses means they could be delivered as parcels rather than via the post. In some locations tenders are received in different parts of the building, hence the need to check all locations before opening takes place.

Tenders must always be opened with a minimum of two people present as an 'opener' and 'witness'. The two people should be independent of each other and anyone directly concerned with the evaluation or contract award cannot be involved in the opening process.

No person can be involved in the opening process who:

- has any pecuniary interest in any supplier used by the Council;
- is serving a probationary period;
- is the subject of disciplinary proceedings;
- has any outstanding dispute with the Council; or
- has tendered their resignation.

It is best practice that the opener and witness should not be part of the Directorate responsible for the tender however it is recognised that this may not always be achievable.

The main function of the opening process is to provide independent verification of what is actually submitted as part of the tender thus preventing removal, addition or modification of pages in the subsequent evaluation.

To achieve this all finance related pages must be initialled by both of the opening officers. However, where costs/figures etc are not clearly presented then this process may not be easy.

Where multiple copies of the tenders have been requested only the master copy needs to be checked and initialled.

Purchasing Services, within Commercial Services, provide, along with other services, a tender receipt and opening service.

Purchasing Services can be contacted at:

procurement@kent.gov.uk

or by telephone on:

Maidstone (01622) 605790
Freecall 7000 5790

Does this apply to 'single' tenders?

The only aspect that varies for a 'single tender' process is the ability to move the opening to as soon as the tender response has been received. For all other occasions whether two firms were invited or a competitive exercise undertaken the opening cannot happen until after the closing date even if the number of responses received matches the number of firms invited.

The reason behind tenders not being opened early is because firms may discover errors or omissions and submit an additional response, before the deadline, to correct their proposal. Also, as a consequence of the requirement that responses must not be identifiable you can never be sure that either all responses have been received or that an additional response is not to be submitted.

"Late Tenders"

A tender is 'late' if it is not available to be opened at the specified opening time and date. Such late tenders shall not be opened until after the acceptance of the successful tender. Providing the appropriate checks were made at the start of the process there should be only the rare occasion where the tender was received by the stated time but mislaid / misdirected when received. Only where there is reasonable evidence that it was within the Council's 'control' by the required time can it be considered further.

Where the submission can not be opened the outer package must be marked with the word 'Late' along with the time and date it was received. The tender opening record should be completed with the number of late tenders received. This record can be updated by a responsible officer, not necessarily the opener or witness, if the submission is received after the opening process.

"Marked Tenders"

A tender is 'marked' if it is possible to identify the tenderer from the outer packaging. Such tenders shall not be opened until after the acceptance of the successful tender, i.e. the contract has been awarded and/or the procurement completed.

Where the outer package is marked it must be clearly highlighted. The tender opening record should be completed with the number of marked tenders received.

Record keeping

A formal record of the opening must be made and should contain as a minimum:

- tender name;
- time and date of opening;
- names of opener and witness;
- list of firms submitting tenders;
- number of late tenders; and
- number of marked tenders.

Both the opener and witness should sign the record confirming it as correct. Any concerns you have must be raised immediately rather than sign and comment later.

When the opening process is complete the documents must still be retained securely until the evaluation process starts. The security issue now moves from protecting the integrity of the receipt process to joint concerns around a fair evaluation and the commercial confidentiality of tenderers' submissions.

For the avoidance of any doubt in this area it is worth remembering that third parties, either public or private sector, undertaking procurements specifically on the Council's behalf must be required to do so in compliance with the Code.

Quotations

This chapter has concentrated on the formal tender processes which become mandatory at £50,000. Although quotations require less formality the principles of the tender process apply.

This means:

- there must be some rationale in who is asked to quote;
- you must ensure that all quotations are given against the same requirement. If the requirement is clarified or changed through the process all invited firms must have the opportunity to quote against that revision;
- no price or other information from a quotation will be shared with any firm during the process;
- although you may not require Council terms and conditions to apply you must understand what the terms and conditions are that are being proposed for the contract. Acceptance of a quote, either formally or by placing an order, accepts the conditions and their acceptability must be a factor in your decision.
- if you decide to contract with other than the lowest quotation you must have recorded your reasons.

Quotations do not have to be obtained all at the same time. There is no requirement for a formal opening process although you may choose to set a specific date and time by when they must be received.

You are required to seek a minimum of three written quotations but the underlying requirement is to get genuine competition resulting in good pricing. If that needs more than three or you need to seek additional quotes after your initial request then that is what you should do.

Pilots

Pilots, also sometimes referred to as 'proof of concepts', can be 'tests' of either a particular service or type of product or a solution from a particular firm and the procurement approach is different for both.

For either of them if it's a genuine pilot and there is no intention of doing anything beyond the pilot phase then the standard competitive approach applies reporting non-competition as appropriate.

If however you anticipate the pilot being a success and you would want to roll out the solution further then you have the following options:

- you can choose to competitively tender for the full roll out before the pilot but initially contract just for the pilot; or
- contract for the pilot and competitively tender for the roll out.

For both options the required competition is dependent on the value. What you can't do is use either a competitive process for the lower value pilot or the success of the pilot and the consequent advantage the pilot firm has as reasons to justify avoiding the competition for the overall contract.

The best approach is to have determined your likely preferred outcome and use that value to decide which rules apply from the start.

"No fee" contractors

It is possible to consider opportunities for work being undertaken at no cost to the Council as not being a procurement. However this approach should be treated with caution as the issue really relates to the net benefit received by the firm from working for us. The net benefit can be derived from areas such as income received from other sources or a percentage of savings they generate on Council spending.

These arrangements must be treated as any other procurement and it's this net benefit that will determine the necessary competitive process.

Electronic Processes

Products are commercially available that allow the issue, receipt and analysis of tenders to be done electronically. Separate products exist that facilitate the use of electronic auctions. Nothing in this Code should be seen as preventing their appropriate use indeed social care contracting is already done exclusively via a Council written software package.

<http://www.kent.gov.uk/SocialCare/social-care-and-business/contracting-and-e-tendering>

Currently no other part of the Council has access to equivalent software.

Electronic auctions, otherwise known as a reverse auction can provide significant additional cost reductions. Their use needs to be planned carefully and included from the start of the procurement. It is important to remember that they are an additional activity at the end of the process and do not replace the usual advertising and tendering processes.

Not all markets will benefit from using a reverse auction but where you believe they will bring benefits you should be cautious of potential tenderers attempting to manipulate your process by putting forward obstacles to their use.

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Contract Award

What do you need for a contract?

A contract may be defined as a bargain agreed between two (or more) parties that is binding in law and may be enforced in the courts. In law it can be created verbally or in writing.

The agreement will generate rights and obligations on each party. To be legal, a contract must fulfil the following requirements:

- there must be “offer and acceptance” i.e. one party has made an offer that has been accepted by the other;
- it must be the intention of each party to be legally bound;
- there must be valuable consideration on each side i.e. one party may deliver, or undertake to deliver, goods, works or services which the other party will pay for;
- the parties must have the legal capacity to enter into the contract;
- the contract must be legal; and
- the contract must not be procured by force, coercion or undue influence; nor must it rest on fraud or misrepresentation.

There is no link between when a contract exists and the Council’s financial thresholds for obtaining quotes or tenders. A contract can exist from even the smallest order.

All contracts shall be entered into on behalf of and in the name of “The Kent County Council”, this being the name of the Council prescribed by Section 2 of the Local Government Act 1972. Contracts cannot be entered into by committees, directorates, Members or officers because they do not have a legal entity. Kent County Council alone has that status. It follows that the whole authority is ultimately responsible for all contracts entered into in its name no matter that it is on behalf of an individual committee or directorate.

It is not possible for the Council to enter into a contract with itself, e.g. one Directorate / unit with another.

1. Any contract should always be in writing and set out all the terms of that appointment. This is regardless of whether it is for an individual to give personal advice on a small matter or the appointment of a large firm to work on a major project.

2. In all cases the paperwork documenting the terms of the contract should be agreed, accepted and signed by all parties, before work commences. In the case of urgent matters the temptation is often to ask the contractor to commence work and resolve the detailed terms of contract later. This is almost always prejudicial to the best interests of the Council, because once the work has started the Council is effectively committed to using them and so its bargaining power in terms of the conditions is greatly reduced. The Council is then open to claims for increased costs as a condition of accepting what should be standard conditions.

3. Council policy is not to issue letters of intent. Letters of intent are typically suggested in cases where the parties are keen for work to commence but where all the terms of the deal are not agreed. A letter of intent issued in such a case can be a dangerous instrument as it can commit the Council to have services carried out and to pay for them, but without the protections that a full contract would provide.

4. The key issue in contracts is that they should set out specifically in writing all of the terms that the parties want to govern the deal. A common problem with contracts entered into by persons who are specialists in their own fields but not specialists in contracting is that they assume that certain terms which are obvious to them (as part of their specialist area) must form part of the contract even though they are not in any document. The problem comes when it turns out later that the other side never did in fact agree that this was obviously part of the contract. So in any contract make sure that there is set out all of the terms that affect the deal.

5. The following are the minimum matters that should be considered when entering into a contract, and appropriate provisions to cover these should be in each contract. These cover the points covered in “What should be in a tender?” section of the **Competition** chapter:

- Details of who the legal persons are who are the parties to the contract. This is, surprisingly, a major issue in some parts of the Council. There are a number of contracts entered into where the Council cannot say with certainty who the other contracting party is.
 - In the case of a limited company the details required are full company name, country of registration, registered company number and address of registered office.
 - In the case of a standard partnership, generally the full names and addresses of the partners – sufficient so that you know who to sue if it comes to it.
 - In the case of a sole trader, his/her full name and personal address, together with any trading address.

It is NOT sufficient to enter into a contract with a trading name, e.g. a contract with “Sunnyview homes” or “B&S Consultancy Services” gives us no information as to the legal persons who we are contracting with, so we will have difficulty enforcing the contract against anyone if trouble arises. A contract should rather be with “Samuel Smith of 34, X Street, Rochester trading as Sunnyview homes at Y street Maidstone”, or “Samuel Smith Limited (registered in England under company number xxxxx) whose registered office is at 34, Y Street, Rochester trading as Sunnyview homes”. That level of detail gives us some certainty.

- Exactly what is to be done or produced. How will we know if the Council has got all that it wanted from the contract?
- What duties the Council has.
- The timescales by which the work is to be completed, and any intermediate milestones.
- Exactly what payment is to be made for what level of performance, and when such payment is to be made. Is there to be provision for stage payments against performance?
- How the Council gets compensation if the services are not done properly or fully. Would a bond or guarantee be appropriate? Is it appropriate to specify liquidated damages – bearing in mind that penalties are unenforceable and therefore useless? [The difference is that liquidated damages are supposed to be a fair estimate of loss in certain circumstances – so that in those circumstances the Council can just claim (or withhold) that set sum rather than having to resort to court proceedings to determine the quantum of damages. A penalty is a sum which does not represent a fair and reasonable estimate of loss, but which is designed to scare the contractor or consultant into compliance, e.g. a clause which said “if the advice is not produced by 31st March then xxxxx / name shall pay to the Council £10million” would generally be a penalty and not enforceable (unless exceptionally the Council could show that it would lose £10m by not having the advice by that actual day)].
- Is the quoted price inclusive of VAT?

- When the contract starts and when and how it ends. When and how can it be terminated early and for what reason?
- Who will own what rights or what property at the end of the contract? E.g. if a report is to be produced, who will own the copyright in it? If a design or logo is to be produced, who will own the rights in it? If data is to be produced or stored, who will own the rights in it? A lot of problems are caused by people assuming that if the Council pays for something to be produced (or produced in a particular format) then the Council automatically owns all of the rights in that thing. This is not the case.
- Can the contractor or consultant assign the contract? Does the Council want to specify that certain individuals shall carry out the services? If there is no intention that third parties should be able to enforce the contract, does it need to say so?
- What happens if circumstances beyond the control of the parties prevent completion of the services – whose risk is that? Does the Council still have to pay?
- Whether there is any need for a confidentiality clause, for the contractor or consultant to keep confidential any information received in connection with the contract?
- If there are any other documents which set out matters relevant to the contract then if there can be any doubt as to what these documents might say then these should be attached to (or kept with) the contract and initialled by both parties as being the document referred to in the contract.
- Whether there are any matters in respect of which the contractor should be required to indemnify the Council and/or maintain insurance.
- For consultants it should be made explicit (where there is any possible doubt) that the consultant is not an employee of the Council who is managed by the Council on a day to day basis. This has implications for (among other things) the Council's liability to deduct tax and National Insurance payments.
- For sole traders undertaking training contracts the Council may be liable for the National Insurance payments. In these cases payments have to be paid via payroll to deal with the National Insurance, but there are no income tax issues.

Assistance with arrangements for National Insurance deductions can be obtained from your directorate payroll contact or by telephone to the general payroll number on:

Maidstone (01622) 605570
Freecall 7000 5570

6. In the case of a contract for professional services connected with building, i.e. where the contractor or consultant is an architect, surveyor, engineer or other similar building industry professional, the contract is usually in a standard form produced by the relevant professional body, with no unusual or particularly onerous amendments or additions. In the case of building related professionals, the fee is sometimes fixed by reference to the final build cost. Where this is the case, the contract should specifically say so. Where this is not stated in terms but a fee is specified, then the contract will be taken to be for a fixed fee regardless of the final build cost.

7. A contract can be just signed ("under hand") or can be sealed as a deed. The difference in practical terms is that claims under a deed can generally be enforced for 12 years, whereas if the contract is just signed the relevant time limit is just 6 years. So, where a contract relates to a situation where it might be desirable to make a claim many years later (e.g. where it is a contract for architectural works for a building) it might be advisable to have the contract executed as a deed. From the Council's side this would usually be carried out by Legal Services, but it is for the client department to provide an authority for this to be done – which will either be a decision of a Cabinet member or a decision of a Managing Director (or delegate duly authorised to do this).

8. Advice and assistance on the production of contracts can be obtained from the Contracts and Procurement Team of KCC Legal Services. It is suggested that in the first instance you address your query to Fiona Webb, the Group Secretary, on:

fiona.webb@kent.gov.uk

or by telephone on:

Maidstone (01622) 694409
Freecall 7000 4409

and the matter will be allocated to a lawyer to assist you.

Before the award

Authority

All transactions must fall within the powers delegated to the Chief Executive or Managing Director or have been approved by a decision (in accordance with the Council's Constitution) of the Cabinet, the Leader, an authorised Cabinet Member, the Council or one of its committees or sub-committees.

No contract, agreement or other document shall be signed or sealed unless it gives effect to:-

- a decision or resolution (in accordance with the Council's Constitution) of the Leader, the Cabinet, an authorised Cabinet Member or one of its committees or sub-committees; or
- a decision by an officer exercising delegated powers.

You should satisfy yourself that the contract you are proposing to award is covered by the appropriate fundamental authorisation. NB This is not the same as authorising this particular award. Where the root of the delegated power is not obvious, perhaps because it's a fundamentally new service, the details should be recorded in the Award Report.

Award Report

The Code requires a Contract File to be kept which contains, amongst other things, the information around the award decision. This information should be brought together in an 'Award Report' which will:

- be 'complete' in its own right, allowing the reader to understand the process and the decision. Reference should be made to any additional information available in the contract file.
- show the recommendation and authorisation process with appropriate signatures Approvals – delegations, records who actually recommended and approved the award
- be used, where appropriate, for:
 - Member scrutiny;
 - the basis of debriefs; and
 - answering FOIA requests.

It is good practice to prepare and sign an Award Report, as a record of the decision, even where the author is the contract approver and thus the only signatory of the report.

Where a contract for a Consultant is estimated to cost £20,000 or more the Award Report must be forwarded to the relevant Cabinet Member prior to the appropriate officer approving the report.

In this context a 'Consultant' is defined as a named individual (i.e. the Council states it wants individual x) taken on to perform a particular, temporary and defined, task.

It should be obvious that the officer approving the report, and thus the award, should not do so until the Cabinet Member has had an opportunity to review the report's contents.

Key Decisions

It is unlikely that a decision to award a particular contract will be classed as a "Key Decision". Where appropriate the Key Decision process will more probably have been applied at the **Decision Point** as described in the **Business Case** chapter.

Standstill Period

For all contracts resulting from an EU procurement there is a mandatory period between the decision being made on who to award a contract to and the actual award - commonly known as the Alcatel period.

This is a minimum 10 day period which starts from when you notify all the unsuccessful firms of your intention to award to your chosen firm. The period allows the unsuccessful firms to seek clarification around the decision and challenge it, if appropriate, before the contract is awarded. Without this period unsuccessful firms could only obtain damages if they could show the basis of the decision was unsound but with the standstill period the decision can be reviewed in light of the challenge.

Although there is a minimum period there is no maximum set. No contract can be awarded with a challenge outstanding. There are specific obligations on the Council to respond within certain periods but there is also an overriding benefit to the Council of resolving issues as soon as possible.

There are no legitimate shortcuts to this process. You must be in a position to be able to actually award a contract to your chosen firm(s) before you can inform the unsuccessful firms and start the 'Alcatel period'.

Words of caution

Any verbal communication to a tenderer may lead to a legal contract existing from that moment. Acceptance of tenders shall always be in writing.

In no circumstances shall a letter of intent be sent, they have no legal value in the United Kingdom in establishing a contract. Letters of intent give rise to more problems than they solve and can lead to unnecessary legal problems. 'Letters of intent' here include all forms of communication to tenderers that they are to be, or are likely to be, awarded a contract.

If work/service has to start before the formal award decision can be made then this should be separated from the main contract. Dependent on the value a separate quotation for the work which has to be done prior to the decision taking effect should be obtained and an order raised. If ordering this pre-decision work/service would, in effect, force the complete contract award to that firm then this would be seen as bypassing the Council's delegated decision making process and is consequently forbidden.

Care must be taken to ensure that where pre-decision work/service is ordered the Council is not committed to either pay or have the work/service done twice.

The award

In simple terms an award can be made by a written acceptance, e-mail or letter, of a firm's offer. Where the award is for neither the original offer or for all parts of the offer the written acceptance must be explicit as to what is being accepted. Ambiguity here will undoubtedly cause confusion later and may technically not actually form a contract.

Alternatively all the papers forming the contract should be brought together as one contractual document and signed by appropriate representatives of both parties.

The Chief Executive, Managing Directors and the Director of Law and Governance may sign documents on behalf of the Council or authorise officers to do so. This authority may be given by inclusion in the nominated officers' terms of appointment, by specific resolution or as part of a system implementing delegation arrangements within the directorate.

Any contract with a value in excess of £1m must be made in writing and either:

- affixed with the common seal of the Council and be attested by at least one authorised officer, or
- signed by at least two authorised officers.

The common seal of the Council shall be affixed to any document or agreement if the Director of Law and Governance considers it appropriate for the purpose of transacting the Council's business or safeguarding its interests.

The seal may be fixed and witnessed only by the Director of Law and Governance or officers authorised in writing to do so.

The Director of Law and Governance shall ensure a register is maintained of all documents and agreements which are sealed including the name of the person who witnessed the affixing of the seal.

Where not already required to do so before the award all tenderers must be notified of the award decision as soon as possible after the event. This notification should include details of who the contract was awarded to and the reasons for the firm being unsuccessful. Where appropriate, the values of tenders received, in order of value and, if considered relevant the names of the tenderers in alphabetical order. At no time should any firm be informed of, or be able to determine, the value of any other firm's tender.

After the award

Member notification

For contracts of £50,000 or more where:

- quality issues as well as price (to achieve Best Value), have been taken into account such that it's more advantageous to accept a tender(s) other than the lowest; or
- acceptance of the most favourable tender(s) means that the approved budget will be exceeded; or
- a non-competitive process was used to determine the contractor*;

the approved Award Report # must be sent to the Head of Democratic Services, and the relevant Cabinet Member, within 14 days of the contract being awarded so that s/he may notify Members of the Cabinet Scrutiny Committee.

* Contracts awarded without competition of adult and children's services required by law under the National Assistance Act 1948 and the Children Act 1989 are exempt from this reporting requirement.

The signed copy should be retained in the Contract File. The copy sent to the Head of Democratic Services must include the names of the officers who recommend and approved the report.

Where multiple firms are awarded contracts the rationale for the awards must be reported where any of the contractors has tendered a higher price than any of the unsuccessful firms.

Being a named individual a 'Consultant' must, by definition, have been sourced via a non-competitive process. All contracts for a Consultant from £20,000 must be reported, as a non-competitive procurement, to the Head of Democratic Services within 14 days of the contract being awarded so that s/he may notify Members of the Cabinet Scrutiny Committee.

Updating the Portal

The South East Business Portal must be updated with the details of the award including the electronic copy of the contract within 14 days of the contract being awarded.

Debriefs

Debriefing firms after a competitive procurement have similar benefits for both parties. For the Council it's about improving the quality of future tenders and for firms it's about gaining a further understanding of the process and what they need to do to improve their chances of winning future opportunities from the Council and other public sector bodies.

Even the appointed contractor may benefit from a formal debrief.

A debrief should be offered to all tenderers when they are told of the award decision and should take place as soon as practicable.

If the reason for them not being awarded the contract is included in sufficient detail when they are told of the award decision many firms will not ask for a debrief. Of those that do most will probably be happy with a short phone conversation. The actual number requesting a formal face-to-face debrief at the Council's offices is quite small. Firms must not be pressured into accepting a phone debrief.

A debrief is an integral part of the procurement and should be done by the senior officers closely involved in the procurement.

Firms should be free to ask any questions but you should concentrate your answers on:

- the award decision reasons detailed in the award report including the strengths and weaknesses of the firm's submission;
- details of the actual process; and
- any information you would release under the Freedom of Information Act.

Be careful that whilst trying to be helpful you do not directly compare the submissions nor release information that should remain commercially confidential.

In cases where the procurement and subsequent award has been particularly sensitive it is good practice to:

- not undertake the debrief on your own; and
- make and retain a written record of the meeting.

General points that may apply are:

- the Council is always looking for a firm to meet the published requirement. A proposal should concentrate on showing how they meet that requirement;
- the evaluation process does not compare bids;
- firms generally do better asking for clarification than making incorrect assumptions; and
- the evaluation is done against what they submit and information, good or bad, that the Council has before the procurement is not used.

For procurements covered by the EU directive:

- The contracting authority is required within 15 days of receipt of a written request to inform any eliminated candidate or tenderer of the reasons for the rejection of his application or his tender. Any tenderer who submitted an admissible tender must also be advised of the characteristics and relevant advantages of the tender selected as well as the name of the successful tenderer. Purchasers may however withhold information which would impede law enforcement, be contrary to the public interest, prejudice the legitimate commercial interest of public or private undertakings, or might prejudice fair competition.
- Contracting authorities which have issued an invitation to tender must also promptly inform candidates and tenderers, in writing, if required, of the decision and the reasons for not making a contract award or for starting the process again.

OJEU Notice

For all contracts that are subject to the EU Procurement Directive a contract award notice must be placed in OJEU, within 48 days of the contract being awarded.

It is important to note that this applies to all contracts covered by the Directive even those classed as “Residual Services” where advertising and the other requirements are not mandatory.

Appendix 3

Contracts and Tenders Standing Orders

- 1** It is the responsibility of the Chief Executive and Managing Directors to ensure that all purchases of goods and services comply with:
 - (a) legal requirements;
 - (b) EU Directives;
 - (c) the Council's Financial Regulations;
 - (d) the Code contained in 'Spending The Council's Money' (as approved by the Governance & Audit Committee);
 - (e) standards for the management of property, information technology resources and staff; and
 - (f) any conditions attached by the Leader or the Council to the exercise of powers delegated by them.

