



## AGENDA

## CABINET

**Monday, 12th January, 2009, at 10.00 am**      Ask for:      **Karen Mannering /  
Geoff Mills**  
**Darent Room, Sessions House, County Hall,**      Telephone      **(01622)      694367/  
Maidstone**      **694289**

*Tea/Coffee will be available 15 minutes before the meeting.*

### **UNRESTRICTED ITEMS**

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

1. Declaration of Interests by Member in Items on the Agenda for this meeting
2. Minutes of the Meeting held on 1 December 2008 (Pages 1 - 10)
3. Revenue & Capital Budget Monitoring Exception Report (Pages 11 - 18)
4. Local Government Provisional Finance Settlement (Pages 19 - 22)
5. Operation of Household Waste Recycling Centres - Service Review (Pages 23 - 28)
6. Policy & Protocol on Surveillance (Pages 29 - 48)
7. Commission for Social Care Inspection - Annual Performance Review Report for Adult Social Care (Pages 49 - 60)
8. Annual Performance Assessment of Services for Children and Young People in Kent County Council 2008 (Pages 61 - 70)
9. Decisions from Cabinet Scrutiny Committee - 10 December 2008 (Pages 71 - 72)
10. Other items which the Chairman decides are relevant or urgent

*(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 Gilroy**  
**Chief Executive**  
**Friday, 2 January 2009**

*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**

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**CABINET**

MINUTES of a meeting of the Cabinet held in the Swale Borough Council, East Street, Sittingbourne, Kent ME10 3HT on Monday, 1 December 2008.

PRESENT: Mr P B Carter (Chairman), Mr M C Dance, Mr G K Gibbens, Mr P M Hill, OBE, Mr K G Lynes, Mr R A Marsh and Mr L B Ridings

ALSO PRESENT: Mr A H T Bowles and Mr D L Brazier

IN ATTENDANCE: Mr P Gilroy (Chief Executive), Ms A Honey (Managing Director Communities), Ms L McMullan (Director of Finance), Ms M Peachey (Kent Director Of Public Health), Mr M Austerberry (Interm Executive Director, Environment, Highways and Waste), Dr I Craig (Interim Managing Director of Children, Families and Education Directorate) and Mr S Leidecker (Director of Operations, Kent Adult Social Services)

**UNRESTRICTED ITEMS**

**1. Welcome to Swale - oral presentation from Andrew Bowles, Leader of Swale Borough Council**  
*(Item 1)*

(1) Mr Andrew Bowles, Leader of Swale Borough Council gave a presentation highlighting the actions being taken to deliver Swale's Regeneration Agenda. During the course of this presentation, he highlighted the ambitions which Swale Borough Council has set itself in developing its sustainable community strategy covering the period 2009 to 2026 and said that within the strategic context, regeneration was seen by the Borough Council as a significant corporate priority. This included developing and expanding areas of policy including economic development, learning and skills, housing, culture, transport and technology. Mr Bowles said that for Swale, the learning and skills deficit was one of its biggest problems and the Borough Council was therefore doing all it could in terms of strategic policy to address this major issue which required an input of resources not only from the Borough Council but also the County Council. Mr Bowles also spoke about the opportunities which the Thames Gateway has brought to Swale with partners building multi area agreements with the Borough Council of the three themes based on learning and skills, housing and transport.

(2) Mr Bowles also spoke about the challenges which the Borough Council faced, particularly in terms of social and demographic issues. Housing completions had already been on a downward trend during 2007/08 and this had continued. He said the strength of the investment market underpinned regeneration projects so there was a need to retain a long term vision which above all would require patience.

(3) Mr Bowles said significant investment was being undertaken in Sittingbourne Town Centre and this would create new jobs and homes and provide important and much needed transport links. There was also significant investment taking place in the area of Queenborough and Rushenden and also at the Port of Sheerness.

(4) Mr Bowles also spoke about the ambitions of the Borough Council for the future and highlighted the infrastructure investment needed to build for example new junctions on the M2 to unlock potential regeneration opportunities and the employment potential of the Kent Science Park. He also spoke about the need to invest in long term skills and employment, the development of the Sittingbourne Learning Campus and initiatives being taken to invest for the long term in developing local communities. He also spoke about the Localism Agenda and the fact Swale Borough Council and Kent County Council would be working together to pilot Local Engagement Forums to cover the Faversham, Sheppey and Sittingbourne areas.

(5) In conclusion, Mr Bowles said that from KCC, Swale Borough Council was seeking to move forward with a shared agenda which would address the priorities and strategies he had highlighted in his presentation. These included commitment to funding and delivering infrastructure, support for the Learning Campus as a long term catalyst for improving skills, the establishment of Gateways and support for Swale's regeneration strategy.

(6) Mr Carter said on behalf of KCC that he shared the Borough Council's priorities and agenda for change. He said the County Council in its capacity as the education authority had heavily invested in education provision in Swale and he wanted to work with not only the Borough Council but all the Kent Boroughs and Districts in developing joint regeneration strategies. Mr Carter also said he wanted a report submitted to a future meeting of County Council Cabinet detailing progress on the Rushenden Relief Road and an update on the likely timing of the construction of junctions 5A and B on the M2.

(7) Discussion concluded with it being agreed to hold at some future suitable date a meeting of the Cabinets of KCC and Swale Borough Council in order to assess progress on the matter discussed during the course of this item.

## **2. Minutes of the Meeting held on 13 October 2008** *(Item 3)*

The Minutes of the meeting held on 13 October 2008 were agreed and signed as a true record.

## **3. Revenue and Capital Budgets, Key Activity and Risk Monitoring** *(Item 4 – Report by Mr Nick Chard, Cabinet Member for Finance; and Lynda McMullan, Director of Finance)*

(1) Mr Brazier said that currently the revenue budget was showing an underspend of some £2.4m after management action and excluding Asylum costs. Expenditure on the Capital Programme was continuing to move forward and overall given the circumstances, he felt the budget was in a satisfactory position. With regard to Asylum, a letter had been received from the Home Office which confirmed that it would meet in full the shortfall of £2.1m for 2007/08 subject to a final audit. This together with the £2.4m for 2006/07 confirmed by the Home Office in September this year meant that the County Council had agreement that the Home

Office would fund the full £4.5m of its special circumstances bids leaving an anticipated £1.5m to come from the DCSF. The Department still has to agree final client number so this issue remained outstanding but if the full £1,5m was secured (of the original claim for £2.6m) then the County Council would have reached the £6m, of the £10m originally claimed and this was as per the agreement reached with the LGA in the Summer.

(2) Lynda McMullan said that in the forthcoming budget build there would be three key areas which the County Council would need to look at and those were transport demographics, the budget for Adult Kent Social Services and the budget relating to Child Social Services. Two key budget risks remained, one of these which was Asylum but as detailed in the previous paragraph, the Government had promised the County Council would not be out of pocket for this year. The other key budget risk related to the funds which the County Council had in Icelandic Banks. As a result of these investments, the interest on these deposits would not be received as expected resulting in a potential loss on income. This however, needed to be considered in the light of the whole Treasury Management Budget which was impacted by recent and predicted changes in the bank base rate. The County Council was continuing to have ongoing discussions with both the CLG and the Icelandic Banks via the Creditors Group to ensure that the County Council secured the best outcome for the residents of Kent. Until the situation became clearer, the impact of this and not so far been reflected in the forecast outturn position of this report, but the County Council remained confident that it would eventually have its investments back returned.

(3) In concluding discussion, Mr Carter said that he was pleased to note the good progress which was being made in relation to both the revenue and capital budgets and welcomed the update on the position with the County Council's investments in Icelandic Banks. He expressed concern regarding Asylum and the number of referrals which appeared to be increasing and said that this was something which the County Council would need to monitor closely.

(4) Cabinet then noted the latest monitoring position on the revenue and capital budgets and the additional revenue grant income as identified in Appendix 2 of the Cabinet report, together with the changes to the capital programme.

#### **4. Select Committee: Domestic Rail Services**

*(Item 5 – Report by Mr Kevin Lynes, Cabinet Member for Regeneration and Supporting Independence; and Mr Keith Ferrin, Cabinet Member for Environment, Highways and Waste)*

(1) In introducing the report of the Select Committee, Miss Carey said that Mr Ray Parker was unable to attend the meeting. Miss Carey placed on record her thanks to her fellow Members of the Select Committee and the officers who had supported it during the course of its work. Miss Carey said that the Select Committee had welcomed the investment which was proposed in respect of the Kent Rail Network. It was essential that Kent had access to modern, fast and efficient services and that these needed to be coupled with improved connections to the rest of the country. In its business model, South East Trains expect services to be full during peak periods, but have spaces available during the off peak and therefore this could present an opportunity to develop them for other uses to such

as tourism. Miss Carey said that the Select Committee also wanted a review produced of stations that would be served by the High Speed Rail Service and for this and, to identify and prioritise work needed to those stations and station access and for these to be in place in or soon after the December 2009 launch. She said the Select Committee also wanted to see lobbying undertaken to secure the introduction of low fares to ensure the early success for High Speed Services. In highlighting other recommendations which the Select Committee had set out in its report, Miss Carey also said that the bus and rail companies should be encouraged to introduce more promotional off-peak fares, joint passes, through tickets (such as the BusPlus pass) and Open Jaw Tickets.

(2) Mr Daley placed on record his thanks to Miss Carey for her work as Chairman of the Select Committee and also to the officers who had supported it in its work. He said the objective of the Select Committee had been to try and not only identify the benefits of the rail service within the county but also to highlight the dis-benefits. He said that the Members of Cabinet had before them an executive summary of a report which was much more detailed and he commended those who had not already, to read the full report. He said that the High Speed line would improve service for areas such as Folkestone, Dover and Canterbury but would have less of an impact for services to which served Thanet. He also said that there needed to be significant investment undertaken on the Mid Kent line in order to improve services and to encourage growth. He said it was also essential that the Thames Link services had a connection into Mid Kent and there was still a need to maintain what could be referred to as the "classic" lines. Mr Daley said the County Council should press for a link to Ebbsfleet and Gatwick to be provided from the Medway Valley line and also spoke about integrated transport patterns and the need to link those aspirations into the recommendations and outcomes from the report of the Select Committee. He said that this report should be seen as ongoing and he hoped that it would be kept and developed as a "live" document.

(3) Mr Lynes said that the rail authorities needed to focus on developing rail services which attracted people into the county to visit as tourists or to shop. Therefore, the rail companies needed to invest and develop off peak services as a mechanism to attract tourists and shoppers and as part of that the County Council had to play its part by being in a position to both facilitate and offer integrated transport solutions. Mr Lynes also said that the Select Committee report presented the County Council with a opportunity to develop a clear vision as to what it believed rail services within the county should look like and based on that the rail companies needed to be sent a robust response as to what the County Council expected to see in terms of rail provision across the county.

(4) Mr Gibbens said that he welcomed the report and that the development of the High Speed link would be a key to regeneration, especially in areas of East Kent. He said there was two particular issues which needed to be taken up with the rail companies and that was improving commuting links into London, especially from East Kent and coupling that with the need to improve off-peak services to encourage tourism and greater use of rail for shopping purposes. He said that the Select Committee report also provided an opportunity for there to be a wide ranging and robust discussion about developing integrated transport systems and improving transport links particularly in and around railway stations which of themselves needed to be improved. Mr Sutch said that he welcomed the findings of the Report and said that he would recommend that the Department of Transport be involved in any further discussions with the rail companies. In concluding the

discussion, Mr Carter thanked the Select Committee for its report and said that the opportunity needed to be taken to use its findings as part of a campaign to lobby South East trains and Government for improved rail services across the county. He said he would be meeting in the near future with Lord Adonis and he said that the Cabinet needed to look in detail at these important issues before the report was submitted to the County Council.

**5. Operation Stack Lorry Park - Update on Progress**

*(Item 6 – Report by Mr Keith Ferrin, Cabinet Member for Environment, Highways and Waste; and Mr Mike Austerberry, Executive Director of Environment, Highways and Waste)*

(1) This report provided an update on developing the proposals for the Operation Stack Lorry Park and a brief situation report on current Stack activity.

(2) A site between Junctions 10 and 11 of the M20 located between the Converter Station, the motorway and the railway embankment was being considered as the preferred site for a lorry park because of its location, natural screening and absence of formal land use designations. Feasibility work was currently in hand to carry out a full range of engineering and environmental surveys so that the proposal could be progressed to the next stage and the environmental impact and mitigation can be assessed. Also Consultants will be commissioned to undertake an economic impact study. Mr Carter said that the cost of providing a solution to Operation Stack was the responsibility of the Department of Transport and this was something which the County Council would be taking up with the Minister, Lord Adonis. He also that the County Council had taken fresh legal advice as to the legality of introducing a “Brit Disc” and counsels opinion was now more encouraging.

(3) Cabinet then noted the report

**6. Adoption of Kent Downs and High Weald Area of Outstanding Natural Beauty Management Plans**

*(Item 7 – Report by Mr Keith Ferrin, Cabinet Member for Environment, Highways and Waste; and Mr Mike Austerberry, Executive Director of Environment, Highways and Waste)*

(1) This report provided an overview of the revised Area of Outstanding Natural Beauty Management Plans for the Kent Downs and High Weald and sought approval for adoption by the County Council. This was the first review of the AONB Management Plans which the Council had adopted in 2004 and it strongly reflected the original adopted plan. Mr Austerberry said that the revised plan had been subject to a very careful and thorough process and had been subject to detailed consultation.

(2) Cabinet agreed:-

- (i) that the first revision of the Kent Downs AONB Management Plan be adopted as detailed in the Cabinet report in fulfillment of the County Council’s statutory duties under the Countryside and Rights of Way Act 2000.

- (ii) that the Kent County Council adopt the first revision of the High Weald AONB Management Plan as detailed in the Cabinet report in fulfillment of the its statutory duties under the Countryside and Rights of Way Act 2000; and
- (iii) that the appropriate officers in consultation with the Cabinet Portfolio Holder be delegated authority to review and accept changes made by other local authorities during the adoption process leading to the formal date of adoption of both plans by the end of February 2009.

## **7. NHS LD Transfer**

*(Item 8 – Report by Mr Graham Gibbens, Cabinet Member for Adult Social Services; and Mr Oliver Mills, Managing Director, Kent Adult Social Services)*

- (1) This report provided details of the proposed transfer of funding for all social services for people with learning disabilities currently living in NHS accommodation in Kent.
- (2) Mr Gibbens said that the purpose of the report was to advise Cabinet on some of the detailed work which had been undertaken since the report to Cabinet at its meeting in March 2008. This report was not seeking at this time confirmation that the transfer should go ahead as there was still a considerable amount of work to be done to resolve some outstanding issues. The report detailed the risks attached to the project, both with continuing and ceasing with the current arrangements. The report outlined the mitigation processes which were in place and showed that the risks of ceasing with the current arrangements were greater than those for continuing. The report did however ask for Cabinet's agreement for some specific tasks and work streams to continue so that work to sustain momentum in improving service quality could continue.
- (3) The report also asked for the County Council to accept and manage a capital grant of £6m, on behalf of the PCT's, subject to certain assurances from the Department of Health. Without this agreement, Mr Gibbens said there was a very real risk that some or not all of this capital grant would have to be returned to Government which would be to the detriment of the programme and leave both the County Council and the PCT's without the resources to improve the quality of the stock. The report also proposed that the Government should commission actuarial research to look at the long term demographics and cost of support for all people with learning difficulties (not jut those transferring from the NHS). Mr Gibbens concluded by saying that with the support of the PCT's he commended the recommendations set out in the report for adoption by Cabinet. He also placed on record his thanks to the Chief Executives of the two NHS Trusts in Kent for their co-operation and engagement in this work which he said was an excellent example of the good partnership work which existed between KCC and the PCT's.
- (4) Mr Leidecker said that this report built on the earlier ambitious programme which the County Council agreed in 2002 to work in collaboration with the PCT's and to more closely integrate health and social care provision through the pooling of budgets. The Government's intention was to transfer the funds for supporting people with learning disabilities from the Health Service to local Government, confirmed earlier developments whereby local Government had taken the lead



commissioning responsibility for learning difficulties. These earlier developments meant that KCC had in fact been managing integrated teams, for learning disability services since 2004. Miss Highwood referred to paragraph 9 of the report which commented in detail on the risks and mitigation that such a major policy change would bring. She said that it was acknowledged the financial risks were large, both immediately and after April 2011 and the immediate mitigation strategy was to ensure that the Section 256 Agreement that would need to be completed under the National Health Service Act 2006 was robust and fully protected the County Council's interests. The discussions currently under way at the strategic level meant there would be sustained and robust lobbying undertaken to ensure that whatever in respect of these proposals full and proper regard was made as to the true costs of the service. The clarity of costing achieved through the Section 256 Agreement prior to April 2011 would facilitate that and would enable a robust response to be submitted to the Department of Health when it consulted on the proposed allocations.

(5) Mr Lynes expressed concern that once the agreements and contracts had been signed, then the County Council would be committed to providing this service with all the financial risks that that could entail. Whilst he was confident that KASS Officers had sought to mitigate the detrimental effects of the transfer as far as possible, and the transfer should proceed as planned, he believed the County Council should consider commissioning its own survey of the possible consequences of proceeding and for that work to possibly be undertaken jointly with some of the County Council's neighbouring authorities. Mr Marsh also spoke about the financial risks and the need for the County Council to be clear as to the ongoing capital costs associated with maintenance and refurbishment.

(6) Miss Sutton said that this was an important priority for the PCT's who needed to do all they could together with the County Council to make this was an open and transparent process. Mr Meikle said that the PCT's had looked at the proposal in great detail and the capital programme had been developed around need. Mr Gilroy said that he believed it was right for the County Council to take over these responsibilities and he therefore generally therefore supported the thrust of what was being proposed. However, he was also concerned to ensure that the financial risks had been fully explored and therefore supported the undertaking of a dedicated piece of work in collaboration with the County Council's PCT colleagues.

(7) Mr Carter concluded the discussion by saying before any contracts and agreements were signed, he wanted there to be complete clarity as to what the County Council's on going financial responsibilities would be if it was to take over fully the provision of this service.

(8) Mr Carter said that it was essential that the County Council looked at these proposals in great detail and did everything it could in order to minimize any risk. He said he wished the Director of Law and Governance to look at the detail of any agreement on contracts to be entered into by the County Council under Section 256 to ensure that they were sound and robust. He also wanted the County Council's audit team to examine the financial records and accounting processes to equally make sure that these were in good order. He said he agreed with Mr Lynes that the County Council needed an actuary report about the long term demands and potential financial risks. He said only when that information was to hand should the County Council consider proceeding with these proposals.

(9) Subject to the caviats outlined in the above paragraph and in particular the commissioning of a report on the Medium Term financial outlook and impact on the County Council's social care budget should these proposals be proceeded with, Cabinet agreed as follows:-

- (i) to agree that a progress report, based on this Cabinet paper, should be sent to Department of Health
- (ii) To agree that Kent Adult Social Services should continue to lobby the Department of Health, directly and through the LGA, ADASS and CIPFA, to ensure that the risks identified in this report are mitigated as far as is possible.
- (iii) to agree to manage the newly let care contracts on a temporary basis, on behalf of the NHS
- (iv) to agree to receive and manage the capital grant on behalf of the PCTs, provided DH gives assurances on the issue of the obligation, and that therefore a way can be found to mitigate the risks of under funding
- (v) to agree to propose to the Department of Health and LGA that a review is commissioned to identify future demands for social care support for adults with a learning disability and the costs, similar to the 'Securing the Good Care of Older People' review commissioned by the Kings Fund in 2006, with recommendations as to how these can be best addressed
- (vi) to agree that once the outstanding issues identified above have been satisfactorily resolved, a further report should be brought to Cabinet, setting out the numbers and costs, and confirming a decision for the transfer to proceed as planned.

## **8. Proposal for Kent's Corporate Parenting Framework**

*(Item 9 - Report by Mr Graham Badman, Managing Director, Children, Families and Education; Mr Mark Dance, Cabinet Member for Operations, Resources & Skills, CFE; and Mr Leyland Ridings, Cabinet Member for Children, Families & Educational Standards, CFE )*

(1) This report outlined a proposal for Kent's Corporate Parenting framework as means for ensuring that Kent is effective in the delivery of services that lead to better outcomes for children and young people in and leaving care.

(2) Cabinet:-

- (i) noted the revised Terms of Reference for the Looked After Children Strategy as detailed in Appendix 3 of the Cabinet report;
- (ii) noted the revised Terms of Reference for the Children's Champion Board as detailed in Appendix 4 of the Cabinet report;
- (iii) agreed that Kent's Corporate Parenting Group/Forum be represented

by the Children's Champion Board and a sub-structure of the Kent Children's Trust as detailed in Section 3 of the Cabinet report; and

- (iv) agreed the proposed framework and implementation plan for the Kent Children in Care Council as detailed in Section 4 of the Cabinet report.

**9. Decisions from Cabinet Scrutiny Committee - 22 October 2008**

*(Item 10 – Report by Mr Alex King, Deputy Leader; and Mr Peter Sass, Head of Democratic Services and Local Leadership)*

Cabinet noted this report and agreed the actions recommended by the Cabinet Portfolio Holders.