Authority

- 2**
 - (a) All transactions must fall within the powers delegated to the Chief Executive or Managing Director or have been approved by a decision (in accordance with the Council's Constitution) of the Cabinet, the Leader, an authorised Cabinet Member, the Council or one of its committees or sub-committees.
 - (b) No contract, agreement or other document shall be signed or sealed unless it gives effect to:-
 - (i) a decision or resolution (in accordance with the Council's Constitution) of the Leader, the Cabinet, an authorised Cabinet Member or one of its committees or sub committees; or
 - (ii) a decision by an officer exercising delegated powers.
- 3**
 - (a) Budgetary provision must exist before any contract can be entered into. This provision should be explicit in a budget approved by resolution of the Council. Where budgetary approval exists for a specific item further Member approval is not generally required.
 - (b) Where there is no specific budget line, the Chief Executive and Managing Directors may approve expenditure up to £100,000, provided the expenditure can be met within budget. Above £100,000 a formal decision by the Leader, the Cabinet or an authorised Cabinet Member is required in accordance with the Council's Constitution.

Appendix 3

4 Thresholds

(a) The financial values (exclusive of Value Added Tax) at which processes become mandatory are:

- (i) £8,000 to £49,999 - three written quotations must be sought from appropriate sources.
- (ii) £50,000 and above – the competitive tender process, as defined in ‘Spending The Council’s Money’, must be followed.

However both the overall obligations of the Code and the statutory requirement to achieve value for money apply to all transactions and don’t just apply from the above amounts and, as such a competitive tender process may be appropriate for procurements below £50,000.

(b) In addition European Union Directives, enacted in UK Law, set limits for public contracts above which specific procedures are required to be followed. The procedures cover the advertising of contracts, the rejection of suppliers, technical specifications, evaluation, selection and award criteria. All procurements for goods, services and works above the financial thresholds are covered by the legislation but not all procurements for services, social care for example, are subject to the full process.

The current levels at which these apply are for goods and services, £144,371 and for works, £3,611,319.

(c) There must be no attempt to avoid any of these limits by deliberately manipulating the requirement or frequency of ordering.

(d) The ‘financial values’ here refers to:

- (i) the total amount payable over the contract period, i.e. the Council’s total liability under the contract, and not the budget available in the current year; or
- (ii) the reasonable expectation of the cost of the consequence of the decision; or
- (iii) the ‘net benefit’ to the contractor

whichever is the greater.

The award

5 The Chief Executive, Managing Directors and the Director of Law and Governance may sign documents on behalf of the Council or authorise officers to do so. This authority may be given by inclusion in the nominated officers’ terms of appointment, by specific resolution or as part of a system implementing delegation arrangements within a directorate.

6 Where a contract for a Consultant is estimated to cost £20,000 or more details of the proposed award must be forwarded to the relevant Cabinet Member prior to the appropriate officer making the award. In this context a Consultant is defined as a

Appendix 3

named individual (i.e. the Council states it wants individual x) taken on to perform a particular, temporary, and defined, task.

- 7 (a) Any contract with a value in excess of £1m must be made in writing and either:
 - (i) affixed with the common seal of the Council and be attested by at least one authorised officer, or
 - (ii) signed by at least two authorised officers.

- 8 The common seal of the Council shall be affixed to any document or agreement if the Director of Law and Governance considers it appropriate for the purpose of transacting the Council's business or safeguarding its interests.

- 9 The seal may be fixed and witnessed only by the Director of Law and Governance or officers authorised in writing to do so.

- 10 The Director of Law and Governance shall ensure a register is maintained of all documents and agreements which are sealed including the name of the person who witnessed the affixing of the seal.

After the award

- 11 (a) For contracts of £50,000 or more where:
 - (i) quality issues as well as price (to achieve Best Value), have been taken into account such that it's more advantageous to accept a tender(s) other than the lowest; or
 - (ii) acceptance of the most favourable tender(s) means that the approved budget will be exceeded; or
 - (iii) a non-competitive process was used to determine the contractor*;

the approved Award Report must be sent to the Head of Democratic Services within 14 days of the contract being awarded so that s/he may notify Members of the Cabinet Scrutiny Committee.

* Contracts awarded without competition of adult and children's services required by law under the National Assistance Act 1948 and the Children Act 1989 are exempt from this reporting requirement.

- (b) Where multiple firms are awarded contracts the rationale for the awards must be reported where any of the contractors has tendered a higher price than any of the unsuccessful firms.

- (c) Being a named individual a 'Consultant' must, by definition, have been sourced via a non-competitive process. All contracts for a Consultant for £20,000 or more must be reported, as a non-competitive procurement, to the Head of Democratic Services within 14 days of the contract being awarded so that s/he may notify Members of the Cabinet Scrutiny Committee.

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By: The Head of Audit & Risk

To: Governance & Audit Committee – 29 June 2007

Subject: Strategic Risk Register and a Review of Risk Strategy

Classification: Unrestricted

Summary: To inform Members of the latest version of the Strategic Risk Register, and to ask Members to consider changes to the Risk Strategy

FOR DECISION

INTRODUCTION

- 1 The directorate risk registers were presented to the March meeting of this Committee. The accompanying report advised Members that the Strategic Risk Register was being updated and would be presented to this meeting
- 2 The current Risk Management Strategy was approved by the County council on 20 February 2006. A copy of that Strategy is attached at Appendix 2.
- 3 It is important that the Strategy is regularly reviewed, and that compliance with the Strategy is also monitored on a regular basis.

THE STRATEGIC RISK REGISTER

- 4 Attached at Appendix 1 is the current version of the Strategic Risk Register (SRR). It is important that Members are satisfied that these identified risks are being controlled, hence the format of the SRR, that enables a brief commentary on the controls that are in place. These controls form part of the overall ‘audit universe’ which means they are legitimate auditable topics and will be considered for inclusion in the second half of the 2007/08 (and future years) audit plan.
- 5 The SRR has 24 identified risks, falling into the following risk categories:

Risk category	Number
High	1
Medium	16
Low	7
Total	24
- 6 The risk score is assessed at the current risk, on the basis that the mitigating controls are working and effective. The inherent risks (the risk of an event happening if there are no controls in place to prevent it) are therefore higher than the current risk.
- 7 The one ‘High’ risk is Ref No.24 and reflects the continued concern about the impact of the health economy on Kent and our residents.

- 8 The next three highest scoring risks are Ref No.2 – Partnerships, Ref No. 3 – External Assessment, and Ref No.19 – Sharing information in the CFE directorate. The risks around partnership working are already well known to this Committee and a separate paper on this is on this agenda. The risk around external assessment is also well known and significant work is already happening to make sure we can assist and deliver in each assessment. The risk around information sharing is relatively new and the high score it has been given reflects the ultimate impact if we do not effectively manage this risk.

REVIEW OF THE RISK STRATEGY

- 9 The role of this Committee, as set-out in the existing Strategy is to:
‘Monitor and review the effectiveness of risk management arrangements. Work with the Risk Management Forum and receives the SIC and reports from the Risk Management Forum, Internal and External Audit.’

In recognition of this role, Members are asked to consider the following amendments to the existing Risk Management Strategy:

- a) Add the following bullet point to paragraph(P) 4.7
 - Embedding risk management into the risk and audit environment, thereby enabling effective audit planning
- b) In the diagram in P4.9, replace the Risk Management Forum with the Resource Directors Group (this transfers responsibility to a more senior group)
- c) In the same diagram, correct a type error by replacing ‘Cabinet: Lead Member for Finance’ with ‘Cabinet: Member for Finance (this then accords with the table that follows this diagram)
- d) Amend the diagram to make it more user-friendly
- e) Replace all other references to the ‘Risk management forum’ with ‘Resource Directors’ Group’
- f) Add the following sentence to P4.12:
‘All projects should have a risk assessment that includes a formal risk score calculated by using the standard 5x5 matrix
- g) Insert into P4.13;
‘Annual Operating Plans will be supported by a risk assessment of the likelihood and impact of that business unit not meeting their objectives. These risk assessments will inform the annual audit planning process.’
- h) Policy Overview Committees have been / will be asked to consider the latest version of directorate risk registers. This is an appropriate and welcome addition to the risk management process, and it is recommended that this is embedded into our operation, and therefore reflected in the revised Strategy.

- i) P4.27 is deleted and replaced with:
‘The Head of Audit & Risk will keep the Governance & Audit Committee informed of changes to the risks that the Council faces, no less frequently than every six months.’
 - j) The section headed ‘Risk Management Forum’ will be amended to reflect the transfer of these roles and responsibilities to the Resource Directors’ Group.
 - k) Within the same section, the following new paragraph is proposed:
‘It is important that the risk of fraud and corruption is regularly reviewed and that appropriate counter fraud procedures are in place. Internal Audit should advise on any such procedures, but the procedures should be approved by the Resource Directors Group on behalf of the Chief Officer Group.’
 - l) P4.33 is deleted and P4.34 is amended to reflect the recommendation that ‘capacity for training a minimum of 100 Officers and Members per year on risk awareness will be provided.’
 - m) The section on Financial Risk is not appropriate for a stand-alone Risk Strategy document, and should therefore be removed.
- 10 A revised Risk Management Strategy, based on the assumption that each of the above proposals is agreed, is attached at Appendix 3.

RECOMMENDATIONS

- 11 Members are asked to:
- a) note the current Strategic Risk Register and the controls that are in place to mitigate the likelihood of these risks occurring, and the impact they would have.
 - b) consider each of the proposed amendments to the Risk Strategy, and if agreed, approve the revised Risk Strategy at Appendix 3

Background Papers:

Governance & Audit Committee 7 March 2007; Item 9 – Risk Management
County Council 20 February 2006: Item 4 – Medium Term Plan 2006/09 (Incorporating the budget and Council Tax settings for 2006/07)

Andy Wood
Head of Audit & Risk
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andy.wood@kent.gov.uk



CORPORATE RISK REGISTER

Corporate risks are managed by the Chief Officer Group with directorate support. Corporate risks are those than can be described as presenting a:

- Significant Council wide risk
- Significant risk specific to one directorate which could impact upon the Council as a whole
- Significant risk to the Council as part of working with external organisations or its role within the community

Summary of risks

Total number of risks	24	
High	1	
Medium	16	
Low	7	

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Ref & Director ate Activity	COG Responsible Officer	Source & strategic business objective(s)	Risk	Mitigation	Ranking (5x5 matrix)		
					Impact	L'Hood	Risk
No.1 ALL	Peter Gilroy	Customer satisfaction and engagement	KCC becomes remote and fails to understand and/or meet the needs of the community. Failure to effectively communicate what we are doing.	<ul style="list-style-type: none"> Management of corporate engagement More intelligent approach to the collection and use of information 	4	3	12
No.2 ALL	COG	Partnerships	Ineffective approach to the set up of management and governance arrangements result in failure to achieve desired outcomes	<ul style="list-style-type: none"> Improved control environment to include financial management Risk analysis for key partnerships Formal control, monitoring and reporting mechanisms Effective communication strategy 	3	5	15
No.3 ALL	COG	External assessment	CPA 2008, Joint Area Review 2008, APA 2007, YOS and Youth Service results in failure to retain excellent status.	<ul style="list-style-type: none"> Experienced senior officers tasked with leading preparation Routine progress reporting on actions required to COG Detailed self evaluation against existing inspection framework Joint groups set up Work undertaken with partners to prepare for external assessment Children and Young People's Plan 	5	3	15

Ref & Directorate Activity	COG Responsible Officer	Source & strategic business objective(s)	Risk	Mitigation	Ranking (5x5 matrix)		
					Impact	L'Hood	Risk
No.4 ALL	Lynda McMullan	Impact of hypothecated funding	Managing services due to the stop start nature or insufficient hypothecated funding and after source finishes within Government formulated grant	<ul style="list-style-type: none"> Make use of Freedoms and Flexibilities Robust financial monitoring systems Negotiations with Government Capital strategy in place and linking in with Business Planning 	2	3	6
No.5 All	Lynda McMullan	Alignment of comprehensive spending review 2007 with demands	Restrictions in future budget provision causes reductions in funding which impact on compliance with statutory obligations	<ul style="list-style-type: none"> MTFP Active lobbying through LGA to present information to Government on pressures and costs Management action planning and monitoring Income generation Modernisation Strong partnerships with other agencies 	3	4	12
No.6 ALL	COG	Key corporate objectives i.e. Towards 2010, not delivered	Loss of credibility	<ul style="list-style-type: none"> Improved business planning strategy Flexibility around delivery in changing circumstances Project management Objectives reflected within business plans Business planning process aligned with Audit planning Reassessment of planned outcomes to ensure alignment with required outcomes Kent Agreement 2 	2	2	4
No.7 ALL	Peter Gilroy	Major incident or accident i.e. terrorist attack	Temporary disruption to road/rail/air travel. Vital supplies 'not getting through'. Vital support to venerable people threatened. High demand for post incident support.	<ul style="list-style-type: none"> Business continuity plans Emergency Planning procedure Intelligence gathering through Kent Resilience Forum Regular 'exercises' 	2	3	6
No.8 ALL	COG (CMY)	Pandemic event	Significant impact of pandemic on community and delivery of services requirements	<ul style="list-style-type: none"> Well developed directorate cross cutting Business Continuity Plan Participation in Kent wide cross agency emergency planning group Staff vaccination programme Rapid sickness management 	5	2	10
No.9 All	Pete Raine	Growth Agenda	KCC fails to play its part in managing the speed of development within the Thames Gateway, Ashford and other growth points due to poor cross directorate and joint working arrangements	<ul style="list-style-type: none"> Project Management Monitoring processes and reports Cross directorate working arrangements Partnership Executive Boards Kent Strategy - PSA2, LAA High level KCC finance input 20 year financial model 	5	2	10

Ref & Director ate Activity	COG Responsible Officer	Source & strategic business objective(s)	Risk	Mitigation	Ranking (5x5 matrix)		
					Impact	L'Hood	Risk
No.10 ER/KASS	Pete Raine	Increasing growth leading to increasing dependency on depleting water supplies	New and existing development places pressure upon water reserves. Difficulty for housebound clients accessing water if not supplied into property. Difficulty for housebound / frail non clients accessing water if not supplied into property.	<ul style="list-style-type: none"> Commissioning of risk analysis by Environment & Regeneration into impact upon environment Joint planning work with Water authorities BCP (KASS) to support frail house-bound 	2	3	6
No.11 ALL	Pete Raine	County has long coastline with extensive low lying areas	Climate change, tidal surge in Channel combined with high winds causes flooding of low lying areas	<ul style="list-style-type: none"> Forecasting activity Emergency procedures for special events Business Continuity Planning Management of financial impact to include Bellwin scheme 	2	1	2
No.12 ER/CMY	COG	Closure of access routes to France	Operation Stack becomes a long standing feature due to prolonged industrial action or incident in Channel	<ul style="list-style-type: none"> Plan - Operation Stack Joint emergency planning arrangements Ongoing implementation and review 	2	4	8
No.13 ALL	Amanda Beer	Significant loss of key staff	Inability to attract and retain employees with suitable skills, experience and behaviours to senior and key roles	<ul style="list-style-type: none"> Delivery of Strategy for Staff Staff care policy Workforce strategy with private sector Investment in training More effective use of professional staffing resources on more complex issues Succession planning 	1	2	2
No.14 ALL	Geoff Wild	Corporate Manslaughter / Public Liability	Prosecution following injury to the public or employees due to poor health and safety policies, maintenance of assets and procedures etc	<ul style="list-style-type: none"> Health and safety policies, procedures, risk assessment and auditing Auditing of key contractual arrangements i.e. Kent Highway Services Staff training Management awareness 	4	2	8
No.15 ALL	COG	Delivery of 21 st century services	Failure to deliver commitments that meet public expectations	<ul style="list-style-type: none"> Effective successions planning Transformation Leadership Groups 	3	3	9
No. 16 ER	Pete Raine	Allington Waste Incinerator	Any disruption to the effective operation of the incinerator will undermine waste management strategy	<ul style="list-style-type: none"> Effective contractual management 	4	3	12

Ref & Directorate Activity	COG Responsible Officer	Source & strategic business objective(s)	Risk	Mitigation	Ranking (5x5 matrix)		
					Impact	L'Hood	Risk
No.17 CED	David Cockburn	Key services depend on key systems	ICT Systems fail to maintain minimum services and consequent impact on delivery of KCC Services. Insufficient funding for Disaster Recovery. Increased reliance on third party suppliers	<ul style="list-style-type: none"> Business lead Operations Board to determine tactical priorities of ICT operations. Funding of steady state ICT services to move to service basis overseen by resource directors. Proactive contract monitoring & sourcing strategy Partnership working arrangements Mixed economy of in-house and external provision Technology planning & improved business led governance Working with other local authorities 	4	3	12
No.18 CED	David Cockburn	Provision of core technology to support KCC service delivery.	Failure to maintain reliable ICT service and infrastructure improvements to support and underpin development of direct services. Growth in service demand – both internal and external demand Increased reliance on technology for core service delivery and extent of availability i.e. 24 X 7. Increased provision of services to the public – increased security threats.	<ul style="list-style-type: none"> Establish and maintain enterprise architecture to identify business drivers for ICT strategy. Identify through MTFP process ICT investment requirements to support business change. ICT Board has identified key priorities for investment in line with funding constraints. Strategic initiatives to be cross referenced between <u>ALL</u> Directorates prior to implementation. <u>All</u> ICT investment to be aligned to strategic framework. Consistency of IT platform across KCC (Technology refresh programme). Proactive contract monitoring Partnership working arrangements 	4	3	12
No.19 CFE/CMY	Graham Badman	Failure to share right information at the right time and right place	Insufficient information systems which lack co-ordination with other key users. Failure to share information between agencies which could lead to abuse or death of vulnerable children	<ul style="list-style-type: none"> Integrated Children's System in development Kent Safeguarding Board Common Assessment Framework in development Robust Preventative Strategy Multi-agency and consortia working Well trained, high calibre staff with clearly defined reporting structure. Lead professional in role in development Multi agency Child protection policies in place Multi- agency Board for ContactPoint, lead professional function and CAF in place Case Tracking audit and review of filing arrangements 	5	3	15

Ref & Directorate Activity	COG Responsible Officer	Source & strategic business objective(s)	Risk	Mitigation	Ranking (5x5 matrix)		
					Impact	L'Hood	Risk
No.20 CFE	Graham Badman	Proposed strategies are not effective in raising attainment and impact on local skilled workforce	Standards in Primary and Early Years. Schools in category Risk to Excellent status. Failure to achieve local and national targets.	<ul style="list-style-type: none"> PSA2 Target and Action Plan Towards 2010 Action Plan Primary Challenge Board established Management monitoring and reporting Primary strategy in place Targeted support to schools Cluster Collaboration Developing approach to assess quality of Early Years provision and providing support to improve quality School Improvement Strategy in place Kent School improvement partners in place 	2	2	4
No.21 CFE	Graham Badman	Difficulties in planning for asylum seeking services as it is dependent on factors outside of KCC control	Unsustainable demand and lack of Government resource can place financial pressures on the resources of other services. Inflated costs in meeting demands due to market forces. Inability to meet requirements of the Children's Act.	<ul style="list-style-type: none"> Negotiating directly with Government in relation to funding regime Strategic Review Maximise resources available Consortium Legal Action Review the implementation of changes in legislation and Policy 	3	4	12
No.22 KASS/ CFE	Oliver Mills / Graham Badman	Demographics	Government funding fails to match increasing demand. Failure to modernise the services Under involvement in preventative services. Increasing numbers of severely disabled children. Falling school rolls and surplus places	<ul style="list-style-type: none"> Service reviews Response to CSR 2007 Primary Strategy 	3	4	12
No.23 KASS / CFE	Oliver Mills / Graham Badman	Disproportionate numbers of people in need across the age range are being placed by other LA's or have moved into Kent from other parts of the country	Increasing number of LAC children and adult /older care people placed in Kent by other LA's placing additional demands upon health care, education and other related services. Lack of affordable/suitable foster care provision due to competition from private agencies. Inflated costs in meeting demands due to market forces. Resources not available for Kent residents Inflated costs in meeting demands due to market forces.	<ul style="list-style-type: none"> Representation to Government has resulted in commitment to curtail out of area placements for CYP Partnerships with other agencies etc In house service provision Developing better support systems for Foster carers and specialist carers Preventative Services Business Plan, Fostering Action PSA – reduce no. of LAC Thanet Report Too Far to Go : project results and conference Multi-agency protocols regarding placement of children in Kent Charging other LA's for CP investigations 	3	4	12

Ref & Directorate Activity	COG Responsible Officer	Source & strategic business objective(s)	Risk	Mitigation	Ranking (5x5 matrix)		
					Impact	L'Hood	Risk
No.24 KASS / CFE	Oliver Mills / Graham Badman	Risk to Social Care as a result of increasing difficulties in the Health Service Economy	Delayed discharges increase. Resources moved out of 'prevention'. Delays in admissions for planned intervention. No guarantee that shift of funding from Acute to Community Services will happen. Mental Health readmission rates. Continuing debt and financial imbalance to KASS. Partnership funding for new clients. Practiced based commissioning Fit for the future.	<ul style="list-style-type: none"> Range of preventative projects Scrutiny of Health through Members overview PCT / PEC Reps Partnerships / joint working for Health Green paper for adults Joint commitment to PSA 2 Target on reducing emergency hospital admissions for older people Consideration of legal action regarding debt to ASD Help to reduce hospital admissions through possible involvement in Long Term Conditions Project with Health, Innovation Forum, telehealth and telecare projects and Brighter Futures Group (VCS) Joint Approach with Health of Director for Children Health for CFE Directorate Inclusion of Health in Children Trust arrangements 	4	4	16

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Risk Ranking Matrix

Likelihood	Very likely	5	5 Low	10 Medium	15 Medium	20 High	25 High
	Likely	4	4 Low	8 Medium	12 Medium	16 High	20 High
	Possible	3	3 Low	6 Medium	9 Medium	12 Medium	15 Medium
	Unlikely	2	2 Low	4 Low	6 Low	8 Medium	10 Medium
	Very Unlikely	1	1 Low	2 Low	3 Low	4 Low	5 Low
	RISK RATING MATRIX		Minor	Moderate	Significant	Serious	Major
		Impact					

RISK MANAGEMENT STRATEGY

Introduction

- 4.1 As an organisation concerned with service provision and the social and economic development of the county it is essential that the risks to achieving our objectives are managed so that we create a stable, planned environment.
- 4.2 By effectively managing our risks and the threats and opportunities which flow from them we are in a stronger position to deliver our business objectives, provide improved services to the community and achieve better value for money.
- 4.3 Risk management is therefore to be at the heart of what we do. The Council's approach to risk management aims to be forward looking, innovative, comprehensive and demonstrate leadership within the community. It also aims to support a culture which encourages continuous improvement and development with a greater appetite for risk taking at all levels supported by well thought through decision making.
- 4.4 This strategy sets out the policy that underpins our approach to risk management both internally and within the wider environment in which the Council functions along with the framework for ensuring that risk management is truly embedded.
- 4.5 This strategy will be periodically reviewed to ensure that it reflects the business needs of the organisation, remains challenging and responsive to Government direction and requirements.

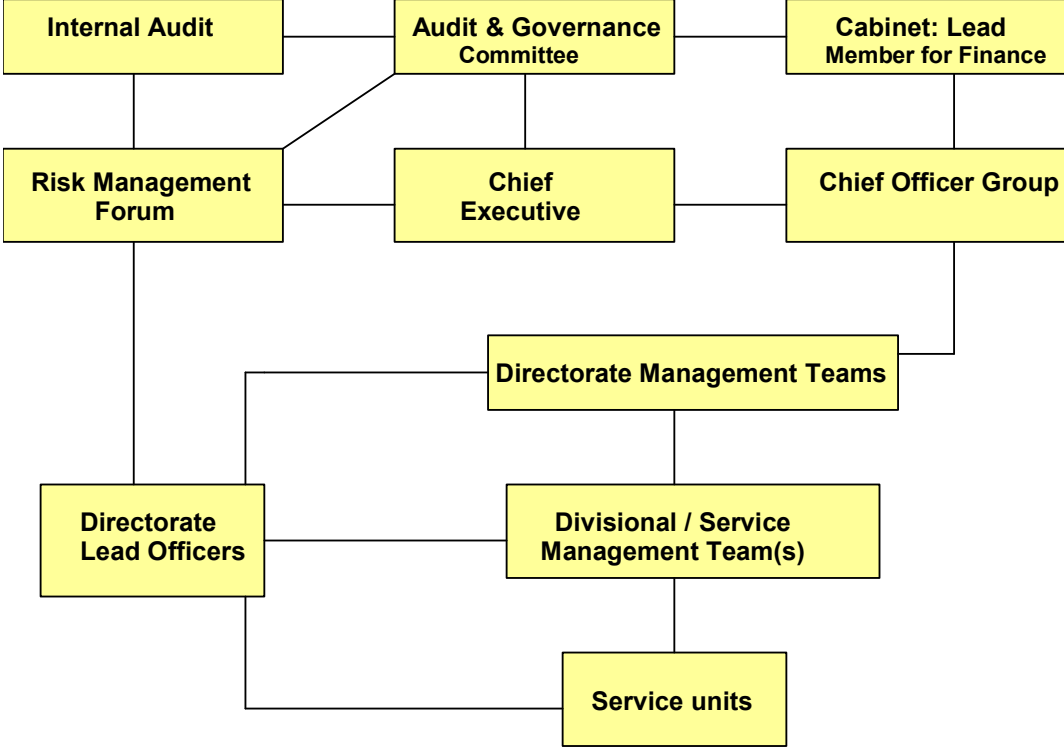
Risk Management

- 4.6 The objectives of this strategy are to:
 - Integrate risk management into the culture of the Council.
 - Manage risk in accordance with best practice.
 - Anticipate and respond to social, environmental and legislative change.
 - Integrate the identification and management of risk into policy and operational decisions.
 - Reduce the impact, disruption and loss from an event and reduce the cost of risk.
 - Raise awareness of the need for risk management.
- 4.7 These objectives are achieved by:
 - Maintaining clear roles, responsibilities and reporting lines throughout the Council.
 - Incorporating risk management into the council's management processes.
 - Establishing effective monitoring arrangements.
 - Developing the role of the Risk Management Forum.
 - Providing risk management training and awareness sessions.

Roles and Responsibilities

- 4.8 Responsibility for risk management runs throughout the Council. Everyone has a role to play. However for risk management to be successful there has to be a clear identification of roles and responsibilities at management level. The following structure for managing risk reflects how this is achieved.

4.9 The structure is based upon providing direction from members and senior management on the Council's approach to risk management to include auditing, monitoring and reporting along with delegation for the identification, development and implementation of strategic or operational responses at the level where risks are actually managed.



GROUP INDIVIDUAL	ROLE
<i>Cabinet Member for Finance</i>	On behalf of Leader of the Council ensures effective risk management arrangements are put in place.
<i>Audit & Governance Committee</i>	Monitor and review the effectiveness of risk management arrangements. Work with the Risk Management Forum and receives the SIC and reports from the Risk Management Forum, Internal and external Audit.
<i>Chief Executive</i>	Lead Officer for Risk Management.
<i>Chief Officer Group</i>	Overview of risk across KCC and endorsement of priorities and management action. Responsible for key strategic risks.
<i>Head of Financial Services</i>	Champion for Risk Management.
<i>Internal Audit</i>	Monitoring the effectiveness of controls.
<i>Risk Management Forum</i>	Senior service directorate and corporate group to steer the strategic and operational response, identify and promote good practice from internal and external sources and liaise with PriceWaterhouseCoopers.
<i>Directorate Management Teams</i>	Develop risk management across the directorate.
<i>Corporate Insurance & Risk Manager</i>	Day to day responsibility for developing, advising on, co-ordinating and monitoring risk management across the Council.
<i>Directorate Risk Management Co-ordinator</i>	Leading risk activities within directorates and maintaining risk registers.

Risk Management Process

- 4.10 Risk is managed on a holistic and consistent basis and distinguish between strategic and operational risks.
- 4.11 Our approach to risk management is objective driven. The risk assessment process informs the business planning and performance management processes with budget and resource allocation following.
- 4.12 The management of risk is an integral part of policy and project development and implementation. Reports to support strategic policy decisions and project initiation documents include a statement on risk to help inform the decision making process.
- 4.13 Where responsibility lies for achieving objectives so responsibility rests for identifying risks, developing and implementing controls and warning mechanisms, reviewing and reporting on progress. This responsibility can be delegated when accompanied by sound monitoring arrangements.

- 4.14 The Chief Officer Group is responsible for identifying and managing key cross cutting strategic risks. Directorates are responsible for identifying and managing other strategic and operational risks. Each maintains its own register of risks.
- 4.15 Senior management teams retain control for risks identified within their directorate risk registers and maintain an awareness of risks within service units and how they are being managed.
- 4.16 All risk registers are periodically reviewed and updated. During the last quarter of each year directorate risk registers will be refreshed i.e. a new look at all risks across the directorate to include any that might be on the horizon, so as to inform the business planning process.
- 4.17 To assist in the management of risk and provide consistency across the Council a Risk Management Toolkit has been prepared. This details a process for managing risks where each stage builds upon the other and provides basic practical guidance on how to identify, assess and treat risks and monitor progress.
- 4.18 The risks to the Council in achieving its objectives can be increased or reduced by the activities of external groups. Risk management is therefore incorporated into the way the Council works with other organisations, partners, contractors etc. where they can influence the achievement of our objectives.
- 4.19 When entering into any arrangement risks are clearly identified, ownership and accountability agreed and controls developed and monitored to provide necessary levels of assurance. This process continues throughout the life of the activity.
- 4.20 Risk registers are prepared and maintained when working with external groups where there are major-shared objectives. These registers are subject to audit and monitoring.
- 4.21 Laws, regulations and the requirements for managing risk and recommended best practice issued by regulatory and advisory bodies continue to help inform the Council's management of risk.
- 4.22 The cost of risk is controlled where possible and where it is cost effective through the maintenance of an external insurance programme.

Monitoring Arrangements

- 4.23 The Council's management of risks are subject to internal and independent external auditing. Any activity with an outcome or output is capable of being audited. Investigations may therefore be undertaken of any aspect of risk management.
- 4.24 The scores or opinions attributed by internal and external auditors form part of the Council's own assessment of the effectiveness its management of risk and are included within the annual Statement of Assurance and Internal Control. The score attributed by external auditors informs the Council's CPA score.
- 4.25 Areas of weaknesses identified through the audit process are reported to the risk owner for action and Risk Management Forum for monitoring purposes.
- 4.26 A signed statement of assurance on the implementation of risk management and effectiveness of controls within each directorate is provided annually by Strategic Directors. Director's statements are supported by a Statement of Internal Financial Control and report from the Chief Internal Auditor. These assurances are included to support the annual Statement of Assurance on Corporate Governance and Internal Control.

4.27 The Head of Financial Services reports to the Audit and Governance Committee on a quarterly basis detailing the progress made towards developing and embedding risk management throughout the Council. Periodic reports are also presented to the Chief Officer Group and Cabinet.

Risk Management Forum

4.28 The Risk Management Forum has been established to communicate, promote, steer and monitor the Council's overall approach to risk management and its effectiveness within all aspects of its own business and shared working arrangements with external bodies.

4.29 The Forum shares advice and provide guidance to directorates on risk management and develop a dedicated intranet site.

4.30 The Forum explores and develop relationships with other organisations to seek out and share best practice in the management of risk to develop strong performance throughout the Council.

4.31 The Forum reviews key corporate risks and the effectiveness of controls as part of its monitoring process and maintain the Council's Risk Register.

4.32 The Risk Management Forum ensures that directorates are aware of the standards in relation to risk management expected by the Audit Commission and support the development of appropriate responses.

Training and Awareness Sessions

4.33 Risk management will only become truly embedded if there is a better understanding of what it involves and the benefits that it can help to secure in terms of achieving objectives.

4.34 Training and risk awareness sessions are therefore provided to members and officers to broaden their knowledge of risk management and demonstrate how it fits in with achieving the Councils objectives as well as providing practical guidance on how to use risk management techniques.

Financial Risk

4.35 The main financial risks facing the Council for the duration of this Medium Term Plan have been taken from the risk registers and are shown below.

Risk	Directorate	Event	Mitigating Action
Restructure	CF&E / C	Disaggregation of service budgets makes it difficult to sustain critical services.	<ul style="list-style-type: none"> • Budget monitoring. • Costing of structures. • Clarity on budget transfers.
Budget management	CF&E	Major budget heading overspends resulting in inappropriate short term action to offset.	<ul style="list-style-type: none"> • Monthly monitoring by Budget Managers in each unit to finance. • Additional checking of high risk areas.
Price pressure on commissioned work	AS	High % of expenditure outsourced and the Adult Green paper on individualised budgets.	<ul style="list-style-type: none"> • In house provision. • Market mapping. • Annual price increase targeted at vulnerable services. • Risk assessed contract monitoring.
Demand led overspend	AS	Demand for services outstrips available resources.	<ul style="list-style-type: none"> • Prevention. • Demographic planning. • Joint planning with partners. • Finance and activity monitoring.
Hypothecated and external funding	AS / C	Unable to continue to fund services after hypothecated and external funding has finished.	<ul style="list-style-type: none"> • Use of freedoms and flexibilities. • Maintain (3 star status) / CPA rating. • Financial monitoring.
Budget overspend (revenue)	E&R	Insufficient budget / major overspend on revenue.	<ul style="list-style-type: none"> • Budget monitoring. • Corporate reporting. • Activity level reporting.
Budget overspend (capital)	E&R	Insufficient resources to deliver programme and appropriate scheduling.	<ul style="list-style-type: none"> • Budget monitoring. • Corporate reporting. • Risk assessments. • Project management training.
Waste and electronic equipment directive	E&R	Potential financial impact from implementing the Government directive.	<ul style="list-style-type: none"> • Maintain close involvement with the Government and national network. • Maintain tight monitoring of high value budgets.

Risk	Directorate	Event	Mitigating Action
Capital strategy and programme	CE*	Capital expenditure does not achieve desired outcomes for service delivery.	<ul style="list-style-type: none"> • MTP and budget process. • Project Approval Group scrutiny. • Closer links between capital and service planning. • Capital budget process on Knet.
Restructure	CE*	Budget disaggregation gives rise to budgetary control issues in 2006-07.	<ul style="list-style-type: none"> • Corporate budget monitoring process. • Finance Strategy Board. • Continuing tight control of cash limits by Financial Strategy through closedown.
National Spending Review reductions in support for Local Government	CE*	Restrictions in future budget provision causes reductions in funding which impact on compliance with statutory obligations.	<ul style="list-style-type: none"> • Active lobbying through LGA to present information to Government on pressures and costs.
Growth agenda	CE*	Impact of Thames Gateway and Ashford on KCC services.	<ul style="list-style-type: none"> • High level KCC finance input. • 20 year financial model.

* These are all cross cutting risks



BUSINESS RISK MANAGEMENT STRATEGY

1. Introduction

As an organisation concerned with service provision and the social and economic development of the county it is essential that the risks to achieving our objectives are managed so that we create an environment without surprises.

By effectively managing our risks and the threats and opportunities which flow from them we will be in a stronger position to deliver our business objectives, provide improved services to the community and achieve better value for money.

Risk management is therefore to be at the heart of what we do. The Council's approach to risk management aims to be forward looking, innovative, comprehensive and demonstrate leadership within the community. It also aims to support a culture which encourages continuous improvement and development with a greater appetite for risk taking at all levels supported by well thought through decision making.

This strategy sets out the policy that underpins our approach to risk management both internally and within the wider environment in which the Council functions along with the framework for ensuring that risk management is truly embedded.

This strategy will be periodically reviewed to ensure that it reflects the business needs of the organisation, remains challenging and responsive to Government direction and requirements.

2. Risk Management

The objectives of this strategy are to:

- Integrate risk management into the culture of the Council
- Manage risk in accordance with best practice
- Anticipate and respond to social, environmental and legislative change
- Integrate the identification and management of risk into policy and operational decisions
- Reduce the impact, disruption and loss from an event and reduce the cost of risk
- Raise awareness of the need for risk management

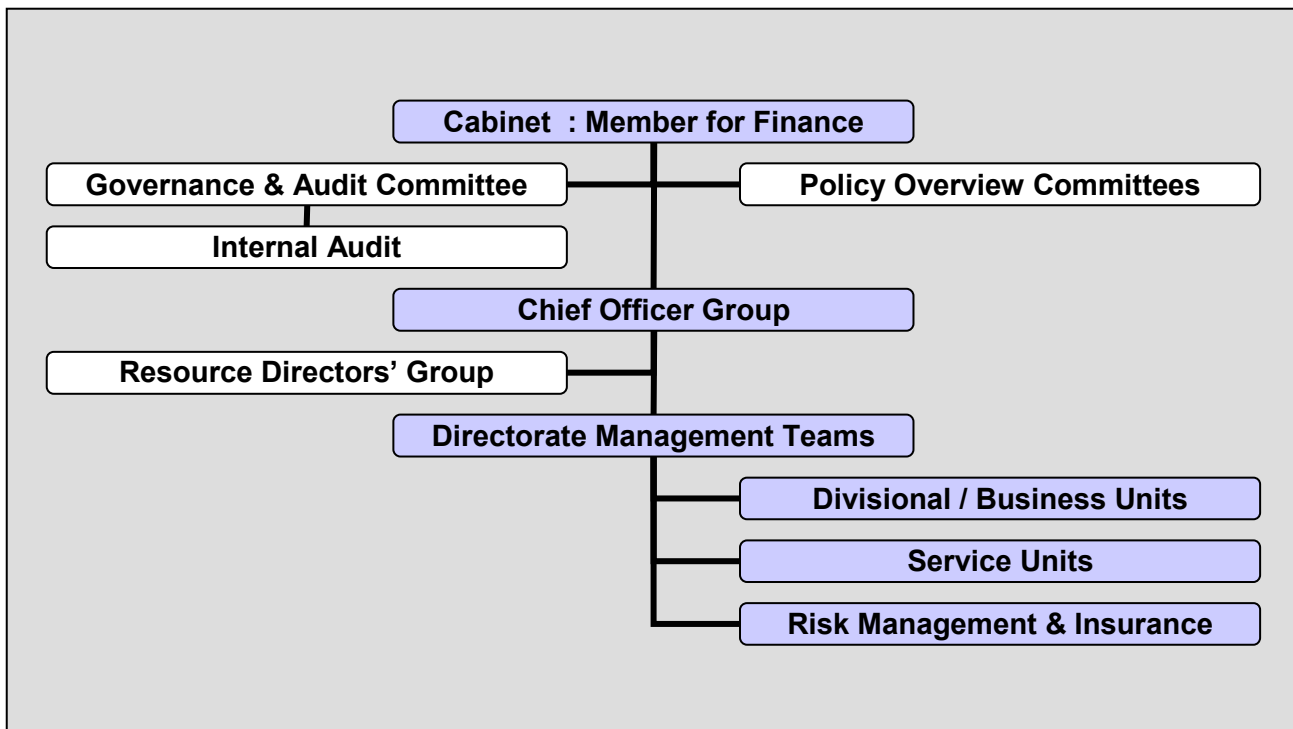
These objectives will be achieved by:

- Maintaining clear roles, responsibilities and reporting lines throughout the Council
- Incorporating risk management into the council's management processes
- Embedding risk management into the risk and audit environment, thereby enabling effective audit planning
- Establishing effective monitoring arrangements
- Developing the role of the Resource Directors' Group into risk management
- Providing risk management training and awareness sessions

3. Roles and responsibilities

Responsibility for risk management runs throughout the Council. Everyone has a role to play. However for risk management to be successful there has to be a clear identification of roles and responsibilities at management level. The following structure for managing risk reflects how this is achieved.

The structure is based upon providing direction from members and senior management on the Council's approach to risk management to include auditing, monitoring and reporting along with delegation for the identification, development and implementation of strategic or operational responses at the level where risks are actually managed.



GROUP INDIVIDUAL	ROLE
<i>Cabinet Member for Finance</i>	On behalf of Leader of the Council ensures effective risk management arrangements are put in place
<i>Audit & Governance Committee</i>	Monitor and review the effectiveness of risk management arrangements. Work with the Resource Director's Group and receives the SIC and reports from the Resource Director's Group, Internal and external Audit.
<i>Policy Overview Committees</i>	To review / monitor the directorate risk register
<i>Chief Executive</i>	Lead Officer for Risk Management
<i>Chief Officer Group</i>	Overview of risk across the Authority and endorsement of priorities and management action. Responsible for key strategic risks.
Head of Audit & Risk	Champion for Risk Management.
<i>Internal Audit</i>	Monitoring the effectiveness of controls
<i>Resource Directors' Group</i>	Senior service directorate and corporate group to steer the strategic and operational response, identify and promote good practice from internal and external sources and liaise with PriceWaterhouseCoopers
Directorate Management Teams	Develop risk management across the directorate
Corporate Insurance & Risk Manager	Day to day responsibility for developing, advising on, co-ordinating and monitoring risk management across the Council.
Directorate Risk Management Co-ordinator	Leading risk activities within directorates and maintaining risk registers

4. Risk Management Process

Risk is managed on a holistic and consistent basis and distinguish between strategic and operational risks.

Our approach to risk management will be objective driven. The risk assessment process informs the business planning and performance management processes with budget and resource allocation following.

The management of risk is an integral part of policy and project development and implementation. Reports to support strategic policy decisions and project initiation documents will include a statement on risk to help inform the decision making process. All projects should have a risk assessment that includes a formal risk score calculated by using the standard 5x5 matrix.

Where responsibility lies for achieving objectives so responsibility will rest for identifying risks, developing and implementing controls and warning mechanisms, reviewing and reporting on progress. This responsibility can be delegated when accompanied by sound monitoring arrangements.

Annual Operating Plans will be supported by a risk assessment of the likelihood and impact of that business unit not meeting their objectives. These risk assessments will inform the annual audit planning process.

The Chief Officer Group is responsible for identifying and managing key cross cutting strategic risks. Directorates are responsible for identifying and managing other strategic and operational risks. Each maintains its own register of risks.

Senior management teams retain control for risks identified within their directorate risk registers and maintain an awareness of risks within service units and how they are being managed.

All risk registers are periodically reviewed and updated. During the last quarter of each year directorate risk registers will be refreshed i.e. a new look at all risks across the directorate to include any that might be on the horizon, so as to inform the business planning process.

To assist in the management of risk and provide consistency across the Council a Risk Management Toolkit has been prepared. This details a process for managing risks where each stage builds upon the other and provides basic practical guidance on how to identify, assess and treat risks and monitor progress.

The risks to the Council in achieving its objectives can be increased or reduced by the activities of external groups. Risk management will therefore be incorporated into the way the Council works with other organisations, partners, contractors etc. where they can influence the achievement of our objectives.

When entering into any arrangement risk management will be addressed with risks being clearly identified, ownership and accountability agreed and controls developed and monitored to provide necessary levels of assurance. This process will continue throughout the life of the activity.

Risk registers are prepared and maintained when working with external groups where there are major-shared objectives. These registers will be subject to audit and monitoring.

Laws, Regulations and the requirements for managing risk and recommended best practice issued by regulatory and advisory bodies will continue to help inform the Council's management of risk.

The cost of risk is controlled where possible and where it is cost effective through the maintenance of an external insurance programme.

5. Monitoring Arrangements

The Council's management of risks are subject to internal and independent external auditing. Any activity with an outcome or output will be capable of being audited. Investigations may therefore be undertaken of any aspect of risk management.

The scores or opinions attributed by internal and external auditors form part of the Council's own assessment of the effectiveness its management of risk and will be included within the

annual Statement of Assurance and Internal Control. The score attributed by external auditors informs the Council's CPA score.

Areas of weaknesses identified through the audit process are reported to the risk owner for action and Resource Director's Group for monitoring purposes.

A signed statement of assurance on the implementation of risk management and effectiveness of controls within each directorate is provided annually by Managing Directors. Director's statements are supported by a Statement of Internal Financial Control and report from the Head of Audit & Risk. These assurances are included to support the annual Statement of Assurance on Corporate Governance and Internal Control.

The Head of Audit & Risk will keep the Governance & Audit Committee informed of changes to the risks that the Council faces, no less frequently than every six months.

6. Resource Directors' Group

The Resource Directors' Group has undertaken to communicate, promote, steer and monitor the Council's overall approach to risk management and its effectiveness within all aspects of its own business and shared working arrangements with external bodies.

The Resource Directors' Group will

- share advice and provide guidance to directorates on risk management and develop a dedicated intranet site.
- explore and develop relationships with other organisations to seek out and share best practice in the management of risk to develop strong performance throughout the Council.
- review key corporate risks and the effectiveness of controls as part of its monitoring process and maintain the Council's Risk Register.
- ensure that directorates are aware of the standards in relation to risk management expected by the Audit Commission and support the development of appropriate responses.

It is important that the risk of fraud and corruption is regularly reviewed and that appropriate counter fraud procedures are in place. Internal Audit should advise on any such procedures, but the procedures should be approved by the Resource Directors' Group on behalf of the Chief Officer Group.

7. Training & Awareness Sessions

Training and risk awareness sessions will be provided to a combined minimum of 100 members and officers per year to broaden their knowledge of risk management and demonstrate how it fits in with achieving the Council's objectives as well as providing practical guidance on how to use risk management techniques.

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Item 11

By: The Head of Audit & Risk

To: Governance & Audit Committee – 29 June 2007

Subject: Governance of Partnerships

Classification: Unrestricted

Summary: This report provides an update on the work being undertaken on governance of partnerships.

For Information

INTRODUCTION

- 1 At the March 2007 meeting of this Committee, Members provided comments on the draft 'Working with Partnerships Guidance' document and agreed the following timetable for the work on the governance of partnerships.

Action	Date
Formal adoption of the Partnership Guidance Document	April 07
List of major and significant partnerships reported to this Committee	June 07
Formal 'risk assessment' of the major and significant partnerships carried out in accordance with the Partnership Guidance Document	By August 07
Audit of governance of partnerships	October 07
Report outcome of the audit to this Committee	December 07

CURRENT STATUS

- 2 Work is progressing in line with this timetable. The Partnership Guidance Document has been finalised. A copy of the final document is shown at Appendix 1.

- 3 Directorates have updated their lists of major and significant partnerships, which can be found at Appendix 2. The lists show that we have 25 Major partnerships and 41 Significant partnerships, as defined by our Partnership Guidance document (now re-titled to Risk Management of Key Partnerships – A Guide to Good Practice). This makes the management and governance of partnerships more manageable than the 200+ partnerships we were looking at last year, which is the result of creating the classifications of major, significant and minor. By concentrating on these major and significant partnerships, we can ensure that governance is appropriate to the risk we face with each partnership
- 4 Members will see that for some of the partnerships shown at Appendix 2, some information is still needed, which reflects to some degree the ‘work in progress’ that this project is creating. All directorates are committed to the delivery of the objectives set-out for this project.

SUMMARY AND RECOMMENDATIONS

- 5 Members are asked to:
 - a) Note the progress made on the work around governance of partnerships, in line with the agreed timetable.
 - b) Note the final Partnership Guidance Document.
 - c) Note the list of major and significant partnerships.

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RISK MANAGEMENT OF KEY PARTNERSHIPS

A GUIDE TO GOOD PRACTICE

June 2007

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1. INTRODUCTION

Partnership working is playing an increasingly important role in our policy development and service delivery. In recent years, the focus for many public, private, voluntary and community organisations has been on the opportunities offered by partnership or joint working arrangements. Indeed, many new funding sources relating to a wide range of issues can only be accessed by the demonstration of multi-partner approaches. The Council is therefore committed to developing its engagement in partnerships to achieve its objectives; respond to changes in how the public sector, private sector organisations and the voluntary and community sector must interact; and, improve service delivery.

Working in partnership usually means committing resources such as officer time or direct funding to develop and deliver desired outcomes. It may not be easy and, whilst there are opportunities there are also pitfalls. It is therefore important to be clear about:

- how partnership working is managed both strategically and within individual partnerships,
- why there is a need to enter into a partnership,
- how to set one up, and
- how to understand the risks and their impact upon the Council and individuals.