**Exempt Item**

**(Open Access to Minutes)**

**10. Connexions: Commissioning the Service from April 2010**

*(Item 12 – Report by Mr M Dance, Cabinet Member for Operations, Resources and Skills, CFE; Mr L Ridings, Cabinet Member for Children, Families and Educational Standards, CFE; and Mr Graham Badman, Managing Director, Children, Families & Education )*

*(This is an unrestricted minute of a report which was exempt under Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972)*

(1) This report provided the context for the decisions that the County Council needed to take regarding the commissioning of the Connexions Service for Kent from April 2010.

(2) From April 2008, responsibility for the Connexions Service transferred from the Government Office for the South East to the County Council and a contract for two years with a new specification was awarded to the existing provider, Connexions Partnership Kent and Medway. This ensured that the risk of service disruption was mitigated against during the transition process. However, the County Council was advised that a full European tendering process would have to be undertaken in respect of the Connexions Services from April 2010.

(3) Having considered options for the future delivery of the service, the report recommended that the commissioning of the Connexions Service as a whole should be undertaken by way of a European Tender Process on the basis that this would provide a single coherent service, bring about ease of managing and monitoring a single contract and allow the integration of services to remain. On this basis, this was the recommended preferred option.

(4) Mr Carter said that members should be involved in the selection of a preferred partner

And that prior to the commencement of the tendering process he wanted a further

briefing brought put before Cabinet members.

(4) Cabinet agreed that the commissioning of the Connexions Service should be undertaken as a whole via a European Tender process and noted that this matter would be the subject of a further report to Cabinet regarding the approval of a recommended supplier.

To: CABINET – 12 January 2009  
 By: Nick Chard, Cabinet Member – Finance  
 Lynda McMullan, Director of Finance

## REVENUE & CAPITAL BUDGET MONITORING EXCEPTION REPORT

### 1. Introduction

1.1 The second full monitoring report for 2008-09 was presented to Cabinet in December. This exception report highlights the main movements since that report.

### 2. Revenue

2.1 The current underlying net revenue position, by Portfolio, after the implementation of assumed management action, compared with the net position reported last month, is shown in **table 1** below.

**Table 1: Net Revenue Position after Proposed Management Action**

Portfolio	Gross Position £m	Proposed Management Action £m	Net Position after mgmt action £m		Movement £m
			This month	Last month	
OR&S (CFE)	+1.916	-1.277	+0.639	+0.639	-
CF&EA	+0.043	-	+0.043	+0.043	-
KASS	+0.851	-0.851	-	-	-
EH&W	-1.863	-	-1.863	-1.463	-0.400
R&SI	-0.375	-	-0.375	-0.375	-
Communities	+0.594	-0.594	-	-	-
Public Health	-0.116	-	-0.116	-0.116	-
Corporate Support	-0.211	-0.464	-0.675	-0.509	-0.166
Policy & Performance	+0.022	-0.022	-	-	-
Finance	-2.382	-	-2.382	-0.612	-1.770
<b>Total (excl Schools &amp; Asylum)</b>	<b>-1.521</b>	<b>-3.208</b>	<b>-4.729</b>	<b>-2.393</b>	<b>-2.336</b>
Asylum	+4.186	-	+4.186	+4.186	-
<b>TOTAL (excl Schools)</b>	<b>+2.665</b>	<b>-3.208</b>	<b>-0.543</b>	<b>+1.793</b>	<b>-2.336</b>

2.2 The gross underlying revenue pressure (excluding schools) is currently £2.665m as shown in table 1 above, but this is expected to reduce to an underspend of £4.729m (excluding the pressure on Asylum) by year end, after assuming the implementation of management action. However, with the inclusion of the Asylum pressure of £4.186m, this reduces to an overall underspend of £0.543m. An update on the Asylum position is included in Section 2.4 below.

2.3 Table 1 identifies that even after management action, residual pressures are still forecast within the CFE portfolios of Operations, Resources & Skills and Children, Families & Educational Achievement as previously reported. The Directorate is reviewing its services with the intention of identifying areas where further savings can be achieved in order to balance their budget by year end.

#### 2.4 **Asylum:**

2.4.1 There is no change to the forecast funding shortfall on the Asylum service of £4.186m for the 2008-09 financial year; £3.686m of direct costs and £0.500m of indirect costs. This is split between under 18's (£1.333m) and over 18's (£2.853m). The latest position regarding these costs is:

## 2008-09

### 2.4.2 Under 18's

Previous communications from the Local Government Association had indicated that expenditure on unaccompanied asylum seeking children would be met in full. We have recently received information from the Home Office that now suggests something different. The Home Office have informed us that 100% of the direct costs will be reimbursed, subject to these being in line with neighbouring authorities. The grant rules define these costs as costs which "can be attributed to the care of an individual and can be validated and audited as such. Direct costs will vary directly with volume, e.g. weekly foster care." For "Indirect and Other Costs", defined as "all other costs and will generally be of a fixed or semi-variable nature, e.g. premises and social work teams", the Home Office have agreed to pay costs linked to the 2005-06 levels, increased for inflation (approx 2.5% p.a.) with a volume change adjustment moderated over two years. This does not necessarily mean that 100% of these costs will be reimbursed. The impact of this is currently being assessed.

### 2.4.3 Over 18's (previously dealt with by the DCSF but transferred to the Home Office from 1 April 2008)

The grant rules for 18+ care leavers have also recently been issued by the Home Office. They have not given any assurances regarding these costs other than the £100 per week per client, which remains the same as the previous financial year. It is therefore uncertain whether we will be able to make a special circumstances bid for costs in excess of the £100 per week, as we have done previously. We are therefore unclear at this stage how much of the £2.853m shortfall will be reimbursed.

### 2.4.4 2007-08

We have had verbal confirmation from the DCSF that our special circumstances claim of £1.48m for 2007-08 financial year will be paid in full. This is the final year that grant income will be received from the DCSF as from 2008-09 all grants for asylum are the responsibility of the Home Office.

2.4.5 Given the above, we wrote to the Home Office Minister in early January, seeking an urgent meeting to resolve these outstanding issues.

## 2.5 Schools

In addition to the projected portfolio variances, we are now forecasting that schools will drawdown their reserves by £8m. The half year budget monitoring returns from all schools have been received and processed by the LA. The returns indicate a large drawdown of reserves however past experience indicates that this figure is normally overstated. We are therefore predicting a drawdown of reserves in the region of £8m. However it is very difficult to predict this with accuracy, particularly this year when factoring in the recovery of £1.5m from 15 schools earlier this year and the review and subsequent tightening of the 'balance control mechanism' which schools are being encouraged to work towards before they formally apply at the end of 2009-10 financial year.

## **3. 2008-09 REVENUE MONITORING POSITION BY DIRECTORATE & PORTFOLIO**

The main changes in the gross position before management action this month are:

### **3.1 Kent Adult Social Services:**

3.1.1 The overall movement in the gross position on this portfolio is a reduction on the pressure of £0.262m. The main movements are:

- +£0.195m Older People Residential Care – an increase in the pressure from £0.090m to £0.285m. The majority of this increase relates to Older People with Mental Health Needs (OPMHN) as, although normal residential placements have decreased by 17 since last month, there has been an increase of 13 OPMHN placements and in fact the overall proportion of OPMHN placements now represents 41% of all residential placements, whereas in February it was 37%. These placements are more expensive so the impact on the financial forecast is exaggerated. The increasing number of people with higher needs or dementia is also impacting on the domiciliary budget, which is currently forecast to underspend by £1.153m, as these clients are less likely to be able to remain at home.

- -£0.291m Learning Disability Supported Accommodation – an increase in the underspend from -£0.908m to -£1.199m. The forecast had allowed for an increasing trend in the number of clients accessing this service but actual activity to date would suggest that this prediction was too high. The forecast also assumed that a number of clients would transfer from residential placements, however this is taking longer to achieve than anticipated. This has therefore resulted in an increase in residential costs, although this is masked by an increase in the amount of income forecast from Health following a review of the forecast. There continues to be discussion at a national level on what constitutes supported accommodation as there are many similarities with domiciliary care. The underspend of £1.199m against this budget line should therefore be viewed against a pressure of £0.570m on domiciliary care and a pressure on Direct Payments of £0.738m.
- -£0.166m Mental Health Residential Care – a reduction in the pressure from £0.667m to £0.501m. This follows a reduced estimate of weekly fees for some clients.

There are a number of offsetting movements across all other services, which are all below £0.1m, but the general trend shows an increasing pressure on Physical Disability services offset by increased underspending on services for Older People (other than residential care).

- 3.1.2 It was stated in the report to Cabinet on 1<sup>st</sup> December that the Directorate was unlikely to achieve all of the savings within the MTP, and this remains the case particularly with regard to the saving against Learning Disability residential. This is because, as stated above, moving the required number of clients into supported accommodation is taking longer than anticipated. Despite this the Directorate remains confident that other savings will be found, i.e. through the application of Good Financial Practice, to ensure that a balanced budget is achieved by the end of the year. The 'Guidelines for Good Financial Practice' were previously referred to as 'Management Action Plans' in 2007-08 and details were provided to Cabinet in September. Through these, and the range of innovations implemented, including telehealth and telecare through the 'Whole System Demonstrator Programme', the Directorate remains wholly committed to delivering a balanced outturn position, and it is expected that we will balance the remaining £0.851m forecast pressure by year end.

### 3.2 Environment, Highways & Waste portfolio:

The underspend for the portfolio has increased by a further £0.4m this month to £1.863m. This is due to the Allington waste to energy plant not being operational for November while the results of the testing were being examined. The saving, as discussed in previous reports, results from the differential between the current disposal costs at waste to energy plant and those for landfill. This differential is currently a saving of approximately £16 for every tonne that is diverted to landfill, but this option is not sustainable in the long run due to increasing landfill taxes and restrictions in the allowances.

### 3.3 Corporate Support & External Affairs portfolio:

The position on this portfolio has improved by £0.166m on the Democratic Services budget. This is primarily due to a delay in spending the budget provided in the 2008-11 MTP for supporting the development of Localism in Kent. This funding was primarily to expand the Local Boards team and this was delayed whilst the local boards work was fully assessed and new staff recruited.

### 3.4 Finance:

- 3.4.1 The gross position on this portfolio has improved by £2.521m to an underspend of £2.382m. This is mainly due to the impact of the recent reductions in the base rate and the consequential saving on the cost of new borrowing.