The focus of this Guide is on risk in partnership and aims to set out a consistent approach to the risk management of key partnerships including the development, establishment, management and monitoring of partnerships. It is not intended to be prescriptive but demonstrate good practice. The process must be proportionate to the risks that each partnership poses to KCC. For the more complex partnerships specialist legal, financial and tax advice should be sought to ensure that your partnership is properly structured to deliver your objectives.

Directorates should use this document to supplement any other guidance currently used.

2. KEY PARTNERSHIP DEFINITION

What is a Key Partnership?

There are many definitions as to what constitutes a partnership. For years KCC has worked widely with other partners to deliver improved services. The Kent Partnership is Kent's Local Strategic Partnership that KCC supports and administers. It coordinates a major volume of partnerships that KCC has an involvement from informal arrangements to highly complex ones.

To enable KCC to better risk assess and manage those partnerships that will pose the greatest legal, financial and reputational risks to the Council, KCC needs to identify these key partnerships. For this purpose a “key partnership” is defined as:

“An agreement between two or more independent bodies to work collectively to achieve a common objective, that if not delivered would expose KCC to major or significant legal, financial and reputational risks.”

A key partnership is typically where the partners:

- Are independent of the Council i.e. another public sector body, voluntary and community sector organisation, private contractor etc
- Agree to co-operate to achieve a common goal or shared objective(s);
- Possibly create a new delivery mechanism or process to achieve the goal or objectives;
- Plan and implement a jointly agreed programme, often with staff or resources provided jointly;
- Share relevant information, data and intelligence;
- Pool resources and rewards

What is not a Key Partnership?

The above definition should exclude the following:

- Where the Council is consulting partners but ultimately has direct control over budgets or decision making
- Consultation groups set up to discuss or consider specific topics
- Appointments and/or financial commitments to outside bodies where the Council has no strategic or policy function
- Private Finance Initiatives and other commercial agreements, or contracts where the Council is paying other organisations to deliver a service or goods and vice versa (although it is recognised contractual arrangements can have partnership characteristics)
- Allocating grants to other organizations

3. BENEFITS AND CHALLENGES

Benefits of partnership working

Partnership working can provide huge opportunities for services improvements, added value and benefits such as:

- ❑ Better alignment by partners of shared long-term vision, aims and objectives
- ❑ Improved understanding of the issues facing local authorities and other agencies
- ❑ Different perspectives and approaching problems from different angles
- ❑ Economies of scale and reduction in duplication e.g. data sharing and improved understanding
- ❑ Mobilising additional resources; access to government, EU and external funding
- ❑ Effective use and allocation of resources
- ❑ Awareness of priorities enabling the planning and direction of resources
- ❑ Improved ability to network
- ❑ Shared and improved skills, enhanced knowledge and responsibilities
- ❑ Wielding greater influence, advocacy and power than individual partners could achieve
- ❑ Improved public perception i.e. seamless approach and reduces risk.
- ❑ Improved local support

Challenges of Partnership Working

However, partnerships also provide challenges. The following are just some of the challenges which need to be considered at the outset:

- ❑ Can impose financial or legal liability
- ❑ May require an organisational change within the Council
- ❑ Can confuse reporting and accountability
- ❑ Can challenge and possibly compromise cultural and organisational values
- ❑ Can take up a lot of time and resources
- ❑ May often mean some loss identity, power or autonomy
- ❑ Can cause tension and conflict between partners
- ❑ May have an impact on motivation, loyalty and performance of individual employees and teams

Benefits would be jeopardized if the partnership is not set up properly and the risks vs benefits balance is not managed effectively. A poorly managed partnership can be time consuming, costly, ineffective and result in financial liabilities.

4. CLASSIFYING A PARTNERSHIP

Partnerships vary enormously in both size and scope and are described in many ways. Some that we are familiar with are Strategic partnerships, Service Delivery partnerships, Executive, Commissioning, Structural, separate legal entity, single lead body.

Essentially it is more important to understand what constitutes a partnership and to understand the 'importance' to the Council and the risks that they present. The importance and risk of any partnership are intrinsically linked. From our definition of partnership, all KCC's existing

and new partnerships should be categorised according to their risk assessment and the Key Partnerships would be those categorised as 'Major' or 'Significant'.

This can be done using the authority's risk assessment process and assessing against four main impact areas –

- Legal
- Service delivery
- Finance
- Reputation

There may also be others that might be relevant to the nature of the partnership.

All existing partnerships should have some form of risk assessment in place and risks monitored regularly. If not, one should be done using the risk ranking matrix below. For a new partnership, risk assessment must be completed at the development stage and the partnership category identified.

The Risk Management Toolkit on KNET provides further guidance on the risk assessment process. The overall risk assessment will include the following:

Risk Ranking Matrix

Likelihood	Very likely	Low	Medium	Medium	High	Very High
	Likely	Low	Medium	Medium	High	High
	Possible	Low	Low	Medium	Medium	Medium
	Unlikely	Low	Low	Low	Medium	Medium
	Very Unlikely	Low	Low	Low	Low	Low
		Minor	Moderate	Significant	Serious	Major
Impact						

Likelihood Assessment

Factor	Indicators
Very likely	Regular occurrence
Likely	Will occur
Possible	Has happened in past
Unlikely	Not expected to occur
Very Unlikely	Will only occur in exceptional circumstances

Impact Assessment

Ranking	Description of one possible example
Major	Complete failure of a strategic partnership
Serious	Services unavailable for long period of time
Significant	Service unavailable in short/medium term
Moderate	Some disruption.
Minor	Little disruption.

To identify KCC's Key Partnerships, the risk assessment should be done from KCC's perspective. It should include an evaluation of risks both of the Council becoming involved in the partnership as well as the risks of the Council not becoming involved.

Using the colour coding and further moderated using the characteristics below (recognizing that not every characteristic will necessarily be met) the result of this initial risk assessment should determine the category into which the partnership would fall, such as 'Major', 'Significant' and 'Minor'. For example:

Category of 'Importance'	General Characteristics
Major (financial threshold over £10m)	<p><u>Risk</u> Impact of failure is high</p> <p><u>Guiding characteristics</u> Involves several services Requires Members to be involved on oversight Involves extensive new ways of working Requires large scale organisational change Will, in time, significantly impact on our organisational strategy, structure and plans Involve working with several partners Involve commitment of expenditure or resources from more than one service Requires Cabinet or Cabinet Member approval</p>
Significant (financial threshold £2-£10m)	<p><u>Risk</u> Medium impact of failure</p> <p><u>Guiding characteristics</u> Are restricted to one or two services Are generally managed by officers May involve some new methods of delivery but are largely focused on improving existing methods of delivery Requires little organisational change Are likely to only affect the plans of the services involved Involve work with one or two partners Involve pooling of budgets at a service level and potentially sharing of staff May require Cabinet approval but may only need Directorate management team approval</p>
Minor (financial threshold less than £2m)	<p>Low impact of failure</p> <p><u>Guiding characteristics</u> Involve one service Managed by officers Largely involved in improving upon existing methods of delivery Requires no organizational change</p>

The level of importance attributed to a partnership will then determine the level and formality required in its governance structure and subsequent operational framework.

A tiered approach to managing partnerships will be applied so that senior management involvement and scrutiny is proportionate to the 'importance and risk' of the partnership to the Council.

A useful checklist would be:

Major partnerships

- Will be managed by a third tier officer or above
- Will report to Cabinet Member and/or SMT?
- Risks to the Council will be presented in the form of a risk register to Darryl Mattingly, Corporate Risk and Insurance Manager. Key risks should be recorded within directorate risk register as appropriate.
- Will adopt the 5 Stages of Partnership Management

Significant partnerships

- Will be managed by directorates
- Will report to senior directorate management teams
- High ranked risks to the Council will be reported to the senior management team for inclusion within risk registers
- Will adopt the 5 stages of Partnership Management

Minor partnerships

- Do not require a formalised process of management unless locally determined

The Council's strategy for working with partnerships will be directed by the Director for Strategy and Business Solutions.

All partnerships categorized as Major or Significant should be notified to the relevant Resource Director. A template for this purpose is included in Appendix 1.

5. FUNDAMENTAL CONSIDERATIONS

GOVERNANCE

One of the biggest risks when developing a new partnership is that of confused accountability, where obligations of the partners have not been clearly defined, i.e. the risk of financial liability arising from the action of one of the partners or from the employment relationship.

It is important to ensure that the governance structure and legal status of the partnership is properly set up and there is clarity about:

- The purpose of the partnership
- The aims and objectives of the partnership
- Memberships/Partners – Management structure
- Roles and responsibilities of all Partners, identifying Lead Partners as necessary
- The employment of staff working in and for the partnership
- Delegation and decision-making arrangements

- Financial arrangements
- Frequency of meetings
- Responsibilities that could fall to the Council in a partnership
- Termination / exit strategy

Statutory partnerships should already have regulations set out to cover the legal requirements, governance and set up of such partnerships. To ensure clarity, all KCC partnerships must have a formal written Agreement, setting out the partnership's terms of reference. The 'Agreement' may be similar to a protocol or memorandum of understanding or a legally binding document.

The complexity of the agreement will depend on the assessed Category of the Partnership. For all Major and Significant partnership a legally binding agreement is strongly recommended and, in many cases, will be mandatory.

The legal status of a partnership may impact upon financial arrangements such as procurement and VAT. For example, a separate legal entity will not inherit any special VAT status from its parents unless it is set up as an 'arms length company' yet a single lead or multiple lead partnerships may benefit from the VAT status of individual members. Early legal and financial advice may need to be sought to ensure the legal and financial issues/risks are identified and mitigated.

Legal Services may need to be involved in the development of the partnership (in particular regarding legal powers, legal structure and to help identify and consider legal liabilities including Health and Safety) and must be involved in the drawing up of any legally binding agreements. Separate advice should be sought from Personnel over the employment implications.

However, for some Significant and Minor partnerships, the 'Partnership Agreement' template provided in Appendix 1 can be customised for use.

RISK MANAGEMENT

Risk management is not about risk avoidance but rather taking managed risks. The risks of the partnership to the Council is the first step (re above) and when the partnership is set up and operational, there must be risk assessment arrangement in place to assess, review and mitigate risks identified on a regular basis.

At all stages of a partnership the risks should be openly understood and evaluated; in addition there should be clear plans in place to minimise these risks. The risks within the partnership, existing and new controls measures and partners responsible for managing these should be recorded. The use of a risk register is strongly recommended.

As always with risks there are four options: transfer, tolerate, treat or terminate. The risk appetite amongst partners may vary. Council

representatives should be satisfied that decisions taken in relation to risks are acceptable to the authority.

Minor – Low Risk	Important – Medium Risk	Major – High Risk
<p>Consideration is given to the management of the following risks:</p> <ul style="list-style-type: none"> - financial - operational - reputation - others <p>The consideration of risk is noted i.e. within meeting notes</p> <p>Objectives and measured outcomes are identified, monitored and reviewed</p> <p>Failures within the partnership which might increase the risk to the Council are reported to the Head of Service</p> <p>All appropriate staff are given relevant training and guidance to take responsibility for managing risk</p>	<p>Business case for partnership arrangements approved to include alignment with KCC objectives and costs</p> <p>Partnership details entered on directorate/corporate Partnership Register</p> <p>KCC Partnership Requirements met</p> <p>Partnership formalised with Terms of Reference, membership, lead partner, frequency of meetings, listed objectives, outcomes, performance indicators, individual or collective responsibilities, information sharing, dispute resolution, exit strategy</p> <p>Effective arrangements exist to formally assess the following risks in so far as they might impact upon KCC:</p> <ul style="list-style-type: none"> • financial • operational • reputation • others <p>A joint register of risks is to be prepared with clear responsibility and accountability for risks. A separate risk register is to be prepared outlining risks to KCC</p> <p>Key risks to KCC arising from the partnership are considered for inclusion within the service unit risk register</p> <p>Senior Management to seek and obtain assurances around the management of critical risks to KCC.</p> <p>Actual or potential failures within the partnership which increase the risk to KCC are reported to the directorate management team at the earliest opportunity, action determined and thereafter monitored as necessary</p> <p>All appropriate staff are given relevant training and guidance to take responsibility for managing risks</p>	<p>All standards for 'Important' partnerships are met</p> <p>Progress of the partnership and all risk registers (inward and outward looking) presented to and monitored by the directorate management team</p> <p>Key risks are considered for inclusion with directorate/strategic risk registers</p> <p>Members kept aware about key risks to KCC resulting from the partnership</p> <p>An annual Statement of Internal Control is prepared by the partnership and provided to all members</p> <p>Scrutiny arrangements are established and action taken on constructive comments</p>

OFFICERS' & MEMBERS' LIABILITIES

It is prudent to seek early clarity for officers/members of their delegated authority to commit KCC to financial liabilities. Where required, officers should seek advice on policy and its interpretation for each key partnership to ensure that members and officers are clear about their liabilities.

In undertaking any partnership activity KCC staff must comply with KCC's own policies and regulations, i.e Officers and Members Code of Conduct,

Standing Orders, Financial Regulations, this Code of Practice and employment duties and responsibilities.

6. FIVE STAGES OF PARTNERSHIP MANAGEMENT

A successful partnership working relationship involves the following:

- Clear shared objectives
- A realistic plan and timetable for reaching these objectives
- Commitment from the partner to take the partnership's work into account within their own mainstream activities
- A clear framework of responsibilities and accountability
- Realistic ways of measuring the partnership's achievements

Developing a successful partnership working relationship is by no means an easy task. However, there are five essential steps that should be followed to help maximise the opportunity for success.

1. Deciding upon the need for partnership working
2. Development
3. Operation
4. Monitoring and Review
5. Termination

1 DECIDING UPON THE NEED FOR PARTNERSHIP WORKING

Partnership working is generally both difficult and resource intensive, especially in the early stages. Partnerships may also take a long time to deliver outcomes and there may be other more suitable options such as strengthening existing networks or using an existing partnership.

There are a number of reasons why it might be necessary to enter into a partnership. According to the Audit Commission they will generally fall into five main areas:

- To deliver co-ordinated packages of services to individuals
- To tackle the so called 'wicked' issues such as crime prevention
- To reduce the impact of organisational fragmentation
- To bid for, or gain access to, new resources
- To meet a statutory requirement

A partnership is likely to fail for reasons such as the objective or service delivery proposed is primarily the responsibility of one organisation with

others only having a marginal role, no shared objective amongst partners, a lack of preparation of those people involved, history of poor relationships and reluctance to change, shunting of costs, blame or problems onto another party. Be clear, realistic and honest about the chances of success from the outset.

When considering a new partnership a detailed business case should be prepared which supports the aims and objectives of the Council. **The following questions will provide a structured process to developing a business case.** These questions should also be applied to existing partnerships to assess their relevance to the Council's priorities and objectives.

Points to consider:

Why is there a need for a partnership?	<ul style="list-style-type: none"> ▪ Is there justification for the partnership? ▪ Is this the best way to meet an objective? ▪ Could it cause duplication i.e. similar or more suitable forum already exists ▪ Have all other delivery options been considered ▪ Is the partnership designed to meet a statutory duty?
Is the collaboration a true partnership?	<ul style="list-style-type: none"> ▪ Check against the KCC partnership definition. ▪ Will there be a formal Agreement ▪ Who will lead the partnership ▪ Clarify processes around decision making ▪ What will be the life of the partnership. What is the start and end date?
What is the legality of the partnership	<ul style="list-style-type: none"> ▪ What are the partnership vehicles/structure choices available to deliver the objections ▪ Clarify the legal & employment status of the partnership ▪ Check insurance implications ▪ Check the tax and funding implications
What are the intended objectives of the partnership?	<ul style="list-style-type: none"> ▪ Be clear about how these will address KCC's own objectives and priorities
What might be the impact upon the Council	<ul style="list-style-type: none"> ▪ Will changes in behaviour or decision making be required within the Council to make the partnership successful? ▪ Is there legal authority to enter into the proposed partnership arrangement?
What potential resources might be required?	<ul style="list-style-type: none"> ▪ Be clear and realistic about what resources will possibly need to be allocated to this work ▪ Could other partners be joining to simply access KCC funds to support their own budgets? ▪ Is there an impact on support services?
What are the potential risks?	<ul style="list-style-type: none"> ▪ Carry out an initial risk assessment to understand what are the potential risks associated with KCC's involvement or non-involvement in the partnership? ▪ Identify the associated KCC Risk Category, viz: Major, Significant or Minor. ▪ What is the realistic chance for success? ▪ Will there be an impact on employee morale?
What might the outcomes and activities be?	<ul style="list-style-type: none"> ▪ Be clear about the potential benefits to KCC and service delivery ▪ Has added value of partnership been considered and set out? – What is the cost benefit to KCC?

	<ul style="list-style-type: none"> ▪ Are they realistic in light of resources and potential partnership issues? ▪ How will they be measured?
Who are the stakeholders and partners?	<ul style="list-style-type: none"> ▪ Have these been identified and consulted

The business case should be presented to senior management/Cabinet, as appropriate for approval.

2 DEVELOPMENT

Partnerships vary in both size and scope. There is no single model as to how a partnership should look and we should remain flexible when working with partners provided it does not compromise the achievement of our own objectives when working within such an arrangement.

Although there is no one preferred model there are some common aspects that need to be considered at this stage.

Points to consider:

What are the aims and objectives for the partnership, how will they help KCC and how will the partnership be managed?	<ul style="list-style-type: none"> ▪ Ensure that all partners have absolute clarity about the partnership's aims and objectives ▪ Prepare a Partnership Agreement to include issues such as: <ul style="list-style-type: none"> ➢ who will fill the relevant roles? ➢ information sharing protocols ➢ have provisions been made for compliance with the law (e.g. data protection act, freedom of information act)? ➢ what are each partner's responsibilities? ➢ Are the employment responsibilities clear? ➢ how the partnership will settle disputes? ➢ any confidentiality issues? (whistle blowing) ➢ termination of the partnership and mechanisms for dealing with variations to the agreement? ➢ Training requirements (See Partnership Agreement Template) ▪ Be clear why you are in the partnership ▪ There is legal authority to enter into the partnering arrangement proposed.
What might partners expect from KCC?	<ul style="list-style-type: none"> ▪ Be clear about the negotiables and non-negotiables at the outset
Officer / Member representation?	<ul style="list-style-type: none"> ▪ Identify who should attend and manage the day to day engagement with the Partnership and that they have enough authority to bring about any service improvements generated through the Partnership and/or commit KCC to financial liabilities. ▪ Are partners to comply with the officers' delegations? ▪ Ensure that KCC representative has the right skills and knowledge to maximise opportunities for KCC and ensure KCC's objectives are achieved
What are the roles, responsibilities and accountability for KCC and partners?	<ul style="list-style-type: none"> ▪ Is there clarity on the legal status of the partnership? ▪ Be clear about specific roles and responsibilities ▪ Be clear on accountability ▪ Be clear about who will lead the partnership

	<ul style="list-style-type: none"> ▪ Be clear on roles and responsibilities relating to all Health and Safety implications ▪ Ensure that there is a document that can be referred to in the event of a dispute with partners ▪ Is there arrangement for handling complaints? • Is there a written Conduct procedure or identify which Code of conduct will apply to partners?
Who should we partner with?	<ul style="list-style-type: none"> ▪ Establish what members of the partnership will be required to bring to the project to ensure it is a success and complies with any grant requirements? (Contributions could include: developing and sharing resources, common facilities etc) ▪ Seek out partners who can deliver ▪ Make sure everyone is there that needs to be ▪ Is there a requirement to declare, and a system for recording conflicts of interest?
Performance Management	<ul style="list-style-type: none"> ▪ Have a shared understanding around the outcomes and activities to be achieved in the short and long term – milestones ▪ How do these outcomes fit with the priorities and objectives of the Council and its partners? ▪ Establish a measurable declaration of each partner's intentions ▪ Establish the expectation and method of measuring individual performance ▪ Are outcomes / benefits assessed against actual cost of the partnership. Establish how these will be measured and reported. ▪ Establish how outcomes for KCC will be measured i.e. change in policy, operational service delivery etc. ▪ Establish reporting routes within KCC and for the Partnership as necessary
Risk Management	<ul style="list-style-type: none"> ▪ Look at risks of and to the partnership ▪ Establish clear arrangements on risk sharing ▪ Everyone should manage risks to ensure the Partnership's objectives are achieved ▪ Carry out separate risk assessments to identify impact upon KCC and partnership in relation to financial, service delivery, reputational issues and any other areas of impact that might be relevant, including employees ▪ Periodically review risks to facilitate a timely response ▪ Maintain a risk register for partnership and KCC <p>When there are problems:</p> <ul style="list-style-type: none"> ▪ Take action immediately to find a solution ▪ Don't be afraid to bring in external, impartial help
Partnership register	<ul style="list-style-type: none"> ▪ Complete a Partnership Directory Entry Form and send to Resource Director of your Directorate. ▪ Notify Legal Services of the partnership and classification for inclusion within KCC Partnership Directory.
Resources	<ul style="list-style-type: none"> ▪ Be clear about what resources / financial contributions have been agreed with each partner. ▪ Is there a lead budget holder? ▪ Is there arrangement for changes to level of partner's contributions? ▪ Be clear on the timing the resources are required ▪ Monitor resources promised against what is actually available.

<p>Financial arrangements</p>	<ul style="list-style-type: none"> ▪ Are there any estimated annual costs to the county council of contributing to the partnership? ▪ Arrangements for approving budgets within KCC ▪ Contributions of partners – timetable ▪ Accountable body if relevant ▪ Pooled funds ▪ Be clear about any VAT implications. ▪ Partnership arrangements must not be set up purely to seek to utilize the favourable VAT recovery status of local authorities. HMRC will disallow recovery where the partnership is designed to avoid VAT. ▪ The VAT status of supplies between the partners must be established including any admin charges made by the lead partner ▪ Approval of the Executive necessary? ▪ Are procurement arrangements clearly set out? ▪ How will financial records be maintained? ▪ Are the full costs of the partnership calculated? ▪ Financial regulations/controls are clearly defined, e.g. authorization, charging policy, payments etc ▪ Are there clear financial monitoring arrangements? ▪ How will over and/or underspends be dealt with? ▪ Are there clear financial reporting arrangements? ▪ Auditing arrangements ▪ Have insurance arrangements been clarified?
<p>Personnel issues</p>	<ul style="list-style-type: none"> ▪ Decide the staffing structure and posts required to deliver the aims and objectives ▪ Agree recruitment process for staff i.e. will this involve movement and/or external/internal recruitment. Will joint appointments be made? ▪ has the partnership considered how instances of fraud (financial, legal, personnel etc) will be avoided? ▪ is there a mechanism by which service delivery will be monitored and reported, and performance managed? ▪ which members will employ the staff? ▪ what indemnity will be given to agencies who employ staff? ▪ are any staff to be seconded to project – if so what are conditions and terms? ▪ day to day management responsibilities. ▪ Are there perceived or real issues of inequality of pay? ▪ How will learning and development be designed, funded and delivered? ▪ How will equality standards and expectations be monitored and met? ▪ How will terminations of employment, for whatever reason, impact on the partnership? ▪ Are there suitable consultation and communication processes in place?
<p>Asset / property</p>	<ul style="list-style-type: none"> ▪ have provisions been made for compliance with the law (e.g. Health & Safety)? ▪ will group need to hold real property; if so, on what basis? If a lease is involved, who will be responsible? ▪ What happens to assets created/purchased When project terminated/comes to an end? ▪ Who will provide office accommodation and where? ▪ Who will provide office equipment – where – who pays? ▪ Will any intellectual property rights be created e.g. copyright, patents, trading names, trademarks?

	<ul style="list-style-type: none"> ▪ Where will ownership lie during the collaboration or on termination? ▪ What type of protection needed during collaboration on the project? ▪ Have ICT contractual arrangements been clearly specified?
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3 OPERATION

Although partnerships can be effective there are pitfalls. Some of these are day to day difficulties through having to work with organisations with differing outlooks and ways of doing things. Others may be because finding solutions may be too complex. It is important to understand the possible pitfalls and plan to manage or reduce them.

Points to consider:

Working in partnership	<ul style="list-style-type: none"> ▪ Ensure that the partnership has continuous effective leadership to ensure that targeted outcomes are achieved ▪ Realise that working in partnership takes a long time ▪ Be action focused and be seen to deliver real change on the ground ▪ Continuously train and support those involved in delivering the partnership ▪ Minimise bureaucracy and avoid paperwork ▪ Make informed, democratic decisions ▪ Consider an independent chair so that no one dominates ▪ Have clear and transparent methods of communication and create effective links ▪ Build and maintain trust between partners ▪ Don't start with a blank sheet, instead take some ideas to start discussions ▪ Work with openness, trust and honesty ▪ Decisions and activities are open and transparent to all partners. ▪ Be responsive and show you are flexible ▪ Be patient and don't push other partners to work at an unrealistic pace ▪ Have a champion to maintain momentum and commitment ▪ Communicate clearly with all those working in the partnership ▪ Celebrate and publicise your successes ▪ Recognise the skills and abilities of other people ▪ Realise that people have preconceived ideas about certain things ▪ Listen to others and take time to understand and respect their agenda
Promote risk management across the Partnership	<ul style="list-style-type: none"> ▪ Identify how you will respond to risks through prevention, detection and action and recovery planning ▪ Be aware of risk management implications of decisions ▪ Maintain a risk register
Sharing success	<ul style="list-style-type: none"> ▪ Plan for sharing success
Opportunities	<ul style="list-style-type: none"> ▪ Look for further opportunities

Contingency	<ul style="list-style-type: none"> ▪ Have a clear contingency position
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4 MONITORING & REVIEW

Monitoring the progress of the partnership enables a view to be taken as to whether it is having its intended impact. Information gathered through monitoring will help inform future reviews around the direction and continuation of the partnership.

Points to consider:

Management of risks	<ul style="list-style-type: none"> ▪ Ensure the arrangements for identification and evaluation of the risks is effective
Reporting of major issues which could impact upon achievement of objectives	<ul style="list-style-type: none"> ▪ Develop reporting lines within KCC and for the partnership ▪ Ensure that senior managers are made aware of issues in a timely manner to allow for effective intervention
Periodically review the progress towards objectives	<ul style="list-style-type: none"> ▪ Review what has been achieved so far ▪ Is it enough to remain in the partnership? ▪ Is the Partnership still on target to achieve objectives? ▪ If not, review and identify future progress and possibly partners or nominated representatives from organisations ▪ Is there any impact on employees? ▪ Are partners effective? ▪ Are performance indicators appropriate?
Resources	<ul style="list-style-type: none"> ▪ Review the level of resources used and required against commitment and sustainability ▪ Are the achieved outcomes providing or likely to provide value for money?

5 TERMINATION

Whether the end of a partnership is a sign of success or failure this should be planned for.

Points to consider:

Withdraw from or terminate Partnership	<ul style="list-style-type: none"> ▪ Be prepared to terminate the partnership if it is not working, is the wrong approach or has come to the end of its natural life ▪ Consider the impact of withdrawal on other partners, members and service users and employees before pulling out ▪ Consider rapid termination if drawn out decline in the partnership could be detrimental to KCC or partners ▪ Seek legal / financial and employment advice as required if the partnership is statutory or contractual ▪ Consider how the gains achieved from the partnership will be maintained
---	--

Develop a clear and transparent exit strategy	<ul style="list-style-type: none"> ▪ Establish who within the Council may negotiate the closure or withdrawal from the partnership ▪ Identify handover issues
Discuss with senior managers / members	<ul style="list-style-type: none"> ▪ Dependant upon the status of the partnership it may also be necessary to consult dependant upon the implications to the Council
Lessons learnt	<ul style="list-style-type: none"> ▪ What lessons have been learnt and are there any that need to be shared within the Council?

Existing partnerships:

The Council's involvement in each partnership needs to be reviewed to ensure that for each there is:

- ❑ A clear set of aims and objectives that align with the strategic objectives of the Council
- ❑ An agreed understanding of the role of the Council within that partnership
- ❑ Clarity about the benefits to the customer of the Council being involved with this partnership.
- ❑ Officers working within partnerships should have clear and SMART objectives relating to their work with that partnership. There should be clear routes for reporting the Performance Targets achieved through working with that partnership.

7. STANDARDS OF EXCELLENCE

We must aim to achieve 'excellence' in partnership working. These are the standards which the Council undertakes to work towards in its work in partnerships.

Standard 1: The Council proactively develops relevant partnerships in order to meet its strategic objectives.

- ❑ The Council is fully aware of how partnerships or other organisations and initiatives can help achieve its objectives.
- ❑ All partnerships are well thought through and directly effective in meeting the aims and objectives of the Council.
- ❑ Outcomes demonstrate that the Council's contribution to partnership working has benefited the community and service users.
- ❑ The relevance of partnerships and their work is communicated, understood and actively advocated within the organisation.

Standard 2: The Council can demonstrate a clear understanding of the principles of partnership working.

- ❑ There is clear evidence that the principles of partnership working are embedded in the Council and achieve definable outcomes.
- ❑ Partnership working is fully embedded in the Council's policies and practices and everyone accepts the need for it.
- ❑ The Council has a track record of utilising alternative methods of delivering services to achieve its objectives.
- ❑ The Council works effectively with its partnerships and is confident to devolve decision making to them.

Standard 3: The Council is able to demonstrate the value of all its partnership arrangements.

- ❑ The Council is able to demonstrate the rationale and value of all its partnership arrangements.
- ❑ Members and officers involved with any particular partnership are able to clearly identify and articulate the value of the partnership to the Council and act as advocates both internally and externally for the partnership.
- ❑ There is a track record of internal structures operating which regularly discuss and assess the implications of partnership arrangements that inform policy decisions.

Standard 4: The implications and impact on partnership arrangements are taken into account when taking budget and policy decisions.

- ❑ The partnership arrangements are regularly appraised in order to establish their value to the achievement of organisational objectives and resource decisions are based on these assessments.
- ❑ The implications and impact of budget decisions on partnership arrangements are transparently taken into account within the annual budget and service planning process, and are taken into account prior to the formation and endorsement of relevant policies and decisions.

Standard 5: Officers and members within the organisation clearly understand the rationale for the partnership arrangement and their roles and responsibilities within them.

- ❑ Officers and members working within partnerships are clear and confident about their role and responsibilities to the partnership and the Council and have been empowered to take decisions at the partnership on behalf of the Council.
- ❑ Officers and members have been adequately trained and briefed and can demonstrate a clear understanding of how the partnership helps the Council achieve its objectives.

Standard 6: The Council is committed to continuously reviewing and modifying its involvement with any partnership arrangement.

- ❑ There is regular and effective monitoring and evaluation of the ongoing benefits to the Council of its involvement in partnerships and the Council is clear about what is being achieved.
- ❑ The Council has its partnership arrangements under constant review and regularly evaluates the status of them. The Council has a track record of taking effective action to ensure that it is not wasting resources in partnerships that do not meet its objectives.

A Quick 5 Step Partnership Guide

Deciding whether enter into a Partnership	Setting up	Operating	Reporting and Monitoring			
<p>Is it necessary to form a partnership? Points to consider:</p> <ul style="list-style-type: none"> • Why is there a need for a partnership? • Does the arrangement meet with the definition of a partnership? • Is there clarity of purpose / clear vision for the partnership? • What are the objectives of the partnership? • How will these help meet the Council's own objectives and priorities? • What role KCC will play within the partnership i.e. lead, equal or junior / major source of funding, advisory etc? • Links between decision-making in partnership and decisions within KCC 	<p>For significant and major partnerships follow the setting up procedures according to rated 'importance'</p> <p>Prepare Partnership Agreement</p> <p>Set up management / governance structure and clarify accountabilities.</p> <p>Identify and/or establish performance management systems to measure progress towards the partnership's and Council's objectives.</p> <p>Carry out a risk assessment</p> <p>Prepare partnership risk register</p> <p>Prepare Council's own partnership risk register and include key risks within directorate risk register as required</p>	<p>Ensure that Partnership details are up to date and accurate on KCC Partnership Register</p> <p>Representatives should attend as many meetings as possible to demonstrate commitment</p> <p>There is regular reporting back to the Council.</p>	<p>Periodically review risks to partnership and KCC</p> <p>Periodically review the need/performance of the partnership</p> <tr> <td colspan="3" data-bbox="1082 748 1366 808" style="text-align: center;">Termination</td> </tr> <p>Clear exit strategy in place.</p>	Termination		
Termination						

<ul style="list-style-type: none"> • Will the partnership be lawful? • Potential resources • Potential sources of impact (risks) and how these might affect how KCC works • Potential outcomes and activities • Potential stakeholders and partners • Time commitments expected <p>Assess the 'importance' of the partnership</p> <p>Prepare business case for approval as necessary</p>	<p>Notify Legal Services as necessary to ensure that partnership is included within KCC Register of Partnerships</p>		
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Partnership Agreement

Introduction

State who partners are and their status (e.g. company, individual, charity).

Outline what partnership is by stating the background which led to the partnership developing, what initiated this partnership etc.

Vision and Objectives

A vision describes what you want to see in place some years ahead. It is a picture of the future.

Objectives should be Specific, Measurable, Achievable, Realistic and Time specific (SMART) so that you know what you want to achieve and whether you are achieving it. They should focus on outcomes and results rather than activities, i.e. what you will accomplish rather than on how you will work or what you will do.

Running the partnership

Document the following:

- Information / data sharing and storing protocols
- Each partner's role / duties / responsibilities
- Identify resources required and how they will be met
- Identify who is to own any assets, including intellectual property as well as tangible property
- Composition and frequency of meetings
- Decision making procedures
- Who will provide secretariat functions
- How will the partnership monitor and evaluate activities and its adherence to the agreement and how often?
- Partnership structure and reporting mechanism– it is sometimes useful to include a chart indicating who is responsible for what and who is reporting to whom
 - reporting mechanisms (how often, to whom and what)
 - performance management arrangements
 - how will complaints be handled?
 - elected member involvement (roles and responsibilities, democratic accountability, declaration of interests, etc.

Management and Timescale

Produce an action plan identifying key milestones/SMART targets and describe the management structure.

Financial Matters

Where applicable document:

- accountable body agreement (if KCC is acting as the accountable body, then the agreement **MUST** be developed by Legal Services and)
- partnership capital
- income & expenditure and how this is managed
- grants and funding
- banking and financial arrangements
- accounting arrangements
- how the partnership will make provision for tax payments and VAT

Other Matters to be Included

- risk assessment - a risk assessment **must** be completed to meet the County Council's Partnership Working Standards and in accordance with the risk assessment procedures set out in this document
- detail how the partnership will deal with media / communications issues
- the circumstances necessary to expel a partner
- how the partnership will resolve disputes (what complaints procedure should be applied in the case of dispute between partners or from service users)
- detail the procedures for whistle blowing / fraud etc (in the case of financial fraud – Internal Audit and County Treasurer must be informed)
- breaches of protocol procedures
- employees / staffing – who will manage / employ any staff? where will they work? whose HR policies are to apply?
- Ensure the Equality & Diversity obligations of the County Council are met

Dissolution / Exit Strategy

- Termination provisions
- Exit strategy – There **must** be evidence of an exit strategy to meet the County Council's Partnership Working Standards
- Final reporting requirements will need to be documented
- At dissolution the partners should consider whether they need to:
 - inform the funders
 - provide appropriate final reports
 - inform all stakeholders, clients, etc. as appropriate

Review

State when the agreement will be reviewed and by whom.

Partnership Directory – Entry Form

PARTNERSHIP NAME		
KEY OBJECTIVES/PURPOSE OF PARTNERSHIP		
LEGAL AUTHORITY (Indicate with Y/N)		
Non-Statutory	Y/N	
Statutory (the relevant legislation)	Y/N	
Partnership Agreement	Y/N	
PARTNERSHIP CATEGORY (Indicate with Y/N)		
Major	Y/N	
Significant	Y/N	
Minor	Y/N	
FUNDING/RESOURCE ARRANGEMENTS		
Partnership's projected spent over the life of project		£
Partnership's annual budget		£
KCC annual contributions (inclusive of staff, accommodation etc)		£
KCC CONTACT / DIRECTORATE		
PARTNERS (indicate Chair/ViceChair etc)		
LEAD AUTHORITY / PARTNER		
LINK TO KENT PARTNERSHIP (Indicate with Y/N; If Y please indicate the Target reference)		
Children & Young People	Y/N	Target:
Safer & Stronger Communities	Y/N	Target:
Healthier Communities & Older People	Y/N	Target:
Economic Development & Sustainable Communities	Y/N	Target:
Kent Public Service Board	Y/N	Target:
Completed By:		
Name:		
Post:		Date:
Return to Directorate Resource Director		

USEFUL RESOURCES

Audit Commission publications (website: audit-commission.gov.uk)

Governing Partnership – Bridging the Accountability Gap (2005)

Governance Toolkit

DCLG publications (website: www.dclg.gov.uk)

Strategic Partnering Taskforce Guidance

Dept of Health publications (website: ???)

S31 Checklist & Guidance? ???

CIPFA Publications (website: ???)

Directorate	Category (M, S, Minor)	Partnership Name	KCC Contact	Legal Authority (Legislation or Partnership Agreement)	Aims/Purpose	Partner/s	Lead Authority /Partner	KCC Contribution p.a.	£ Partnership's annual budget
CED	Significant	Kent & Medway Joint Police Authority Appointments Committee	Stuart Ballard, Comm & Mem Serv Mgr - 4002	voluntary	To appoint key Police officers	Medway	KCC	£0	£0
CED	Significant	Kent and Essex Sea Fisheries Committee	Chris West FA to Kent & Essex Sea Fisheries 4631	voluntary	To regulate fishing in the Thames Estuary	Essex, Medway, Southend-on-Sea, Thurrock, KCC	KCC	£217,400	£500,000
CED	Significant	Sussex Sea Fisheries Committee	Chris West FA to Kent & Essex Sea Fisheries 4631	voluntary	To regulate fishing in the Thames Estuary	Sussex, Brighton & Hove, West and East Sussex	Sussex	£27,000	£500,000
CED	Significant	Kent & Medway Joint Structure Plan Advisory Board	Geoff Mills, Committee Mgr - 4289	Voluntary	To develop a Strategic Structure Plan covering pt, housing, tourism, waste, environ, quality of life etc for medway and kent -and advise on structure issues as required	Medway Council - 11 members from each authority	Joint Medway & KCC The Structure Plan has been completed and is only a Forum for discussion now.	£0	£0

CED	Major	Kent Partnership	Trevor Minter, KP Director 1311	LGA 2000	To work with local organisations through local strategic partnerships to improve the well being of communities. To oversee progress in Kent's community strategy, the Vision for Kent. 11 priorities identified for 2005/06	33 members - including leaders and Chief Executives from local authorities, Police, Fire, Health, LAs, private sector, university etc. Sub-Gps have 29 members with reps from Chief Officers in KCC. KCC Public Service Board, Kent Economy Bld. The	KCC Leader chairs the Kent Partnership meetings	£414,000	£414,000 from this section only.
CED	Significant	Trading Sids South East Ltd	Suzanne Parra Business Support Manager 1007	Private, Ltd by Guarantee, no share capital, (Active)		Various interested orgns	Surry	£5,000	£24,000,000
CED	Significant	Kent Connects	Debbie Wisdom Strategic Director 1929		Removing the technological barriers that hinder the sharing and transformation of public services throughout Kent & Medway	15, including the 12 Kent districts, Medway Kent Fire and Kent Police	KCC	£125,000	
CED	Significant	Kent Benefits Partnership	Mike Cahill Kent Benefits Partnership Manager 6540		Try to get entitled people to claim unclaimed benefits of c.£10m	KCC, the Kent districts and Medway	Canterbury	£150,000	£425,000
CED									£600,000

**KENT COUNTY COUNCIL
INTERNAL AUDIT ANNUAL REPORT
For the Year Ended 31 March 2007**

**KENT COUNTY COUNCIL
INTERNAL AUDIT ANNUAL REPORT
For the Year Ended 31 March 2007**

FOREWORD

The past year has been one of significant change for Internal Audit. The post of Head of Audit & Risk was created and that of Chief Internal Auditor was removed. I was seconded into the Head of Audit & Risk post in September 2006 for a period of 12 months. This report will report and reflect on the events of the past year, and more particularly on the period since September.

The value of Kent County Council's Governance & Audit Committee, in seeking independent, effective assurance about the adequacy of both financial management and management of other processes required to achieve the Council's service objectives, is a crucial part of the governance arrangements of this Council. The Committee is focused on gaining assurance that the Council's governance, risk management and internal control arrangements are adequate and effective. Therefore, it receives regular internal audit reports culminating in this one, which provides an overall opinion on the robustness of the control framework. The annual assurance within this report is one of the sources of evidence for the statement of assurance to be published in the annual accounts.

This annual report reflects upon the outcomes of internal audit activity during 2006/07. It includes:

- an overall opinion on the effectiveness of internal control for 2006/07.
- a summary of irregularities investigated;
- an analysis of audit time by directorate and activity;
- an analysis of Internal Audit performance;
- a summary of audits undertaken and opinions.

If you would like any additional information on this report or the work of Internal Audit, please do not hesitate to contact me.

Andy Wood
Head of Audit & Risk
June 2007

INTERNAL AUDIT ANNUAL REPORT

For the Year Ended 31 March 2007

The assistance of the Authority's staff and management in providing help and information is gratefully acknowledged.

Report Distribution

This report has been distributed to:-

- All Members of Kent County Council
- Managing Directors and Directorates' Senior Management
- PricewaterhouseCoopers

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Kent County Council Internal Audit Annual Report 2006/07

I. Overview

1. Purpose

The purpose of the Internal Audit Annual Report is to:

- Report on key developments in both the Authority and the local government environment which have impacted upon the work and performance of Internal Audit in the year ended 31 March 2007;
- Highlight key challenges and priorities for the forthcoming year;
- Provide an assurance as to the adequacy and effectiveness of the Council's internal control, risk management and governance processes.
- Provide a review of internal audit activity, showing internal audit's objectives, performance and progress for the year ended 31 March 2006;

2. Key Developments in 2006/07

Restructure of KCC's Finance Function

The restructure of the Finance Function brought together the functions of Internal Audit, Risk Management and Insurance, and created the post of Head of Audit & Risk to manage these functions and develop a strategic approach to risk management. This post was unfilled until September 2006, when I was seconded into the post for a period of 12 months. A recruitment exercise is currently underway to find a permanent Head of Audit & Risk.

My focus during my secondment has been to:

- Integrate risk management into our audit planning process
- Develop a modernised approach to audit planning
- Review the working practices, processes and effectiveness of the Internal Audit team
- Ensure risk management continues to be embedded in the Council's procedures

The Chief Officer Group and the Governance and Audit Committee have received reports on my proposals for delivering the first two bullet points above. The process began back in December 2006, putting the infrastructure in place to enable this to happen. Progress is on target, and the second half of the 2007/08 audit plan will be developed using the integrated approach set-out in the report to Governance & Audit Committee in December 2006.

The review of effectiveness of the Internal Audit team has been an interesting piece of work. The team have engaged fully in the process and indeed, many of the ideas for change have come from within the team, or where not, been fully acknowledged by the team as needing to be changed. Virtually all processes have been reviewed and many have been streamlined, improved or simply deleted. The bottom-line impact of this review is that we have implemented a new structure, which took effect

Kent County Council Internal Audit Annual Report 2006/07

from 1 April 2007, which will deliver £50,000 per annum cashable savings, and will deliver 2,775 audit days in 2007/08 compared to a target of 2,520 in 2006/07.

A good understanding of Risk management throughout the Authority is vital in a Council like Kent, where the appetite for taking calculated risks is significant, and where services are continuously being transformed to ensure value for money is delivered. We have therefore provided over 100 staff with a one-day workshop on raising awareness of risk management, and will be following this up with meetings with every business unit to help map risks and controls relevant to those Units' business objectives.

Accounts & Audit Regulations 2006

With effect from 1 April 2006, amendments to the Accounts & Audit Regulations require that an annual review of the Council's system of internal control must be undertaken. The findings of this review must be considered by "a committee or members of the Council meeting as a whole", following which they must approve a Statement on Internal Control. A new requirement is an annual review of the effectiveness of Internal Audit, the findings of which must be considered, by the same Member group, as part of their consideration of the system of internal control.

We discussed the idea of complying with this new requirement through a Peer Review of our service with other local authorities. For a number of reasons, this never materialised, so we have carried-out a self-assessment, which is an entirely legitimate approach, the outcome of which is shown at Appendix F

Comprehensive Performance Assessment (CPA)

Under the overall 'Use of Resources' category, scores were awarded for each of five 'key lines of enquiry'. A breakdown of the scores, and comparison with the previous year, shows:

Key line of enquiry	2006 Score (1-4)	2005 Score (1 – 4)
financial reporting	4	3
financial standing	4	4
financial management	4	3
internal control	3	3
value for money	4	3
Overall	4	3

The overall results put Kent at the very top of the Use of Resources assessment in the Country. The 'harder test' continues to be just that for 2007 and maintaining this score will require continuous improvement, and even that may not be enough. The 'blemish' on the scorecard for internal control was not unexpected, nor, more positively, was the improvement for financial reporting and management and for value for money. The common thread for these tests is that the work that is needed to achieve these results goes well beyond that of Corporate Finance, and every effort is being made to improve and maintain these exceptional assessments.

Kent County Council Internal Audit Annual Report 2006/07

Freedoms and Flexibilities, and Towards 2010

Excellent status leads to a significant reduction in the number of statutory plans that the Council is required to submit for approval and a reduction in the number of external inspections. It also opens the door to negotiations with central government over a range of other possible freedoms and flexibilities, including opportunities to influence national debate. There is no doubt that this, and the vision encompassed within Towards 2010, has and will continue to encourage greater risk taking among Chief Officers and senior managers of the Council. The challenge for Internal Audit associated with this, is to ensure that risks are taken in the full knowledge of the possible consequences, with the appropriate level of mitigating steps in place to limit any potential financial loss or damage to reputation. Our early involvement in new initiatives, and campaigns to raise awareness of risk management is essential and we have been pro-active in this. In light of this engagement, a revised Risk Management Strategy has been proposed, and risk is now embedded into our decision making. We have supported risk assessments on new projects, such as Kent TV, and have integrated risk assessments into the annual operating plan process.

Partnerships

An audit of partnerships, undertaken by Internal Audit in conjunction with the Audit Commission during 2005/06, revealed that the Council has in excess of 200 arrangements with other bodies, where the shared aim is to improve services.

Partnership working is very much the way things are done in KCC, and this is another example of good practice for which we have been commended. However, whilst there is much to be gained from a release from the bureaucracy of the normal way of doing things, there is increasing risk of losing accountability, financial mismanagement and fraud. The challenge is to get the right level of governance in place, commensurate with the risks posed by each partnership arrangement. Internal Audit has drafted a Risk Assessment guide to working with Partnerships, which is expected to be adopted by the Governance & Audit Committee in June 2007.

3. Key Challenges and Priorities for 2007/08

New external auditors

The Audit Commission (Southern Region) (AC (SR)) have been appointed as our external auditors, replacing PriceWaterhouseCoopers (PwC).

This change will mean building new relationships and new ways of working. It will require negotiations over the reliance that the AC (SR) can place on the work of internal audit. There will inevitably be changes and these need to be agreed and implemented effectively and quickly. This change will be felt across the Council and not just in internal audit, but the role we have to play in a successful transition from PwC to the AC (SR) will be pivotal to the eventual outcome.

Kent County Council Internal Audit Annual Report 2006/07

Comprehensive Performance Assessment

The Corporate Assessment will take place in January 2008 and will be a demanding time for officers and members. We will support the process as required and will produce evidence of our work to support the external assessment.