#### 4. 2008-09 CAPITAL MONITORING POSITION BY DIRECTORATE

4.1 There have been a number of cash limit adjustments this month as detailed below:

	2008-09 £000s	2009-10 £000s
1. As reported to Cabinet on 1 December 2008	317,479	349,555
2. School Contribution towards the Folkestone Academy Playing Fields - OR&S (CFE) portfolio	1,270	9
3. Reduction in grant due to fewer schools approved by DCSF for the Specialist School Programme - OR&S (CFE) portfolio	-22	-78
4. Additional developer contributions for The Bridge, North Dartford - OR&S (CFE) portfolio	76	
5. Queen Elizabeth Foundation to be funded from PEF2 – KASS portfolio	185	
6. External funding from EDF for Energy & Water Investment Fund – EH&W portfolio	247	
7. Additions to the Communities programme approved by the Leader:		
• AE Business Systems to be funded by PEF2 and revenue contributions	455	
• Renewal of Library ICT invest to save project	1,149	-31
8. Reduction in Big Lottery Fund PE & Sport Programme (Communities portfolio)	-151	
	<b>320,688</b>	<b>349,455</b>
9. PFI	73,420	54,983
	<b>394,108</b>	<b>404,438</b>

4.2 In addition to the cash limit adjustments detailed in the table above, there have been two virements between portfolios:

- £0.2m has been transferred to the Communities portfolio from the Operations, Resources & Skills portfolio to fund the Children's Centre element of the Parkside project.
- £0.115m has been transferred to the Corporate Support & External Affairs portfolio from the Communities portfolio to fund the software upgrade for the Contact Centre Workforce Management System, following the transfer of responsibility for the Contact Centre between the two portfolios.

4.3 Within the capital programme, there have been some further reviews of a number of projects. The current forecast capital position by portfolio, compared with the position reported last month is shown in **table 2** below.

**Table 2: Capital Position**

Portfolio	Variance		Movement £m
	This Month £m	Last Month £m	
Operations, Resources & Skills (CFE)	+4.080	+3.438	+0.642
Children, Families & Educational Achievement	-0.005	-	-0.005
Kent Adult Social Services	+0.257	+0.984	-0.727
Environment, Highways & Waste	-5.318	-4.367	-0.951
Regeneration & Supporting Independence	-2.384	-1.500	-0.884
Communities	-0.971	-0.971	-
Corporate Support & External Affairs	+3.398	+2.000	+1.398
Policy & Performance	-	-	-
Finance	-0.064	+0.097	-0.161
<b>Total (excl Schools)</b>	<b>-1.007</b>	<b>-0.319</b>	<b>-0.688</b>
Schools	-	-	-
<b>Total</b>	<b>-1.007</b>	<b>-0.319</b>	<b>-0.688</b>



4.4 The main movements in the forecast spend are detailed below:

4.5 Operations, Resources & Skills (CFE) portfolio:

The forecast variance for the portfolio has moved by +£0.642m from +£3.438m to +£4.080m this month. The main changes are:

- -£1.722m Special Schools Review (SSR) – following a major review of the SSR programme the following re-phasing is forecast:
  - -£1.359m Rowhill School – the project has been delayed whilst additional resources were secured and GOSE satisfied with regard to the encroachment of the project into green belt land.
  - -£0.289m Five Acre Wood due to delays in moving forward with ‘appeasement’ works following the re-phasing of the major project to later years.
  - +£0.238m Bower Grove as the project has progressed faster than anticipated.
  - There are also a number of smaller re-phasings across many other SSR projects.
- -£0.856m re-phasing of Primary Strategy - now that this budget has been identified to specific projects a better indication of the profile of expenditure is possible.
- -£0.250m re-phasing of St James the Great Development Opportunity - Following a review of the phasing of this project with the Corporate Property Project Manager overseeing this project, it was felt prudent to re-phase £0.250m of spend from 2008-09 to 2009-10 whilst we await a formal update from our external consultancies.
- +£0.535m re-phasing from 2009-10 of early development fees on Academies that are scheduled to commence in 2009-10 (+£0.250m Sheppey Academy, +£0.178m The Spires Academy, +£0.107m Marsh Academy)
- +£2.023m North Dartford Primary (The Bridge) – the project is progressing much faster than originally anticipated. Previous phasings for this project were only estimates but now that the project has started on site we are receiving external consultants estimates of costs and therefore have much better information regarding the project phasing.
- +£0.275m Dartford Grammar School for Girls Sports Hall - this is a school managed project which is progressing faster than initially anticipated. The start on site date was expected to be in 2009-10 but the School now believe this will start in the final quarter of 2008-09.
- +£0.500m BSF development fees – this re-phasing from 2009-10 is due to additional development fees required to progress waves 3, 4 and 5 of the programme.

In the last monitoring report it was mentioned that the Maintenance Programme was under close scrutiny. Although some elements of this programme will undoubtedly overspend, we are still hoping that the overall spend can be contained within our overall cash limit. Whether this can be achieved will depend on demands on Emergency Maintenance during the winter.

4.6 Children, Families & Educational Achievement portfolio:

Although the forecast variance for the portfolio has only moved by -£0.005m this month there are some compensatory movements as detailed below:

- +£0.160m Denton Family Centre (Modernisation of Assets) - the purpose of the upgrade of Denton was to allow the relocation of staff from the Northcourt Centre, which would then facilitate Northcourt’s disposal and capital receipt. The Denton Centre will also now become one of the 6 Intensive Parenting sites that the authority needs to provide across the county.
- -£0.150m re-phasing of the transforming short breaks for families with disabled children project. This re-phasing relates directly to expenditure that was planned to be spent at Broomhill Bank School to provide a fully inclusive environment which would enable children of 14+ to learn life skills ready for transition into living in the community. However due to the proposal that residential care at the school will cease in 3 years time, the life skills proposal is no longer a practical option.

4.7 Kent Adult Social Services portfolio:

The forecast for the portfolio has moved by -£0.727m from +£0.984m to +£0.257m this month. The main movements are:

- -£0.417m underspend on Modernisation of Assets to offset the previously reported pressure on Broadmeadow
- -£0.200m re-phasing of Flexible and Mobile Engagement project as a result of delays in the project management and outcome of the impending KASS restructure.

- -£0.151m re-phasing of the new Social and Healthcare Centre in Dartford Town Centre. This is in light of the fact that this project is interlinked with other local developments, managed by other bodies like Primary Care Trusts (PCT's).

#### 4.8 Environment, Highways & Waste portfolio:

The forecast for the portfolio has moved by -£0.951m from -£4.367m to -£5.318m. The main movements are detailed below:

- +£0.350m major scheme preliminary design fees – this is a result of the delay in getting full approval for the East Kent Access phase 2 scheme. Before we receive the approval, design fees cannot be charged to the scheme, so KCC has to meet these costs. However we will still be seeking reimbursement from DfT but there is no guarantee that we will be successful.
- -£0.350m Part 1 Compensation Claims – this underspend is to offset the overspend on preliminary design fees detailed above.
- -£0.795m Kent Thameside Strategic Transport Programme – this is the major road build to support the growth area. There have been delays in agreeing funding with Government causing some re-phasing into 2009-10.
- -£0.652m Energy and Water Investment Fund – some of the projects are not deliverable by the end of this financial year and will need to re-phase into 2009-10.
- -£0.500m Wetland Creation – this will need to re-phase into 2009-10 due to difficulties in negotiation with the land owner. Agreement may not be reached on the identified site.
- -£0.350m Rushenden Link Road - this major scheme is being retendered which will delay the start of the project, therefore a further £0.350m will need to re-phased into 2009-10.
- -£0.250m Safety Camera Partnership – this is a multi agency group which is planning a purpose built centre to educate children in real life road safety issues. The project has been delayed so our contribution will need to be re-phased into 2009-10.
- -£0.200m Archaeological Research Centre – re-phasing into 2009-10 due to delays/difficulties in securing the necessary funding to undertake the whole project.
- -£0.200m Herne Bay Site Improvements – this project has been delayed until 2009-10 because of difficulties over purchasing some adjacent land.
- +£0.150m Victoria Way scheme in Ashford – this project is slightly ahead of schedule with ecological work and land negotiations commencing this financial year.
- -£0.133m Shorne Wood Heritage project – the project is now in completion stage and some of the contingency is not required. There will be a corresponding reduction in grant of £0.092m, leaving a real underspend against the capital programme of £0.041m
- +£1.975m KHS Accommodation – the phasing of this project has moved backwards and forwards between years. Initially a new location was expected to be largely delivered in 2008-09. This was then re-phased into 2009-10 in the October revisions to the capital programme due to difficulties in securing a site. We are now forecasting to bring £1.975m back into 2008-09, as we are hoping to complete a land purchase by the end of this financial year, with the build/refurbishment expected to happen in 2009-10.

#### 4.9 Regeneration & Supporting Independence portfolio:

The forecast for the portfolio has moved by -£0.884m from -£1.5m to -£2.384m. The main movements are:

- -£0.383m re-phasing of the empty property initiative due to the general downturn in the property market
- -£0.440m Capital Regeneration Fund. Last month it was reported that £1.5m of the £2.5m capital regeneration fund was being re-phased into 2009-10. Of the remaining £1m, £0.350m has been allocated to the Dover Sea change project and £0.210m to the Gravesend Old Town Hall community project, leaving a further £0.440m as yet uncommitted.
- -£0.238m Gravesend Community Project phase 1 – some of the original contingency will remain unspent at the end of this phase of the project. However, some of this is required for phase 2 of the project as detailed below.
- +£0.177m Gravesend Community Project phase 2 – due to additional strip out and refurbishment work. This also includes some additional contingency for unforeseen circumstances.

4.10 Corporate Support portfolio:

The forecast for the portfolio has moved by +£1.398m from +£2m to +£3.398m this month due to £1.398m additional costs of the KPSN project, which is to be funded by contributions from schools.

4.11 Finance portfolio:

The forecast for the portfolio has moved by -£0.161m from +£0.097m to -£0.064m this month. The main movements are:

- -£0.300m re-phasing of Modernisation of Assets projects
- +£0.139m Commercial Services vehicles, plant & equipment to be funded from their Repairs & Renewals fund.

## **5. RECOMMENDATIONS**

- 5.1 Cabinet Members are asked to note the latest forecast revenue and capital budget monitoring position for 2008-09.

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**By:** Paul Carter, Leader  
 Nick Chard, Cabinet Member for Finance  
 Peter Gilroy, Chief Executive  
 Lynda McMullan, Director of Finance

**To:** Cabinet 12 January 2009

**Subject:** Local Government Provisional Finance Settlement

**Classification:** Unrestricted

**Summary:** This report informs Cabinet of the Local Government provisional finance settlement for the years 2009 to 2011, which was announced on 26 November 2008.

### Introduction

- 1 The provisional settlement for 2009-10 was announced on 26 November 2008. In 2007, Government announced a three-year settlement, with a firm figure for 2008-09 and indicative figures for 2009-10 and 2010-11. The announcement on 26 November 2008 provisionally confirmed the indicative figures for 2009-10 and 2010-11. Given that this is the second year of the first ever three-year settlement, it is no surprise that the provisional figures are unchanged. The final settlement is expected to be announced in late January or early February.