Objective based auditing

Our new approach to audit planning revolves around the risks and controls attached to the delivery of our business objectives. This should evolve to the point where the Terms of Reference for an audit are compiled at the same time as an audit is added to the audit plan. This approach is untried but will have significant benefits both for the audit team and the subjects of the audit. Delivering this new approach will be a significant, but I believe achievable and rewarding challenge

Comprehensive Spending Review 2007

The impact of this is not yet known, although the working assumptions are that Government funding will be frozen at this year's level. This will require greater efficiency across the Council, and the Internal Audit team will need to have value for money embedded into their audit approach. Quite how is yet to be determined, and getting that agreed across the Council will be an important priority for the incoming Head of Audit & Risk

Kent County Council Internal Audit Annual Report 2006/07

II. Internal Audit Assurance

1. Background

The Importance of Internal Control and Risk Management

KCC's objectives, its internal organisation and the environment in which it operates are continually evolving and, as a result, the risks it faces are continually changing. A sound system of internal control therefore depends upon a thorough and regular evaluation of the nature and extent of the risks to which the Council is exposed. The purpose of internal control is to help manage risk appropriately, rather than to eliminate it, and thereby ensure that the Authority effectively and efficiently achieves its objectives.

Responsibilities

It is a management responsibility to develop and maintain the most appropriate internal control framework and to ensure that resources are properly applied in the manner and on the activities intended. The Council has formalised this by requesting all Managing Directors to annually review and report upon the adequacy of controls in their directorates and submit controls assurance statements to the Chief Accountant.

It is the responsibility of Internal Audit to form an independent opinion, based on audit reviews performed, on the adequacy and effectiveness of the system of internal control and report this to the Governance & Audit Committee.

Statement on Internal Control

The Accounts & Audit Regulations 2006 requires the Council to conduct a review at least once a year of the effectiveness of its system of internal control and to include a statement on internal control, prepared in accordance with proper practice, in its annual accounts.

Kent's approach is to produce a combined governance and control statement, which is informed by a review derived from three key components:

- Self-certification statements prepared by all Managing Directors
- A review of financial controls undertaken by the Director of Finance
- The Internal Audit opinion presented within this report

2. 2005/2006 Audit Assurance

Basis of Audit Assurance

The Internal Audit Section has conducted audits in accordance with auditing standards contained within the CIPFA Code of Practice for Internal Audit in Local Government in the United Kingdom, which have been accepted by Members of the Governance & Audit Committee as the standard to which the Section works and

Kent County Council Internal Audit Annual Report 2006/07

against which performance is evaluated. Audits were planned and performed so as to obtain all the information and explanations considered necessary to gain assurance as to the level of control within the Authority.

Audit Assurance (defined assurances are denoted in italics and detailed in Appendix B):

INTERNAL CONTROLS

Based on the audit work undertaken throughout the year, irregularity investigations and any other relevant information, our overall opinion is that there is ***substantial*** assurance as to the level of control for the management of financial risk in the Council. The standard of budgetary control, particularly for the revenue budget, continues to operate at a good level. The estimating of the timing of delivery of capital projects remains an area for improvement.

In respect of operational risk, our opinion is that there is also ***substantial*** assurance as to the standard of control in place to ensure that business objectives are achieved. However, the main areas of concern still include the recruitment of staff in schools, although much has been and continues to be done to reduce our risks in this area, and is now under regular review by the Governance & Audit Committee. There is also limited assurance around business continuity and disaster recovery planning.

CORPORATE GOVERNANCE AND RISK MANAGEMENT

Based on an annual health check, our overall opinion is that there is ***substantial*** assurance as to the Council's arrangements for Corporate Governance. The governance of partnerships remains an area for improvement, although a robust plan is in place to improve this area, as agreed at the March meeting of the Governance & Audit Committee. In relation to risk management, the process to manage risks remains sound and risk registers have been updated to reflect changing risks.

Recommendations to improve control of risks identified through internal audit activity have been discussed with, and accepted by relevant managers, and will be followed up by Internal Audit during 2007/08. Progress with the implementation of actions agreed by managers for implementation during 2006/07 is summarised in Appendix E. This shows that 84% of all recommendations that should have been implemented by the end of April 2007 had been put in place. I am satisfied, in the main, with the reasons given for the other 16% that haven't yet been implemented, which include improvements in technology that make those recommendations outdated.

Kent County Council Internal Audit Annual Report 2006/07

III. Irregularities

The Authority's Financial Regulations require managers to report all suspected irregularities to Internal Audit. During 2006/7, 22 instances of irregular activity were reported and investigated either wholly or in part by the Section. These are summarised below by directorate. The financial loss to the County Council was potentially £211.331, of which over £170,000 has been recovered so far.

Directorate	KCC Resource	Non-KCC Resource	2006/07 Reported Irregularities
Children, Families and Education	11		11
Adult Social Services	4		4
Chief Executive's Department	5		5
Environment & Regeneration	2		2
Communities	0		0
Total	22		22

The number of reported cases has decreased since last year from 27 to 22 and there has been a corresponding decrease in the amount of time spent on investigations. The number of cases of e-mail and internet misuse has reduced, although these are still the most common type of irregularity reported, for which Internal Audit has provided evidence of misuse to support the disciplinary process. Nine members of staff have been suspended in total, of which three chose to resign, and one was issued with a warning. Four cases have been referred to the police. Analysis of the types of incidences reported for each directorate is shown in the following table.

Type of incident reported	CF&E	ASS	CED	E&R	CMY	2006/07 total
Theft of equipment/assets		1				1
Theft/misappropriation of KCC monies	3	1	1			5
Theft of clients'/other organisations monies						
Abuse of e-mail/Internet facilities	6		1	1		8
Misuse of assets						
Victim of external fraud		2	3			5
Inappropriate staff appointments						
Allegations of financial mis-management or misconduct	2			1		3
Total	11	4	5	2		22

All notified irregularities are recorded on a database from which it is possible to analyse the control failures that have occurred. This information is in our assessment of relative risk in the process of preparing the annual audit plan. Five of the above cases were perpetrated because of weaknesses in control systems.

Kent County Council Internal Audit Annual Report 2006/07

IV. Internal Audit Activity

1. Mission Statement

Internal Audit's mission is to support service delivery by providing an independent and objective evaluation of our clients' ability to accomplish their business objectives and manage their risks effectively. Our purpose, authority and responsibility are defined within the Internal Audit charter attached at Appendix A.

2. Our Services

Our primary objective is to satisfy Kent County Council's statutory duty under the Accounts & Audit Regulations - to maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with proper internal audit practices. By examining and providing independent assurance about the processes and other measures instituted by managers to control both financial and operational risk, we contribute to the corporate governance of KCC. In so doing, we play a part in achieving the strategic aims of the Authority.

In recognition of the statutory requirement and in accordance with the Code of Practice for Internal Auditing in Local Government in the United Kingdom (CIPFA 2003) the Governance & Audit Committee has resolved that it is the responsibility of Internal Audit to review, appraise and report upon:

- the soundness, adequacy and application of financial and other management controls
- the extent of compliance with, relevance and financial effect of, established policies, plans and procedures
- the extent to which the organisation's assets and interests are accounted for and safeguarded from losses of all kinds arising from:
 - fraud and other offences
 - waste, extravagance and inefficient administration, poor value for money and other causes
- the suitability and reliability of financial and other management data developed within the organisation.

To fulfil our responsibilities, the main services provided are:

- **risk-based audit reviews**, targeting audit resources to the testing of financial and operational processes in accordance with the risk to which they expose the Council, and offering advice as to the mitigation of any risks identified;
- **ICT audit**, delivering reviews of the specialist control environment for the Council's hardware, software and network;
- **Investigation of irregularities**, providing discreet enquiries into cases of actual or alleged cases of fraud or corruption, including liaison with the Police and other investigatory bodies;
- **Provision of advice** on internal control and the management of risk

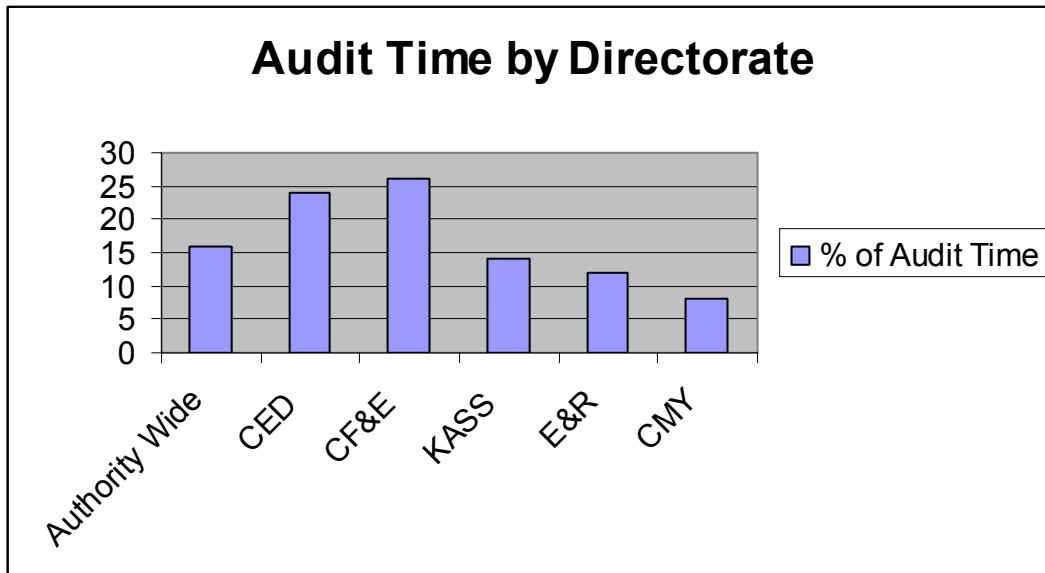
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- **Reporting** of assurances and advice to KCC clients, culminating in this report to Governance & Audit Committee, to provide an overall opinion as to the adequacy of the control environment within the County Council.

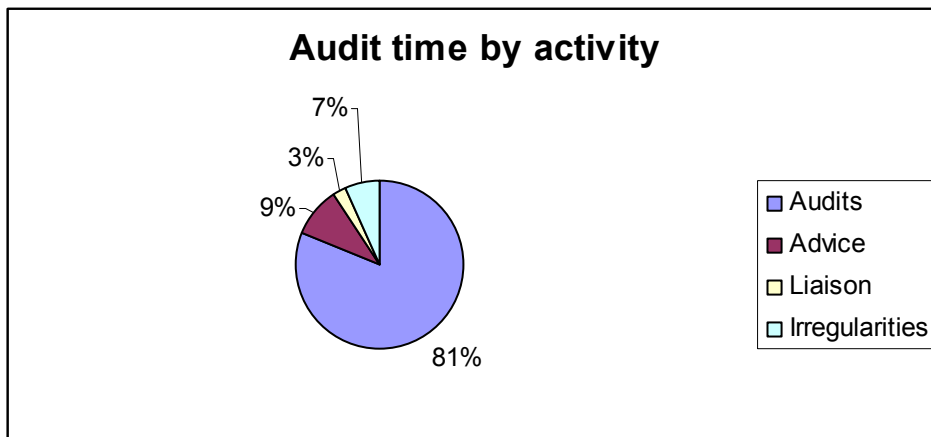
3. Time spent by Directorate and Activity

In 2006/2007 the Internal Audit section spent 81% of total available time in providing audit services.

Although the Section carried out fee based work for external clients including the Kent Fire & Rescue Service, this report analyses the services provided to our primary client, Kent County Council. An analysis of time spent on services for different directorates is shown in the following graph:



This is the first year of the new structure of the Council and there is not therefore a direct comparison of time spent in 2005/06. An analysis of time spent on different types of audit work is shown in the following graph:



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A summary of all the audits reported during the year is given in Appendices C and D to this report.

5. Internal Audit Performance

Performance indicators to facilitate monitoring of the Internal Audit Section's efficiency and effectiveness were agreed by members of the Audit Committee at their meeting on 3 March 2004. These indicators are incorporated into the Section's business plan and are monitored regularly. The outturn for 2006/07 is shown below:

PERFORMANCE INDICATOR	TARGET	OUTTURN
<p><u>Productivity and Efficiency</u> Delivery of audits:</p> <ul style="list-style-type: none"> • Available time spent on direct audit work • Planned audits delivered <p>Delivery date:</p> <ul style="list-style-type: none"> • Draft reports completed within 15 days of finishing fieldwork <p>Overall service:</p> <ul style="list-style-type: none"> • Preparation of the annual audit plan • Periodic reports on progress • Preparation of annual internal audit report 	<p style="text-align: center;">75%</p> <p style="text-align: center;">90%</p> <p style="text-align: center;">89%</p> <ul style="list-style-type: none"> • By March • To all Committee meetings • To coincide with assurance statement 	<p style="text-align: center;">81%</p> <p style="text-align: center;">80%</p> <p style="text-align: center;">80%</p> <p>Reported:</p> <ul style="list-style-type: none"> • 7.3.07 • July, Sept, Dec, March • 29.6.07
<p>Delivery of service within budget: Internal Audit budget actually spent</p>	100% by year end	82%
<p><u>Quality of service</u> Feedback from client questionnaires:</p> <ul style="list-style-type: none"> • Questions responded to positively <p>Feedback from External Auditors:</p> <ul style="list-style-type: none"> • External Audit place reliance on the work of Internal Audit 	<p style="text-align: center;">93%</p> <p style="text-align: center;">Positive External Audit report</p>	<p style="text-align: center;">90%</p> <p style="text-align: center;">Positive report from PwC</p>
<p><u>Staff Management</u></p> <ul style="list-style-type: none"> • permanent staff in post at 31/3/07 • staff with relevant qualifications 	<p style="text-align: center;">94%</p> <p style="text-align: center;">60%</p>	<p style="text-align: center;">100%</p> <p style="text-align: center;">59%</p>

Productivity and Efficiency

Targets for delivery of the audit plan have not been met, although performance has increased since 2004/05 from 72% to 74% in 2005/06, and from 74% to 80% in 2006/07. Some of the reasons for not achieving the target are as follows:

- Many audits were delayed during the year at the request of managers who had competing pressures on their time, which had a knock-on impact on the

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scheduling of replacement audits. In addition managers were improving or reviewing their own systems and processes which affected the timing of audits.

- Although the Section has generally had its full complement of staff, it has lost 119 days due to sickness, which has affected our ability to deliver the audit plan.
- During the last six months of the year, we have reviewed our own systems and processes in order to provide a better and improved service to the Authority. This has included a large project involving the technology (TeamMate) that is used within the Section as well as reviewing reports, working papers, and the approach to audit planning.

Cost Effectiveness

Kent Audit is a member of the CIPFA/IPF Audit Benchmarking Club. Through this, information about our costs and productivity is compared against other county councils in our group, including Essex, Hampshire, Hertfordshire, Lancashire, Norfolk, Nottinghamshire, Staffordshire and Surrey. The figures for 2006/07 were not available from IPF at the time of writing this report, nor are budgeted figures for 2007/08

Quality of service

Following the issue of each final audit report, managers are invited to express their views on the way in which the audit was conducted. Responses are regularly reviewed and used to reconsider working practices and address skill gaps. The responses for the year have been collated, and in 2006/07 the overall level of satisfaction was 90%. Comparison with previous years is shown in the following table:

Year	Customer Satisfaction
2001/2002	93%
2002/2003	94%
2003/2004	93%
2004/2005	92%
2005/2006	93%
2006/2007	90%

The overall level of satisfaction has decreased from last year, although this is mainly due to some adverse comments we received on a small number of contracted-out audits. That contract came to an end on 31 March 2007. More positively, more people said that the recommendations made helped them to solve control weaknesses. Responses to specific questions producing the following statistics are shown below (last year's results are shown in brackets):

- **96% (94%) considered the audit was worthwhile and added value to their work.**
- **94% (76%) felt that the recommendations helped to solve the control weaknesses and manage the risks identified in the audit.**

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- **95% (100%) felt that the audit was conducted in a professional and courteous manner.**

External Audit view of Internal Audit

Internal Audit is subject to continuous assessment and examination each year by PricewaterhouseCoopers (PwC). For the seventeenth consecutive year PwC expressed their confidence in the Section and stated that they have placed reliance upon the work carried out by the Section in their audit of the Authority's financial statements and performance.

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V. Introduction to Appendices

Appendix A Internal Audit Charter

Appendix B Definitions of Audit Assurance Levels

Appendix C Analysis of Audit Assurances

An analysis of the audit opinions provided for each audit conducted during 2006/2007, within each directorate, expressed according to the type of risk addressed and, for financial risk, the Financial Control Framework category.

Appendix D Summary of audit assurances by directorate and risk category

A summary of the audit opinions provided to directorates during 2006/2007, expressed against the type of risk addressed and, for financial risk, the Financial Control Framework category.

Appendix E Summary of Progress with Implementation of Audit Recommendations

A summary of assurances provided by managers as to the implementation of action to address risks identified in audit reports by dates agreed during the audits. Recommendations due to be implemented by April 2007 from all audits undertaken since April 2006 have been followed up.

Appendix F Review of the effectiveness of internal audit

Appendix G Internal Audit Contacts

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Appendix A

Internal Audit Charter

Introduction:

This charter formally defines the purpose, authority and responsibility of Internal Audit within Kent County Council.

Purpose:

Internal Audit is an assurance function that primarily provides an independent and objective opinion to the organisation on the control environment comprising risk management, control and governance, by evaluating its effectiveness in achieving the organisation's objectives. It objectively examines, evaluates and reports on the adequacy of the control environment as a contribution to the proper, economic, efficient and effective use of resources. Source: CIPFA Code of Practice for Internal Audit in Local Government in the UK (2006).

KCC's mission statement is, "To support service delivery by providing an independent and objective evaluation of our clients' ability to accomplish their business objectives and manage their risks effectively".

Authority:

The requirement for the Council to 'maintain an adequate and effective system of internal audit of its accounting record and its systems of internal control' is contained in the Accounts and Audit Regulations 2003 (amended 2006). This supplements the requirements of Section 151 of the Local Government Act 1972 for the Authority to make arrangements for the proper administration of its financial affairs and to ensure that one of its officers has responsibility for the administration of those affairs. The council has delegated this responsibility to the Director of Finance.

Responsibility

It is the responsibility of management to establish and maintain systems of corporate governance, risk management and internal control to provide assurance that the Council's objectives are being achieved and to minimise the risk of fraud or irregularity.

Internal Audit will contribute to the corporate governance process by providing an assurance on the effectiveness of these systems of risk management and internal control, making practical recommendations for enhancements where considered necessary. Management has responsibility to implement audit recommendations or accept the risks resulting from not taking action. However, Internal Audit will consider taking matters to higher levels of management or to the Governance and Audit Committee, if it is felt that the risk should not (or need not) be borne.

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Professional Standards:

KCC's Internal Audit activity will conform to standards and guidance contained in CIPFA's 'Code of Practice for Internal audit in Local government in the UK' (2006). This is structured around eleven organisational and operational standards, including minimum standards for the performance and conduct of internal auditors.

Independence and Objectivity

Internal Audit will be sufficiently independent of the activities it audits to enable auditors to perform their duties in a manner that facilitates impartial and effective professional judgements and recommendations.

The Head of Audit and Risk will have free and unrestricted access and freedom to report in his/her own name to the Director of Finance and Chairman of the Governance and Audit Committee.

In addition, Internal Audit will be responsible for determining its priorities based on an evaluation of risk. Auditable areas which are deemed to represent the most significant controls that are operating in order that KCC delivers its business objectives are identified from directorates', annual operating plans, consultation with managers and Internal Audit's experience of the directorates. These are used to determine the strategic and annual audit plans. The audit plan will be flexible enough to accommodate the needs of senior management and Members depending on the relative significance of emerging risks. The Governance and Audit Committee will approve the plan and at each of its meetings will receive reports summarising significant finding of audit work undertaken.

Internal Audit will also report to the Governance and Audit Committee, at each of its meetings, progress on the directorates' implementation of recommendations made by Internal Audit.

Objectivity will be preserved by ensuring that all members of staff are free from any conflicts of interest and do not undertake any duties that they could later be called upon to audit, including where members of staff have been involved in, for example working groups, consultancy etc.

Audit Scope

Internal Audit activity will be undertaken to provide assurance to the Director of Finance and the Governance and Audit Committee as to the adequacy and effectiveness of the Councils' systems for corporate governance, risk management and internal control. It will include:

- Reviewing the soundness, adequacy and application of financial and other management controls;
- Reviewing the extent of compliance with, relevance and financial impact on strategic and operational goals of established policies, plans and procedures;

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- Reviewing the extent to which the organisation's assets and interests are accounted for and safeguarded from losses arising from:
 - Fraud and other offences
 - Waste, extravagance and inefficient administration, poor value for money and other causes
- Reviewing the suitability and reliability of financial and other management data developed within the organisation
- Reviewing awareness of risk and its control and providing advice to management on risk mitigation and internal control in financial or operational areas where new systems are being developed or where improvements are sought in the efficiency of existing systems
- Promote and raise fraud awareness

Internal Audit is not relieved of its responsibilities in areas of the Authority's business that are subject to review by others but will assess the extent to which it can rely upon the work of others and co-ordinate its audit planning with the plans of such review agencies.

The Head of Audit and Risk will provide an annual audit opinion as to the adequacy of the Councils internal controls and risk management processes. This will be used to support the Statement of Internal Control.

Fraud and Irregularity

Internal Audit does not have to investigate all cases of potential frauds and irregularities, however they must all be reported to the Head of Audit and Risk or the Senior Audit Manager. Internal Audit will report to the Governance and Audit Committee at the conclusion of each investigation, a summary of the fraud/irregularity, control weaknesses and the outcome. If a significant fraud or irregularity is identified this will be brought to the attention of the Chairman of the Governance and Audit Committee at the time of the investigation.

Right of Access

To fulfil its objectives, Internal Audit will be granted unrestricted access to all staff, Members records (documentary and electronic), assets and premises, deemed necessary in the course of its duties.

Review of the Effectiveness of the System of Internal Audit

In accordance with the Accounts and Audit Regulations (2006), there is a requirement for an annual review of the effectiveness of the system of internal audit, this is also part of the wider annual review of the effectiveness of the system of internal control. The Head of Audit and Risk will carry out an annual review of the Internal Audit function which will be reported to the Governance and Audit Committee to enable it to consider the findings of the review. In addition, the Head of Audit and Risk will arrange for an independent review to be carried out, at least every three/five years which will be reported to the Governance and Audit Committee.

June 2007

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Appendix B

Definitions of Audit Assurance Levels

ASSURANCE LEVEL	SUMMARY DESCRIPTION	DETAILED DEFINITION
High	Strong controls in place and complied with.	The system/area under review is not exposed to foreseeable risk, as key controls exist and are applied consistently and effectively.
Substantial	Controls in place but improvements beneficial.	There is some limited exposure to risk of error, loss, fraud, impropriety or damage to reputation, which can be mitigated by achievable measures. Key or compensating controls exist but there may be some inconsistency in application.
Limited	Improvements in controls or the application of controls required.	The area/system is exposed to risks that could lead to failure to achieve the objectives of the area/system under review e.g., error, loss, fraud/impropriety or damage to reputation. This is because, key controls exist but they are not applied, Or there is significant evidence that they are not applied consistently and effectively.
Minimal	Urgent improvements in controls or the application of controls required.	The authority and/or service is exposed to a significant risk that could lead to failure to achieve key authority/service objectives, major loss/error, fraud/impropriety or damage to reputation. This is because key controls do not exist with the absence of at least one critical control, Or there is evidence that there is significant non-compliance with key controls.

Analysis of Audit Assurances

Report	Directorate	Audit Plan	Overall Opinion	Financial Risks									Operational Risks		
				Budget Mngment	Payroll	Payment	Income	Banking & Cash Handling	Accounting Systems & Processes	Resource Mngment	General Financial Control	Procurement	Governance	Business Process	Info System
	Authority-wide														
Sep 06	Brought forward from 2005/06 Plan Financial Delegations	✓	S								S				
Sep 06	Risk Management	✓	S									S			
Sep 06	Partnership Arrangements	✓	L									L			
Sep 06	Local Public Service Agreements 2	✓	S										S		
Sep 06	Capital Management	✓	L	L									L		
Sep 06	2006/07 Plan Remote Access, VPNs & Thin Client	✓	S												S
Dec 06	<i>ICT Policy & Strategy Documentation</i>	✓	S									S			
June 07	Trading Companies	✓	L											L	
June 07	BS57799	✓	H											H	
June 07	Telephone PBX	✓	S											S	
June 07	<i>Follow up ICT Disaster Recovery</i>	✓	L											L	

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KEY - AUDIT ASSURANCES:
Assurances for key systems shown in bold

H = High

S = Substantial

L= Limited

M = Minimal

Report	Directorate	Audit Plan	Overall Opinion	Budget Mngment	Payroll	Payment	Income	Banking & Cash Handling	Accounting Systems & Processes	Resource Mngment	General Financial Control	Procurement	Governance	Business Process	Info System
	Chief Executive's Department														
Sep 06	Brought forward from 2005/06 Plan Income and Debt Recovery	✓	L				L								
Sep 06	Enterprise	✓	L							L					
Sep 06	Microsoft Exchange	✓	S												S
Sep 06	Network Management	✓	S												S
Sep 06	Commercial Services Debt Management	✓	S				S								
Sep 06	2006/07 Plan Accounts Closedown	✓	S						S						
Dec 06	Treasury Management & CHAPS	✓	S			S				S					
Mar 07	IDOX Document Imaging & Management System	✓	S											S	S
Mar 07	Bank Reconciliations	✓	S						S						
Mar 07	Tender Opening Procedures	✓	S									S			
Mar 07	Members Expenses	✓	S												

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KEY - AUDIT ASSURANCES: H = High S = Substantial L= Limited M = Minimal
Assurances for key systems shown in bold

Report	Directorate	Audit Plan	Overall Opinion	Budget Mngment	Payroll	Payment	Income	Banking & Cash Handling	Accounting Systems & Processes	Resource Mngment	General Financial Control	Procurement	Governance	Business Process	Info System
Mar 07	Commercial Services Suspense Accounts & In Tray	✓	S						S						
Mar 07	Revenue Budget Management	✓	S	S											
Mar 07	VAT Sports Lettings	✓	L					L							
June 07	VAT provision of asylum seekers services	✓	S				S								
June 07	Payroll	✓	S		S										
June 07	Physical Security & Environmental Controls	✓	S												
June 07	VAT payments to providers of Care (Adult Social Services)	✓	S				S								
June 07	Technical Administration of the Oracle Financial, HR & Payroll System	✓	S												S
June 07	Commercial Services CODA	✓	S												S
June 07	Commercial Services Insurance Funds	✓	L						L						

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KEY - AUDIT ASSURANCES:
Assurances for key systems shown in bold

H = High

S = Substantial

L= Limited

M = Minimal

Report	Directorate	Audit Plan	Overall Opinion	Budget Mngment	Payroll	Payment	Income	Banking & Cash Handling	Accounting Systems & Processes	Resource Mngment	General Financial Control	Procurement	Governance	Business Process	Info System
	Children, Families & Education														
Sep 06	<i>Brought forward from 2005/06 Plan</i> Use of IT Equipment in Educational Establishments	✓	L												L
Sep 06	Children's Centres	✓	M								M				
Sep 06	2006/07 Plan Recruitment Procedures in Schools follow up	✓	M											M	
Mar 07	VAT Sports Lettings	✓	L						L						
Mar 07	Home to School Transport Mainstream	✓	H	H											
Mar 07	Home to School Transport AEN	✓	H	H											
June 07	Foster & Adoption Payments	✓	S			S									
June 07	Schools Advisory Service	✓	H												
June 07	Student Awards	✓	H											H	
June 07	Attendance & Behaviour Safer Schools	✓	S											S	
June 07	Schools Managed Capital Projects	✓	S							S					

KEY - AUDIT ASSURANCES:
Assurances for key systems shown in bold

H = High

S = Substantial

L= Limited

M = Minimal

Report	Directorate	Audit Plan	Overall Opinion	Budget Mngment	Payroll	Payment	Income	Banking & Cash Handling	Accounting Systems & Processes	Resource Mngment	General Financial Control	Procurement	Governance	Business Process	Info System
	Adult Social Services														
Sep 06	<i>Brought forward from 2005/06 Plan</i> Direct Payments	✓	S			S									
Sep 06	Canterbury DOS	✓	S								S				
Sep 06	2006/07 Plan Gypsy Unit – Income Collection	✓	M				M								
Sep 06	Longfield TRACS	✓	S								S				
Sep 06	Thanet DOS - Follow up	✓	S								S				
Dec 06	Shepway Resource Centre	✓	S								S				
Dec 06	Riverside Day Service	✓	H								H				
June 07	Swift pre Implementation Review	✓	S												S
June 07	Domiciliary Care TDM	✓	L			L									
June 07	Former Self Funders	✓	L											L	
June 07	Residential Care Mental Health Payments	✓	S			S									
June 07	Voluntary Organisations	✓	S			S									

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KEY - AUDIT ASSURANCES:
Assurances for key systems shown in bold

H = High

S = Substantial

L= Limited

M = Minimal

Report	Directorate	Audit Plan	Overall Opinion	Budget Mngment	Payroll	Payment	Income	Banking & Cash Handling	Accounting Systems & Processes	Resource Mngment	General Financial Control	Procurement	Governance	Business Process	Info System
	Environment & Regeneration														
Sep 06	<i>Brought forward from 2005/06 Plan</i> Planning Applications	✓	S				S								
Dec 06	2006/07 Plan Environmental Information Regulations	✓	H											H	
Mar 07	Public Transport Contracts	✓	L									L			
June 07	Transport Network Management	✓	S	S											
June 07	KHS Coastal Protection	✓	L						L						
	Communities Directorate														
Mar 07	2006/07 Plan <i>Kent Drug & Alcohol Team</i>	✓	S	S											
Mar 07	<i>Adult Education Fee Income</i>	✓	S				S								
June 07	Youth & Community	✓	H					H							
June 07	Libraries	✓	S											S	

KEY - AUDIT ASSURANCES: H = High S = Substantial L= Limited M = Minimal
Assurances for key systems shown in bold

Summary of Audit Assurances - by Directorate and Risk Category

Directorate	FINANCIAL RISK							OPERATIONAL RISK			
	Budget Management	Payroll	Expenditure	Income	Banking & Cash Handling	Accounting Systems & Processes	General Financial Control	Resource Management	Governance & Legal	Business systems	Information Systems
Authority wide	L						S		S	L	S
Chief Executive's Department	S	S	S	S	L	S		S	S		S
Children Families & Education	H		S			L	M	S		L	L
Adult Social Services			S	M			S				S
Environment & Regeneration	S			S		L	L			H	
Communities	S			S	H					S	
OVERALL	S	S	S	S	S	S/L	S	S	S	S	S
2005/06 OVERALL	S	L	S	L	S	S	S	S	S	L	L

KEY - AUDIT ASSURANCES: H = High S = Substantial L = Limited M = Minimal
 Assurances for key systems shown in bold

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Appendix E

Summary of Progress with the Implementation of Audit Recommendations

Directorate	Total actions due to be implemented by end of April 2007	Actions in place
Section 151 and Governance	39	34
Authority Wide	24	12
Chief Executive's Department	43	34
Children Families & Education	56	54
Adult Social Services	81	77
Communities	40	30
Environment & Regeneration	14	9
Total	297	250

The Review of the Effectiveness of the System of Internal Audit

The Accounts and Audit (Amendment) (England) Regulations came into force on 1 April 2006. Whilst many of the amendments clarify or correct elements of the 2003 Regulations, two of the amended regulations in particular have an impact on the process for preparing the SIC.

Regulation 4 requires the finding of the review of the system of internal control to be considered by a committee of the relevant body, or by members of the body meeting as a whole.

Regulation 6 requires bodies to review the effectiveness of their system of internal audit once a year and for the findings of the review to be considered by a committee of the body, or by the body as a whole, as part of the consideration of the system of internal control referred to in regulation 4.

The Department for Communities & Local Government (DCLG) cites the CIPFA Code of Practice for Internal Audit in local government in the United Kingdom as proper practice in relation to internal audit. The 2006 update was published in December and includes an Internal Audit Checklist (Appendix X).

Internal Audit had a review in 2003 by our external auditors PwC who made a number of recommendations, this was reported to the then Audit Committee in x. Progress on the implementation of the recommendations was reported to the March 2004 Audit Committee.

For 2006 07 Internal Audit has carried out a self assessment using the CIPFA Internal Audit Checklist which has 11 'Standards' and 37 sub headings.

Generally, Internal Audit, meets the majority of the expected standards set out in the Checklist. Where there are gaps, an action plan has been prepared to address these. For 2007/08, KCC's external auditors, the Audit Commission, will be carrying out an independent review.

CODE OF PRACTICE - INTERNAL AUDIT CHECKLIST – 2006

Please tick to indicate Y = YES, P = PARTIAL, N = NO. Where you tick 'partial' or 'no', you should give reasons for any non-compliance, and any compensating measures in place or actions in progress to address this.

Ref		Y	P	N	Evidence
1	SCOPE OF INTERNAL AUDIT				
1.1	Terms of Reference				
1.1.1	Do terms of reference:				
	a) establish the responsibilities and objectives of Internal Audit?	Y			
	b) establish the organisational independence of Internal Audit?	Y			
	c) establish the accountability, reporting lines and relationships between the Head of Internal Audit and:				
	i) those charged with governance?	Y			
	ii) those parties to whom the Head of Internal Audit may report?	Y			
	d) recognise that Internal Audit's remit extends to the entire control environment of the organisation?	Y			
	e) identify Internal Audit's contribution to the review of the effectiveness of the control environment?	Y			
	f) require and enable the Head of Internal Audit to deliver an annual audit opinion?	Y			
	g) define the role of Internal Audit in any fraud-related or consultancy work [see also 1.3.2)?	Y			
	h) explain how Internal Audit's resource requirements will be assessed?	Y			
	i) establish Internal Audit's right of access to all records, assets, personnel and premises, including those of partner organisations, and its authority to obtain such information and explanations as it considers necessary to fulfil its responsibilities?	Y			
1.1.2	Does the Head of Internal Audit advise the organisation on the content and the need for subsequent review of the terms of reference?	Y			
1.1.3	Have the terms of reference been formally approved by the organisation?	Y			
1.1.4	Are terms of reference regularly reviewed?	Y			
1.2	Scope of Work				
1.2.1	Are the organisation's assurance, risk management arrangements and monitoring mechanisms taken into account when determining Internal Audit's work and where effort should be concentrated?	Y			
1.2.2	Where services are provided in partnership has the Head of Internal Audit identified:				
	a) how assurance will be sought?	Y			
	b) agreed access rights where appropriate?	Y			

Appendix F

Ref		Y	P	N	Evidence
1.3	Other Work				
1.3.1	Where Internal Audit undertakes consultancy and/or fraud and corruption work, does it have the: a) skills, and b) resources to do this?	Y Y			
1.3.2	Do the terms of reference define Internal Audit's role in: a) fraud and corruption? b) consultancy work?	Y Y			
1.4	Fraud and Corruption				
1.4.1	Has the Head of Internal Audit made arrangements, within the organisation's anti-fraud and anti-corruption policies, to be notified of all suspected or detected fraud, corruption or impropriety?	Y			
2	INDEPENDENCE				
2.1	Principles of Independence				
2.1.1	Is Internal Audit: a) independent of the activities it audits? b) free from any non-audit [operational) duties?	Y Y			
2.1.2	Where internal audit staff have been consulted during system, policy or procedure development, are they precluded from reviewing and making comments during routine or future audits?		P		
2.2	Organisational Independence				
2.2.1	Does the status of Internal Audit allow it to demonstrate independence?	Y			
2.2.2	Does the Head of Internal Audit have direct access to: a) officers? b) members?	Y Y			
2.2.3	Does the Head of Internal Audit report in his or her own name to members and officers?	Y			
2.2.4	a) Is there an assessment that the budget for Internal Audit is adequate? b) Does any budget delegated to service areas ensure that: i) Internal Audit adherence to the Code is not compromised? ii) the scope of Internal Audit is not affected? iii) Internal Audit can continue to provide assurance for the Statement on Internal Control?	Y N/A			
2.3	Status of the Head of Internal Audit				

Appendix F

Ref		Y	P	N	Evidence
2.3.1	Is the Head of Internal Audit managed by a member of the corporate management team?	Y			
2.4	Independence of Internal Audit Contractors				
2.4.1	Does the planning process recognise and tackle potential conflicts of interest where contractors also provide non-internal audit services?	N/A			
2.5	Declaration of Interest				
2.5.1	Do audit staff make formal declarations of interest?	Y			
2.5.2	Does the planning process take account of the declarations of interest registered by staff?	Y			
3	ETHICS FOR INTERNAL AUDITORS				
3.1	Purpose				
3.1.1	Does the Head of Internal Audit regularly remind staff of their ethical responsibilities?		P		
3.2	Integrity				
3.2.1	Has the internal audit team established an environment of trust and confidence?	Y			
3.2.2	Do internal auditors demonstrate integrity in all aspects of their work?	Y			
3.3	Objectivity				
3.3.1	Are internal auditors perceived as being objective and free from conflicts of interest?	Y			
3.3.2	Is a time period set by the Head of Internal Audit for staff where they do not undertake an audit in an area where they have had previous operational roles?		P		
3.3.3	Are staff rotated on regular/annually audited areas?		P		
3.4	Competence				
3.4.1	Does the Head of Internal Audit ensure that staff have sufficient knowledge of: <ul style="list-style-type: none"> a) the organisation's aims, objectives, risks and governance arrangements? b) the purpose, risks and issues of the service area? c) the scope of each audit assignment? d) relevant legislation and other regulatory arrangements that relate to the audit? 		P		
3.5	Confidentiality				
3.5.1	Do internal audit staff understand their obligations in respect to confidentiality?	Y			
4	AUDIT COMMITTEES				
4.1	Purpose of Audit Committee				
4.1.1	Does the organisation have an independent audit committee?	Y			

Appendix F

Ref		Y	P	N	Evidence
4.2	Internal Audit's Relationship with the Audit Committee				
4.2.1	Is there an effective working relationship between the audit committee and Internal Audit?	Y			
4.2.2	Does the committee approve the internal audit strategy and monitor progress?	Y			
4.2.3	Does the committee approve the annual internal audit plan and monitor progress?	Y			
4.2.4	Does the Head of Internal Audit: a) attend the committee and contribute to its agenda? b) participate in the committee's review of its own remit and effectiveness? c) ensure that the committee receives and understands documents that describe how Internal Audit will fulfil its objectives? d) report on the outcomes of internal audit work to the committee? e) establish if anything arising from the work of the committee requires consideration of changes to the audit plan, or vice versa? f) present the annual internal audit report to the committee?	Y Y Y Y	 P	N	
4.2.5	Is there the opportunity for the Head of Internal Audit to meet privately with the audit committee?	Y			
5	RELATIONSHIPS				
5.1	Principals of Good Relationships				
5.1.1	Is there a protocol that defines the working relationship for Internal Audit with: a) management? b) other internal auditors? c) external auditors? d) other regulators and inspectors? e) elected members?	Y Y Y Y	 P		
5.2	Relationships with Management				
5.2.1	Does the Head of Internal Audit seek to maintain effective relationships between internal auditors and managers?	Y			
5.2.2	Is the timing of audit work planned in conjunction with management?	Y			
5.3	Relationships with Other Internal Auditors				
5.3.1	Do arrangements exist with other internal auditors that include joint working, access to working papers, respective roles and confidentiality?	Y			
5.4	Relationships with External Auditors				
5.4.1	Is it possible for Internal Audit and External Audit to rely on each other's work?	Y			

Appendix F

Ref		Y	P	N	Evidence
5.4.2	Are there regular meetings between the Head of Internal Audit and the External Audit Manager?	Y			
5.4.3	Are the internal and external audit plans co-ordinated?	Y			
5.5	Relationships with Other Regulators and Inspectors				
5.5.1	Has the Head of Internal Audit sought to establish a dialogue with the regulatory and inspection agencies that interact with the organisation?			N	
5.6	Relationships with Elected Members				
5.6.1	Do the terms of reference for Internal Audit define the channels of communication with members and describe how such relationships should operate?	Y			
5.6.2	Does the Head of Internal Audit maintain good working relationships with members?	Y			
6	STAFFING, TRAINING AND CONTINUING PROFESSIONAL DEVELOPMENT				
6.1	Staffing Internal Audit				
6.1.1	Is Internal Audit appropriately staffed (numbers, grades, qualifications, personal attributes and experience) to achieve its objectives and comply with these standards?	Y			
6.1.2	Does the Head of Internal Audit have access to appropriate resources where the necessary skills and expertise are not available within the internal audit team?	Y			
6.1.3	Is the Head of Internal Audit professionally qualified and experienced?	Y			
6.1.4	Does the Head of Internal Audit have wide experience of internal audit and management?	Y			
	a) Do all internal audit staff have up-to-date job descriptions?	Y			
	b) Are there person specifications that define the required qualifications, competencies, skills, experience and personal attributes for internal audit staff?	Y			
6.2	Training and Continuing Professional Development				
6.2.1	a) Has the Head of Internal Audit defined the skills and competencies for each level of auditor?	Y			
	b) Are individual auditors periodically assessed against these predetermined skills and competencies?	Y			
	c) Are training or development needs identified and included in an appropriate ongoing development programme?	Y			
	d) Is the development programme recorded, regularly	Y			

Appendix F

Ref		Y	P	N	Evidence
	reviewed and monitored?				
6.2.2	Do individual auditors maintain a record of their professional training and development activities?	Y			
7	AUDIT STRATEGY AND PLANNING				
7.1.1	a) Is there an internal audit strategy for delivering the service? b) Is it kept up to date with the organisation and its changing priorities?	Y Y			
7.1.2	Does the strategy include: a) Internal Audit objectives and outcomes? b) how the Head of Internal Audit will form and evidence his or her opinion on the control environment? c) how Internal Audit's work will identify and address local and national issues and risks? d) how the service will be provided, i.e. internally, externally, or a mix of the two? e) the resources and skills required to deliver the strategy?	Y Y Y Y	P P		
7.1.3	Has the strategy been approved by the audit committee?		P		
7.2	Audit Planning				
7.2.1	Is there a risk-based plan that is informed by the organisation's risk management, performance management and other assurance processes?	Y			
7.2.2	Where the risk management process is not fully developed or reliable, does the Head of Internal Audit undertake his or her own risk assessment process?	Y			
7.2.3	Are stakeholders consulted on the audit plan?	Y			
7.2.4	Does the plan demonstrate a clear understanding of the organisation's functions?	Y			
7.2.5	Does the plan: a) cover a fixed period of no longer than one year? b) outline the assignments to be carried out? c) prioritise assignments? d) estimate the resources required? e) differentiate between assurance and other work? f) allow a degree of flexibility Show Desktop.scf	Y Y Y Y Y Y			
7.2.6	If there is an imbalance between the resources available and resources needed to deliver the plan, is the audit committee informed of proposed solutions?	Y			
7.2.7	Has the plan been approved by the audit committee?	Y			

Appendix F

Ref		Y	P	N	Evidence
7.2.8	If significant matters arise that jeopardise the delivery of the plan, are these addressed and reported to the audit committee?	Y			
8	UNDERTAKING AUDIT WORK				
8.1	Planning				
8.1.1	a) Is a brief prepared for each audit? b) Is the brief discussed and agreed with the relevant managers?	Y Y			
8.1.2	Does the brief set out: a) objectives? b) scope? c) timing? d) resources? e) reporting requirements?	Y Y Y Y Y			
8.2	Approach				
8.2.1	Is a risk-based audit approach used?	Y			
8.2.2	Does the audit approach show when management should be informed of interim findings where key (serious) issues have arisen?		P		
8.2.3	Does the audit approach include a quality review process for each audit?	Y			
8.3	Recording Audit Assignments				
8.3.1	Has the Head of Internal Audit defined a standard for audit documentation and working papers?	Y			
8.3.2	Do quality reviews ensure that the defined standard is followed consistently for all audit work?		P		
8.3.3	Are working papers such that an experienced auditor can easily: a) identify the work that has been performed? b) re-perform it if necessary? c) see how the work supports the conclusions reached?	Y			
8.3.4	Is there a defined policy for the retention of all audit documentation, both paper and electronic?	Y			
8.3.5	Do all retention and access policies conform to appropriate, legislation, i.e. Data Protection Act, Freedom of Information Act, etc and any organisational requirements?	Y			
8.3.6	Is there an access policy for audit files and records?	Y			

Appendix F

Ref		Y	P	N	Evidence
9	DUE PROFESSIONAL CARE				
9.2	Responsibilities of the Individual Auditor				
9.2.1	<p>Are there documents that set out the requirements on all audit staff in terms of:</p> <p>a) being fair and not allowing prejudice or bias to override objectivity?</p> <p>b) declaring interests that could be perceived to be conflicting or could potentially lead to conflict?</p> <p>c) receiving and giving gifts and hospitality from employees, clients, suppliers or third parties?</p> <p>d) using all reasonable care in obtaining sufficient, relevant and reliable evidence on which to base conclusions?</p> <p>e) being alert to the possibility of intentional wrongdoing, errors or omissions, poor value for money, failure to comply with management policy or conflict of interest?</p> <p>f) having sufficient knowledge to identify indicators that fraud or corruption may have been committed?</p> <p>g) disclosing all material facts known to them which, if not disclosed, could distort their reports or conceal unlawful practice?</p> <p>h) disclosing any non-compliance with these standards?</p> <p>i) not using information they gain in the course of their duties for personal use?</p>	Y Y Y Y Y Y Y Y Y			
9.3	Responsibilities of the Head of Internal Audit				
9.3.1	Has the Head of Internal Audit established a monitoring and review programme to ensure that due professional care is achieved and maintained?		P		
9.3.2	Are there systems in place for individual auditors to disclose any suspicions of fraud, corruption or improper conduct?	Y			
10	REPORTING				
10.1	Principles of Reporting				
10.1.1	Is an opinion on the control environment and risk exposure given in each audit report?	Y			
10.1.2	Has the Head of Internal Audit determined the way in which Internal Audit will report?	Y			
10.1.3	Has the Head of Internal Audit set out the standards for internal audit reporting?	Y			
10.1.4	Are there laid-down timescales for reports to be issued?	Y			
10.2	Reporting on Audit Work				
10.2.1	Do the reporting standards include:				

Appendix F

Ref		Y	P	N	Evidence
	a) format of the reports? b) quality assurance of reports? c) the need to state the scope and purpose of the audit? d) the requirement to give an opinion? e) process for agreeing reports with the recipient? f) an action plan or record of points arising from the audit and, where appropriate, of agreements reached with management together with appropriate timescales?	Y Y Y Y Y Y			
10.2.2	Does the audit reporting process include discussion and agreement of reports?	Y			
10.2.3	Has the Head of Internal Audit determined a process for prioritising recommendations according to risk?		P		
10.2.4	Are areas of disagreement recorded appropriately?	Y			
10.2.5	Are those weaknesses giving rise to significant risks that are not agreed drawn to the attention to senior management?		P		
10.2.6	Is the circulation of each audit report determined when preparing the audit brief?	Y			
10.2.7	a) Does the reporting process include details of circulation of that particular audit report? b) Is this included in the brief for each individual audit?	Y		N	
10.2.8	Does the Head of Internal Audit have mechanisms in place to ensure that: a) recommendations that have a wider impact are reported to the appropriate forums? b) risk registers are updated?	Y	P		
10.3	Follow-up Audits and Reporting				
10.3.1	Has the Head of Internal Audit defined the need for and the form of any follow-up action?	Y			
10.3.2	Has the Head of Internal Audit established appropriate escalation procedures for internal audit recommendations not implemented by the agreed date?	Y			
10.3.3	Where appropriate, is a revised opinion given following a follow-up audit and reported to management?	Y			
10.3.4	Are the findings of audits and follow-ups used to inform the planning of future audit work?	Y			
10.4	Annual Reporting and Presentation of Audit				

Appendix F

Ref		Y	P	N	Evidence
	Opinion				
10.4.1	Does the Head of Internal Audit provide an annual report to support the Statement on Internal Control?	Y			
10.4.2	Does the Head of Internal Audit's annual report: <ul style="list-style-type: none"> a) include an opinion on the overall adequacy and effectiveness of the organisation's control environment? b) disclose any qualifications to that opinion, together with the reasons for the qualification? c) present as summary of the audit work from which the opinion was derived, including reliance placed on work by other assurance bodies? d) draw attention to any issues the Head of Internal Audit judges particularly relevant to the preparation of the Statement on Internal Control? e) compare the actual work undertaken with the planned work and summarise the performance of the internal audit function against its performance measures and targets? f) comment on compliance with the standards of the Code? g) communicate the results of the internal audit quality assurance programme? 	Y Y Y Y Y Y Y			
10.4.3	Has the Head of Internal Audit made provision for interim reporting to the organisation during the year?	Y			
11	PERFORMANCE, QUALITY AND EFFECTIVENESS				
11.1	Principles of Performance, Quality and Effectiveness				
11.1.1	Is there an audit manual?	Y			
11.1.2	Does the audit manual provide guidance on: <ul style="list-style-type: none"> a) carrying out day-to-day audit work? b) complying with the Code? 	Y Y			
11.1.3	Is the audit manual reviewed regularly and updated to reflect changes in working practices and standards?		P		
11.1.4	Does the Head of Internal Audit have arrangements in place to assess the performance and effectiveness of: <ul style="list-style-type: none"> a) each individual audit? b) the internal audit service as a whole? 	Y Y			
11.2	Quality Assurance of Audit Work				
11.2.1	Does the Head of Internal Audit have a process in place to ensure that work is allocated to auditors who have the appropriate skills, experience and competence?	Y			
11.2.2	Does the Head of Internal Audit have a process in	Y			

Appendix F

Ref		Y	P	N	Evidence
	the performance management and quality assurance programme in the annual audit report?				
11.3.6	Does the Head of Internal Audit provide evidence from his or her review of the performance and quality of the internal audit service to the organisation for consideration as part of the annual review of the effectiveness of the system of internal audit?		P		

Internal Audit Contacts

Responsibility	Audit Management	Other Contacts	
Head of Audit & Risk	Andy Wood ☎ 4622		
Senior Audit Manager	Janet Armstrong ☎ 4567		
General Enquiries Audit Help Desk ☎ 4636			
Teams			
Children, Families & Education, Communities, & Chief Executive's Department	Ann Mannell Audit Manager ☎ 4664	Bonita Knighton Senior Auditor ☎ 4544 Gwyn Persich Auditor ☎ 4938	Patience Ogunbona Auditor ☎ 4548 Vicki Gabriel Auditor ☎ 4548
Adult Social Services, Environment & Regeneration	June Lamb Audit Manager ☎ 4695	Siobhan Cheeseman Senior Auditor ☎ 4357	Hazel Goodwin Auditor ☎ 4695 Auditor (Vacant)
Section 151 & Corporate Governance	Julie Samson Audit Manager ☎ 4611	Sangeeta Surana Senior Auditor ☎ 4580	Ron Herivel Auditor ☎ 4668 Auditor (Vacant)
Information Technology	Peggy Colwell Audit Manager ☎ 4576	Senior Auditor (Vacant)	Auditor (Vacant)

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By: The Head of Audit & Risk

To: Governance and Audit Committee
29 June 2007

Subject: **INTERNAL AUDIT ANNUAL REPORT 2006/07**

Classification: Unrestricted

Summary: The Internal Audit Annual Report shows the results of all internal audits carried out during the 2006/2007 financial year. The overall assurance on the level of control within the County Council is provided.