### Provisional Settlement

- 2 After adjusting for the loss of the LABGI Grant, our funding is a cash increase of £5.1m, which equates to 2.0%, over the 2008-09 settlement on a "like for like" basis. This is 0.5% above the Chancellor's latest assumed government GDP deflator for 2009-10 (1.5% at November 2008 Pre-Budget Report but decreased from 2.75% at March 2008 Budget). If we take into account Retail Price Inflation (currently 3.0%) then our figure is effectively a cut of 1%. Table 1 provides a summary of this information.

<b>Table 1 – Formula Grant for KCC for 2009-10</b>					
	<b>Final Settlement 2008-09 £m</b>	<b>Adjusted Base 2008-09 £m</b>	<b>Final Settlement 2009-10 £m</b>	<b>Nominal Increase for KCC £m</b>	<b>Nominal Increase for KCC %</b>
Formula Grant (Revenue Support Grant and NNDR)	259.4	258.9	267.2	8.3	3.2%
LABGI		3.2	0.0	-3.2	
Total	259.4	262.1	267.2	5.1	2.0%

As the 2009-10 provisional Grant figure is the same as the indicative figure for 2009-10 announced in January 2008, there is no change to our financial planning assumptions as a direct result of this announcement.

- 3 The provisional settlement for the Area Based Grant is £96.736m, which is £0.483m higher than indicated in last year's announcement. This is primarily due to two new allocations in respect of Substance Misuse for both adults and young people. No figures have been released for other specific or special grants
- 4 The indicative Formula Grant for 2010-11 is shown in table 2. This shows a nominal increase of 3.2% (£8.6m) compared to the 2009-10 base budget.

	<b>Final Settlement 2009-10 £m</b>	<b>Adjusted Base 2009-10 £m</b>	<b>Final Settlement 2010-11 £m</b>	<b>Nominal Increase for KCC £m</b>	<b>Nominal Increase for KCC %</b>
Formula Grant (Revenue Support Grant and NNDR)	267.2	267.1	275.7	8.6	3.2%

- 5 This indicative Grant figure is also unchanged from the figure announced at the 2008-09 final settlement. The adjusted base includes the funding changes in the previous year and compares the later figure on a "like-for-like" basis. Although this grant increase remains as reported last year, the current economic conditions have increased concern over whether or not this indicative settlement will be maintained.
- 6 Kent County Council's grant increases compare quite markedly with other Authorities. Examples of the wide variations in settlement are shown below in Table 3. This shows the Grant increase for regions prior to the LABGI adjustment.

	<b>Increase in grant on like for like basis</b>	
	<b>2009-10 Provisional</b>	<b>2010-11 Indicative</b>
England	2.8%	2.6%
East Midlands Region	3.9%	3.6%
South West Region	3.4%	3.3%
London	2.1%	2.0%
<b>South East Region</b>	<b>2.2%</b>	<b>2.2%</b>
Shire Counties (average)	4.2%	4.0%
Dorset	7.6%	7.1%
Norfolk	6.0%	5.3%
North Yorkshire	5.2%	5.2%
<b>Kent</b>	<b>3.2%</b>	<b>3.2%</b>
Sample Kent Districts:		
Swale	1.3%	1.1%
Canterbury	2.8%	2.5%
Thanet	1.1%	1.1%
All others	0.5%-1.8%	0.5%-2.5%

- 7 The difference between the increase in funding for KCC and for shire counties on average is 1.0% in 2009-10, equivalent to an additional £2.6 million of grant. In 2010-11 the additional 0.8% increase in 2010-11 would have provided a further £2.0 million.
- 8 Cabinet are reminded that Kent is no longer a floor-funded Authority.

- 9 These provisional settlement figures for 2009-10 and 2010-11 are reflected in the draft budget proposals that were published on 7 January 2009.

### **Likely changes before Final Settlement**

- 10 Given this is 'year two' of a three-year settlement, and the distribution formulae and data used in the calculation of the proposed settlement will not change (other than in very exceptional circumstances), it is unlikely that there will be any significant changes to the indicative Grant figures.

### **Response to Consultation**

- 11 The response to Government had to be returned by 7 January. At the time of writing this report, the response to Government was still being prepared.

### **Conclusion**

- 12 The provisional Grant settlement for 2009-10 and 2010-11 is exactly as announced in the 2008-11 three-year settlement. Therefore, there are no changes to our financial planning assumptions as a result of this announcement.

### **Recommendation**

- 13 Cabinet is asked to **note** the contents of this report

#### **Background Documents:**

Existing KCC Medium Term Plan 2008-11

Autumn Budget Statement, Cabinet 15 September 2008

Provisional Local Government Finance Settlement issued by Communities and Local Government in November 2008

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By: Keith Ferrin – Cabinet Member for Environment, Highways, and Waste  
Mike Austerberry – Executive Director- Environment, Highways, and Waste

To: Cabinet – 12 January 2009

SUBJECT: Operation of Household Waste Recycling Centres – Service Review

Classification: Unrestricted

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Summary: This report reviews various operational policies across KCC's network of 18 Household Waste Recycling Centres (HWRC's). In particular it considers entrance policy, trade waste, opening hours, and access to non-Kent residents. It makes recommendations for policy changes where considered necessary and appropriate.

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## **1.0 Introduction**

- 1.1 The provision of places where residents can take their household waste for disposal is a statutory obligation under the Environmental Protection Act 1990. KCC provides a network of 18 such Household Waste Recycling Centres (HWRC's). In 2007/08 these facilities handled 209,000 tonnes of waste, approximately 26% of the Kent's total household waste arisings, and the total number of customer visits was in excess of 3.4m. Recycling through the HWRC network was 51% in 2007/08 and in the first six months of this year it was 56%. These facilities make a major contribution to Kent's overall recycling performance.
- 1.2 The last review of the HWRC service took place in 2001. It is considered appropriate that operational policies are now reviewed. The aim being to ensure that they are kept up to date and continue to meet the needs of Kent's residents; to improve as far as possible the customer experience; and to ensure services provided free of charge to Kent's residents are not abused by unauthorised users.

## **2.0 Current Review**

- 2.1 An in depth review has taken place on the way we operate these facilities. This review has been based on consultations with the various contractors who operate our HWRC's, investigating the operational policies of 17 other waste disposal authorities, customer surveys, and due consideration of the views and expertise of KCC operational staff. It makes recommendations for policy changes where considered necessary and appropriate (or not) and these are set out in Appendix A. The background and key issues are as follows.

## **3.0 Entrance Policies**

- 3.1 HWRCs are provided free to Kent's residents to dispose of and recycle their household waste. We do not impose any restriction on the amount of waste allowed per visit or the number of visits. A problem for many years has been abuse of this free service by traders seeking to avoid business waste disposal charges. This problem is not unique to Kent but occurs throughout the UK.

- 3.2 In 1997 to combat this problem KCC introduced height barriers at its sites. Initially these were set at a clearance height of 1.75m. KCC's current strict policy is that vehicles unable to pass under the barrier cannot enter the site. Associated with this physical restriction is a ban on all pick-up (type) vehicles. When these restrictions were first introduced, the annual amount of waste handled through the network reduced by 25,500 tonnes per annum (14.5% of the total annual waste handled through the HWRC network). At current disposal prices this percentage reduction would represent cost savings in excess of £2m per annum. When the policy was last reviewed in 2001, the clearance height was increased to 1.85m but this did not result in any measurable increase in annual tonnages. i.e there was no evidence that the clearance increase had resulted in trade waste returning to the sites.
- 3.3 To continue to provide a service to residents with overheight vehicles or pick-ups (provided they have genuine household waste), we have always allowed these customers to "walk" their waste into the sites. This practice has increased considerably in recent years as the nature of the vehicle population has changed with many more people having Multi Purpose Vehicles (MPV's) and 4x4's which are taller than the traditional family saloon. In similar vein people are choosing to have pick-up type vehicles as their main family transport. A recent survey at 2 sites has shown that approximately 5% of the customers were having to use this "walk in" option. This would equate county-wide in excess of 150,000 "walk-ins" each year. This practice is not customer friendly and raises serious Health and Safety concerns, particularly at some sites, where there a considerable walk-in distance and/or a risk of conflict with vehicles. This concern has been raised by all the contractors and KCC's H&S Manager and our own supervisors and cannot be ignored
- 3.4 In 2007/08 there were some 41 complaints about the vehicle restriction policies. However, customer suveys last year showed more than 80% of customers supported the height barrier policy.
- 3.5 Any relaxation of the current controls to prevent trade waste abuse would need to be carefully monitored to ensure that this did not lead to increased incidence of unauthorised use of our sites and increased operational costs.

#### **4.0 Prevention Trade Waste Abuse**

- 4.1 The current cost of disposal to traders in Kent through a licensed waste transfer station is in the range £65-£80 per tonne and this cost will increase by £16- £20 per tonne within 2 years. Therefore, there is a clear incentive for some traders to continue to try and seek free disposal through the HWRC network. The financial risk to KCC of just 1% (2,000tonnes) of our total HWRC waste input being trade waste would cost circa £150,000 next year. Target trials at selected sites with additional staff challenging suspect traders have proved very effective. Therefore, notwithstanding our current control measures, such pro-active measures are needed to identify and prevent trade waste and to combat this financial threat. At the same time we are looking to advise and improve the waste disposal information we can provide to small businesses.

#### **5.0 Opening Hours**

- 5.1 The basic hours operated at our HWRC sites have been largely unchanged for the past 15 years. These are 8.00-16.30 Mon-Sat and 09.00-16.00 Sun & Bank Holidays. In addition since 2003 we have late night opening each Wednesday Apr-Sept until 20.00. This offers customers an alternative option to avoid the peak periods at weekends. Also we have additional hours at 2 sites ( Whitfield, Shornecliff) but the reasons for these variations are historical and no longer appear justified. Ideally we

should be looking to provide an equable service as far as possible across the network. By standardising the basic hours across the network, we could fund an additional late night at those sites where the demand is greatest and further help improve the service.

## **6.0 Non-Kent Waste**

6.1 KCC introduced a permit control system at the Dartford Heath HWRC in 1998. This was to address the problem of a significant imbalance in cross-border waste from households in Bexley. Non-Kent residents had the option of using the HWRC's in their own Local Authority area, or paying a fee to use the Dartford Site. Waste input to the KCC site reduced by 5,000 tonnes per annum. If the controls were now to be lifted and this level of non-Kent waste returned it would cost Kent an additional £300,000 pa. The system therefore needs to be retained. Also the charge to non-Kent residents needs to increase to £5/visit to ensure that KCC fully recovers its haulage, disposal, and administrative costs.