FOR INFORMATION

Introduction

1. Each year the nominated 'Head of Audit' produces an annual report which is distributed to all Members of the County Council, the Chief Executive, Managing Directors, Director of Finance and directorates' senior managers. A copy of the draft report is attached.
2. The report contains the overall assurance on the adequacy and effectiveness of governance arrangements, risk management and internal control within the Council. It also contains a summary of work carried out by Internal Audit during the year. The overall opinion is one of the sources of evidence for the Statement of Assurance, which is published with the Authority's annual accounts.
3. The report also includes a summary of Internal Audit's activity and progress against targets for key performance indicators. These indicators, which were agreed by members of the Audit Committee at their meeting on 3 March 2004, are incorporated into our Business Plan, and are monitored regularly to provide an overview of the Section's efficiency and effectiveness.

Audit Assurance for 2006/2007

4. Based on the internal audit review work undertaken, irregularity investigations and any other relevant information, there is *substantial* assurance as to the level of control for the management of financial risk in the Council, and *substantial* assurance that business objectives are being achieved without incurring unacceptable risk. The main areas for improvement identified during 2006/07 included the processes for recruitment of staff in schools, business continuity and disaster recovery planning. Recommendations to improve control of risks identified through internal audit activity have been discussed with, and accepted by relevant managers, and will be followed up by Internal Audit during 2007/08.

5. In relation to corporate governance and risk management, our overall opinion is that there is *substantial* assurance as to the Council's arrangements.

Effectiveness of the Internal Audit function

- 6 The Accounts & Audit Regulations 2006 require us to carry-out an annual review of the effectiveness of internal audit, the findings of which must be considered by this Committee, as part of their consideration of the system of internal control.
- 7 The review has been carried-out by self-assessment, and the outcome of this self-assessment is included at Appendix F in the attached Annual Report. For those areas where we are not fully compliant, we have put an action plan in place. Members are asked to consider the findings of this self-assessment.

Recommendation

- 8 Members are asked to note the outcome of Internal Audit's work for 2006/07 and receive the annual report, and to consider the outcome of the self-assessment of the effectiveness of the internal audit function.

Andy Wood
Head of Audit & Risk
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Item No: 13

By: The Head of Audit & Risk

To: Governance and Audit Committee
29 June 2007

Subject: **INTERNAL AUDIT REPORTING**

Classification: Unrestricted

Summary: This report summarises the outcomes of Internal Audit activity, providing assurance as to the operation of control within the Council.

FOR INFORMATION

Introduction

1. This report contains the outcome of Internal Audit's work completed during February and April 2007. Assurances are provided in accordance with the definitions of Internal Audit assurance levels shown in Annex A.
2. The format of this report, which was agreed at a previous meeting, is as follows:

Annex B lists Audits and the assurance opinion completed since the last report (all audits completed in the year are shown in the Annual Report at agenda item 12). Twenty five audits were completed in this period, which are listed in the table below. Comments on the two follow-up audits (ICT Disaster Recovery and Libraries stock control) are also included in Annex B.

Directorate	Audit Title	Assurance
AW	Trading Companies	Limited
AW	BS57799	High
AW	Telephone PBX	Substantial
AW	Follow up ICT Disaster Recovery	Limited
CED	VAT (Provision of asylum services)	Substantial
CED	Physical Security & Environment Controls	Substantial
CED	VAT (Payments to providers of care)	Substantial
CED	Payroll	Substantial
CED	Technical administration of the Oracle Financials, HR and Payroll System	Substantial
CED Comm Services	CODA	Substantial
CED Comm Services	Insurance Funds	Limited
CF&E	Foster & Adoption Payments	Substantial
CF&E	Schools Advisory service	High
CF&E	Student Awards	High
CF&E	Attendance & Behaviour – Safer Schools	Substantial

Directorate	Audit Title	Assurance
CF&E	School Managed Capital Projects	Substantial
AS	Swift Pre Implementation Review	Substantial
AS	Domiciliary Care TDM	Limited
AS	Former Self Funders	Limited
AS	Residential Care – Mental Health Payments	Substantial
AS	Voluntary Organisations	Substantial
E&R	Transport Network Management	Substantial
E&R	KHS Coastal Protection	Limited
Communities	Youth & Community	High
Communities	Follow up Libraries	Substantial

Annex C contains brief details of the audits completed in this period.

3. Members should note that the audit assurance expressed is at the time of issue of the audit report but before full implementation of the agreed management action plan. Directorates' progress with the implementation of recommendations is followed up and reported to this Committee, after the date by which it has been agreed that action will be undertaken. Where a 'minimal' assurance has been given, there will be further re-evaluation in a six-monthly review.
4. Furthermore, each audit does not carry equal weight when forming the overall assurance on the operation of control within the Authority. Whilst the key systems will have a major impact, other systems, for example establishment audits, become more significant when the outcomes of a number of similar audits have been obtained. In this instance, the key indicator is the trend in audit assurances within a directorate and across the Authority.

Irregularities

5. Since the end of January eight cases of suspected irregularity have been reported, each involving either KCC finances or business processes. Details of completed irregularity investigations are given in my separate report at agenda item 14

Performance of Internal Audit

6. The performance of the Internal Audit team is detailed in the Annual Report at agenda item 12.

Recommendation

7. Members are asked to **note** the outcome of Internal Audit's work.

Andy Wood
Head of Audit & Risk
 Ext: 4622
 19 June 2007

Definitions of Internal Audit Assurance Levels

Assurance Level	Summary description	Detailed definition
High	Strong controls in place and complied with.	The system/area under review is not exposed to foreseeable risk, as key controls exist and are applied consistently and effectively.
Substantial	Controls in place but improvements beneficial.	There is some limited exposure to risk of error, loss, fraud, impropriety or damage to reputation, which can be mitigated by achievable measures. Key or compensating controls exist but there may be some inconsistency in application.
Limited	Improvements in controls or the application of controls required.	<p>The area/system is exposed to risks that could lead to failure to achieve the objectives of the area/system under review e.g., error, loss, fraud/impropriety or damage to reputation.</p> <p>This is because, key controls exist but they are not applied, or there is significant evidence that they are not applied consistently and effectively.</p>
Minimal	Urgent improvements in controls or the application of controls required.	<p>The authority and/or service is exposed to a significant risk that could lead to failure to achieve key authority/service objectives, major loss/error, fraud/impropriety or damage to reputation.</p> <p>This is because key controls do not exist with the absence of at least one critical control, or there is evidence that there is significant non-compliance with key controls.</p>

Audit Programme and Coverage by Directorate February 2007 to April 2007

Report	Directorate	Audit Plan	Overall Opinion	Budget Mngmt	Payroll	Payment	Income	Banking & Cash Handling	Accounting Systems & Processes	Resource Mngmt	General Financial Control	Procuremnt	Governance	Business Process	Info System
	Authority-wide														
June 07	Trading Companies	✓	L											L	
June 07	BS57799	✓	H											H	
June 07	Telephone PBX	✓	S											S	
June 07	Follow up ICT Disaster Recovery	✓	L											L	
	Chief Executive's Department														
June 07	VAT provision of asylum seekers services	✓	S				S								
June 07	Physical Security & Environmental Controls	✓	S												S
June 07	VAT payments to providers of Care (Adult Social Services)	✓	S				S								
June 07	Payroll		S		S										
June 07	Technical Administration of the Oracle Financial, HR & Payroll System	✓	S												S
June 07	Commercial Services CODA	✓	S												S

Audit Programme and Coverage by Directorate February 2007 to April 2007

Report	Directorate	Audit Plan	Overall Opinion	Budget Mngmt	Payroll	Payment	Income	Banking & Cash Handling	Accounting Systems & Processes	Resource Mngmt	General Financial Control	Procuremnt	Governance	Business Process	Info System
June 07	Commercial Services Insurance Funds	✓	L						L						
	Children, Families & Education														
June 07	Foster & Adoption Payments	✓	S			S									
June 07	Schools Advisory Service	✓	H											H	
June 07	Student Awards	✓	H											H	
June 07	Attendance & Behaviour Safer Schools	✓	S											S	
June 07	Schools Managed Capital Projects	✓	S							S					
	Adult Services														
June 07	Swift pre Implementation Review	✓	S												S
June 07	Domiciliary Care TDM	✓	L			L									
June 07	Former Self Funders	✓	L											L	
June 07	Residential Care Mental Health Payments	✓	S			S									
June 07	Voluntary Organisations	✓	S			S									
	Environment & Regeneration														

Audit Programme and Coverage by Directorate February 2007 to April 2007

Report	Directorate	Audit Plan	Overall Opinion	Budget Mngment	Payroll	Payment	Income	Banking & Cash Handling	Accounting Systems & Processes	Resource Mngment	General Financial Control	Procuremnt	Governance	Business Process	Info System
June 07	Transport Network Management	✓	S	S											
June 07	KHS Coastal Protection	✓	L						L						
	Communities Directorate														
June 07	Youth & Community	✓	H					H							
June 07	Libraries	✓	S											S	

Audit Programme and Coverage by Directorate February 2007 to April 2007**Authority Wide****Follow up of ICT Disaster Recovery****Assurance – Limited**

The original audit was to have focussed on the status of Disaster Recovery Plans (DRPs) for the computer-based systems that support KCC's business-critical services. However, the original audit found that arrangements for DRPs were sporadic and inconsistent and that this situation had been caused by the lack of formally devised and documented Business Continuity Plans (BCPs) that specified and prioritised each of the directorate's business-critical services. The original audit therefore made recommendations for the directorates to complete the creation of formal BCPs. These could then be used by ISG (and other ICT service providers contracted by KCC) to create prioritised DRPs of the computer systems that support those business-critical services. The directorates' BCPs could also be used to create a corporate (KCC-wide) BCP (and associated DRPs) which would prioritise the resumption of services should the disaster affect more than one directorate.

Shortly after the report of the original audit was issued (January 2006) KCC underwent a major restructure which resulted in the movement of a number of business units and consequently the required transfer of their respective Business Impact Analyses (BIAs) and Business Continuity Plans (BCPs). All efforts to ensure that the restructure did not impact the delivery of KCC's front-line services invariably reduced the focus on the production of the (new) directorates' BCPs.

As a result, this follow-up audit found that none of the recommendations made by the original audit could be considered to have been completed and, therefore, all of the recommendations, with the addition of one to cover the newly formed Communities Directorate, have been re-issued. Nevertheless, some progress has occurred and other developments, notably the implementation of the SWIFT system, have improved KCC's ability to cope in the event of a major disaster/incident causing disruption to the availability of computer-based systems.

Directorate response

The restructure of KCC's directorates inevitably took priority over the production of the directorates' and the corporate business continuity plans. However, now that the new directorates have 'bedded-in' the BCP process has restarted, with two directorates, Environment & Regeneration and Kent Adult Social Services, being almost complete.

A cross-directorate working group is to be established to expedite the process. This working party is to be facilitated by ISG and will include the Resource Director (or equivalent/representative) of each directorate as well as a Business Continuity officer of KCC's Emergency Planning Team. The objective of this working group will be to use the expertise and experience of the more advanced directorates to assist the others with a view to creating workable and testable directorate and corporate BCPs by the end of December 2007. These BCPs will then be used by ISG to create associated DRPs (depending upon the availability of resources/funding) and by KCC's Contact Centre to prioritise the services that it will support should the BCPs be invoked.

Communities Directorate

Library Stock Control follow-up

Assurance - Substantial

In 2002/03, an audit of library stock control was conducted. The final report gave an opinion of unsatisfactory (now minimal) and included 13 recommendations for improvement. In accordance with Internal Audit policy of follow-up minimal reports, a further audit was carried out, and a further report was issued in May 2005, with another opinion of unsatisfactory. This identified that further work was required to implement 13 recommendations and action plans were agreed to achieve this.

The 13 recommendations focussed on 5 areas of weakness, all of which it was felt by Library Management, were likely to be addressed by the full automation of Libraries under the Transforming Kent Libraries (TKL) initiative. During the course of this audit testing was undertaken in eight libraries across the county, all of which had been automated and stock audited as part of TKL. Three were hub libraries responsible for the management of and stock distribution to, their surrounding satellites. The remaining five were smaller satellite libraries.

We recognized that the library team has put a tremendous amount of work into stock audits and data interrogation since our last report which has resulted in a clearer picture of the current stock and its use. Each stock item is easily identifiable and each library visited has an active plan for checking stock. We were advised that 79 libraries have been fully stock checked by library staff, to build a profile of the current book stock. However, stock checks are still required in the remaining libraries.

Further work is required to ensure that all libraries consistently record items that are temporarily removed from the shelf and for checking items that are in transit, and for using the quarterly missing items list. The Galaxy system cannot provide certain historical data but this is a national problem and is being pursued with the manufacturer.

Directorate response

We are happy to see such positive recognition of the hard work that has been invested in recent years in improving library stock control. We recognise that the new measures need to be sustained in order to continue to improve and then maintain the quality of our stock records for the benefit of staff and customers.

We will continue to reinforce the need for staff to follow agreed best practice processes that will allow us to maintain accurate stock records. This will be supported by the creation of 4 new Quality and Performance Officer posts in our new structure which will be implemented 1st September. These staff will take local responsibility for stock collection management, performance data collection and analysis, and coordinating staff training, so they will be uniquely positioned to ensure that stock control is an ongoing priority.

Audit Programme and Coverage by Directorate February 2007 to April 2007

We are also now starting the process of selecting and procuring the new Library Management (IT) System which will be implemented from April 2009, so we will be able to ensure that current stock control needs are supported by the system selected.

Cath Anley
Head of Libraries and Archives
June 2007

Completed audits

Directorate	Audit	Description	Audit Assurance
Authority Wide	Trading Companies	A review of KCC's trading companies' compliance with the Trading Order	Limited
	BS7799	A review of compliance/best practice with BS7799	High
	Telephone PBX	A review of the Private Branch Exchange (PBX) telephone systems	Substantial
	Follow Up ICT Disaster Recovery	A review of the Authority's ICT disaster recovery process.	Limited
Chief Execs Dept	VAT Asylum seekers	A review to ensure VAT for payments to providers of asylum services is properly accounted for.	Substantial
	Physical Security & Environmental Controls	An audit of arrangements and mechanisms for physical security and environmental controls	Substantial
	VAT (care payments)	A review to ensure VAT for payments to providers of care is properly accounted for.	Substantial
	Payroll	A review to ensure that overpayments are identified, recovered, correctly accounted for, and correct write-backs of tax are calculated	Substantial
	Technical administration of the Oracle Financial, HR and Payroll System	A review to ensure the administration of the KSSIP Oracle modules is managed effectively	Substantial
	CODA	A pre implementation review of the upgraded CODA system.	Substantial
	Insurance Funds	A review of the arrangements in place for the Commercial Services Insurance Fund.	Limited
CF&E	Foster & Adoption Payments	A review to ensure accurate and timely payments are made, parental contributions are collected and over payments are identified and recovered.	Substantial
	Schools Advisory Service	A review of the School Improvement Partner (SIP) national initiative.	High
	Student Awards	A review to ensure only eligible students receive appropriate loans and awards.	High

Directorate	Audit	Description	Audit Assurance
CF&E	Attendance & Behaviour Safer Schools	A review of the management of the Kent Safe Schools Projects.	Substantial
	Management of Devolved Capital Funding in Schools	An audit of schools' use of the devolved capital funding grant	Substantial
Adult Social Services	Swift Pre Implementation review	A review to test and evaluate the governance and management arrangements of the Swift project.	Substantial
	Domiciliary Care Transaction Data Matching (TDM)	An audit to give assurance that payments are accurate, made promptly, only in respect of services that have been supplied and are recorded in the Authority's underlying accounts.	Limited
	Former Self Funders	To provide assurance that there are processes in place to minimize the cost to KCC of former self funders.	Limited
	Residential Care – Mental Health Payments	An audit to give assurance that accurate and timely payments are made for eligible clients.	Substantial
	Voluntary Organisations	To give assurance that contracts are awarded to voluntary organisations on the basis of business plans and strategy, contracts are regularly monitored and reviewed, and that accurate payments are made on the basis of evidence that expected outcomes have been achieved	Substantial
Environment & Regeneration	Transport Network Management	A review of the budget management process to ensure that expenditure and income is properly recorded and reviewed to provide forecasts, which can be relied upon to identify potential problems in time for corrective action to be taken.	Substantial
	KHS Coastal Protection	A review of the coastal protection loans process.	Limited
Communities	Youth & Community	A review of budget management arrangements for the Learning Skills Council (LSC) funded projects	High
	Follow up Libraries stock	A follow up audit on management of libraries stock.	Substantial

Item No :14

By: The Head of Audit & Risk

To: Governance & Audit Committee
29 June 2007

Subject: **INTERNAL AUDIT REPORTING – IRREGULARITIES**

Accountable Officer: The Head of Audit & Risk

Classification: Unrestricted

Summary: This report provides brief details of all irregularity cases completed during the period February 2007 to May 2007.

FOR INFORMATION

Introduction

1. In line with best practice and as agreed by Members of the Audit Committee at their meeting on the 1 March 2005, this report summarises the outcome of irregularity investigations that have been concluded within the period from February to May 2007.
2. During the period, eight new cases of potential irregularity were reported, for which investigations are continuing. Where significant, details of these irregularities are reported separately to the Chairman of the Governance and Audit Committee during informal meetings, to ensure that he is made aware of possible problems as they arise.
3. Appendix 1 summarises the investigations that have been completed within the period.

Recommendation

4. Members are asked to note this report.

Andy Wood
Head of Audit & Risk
Ext: 4622
19 June 2007

Summary of Irregularity Cases Concluded in the Period January to April 2007

Ref	Directorate	Nature of Irregularity	Value	Outcome
708	CF&E	Theft of cash	£1,800 £900 recovered	An infant school found that a member of staff employed by their caterers had not banked into the school bank account all the money collected for school meals since September 2005, approximately £1800 was missing. The police were informed and audit checked the school's financial procedures. The Finance Secretary was not completing the bank reconciliation correctly which resulted in the money not being discovered missing. The police were informed but recommended that it was too timely and costly to pursue recovery of the money. As a result of the audit the school pursued capability proceedings against the Finance Secretary. The catering company sacked the member of staff and paid the school back half the stolen money as a goodwill gesture. The Finance Secretary resigned. Five recommendations were made that were accepted and implemented by the school to improve financial controls.
709	CF&E	Theft	??	A teacher has been investigated and disciplined in relation to misuse of money and equipment purchased through his school. He had previous convictions for fraud but has permission to teach by the secretary of state. He has been allowed back to school under strict conditions with set targets and ongoing monitoring. He has met his targets so far and will be monitored in September in relation to GCSE targets.

Ref	Directorate	Nature of Irregularity	Value	Outcome
714	CF&E	Inappropriate use of IT equipment		While data held in an application server was being prepared for migration to a new server, the ISG technician discovered a large number of files which consisted of inappropriate videoed images. The line manager has warned the member of staff not to do this again and has also reminded all of his staff that exchanging and storing such images was contrary to KCC's policies. The images have been removed from the server.
717	CED	Theft of Fuel	Estimated at £80	An employee was suspected of stealing fuel by filling up extra petrol cans and selling the fuel. The incident was investigated but there is insufficient evidence to determine if and exactly how much fuel was stolen. Internal Audit has made recommendations to improve controls which have been accepted by management.
719	E&R	Inappropriate use of IT equipment	N/A	A member of staff is suspected of using the KCC personal computer allocated to him to make excessive personal use of the Internet. This use is believed to be for the purposes of setting up and running his own business. Internal Audit's examination of the PC failed to find evidence to support the suspicions. The person has been on sick-leave since the investigation was started the Occupational Health advisor believes that the person's mental condition may have contributed to his behaviour, and it is considered unlikely that any disciplinary action will be worthwhile.
725	CED	Fraudulent cheques	£9,551 all recovered	Four fraudulent cheques were presented and paid by the bank from the Kent Commercial Services bank account. The fraud was discovered by the Exchequer Manager during the regular bank reconciliation. The bank was informed and has repaid the total amount stolen of £9551.10.

Ref	Directorate	Nature of Irregularity	Value	Outcome
733	CF&E	Posting inappropriate photographs on the Internet	N/A	A pupil at a school took inappropriate photographs of herself, which were then sent to a male pupil at another school who posted the photos on the Internet. The police and child protection officer were informed and the police carried out an investigation. The police have concluded that there was no criminal intention, but have warned the pupil against carrying out similar activity in the future. The schools will be carrying out an awareness campaign to warn all of their pupils of the potential consequences of such pranks.