## **8.0 Financial Implications**

- There will be a one-off cost to modify the height barriers and signing of £43,000.
- The cost of the additional resource required to address trade waste abuse will be in the order of £40,000 pa but this will be financed from savings in disposal costs.
- The net effect of the recommended changes to opening hours is a small saving of £3000 pa. In the first year there will be a one-off cost of £1,600 to modify planning permissions on some sites.

## **9.0 Recommendations**

- i) To adopt the changes to the HWRC operating policies as set out in Appendix A
- ii) To monitor the effectiveness and impact of these changes and report back to Cabinet accordingly after 12 months operation.

## **Contact Information**

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## **Background Documents**

(1) Kent County Council – Household Waste Recycling Centres  
Policy Review – November 2008 by T Bayes

(2) Equality Impact Assessment

APPENDIX A

KCC Waste Management

November 2008

HWRC – Service Policy Review

	Subject Area	Current Policy	Change/Action Recommended	Reason/Benefit
1.	Height Barriers	Set at 1.85m; entrance to sites strictly limited to vehicles that can pass under the barrier	Retain barrier but increase clearance to 2.0m	<p>Vehicle population has changed since 2001 – many more taller MPV and 4x4 vehicles.</p> <p>Will continue to be effective in excluding majority of trade vehicles</p> <p>Will significantly reduce number of genuine customers having to walk waste into sites (see 3.)</p> <p>Supported by all site operators and large majority of customers</p>
2.	Pick-up type vehicles	No pick-ups allowed into sites	Allow pick-ups	Vehicle population has changed since 2001 – many more people using pick-up type (lifestyle) vehicles as main family vehicle
3.	Overheight vehicles	Allowed to “walk in” with waste	<p>Stop all walking in with waste</p> <p>Designate up to 8 sites county-wide where overheight (&gt;2m high) vehicles will be accepted on Wednesdays and Saturdays. Entry to be limited to vehicles of 3.5t GVW max</p> <p>Exception procedure to allow a senior manager to allow access for over-height vehicles at other times but only in exceptional circumstances</p>	<p>Significantly reduce risk of pedestrian/vehicle conflict on site access roads;</p> <p>Eliminate traffic congestion and hazards caused by parked vehicles outside sites;</p> <p>Waste is coming in anyway;</p> <p>Staff can inspect vehicles more readily for any suspected trade abuse; target inspection and enforcement resources more effectively</p>
4.	Trailers	No restrictions on use	Allow all single axle trailers but limit access to twin axle trailers to selected sites.	<p>Survey show about 5% of customers have trailers;</p> <p>Improve safety and reduce congestion at smaller sites caused by larger trailers</p>
5.	Amount of waste; number of visits	No restriction (providing its household waste)	No change	Very difficult to apply and monitor any sort of limit

6.	Prevention of Trade Waste	<p>Suspected traders required to complete “non-trade waste” declaration form.</p> <p>Onus on contractors to prevent trade waste abuse</p>	<p>Continue with declaration form system ; increased staff training and support on trade prevention</p> <p>Recruit additional resource ( trade waste prevention officer) to carry out target exercises at selected sites; to investigate suspected traders and take forward enforcement action</p> <p>Look to provide more information to small businesses on waste disposal/recycling options</p>	<p>Evidence shows that some site staff are much better at identifying and preventing trade abuse than others.</p> <p>Target exercise trial at one site resulted in reduction in residual waste of 30% and increase in recycling of 4%. This would represent cost saving on disposal costs of £100,000 pa. Staff costs would be self-financing.</p> <p>Need to be as helpful as possible to encourage traders to dispose of waste responsibly</p>
7.	Site Opening Hours	<p>Most sites open: 8.00-16.30 Mon-Sat 9.00-16.00 Sun ,B.Hols BUT Whitfield opens 7.00 Hawkinge closes 13.00 Sat and all day Sun, Shornecliffe open to 18.00 Mon-Sat (Apr-Sept) and to 16.30 Sun All Sites open to 20.00 each Wed (Apr-Sept)</p>	<p>Make basic opening hours at all sites (except Hawkinge) to common standard:- 8.00-16.30 Mon-Sat 9.00-16.00 Sun , B.Hols</p> <p>REDUCE late night opening by 1 hour on all Sites i.e close at 19.00 each Wed (Apr-Sept)</p> <p>ADD one extra late night opening on 8 busiest sites i.e close at 19.00 on Thurs (Apr –Sept)</p> <p>Hawkinge – No Change ( due to planning restrictions)</p>	<p>Standard basic hours across Kent. No complaints about current hours. Customers surveys have not shown any appetite for change to basic hours.</p> <p>Late night opening on Wednesdays little used after 19.00</p> <p>Opportunity to fund one extra late night opening at busiest sites at no overall increase in cost ( i.e target resources where demand needed.) (LIST SITES)</p> <p>Reduce queues at weekend peak periods</p>
8.	Charity Waste	<p>Allowed to dispose of household (type) waste at designated HWRC’s using permit system</p>	<p>No change</p>	<p>Minimal cost to KCC ( £23,000 approx in 2007/08). If waste collected by WCA then KCC would be liable for this disposal cost anyway.</p> <p>Wider community contribution, good PR message</p>
9.	Non-Kent Waste	<p>Permit system at Dartford Heath HWRC only; charge of £3/visit to non-Kent residents</p>	<p>Retain permit system at Dartford Heath only</p> <p>Increase charge to non-Kent residents to £5/visit</p>	<p>If system removed there is high risk that cross-border waste input would return at cost to KCC of circa £300k pa</p> <p>Price increase needed to reflect current disposal costs. Charge unchanged since introduction in 1998.</p>



**To:** Cabinet - 12 January 2009

**From:** Mike Hill, Cabinet Member for Communities  
Clive Bainbridge, Director of Community Safety & Regulatory Services

**Subject:** Policy & Protocol on Surveillance

**Classification:** Unrestricted

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**Summary** This report describes the background to the establishment of the above protocol on Surveillance, including the Acquisition of Communications Data, as defined in the Regulation of Investigatory Powers Act 2000 (RIPA). The Policy and Protocol is required to be formally approved for use across the Council. The above document requires an annual report to the Governance & Audit Committee and attached is an example of the content of this annual report.

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## 1. Background

- 1.1 This subject has caused significant media activity over the last year, based around the suggestion that Council's were using "anti-terrorism legislation" inappropriately or even illegally. Kent County Council was mentioned in several of the media reports following Freedom of Information Act (FOI) requests from national and local newspapers.
- 1.2 The introduction of the Regulation of Investigatory Powers Act 2000 (RIPA) did not provide any new powers for the investigation of criminal offences by officers of KCC. RIPA merely clarified the position and allowed the use of certain investigatory techniques by a public body that could otherwise be seen as being contrary to the principles of the Human Rights Act (also introduced in 2000) and hence actionable by an aggrieved party.
- 1.2 To ensure that the reputation of KCC was upheld the Director of Community Safety & Regulatory Services was requested to update the original approved Protocol for consideration and approval by Cabinet.
- 1.3 Shortly after this request Sir Simon Millton, then Leader of the LGA, wrote to all Councils strongly suggesting that each Council should satisfy themselves that, "RIPA is only being used after the most careful consideration at the appropriate senior political and management level, and that existing permissions to ensure that their continuance meet the 'necessary and proportionate' test".

1.4 This has since been followed by a letter from the Minister for Local Government, supporting Councils using 'surveillance' to tackle serious issues such as 'rogue traders, loan sharks and fly-tippers' but expressing concern if Councils were using surveillance for less serious offences. A speech by Jacquie Smith, Home Secretary on 16 December confirmed this approach to the use of these powers by local authorities.

## **2. Previous approval by the County Council**

2.1 The matter was first raised with the Regulatory Services Board and subsequently a report including a Policy and Protocol documents were prepared and approved by decision number 04/00516. This decision was agreed and signed by Sir Sandy Bruce Lockhart dated 10 November 2004.

## **3. Current policy and protocol**

3.1 The Policy and Protocol document has been updated, although it has not been necessary to undertake a major revision. The significant revisions are:

- in the previous protocol officers permitted to authorise surveillance were named but the revised list shows a smaller number of people and identified only by job title as this is likely to change less frequently. There have been some other improvements following recommendations made after inspections by the relevant Commissioners.
- the revised protocol has a separate section on the use of Covert Human Intelligence Sources (CHIS) to clarify that CHIS is a specific part of surveillance techniques and to highlight the risks and dangers in the use of CHIS.
- the new requirement for an annual report to be provided to the Audit Committee (para 14.3 of Policy and Protocol on Surveillance), outlining the work carried out by KCC within the remit of RIPA, during the preceding year. To illustrate the content and nature of this report a draft version of the future annual report is attached as an Appendix.

3.2 The document covers all of the activities of the County Council although the only parts of the Council regularly using surveillance techniques, within the scope of RIPA, are Trading Standards and to a lesser extent Environmental Crime Officers.

3.3 Acquisition of communications data can only be obtained by certain persons trained and authorised by the Home Office, currently several senior officers within the Trading Standards service. However, in relation to surveillance anyone can attempt it without necessarily understanding the consequences for the authority. For this reason we regularly carry out a survey across all service heads specifically requesting a response to a couple of direct questions about



this activity. The result is that, as an organisation, we can with some certainty state that surveillance is only carried out within the terms of the attached Policy and protocol.

#### **4. Inspection by Office of Surveillance Commissioners (OSC)**

- 4.1 On 12 February 2009 the County Council will be inspected by the above body who will submit a report to Sir Christopher Rose, the Chief Surveillance Commissioner. The inspection will be completed within a day and will be useful to ensure that the Council commands public confidence in the way that it uses, and maintains appropriate oversight of the use of these powers by officers.

#### **5. Recommendation**

- 5.1 Cabinet is asked to note the background to this matter and to approve the attached Policy and Protocol document and the nature of the report to be annually reported to Governance and Audit Committee

*Clive Bainbridge*  
*Director of Community Safety and Regulatory Services*  
*01622 221014*

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**KENT COUNTY COUNCIL**

**POLICY & PROTOCOL**

**ON SURVEILLANCE**

**Including the Acquisition of**  
**Communications Data**

Scope

This Protocol applies to Covert Surveillance, Covert Human Intelligence Sources and the Acquisition of Communications Data, as defined in the Regulation of Investigatory Powers Act 2000, undertaken by KCC officers.

## Human Right Act principles and the Regulation of Investigatory Powers Act 2000

The Human Rights Act 1998 (HRA) came into force in October 2000. One of the principles of the Human Rights legislation relates to having respect for private and family life, home and correspondence and that there should be no interference by a public authority except in accordance with the law. The Regulation of Investigatory Powers Act 2000 (RIPA) was enacted so public authorities with any enforcement role can act lawfully when operating certain investigatory techniques. The duty on the Council to act in a way that is compatible with the individual's rights and failure to do so may enable a person to seek damages against the Council or to use our failure as a defence in any proceedings that we may bring against them.

The Act recognises that there are circumstances in a democratic society where it may be necessary for the State (which includes the Council) to interfere with these rights, but this can only be done in accordance with certain principles and for the following purposes:

- in the interest of national security, public safety or the economic well-being of the country
- the prevention of disorder or the prevention/detection of crime
- the protection of safety, health or 'public morals'
- the protection of the rights and freedoms of others (including the protection of the environment).

### **RIPA only permits the Council to exercise powers for the purposes of preventing and detecting crime or preventing disorder.**

To be able to justify any interference with the right to respect for an individual's privacy under the HRA, the Council needs to demonstrate that any interference is not only for one the prevention or detection of crime, but is also:

- **lawful**
- **necessary** for the purposes of the investigation and
- **proportionate** to what we want to achieve

### Covert Surveillance

Covert surveillance is sometimes needed in an investigation, but is likely to be regarded as an intrusion into an individual's privacy. For this reason, the terms on which covert surveillance may lawfully be undertaken have been explicitly set out in the RIPA and a statutory Code of Practice. Consideration must also be given to the requirements of the Data Protection Act in respect of the subsequent retention, use and storage of data or information obtained.

Where covert surveillance is considered appropriate, it is necessary for it to be **formally authorised**. This applies whether the surveillance is to be undertaken by Council Officers or by an outside agency acting on the Council's behalf. Authorising officers will need to satisfy themselves that a defensible case can be made for the covert surveillance activity. RIPA applies controls on "directed surveillance" and "intrusive surveillance". The Council can only authorise directed surveillance (as defined later in this document) and **cannot** "bug" properties or individuals.

### Covert Human Intelligence Source (CHIS)

In a few investigations it is necessary and appropriate to use a human source that provides information in confidence and may also involve seeking information from a party who does not know that the information will be given to the investigator. The procedures are intended to maintain the safety, integrity and compliance by strictly controlling and regulating the relationship between the Council and a human intelligence source.

A Council officer who:

establishes a relationship with another person to obtain information (without disclosing that purpose), or

encourages a third party to establish or use a relationship with someone to obtain information, and to pass it on without that person's knowledge

is acting as (or directing) a "covert human intelligence source" often referred to as undercover officers or the use of informants. Such activity may also breach an individual's human rights and is therefore controlled by RIPA. The use of an "informant" that has been tasked to obtain information can be particularly involved and should only be used in special circumstances. The use of any human intelligence source must always be **formally authorised**.

### Acquisition of Communications Data

The Council **cannot** obtain the content of phone calls, e mails or postal communication. They can obtain the subscriber and billing details and where necessary the called and received numbers. Such activity would also breach an individual's human rights and is therefore strictly controlled and required to be **formally authorised**. The authorisation process must comply with an approved Code of Practice and be carried out by specialist trained Officers. Consideration must also be given to the requirements of the Data Protection Act in respect of the subsequent retention, use and storage of data or information obtained.

In cases of conflict between the Policy or Reference Guide and relevant statutes or the statutory Code of Practice, the statute or statutory Code shall prevail.

This document was approved by Cabinet on xxxxxxxxxx 2008.

## **KCC Policy on the use of Surveillance and the Acquisition of Communication Data**

In carrying out investigations into the alleged illegal activities of individuals and organisations, the Council will seek to ensure that any interference with the rights of any person is lawful, necessary and proportionate to what is sought to be achieved. In particular, the Council recognises that any use of covert surveillance by its staff (and others acting on its behalf) should be in accordance with the requirements of the Regulation of Investigatory Powers Act 2000 (as amended) and any statutory Code of Practice.

That the use of covert human intelligence sources shall be in accordance with the Regulation of Investigatory Powers Act 2000 (as amended) and any statutory Code of Practice. Also, that the acquisition of communications data will be in accordance with the requirements of that Act and in addition the Regulation of Investigatory Powers (Communications Data) Order 2000 (as amended) and any statutory Code of Practice.

To ensure compliance with the above, the Council will annually survey all Unit Heads/Group Managers, to ensure that either no covert surveillance is undertaken by that Unit/Group or that the Unit/Group has in place adequate procedures to ensure that covert surveillance is undertaken in accordance with this Policy. The survey will also seek to confirm that no Unit or Service Group, other than Trading Standards engages in the use of covert human intelligence sources or attempts to obtain communications data from Communication Service Providers (as defined in the Act).

### **1 Reference Guide to procedures**

- 1.1 This Reference Guide sets out the Council's procedures for the authorisation and conduct of covert surveillance operations, covert human intelligence sources and the obtaining of communications data. It provides a brief summary of the main requirements of relevant law and the Statutory Code of Practice.
- 1.2 The Guide is an aide for clarification and is not a substitute for the legislation or the Code itself, which must be regarded as the definitive reference material. KCC's Legal Services will offer interpretation and advice on the law on request. If any Unit or Group wishes to consider the use of these investigatory techniques they must obtain legal advice.

## 2 What is “surveillance”?

- 2.1 Surveillance includes monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications. (NB surveillance does not necessarily involve the use of devices like binoculars, tape recorders or cameras.)
- 2.2 RIPA applies controls on “**directed surveillance**” and “**intrusive surveillance**”. **The Council can only authorise directed surveillance.**
- 2.3 Special restrictions apply to the interception of any communications (See section 3.7 and 12)

## 3. What is “Directed Surveillance”?

- 3.1 Surveillance will be “directed surveillance” if it is:
- covert (i.e. intended to be carried out without the person knowing); and
  - undertaken for a specific operation (as opposed to, for example, routine CCTV surveillance of an area); and
  - carried out in such a way as to make it likely that private information will be obtained about a person (NB: not necessarily the person ‘targeted’).
- 3.2 “Private information” includes any information relating to a person’s private or family life. This phrase should be interpreted widely, and considered to include all manner of personal information including personal telephone calls made from work and business matters which are not intended to be public.
- 3.3 Secretly recording anything overtly observed or heard will be considered covert surveillance, e.g. secretly recording a phone call you make or receive.
- 3.4 Surveillance will not be covert (and will therefore be outside the definition of “directed surveillance” and not require RIPA authorisation) if the subject has been warned of it. Surveillance by CCTV (fixed or mobile) will not be covert if there is adequate signage. In such cases CCTV could be used for a specific operation without authorisation.
- 3.6 Surveillance carried out in or into residential premises or any private vehicle, where the observer is present in the premises or vehicle or uses a surveillance device giving an equivalent quality of information is called “**intrusive surveillance**” and is **not permitted by any local authority.**
- 3.7 Special rules apply to the interception of communications. The Council is not permitted to intercept private mail or communications. Nor are they allowed to secretly monitor phone calls, emails, etc during the course of transmission (or to record them during transmission for possible subsequent monitoring) unless: either, the sender or recipient has consented, or the monitoring is of a KCC system for a KCC purpose such as to detect unauthorised use. In the latter case, RIPA authorisation may not be required, as a general authorisation for ‘internal’ monitoring is contained in The

Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000. However, strict conditions apply and the Regulations should be read. In particular, potential users of the system must have been made aware that monitoring might take place and hence the need for a published email policy allowing for the monitoring of emails sent from or received at work. It is also worthy of note that DPA guidance suggests that RIPA-type considerations should still be applied and an "Impact Assessment" made. (See the DPA Code of Practice)

## 4 The authorisation process for surveillance under RIPA

- 4.1 Directed surveillance may only be undertaken with proper authorisation, which will ensure that the principles of **legality, necessity and proportionality** are properly considered.

Before surveillance may be carried out, the Investigating Officer must:

- complete an application form seeking authorisation
- obtain signed authorisation on that form from a designated authorising officer.

- 4.2 The County Council has designated the following officers to authorise surveillance. These Officers hold a role or rank as specified in the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003.

Position	Scope
Director of Law and Governance	Kent County Council
Director of Community Safety and Regulatory Services	Trading Standards
Director of Environment and Waste  Head of Waste Management  Strategic Projects And Business Development Manager.	Environmental Crime
Assistant Head of Trading Standards	Trading Standards
Trading Standards Area Manager	Trading Standards



## **5 Surveillance that might involve collateral intrusion**

- 5.1 Collateral intrusion is where a third party's privacy is infringed (e.g. where in monitoring the target individual an officer also observes, records or photographs one or more innocent third parties, this could be considered "collateral intrusion").
- 5.2 Where authorisation for surveillance is requested, the authorising officer will, amongst other things, have to be satisfied that the risks of collateral intrusion have been considered and minimised and that any intrusion into privacy that may still occur is proportionate to what is sought to be achieved by the surveillance.
- 5.3 Accordingly, investigating officers will need to consider the potential for collateral intrusion in identifying possible locations for surveillance.
- 5.4 If directed surveillance unexpectedly gives rise to intrusion into a third party's privacy, the investigating officer should bring this to the attention of the Authorising Officer, so that the continuation of the authority can be reviewed and the decision recorded. If the collateral intrusion renders the surveillance disproportionate, then the authority should be cancelled and a new application made, if appropriate.

## **6 Surveillance where it is likely that 'confidential material' will be obtained**

- 6.1 Confidential information includes people's communications with their solicitor or minister of religion, journalistic material, medical records and other matters which have particular sensitivity or where one would expect a particularly high level of privacy.
- 6.2 If, exceptionally, an investigating officer thinks that confidential information may be obtained in the course of conducting surveillance, then authorisation must be obtained from the most senior officers, namely Director of Law and Governance or Director of Community Safety and Regulatory Services.

## **7 Where there is genuine urgency**

- 7.1 If surveillance is required to be undertaken urgently, oral authorisation may be given. Oral authorisation is for use where an investigating officer believes that an operation would be jeopardised if the surveillance were not undertaken but there is insufficient time to obtain written authorisation. (NB. this process is not available where the officer simply omits to seek authorisation early enough). The authorising officer must subsequently complete the Authorisation Form and indicate why the matter was deemed urgent. The officer receiving the authorisation should also record (preferably in an official notebook) the circumstances of the authorisation.
- 7.2 Authorisation is not necessary if an officer undertakes limited surveillance as an immediate response to an event he encounters, where it would be impracticable to seek authorisation.

## **8 Authorisations for Surveillance Time Limits**

- 8.1 Written authorisation is valid for three months, but must be reviewed by the authorising officer at least every month. The authorising officer should complete the Review Form after carrying out the review.
- 8.2 If it is necessary to continue the surveillance for longer than three months, an application for a renewal of authorisation for surveillance must be made on Renewal Form.
- 8.3 Oral authorisation runs for 72 hours from the time given. If the surveillance is required to continue past that period then written authorisation for a renewal must be sought.

## **9 Cancellation of Authorisation of Surveillance**

- 9.1 At the end of any surveillance that has been carried out, the authorising officer must complete Cancellation Form to cancel the authorisation for surveillance.

## **10 Officers Keeping and Destroying Records of Surveillance**

- 10.1 All investigating officers have a legal obligation under the Criminal Procedures and Investigations Act 1996 to keep full and accurate records of criminal investigations. This would include all RIPA documentation and the results of the surveillance undertaken. In many circumstances there are legal obligations to disclose anything relevant to an affected party, and we may also have to demonstrate fairness and propriety to a court or tribunal reviewing what we have done.
- 10.2 Copies of authorisations, renewals and cancellations given should be retained on the investigation file and investigating officers must record:
- an account of events observed and/or conversations overheard (preferably in an official notebook)
  - a full account of any surveillance which has taken place in or on a private place (permitted only in order to maintain contact with a moving target or to assess whether the target has been lost)
  - reasons for, and the nature of, any inadvertent intrusion in or into a private place, and the results
  - reasons for selecting a specific target if authorised only for general observations
  - all records shall be kept in a safe and secure manner
- 10.3 A record of authorisations granted (copies of all the forms involved) must be kept in a safe and secure manner in each Unit/Service Group that undertakes directed surveillance. An officer in each Unit/Service Group needs to maintain this record, and copies of all authorisations, renewals and cancellations must be forwarded to that officer as soon as reasonably practicable after their completion. The Trading Standards Service will be notified with the details as required by the Code of Practice of all authorisations in order to maintain a central register on behalf of the Council.

- 10.4 A record of any monthly reviews must be maintained by the authorising officer.
- 10.5 Ultimately, all material gathered by surveillance must be destroyed (treat as confidential waste). Where a case goes to court, the material should be retained until there is no longer any prospect of any appeal against the court's decision (or, if a sentence of imprisonment is ordered in a criminal case, until the defendant has served the sentence. Should no action ultimately be taken in any case, surveillance material should be destroyed forthwith. Data Protection Act requires that data is not kept longer than necessary.

## **11 Acquisition of Communications Data under RIPA**

- 11.1 There are circumstances when communications data is permitted to be obtained from Communications Service Providers (CSPs). Communications data does not include the content of any communication, but is information about the circumstances in which a communication has been sent, this applies to postal, telephone and Internet services.
- 11.2 RIPA defines the three types of communications data that can be obtained from the CSPs: subscriber information e.g. names and addresses of people to whom services are provided; service use information e.g. itemised telephone billing records; and traffic data e.g. information identifying the location from which a communication has been made.
- 11.3 The authorisation process must comply with the approved Code of Practice and includes completion of all the necessary Forms. The final decision and submission must be by a named senior Officer who has been trained, tested and specifically authorized by the Home Office. There are currently four Officers within the Trading Standards Service of Kent County Council able to request this type of information. These Officers have unique Home Office issued numbers and hence no other Officers in the Council should be able to obtain this type of information from the CSPs.
- 11.4 The principles of record keeping and destruction should, where applicable be applied as shown above (Section 10).

## **12 Covert Human Intelligence Sources (CHIS)**

- 12.1 The most common use of this technique will be the use of an officer who is required to develop a relationship with an individual without disclosing that they are doing so on behalf of the Council, for the purposes of an investigation, for example when attempting to carry out a test purchase. Particular care must be taken to consider the safety and welfare of the officer.
- 12.2 The other less frequent use would be of an "informant" or similar party who is then tasked or encouraged to try to obtain information from another party, without disclosing the intention. The information obtained is then relayed to the Council for the purposes of an investigation. Of particular concern in these types of events must be the safety and welfare of the people involved (officer and "informant").

Also there must be strict control about information regarding the identities of those involved. As this type of investigatory technique requires particular care and control it should only be considered for use in investigation when no other option is available. Legal advice should be sought prior to any such operation in conjunction with advice from specialist officers in Kent Police.

- 12.3 The authorisation process must comply with the approved Code of Practice and includes completion of all the necessary Forms. The principles outlined in Section 4, 5, 6, 7, all apply. The County Council has designated the following officers to authorise the use of Covert Human Intelligence Sources. These Officers hold a role or rank as specified in the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003.

<b>Position</b>	<b>Scope</b>
Director of Law and Governance	Kent County Council
Director of Community Safety and Regulatory Services	Trading Standards/Environmental Crime
Assistant Head of Trading Standards	Trading Standards/Environmental Crime
Trading Standards Area Manager	Trading Standards/Environmental Crime

- 12.4 The Time Limits for the authorisation of Covert Human Intelligence Source shall be no more than 12 months and 72 hours for urgent oral authorisations. Reviews should take place as appropriate and as frequently as considered necessary and practical by the authorising officer.
- 12.5 The principles outlined in Section 9 apply but in addition where necessary, the safety and welfare of the source should continued to be taken into account.
- 12.6 The principles of Section 10 apply however particular care must be exercised for the safe and secure storage and eventual destruction of any records.
- 12.7 Consideration needs to be given if there is any possibility that the authorisation may involve “vulnerable” or juvenile sources (particularly those under 16 and involving parents/guardians). In any such event legal advice must be obtained with reference to the legislation and Codes of Practice.

## **13 Training**

- 13.1 Any Unit/Service Group that proposes to undertake directed surveillance, covert human intelligence sources or obtaining permitted communications data must first ensure that all relevant staff have received sufficient instruction to enable them to comply with RIPA and the various Codes of Practice. They will then need to be added to the Authorised Officer List, and in the case of obtaining communications data have undergone Home Office recognised and accredited training.

## **14 Auditing**

- 14.1 Any Unit/Service Group that undertakes directed surveillance, the use of covert human intelligence sources and acquisition of communications data should have in place a system of auditing to ensure that staff involved have had the necessary instruction to comply with RIPA and the Codes of Practice and that all the requisite procedures are consistently followed.
- 14.2 The procedures and records referred to in this Protocol are subject to inspection and audit by Office of the Surveillance Commissioner (in relation to Surveillance and Covert Human Intelligence Sources) and the Interception of Communications Commissioner's Office (in relation to communication data).
- 14.3 At the end of each year a report shall be submitted by the Director of Community Safety and Regulatory Services to the appropriate Audit Committee, outlining the work carried out in the preceding year by KCC falling within the remit of RIPA.

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**To:** Governance & Audit Committee – xxx date xxxx

**From:** xxxxxxxxxxxx, Chairman of Governance & Audit Committee  
Clive Bainbridge, Director of Community Safety & Regulatory Services

**Subject:** Annual report on 'surveillance' activities carried out by KCC in 2008/09

**Classification:** Unrestricted

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**Summary** This report outlines the work undertaken in 2008/09 by KCC Officers on surveillance and other activities governed by the Regulation of Investigatory Powers Act 2000 (RIPA).

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## 1.0 Background

- 1.1 Cabinet decision number xxxxxxxx, taken on 12 January 2009, approved the County Council's Policy and Protocol on Surveillance, including the Acquisition of Communications data. The document sets out the extent of KCC's powers in relation to surveillance and details the circumstances in which those powers can be used. This is a sensitive area, with considerable public interest and the County Council wishes to be as open and transparent as possible to assure the public that these powers are used only in a 'lawful, necessary and proportionate' manner.
- 1.2 To achieve maximum transparency and ensure that the County Council maintains public confidence Section 14.3 of the Policy and Protocol on Surveillance requires that:

*'At the end of each year a report shall be submitted by the Director of Community Safety and Regulatory Services to the appropriate Audit Committee, outlining the work carried out in the preceding year by KCC falling within the remit of RIPA.'*

## 2.0 What this report covers

- 2.1 There are three types of activity where authority is required to be granted to individual officers to carry out a specialist function within the remit of RIPA. These are as follows:
- Covert Surveillance
  - Acquisition of Communications Data
  - Covert Human Intelligence Source ( CHIS )

Each of the above is defined in detail within the Policy document but in simplified form can be described as follows:

covert surveillance – intended to be carried out without the person knowing and in such a way that it is likely that private information will be obtained about a person (not necessarily the person under surveillance)

acquisition of communications data – obtaining from a communications service provider names, addresses, telephone billing records and traffic data but not the content of any communication

covert human intelligence source (CHIS) – the most common form is an officer developing a relationship with an individual without disclosing that it is being done on behalf of the County Council for the purpose of an investigation. Alternatively, a rare occurrence would be the use of an ‘informant’ working on behalf of an officer of the Council.

- 2.2 In each of the above scenarios an officer is required to obtain authorisation from a senior officer before undertaking the activity. This decision is logged in detail, with the senior officer considering the lawfulness, necessity and proportionality of the activity proposed and then completing and signing an authorisation document, which is then held on a central file. There is one central file for KCC, held by the Director of Community Safety & Regulatory Services, which is available for inspection by the Office of the Surveillance Commissioners.

### **3.0 RIPA work carried out in the year 2008/09**

- 3.1 The annex to this report gives the general purpose or reason for which authority was granted under each of the three headings. It is not possible to give further details as this may breach confidentiality legislation, such as the Enterprise Act, offend the subjudice rules, interfere with the proper investigation of potential offenders, or disclose other operational information which could hinder past, current or future activities, investigatory techniques or investigations.
- 3.2 The report covers the year 2008/09 but could be changed to any other reasonable period if requested by the Committee.

### **4.0 Office of Surveillance Commissioner - audit of KCC activity under RIPA**

- 4.1 *This section will provide information following a formal audit by Sir Christopher Rose, the Chief Surveillance Commissioner, which will be taking place on 12 February 2009.*



## **5.0 Recommendation**

- 5.1 Governance and Audit Committee is asked to note and approve the manner in which KCC's formal Policy and Protocol on Surveillance (including the Acquisition of Communications data) has been followed during the previous year, including the type of criminal offences where surveillance has been used or communications data has been requested.

*Clive Bainbridge  
Director of Community Safety and Regulatory Services  
01622 221014*

DRAFT

## **Use of RIPA Powers Annual Report 2008/09 (as at December 08)**

### **(1) Formal written authority provided for Covert Surveillance**

**7 in total**

- Establish identity of fly-tippers and provide evidence of offending (6 events)
- Serial cold caller with previous offences followed to residential property and arrested

### **(2) Formal written authority provided for Acquisition of Communication Data**

**15 in total (each a request for the name / address of a telephone subscriber)**

- Roadside car seller not declaring trade and selling unsafe vehicles
- Roadside car seller not declaring trade
- Builder claiming KCC approval and other false descriptions
- Cold calling, block paving – no cancellation notice & possible fraud (2 events).
- Cold calling, driveway work – no cancellation notice.
- Cold calling, building work – no cancellation notice.
- Cold calling, paving work – no cancellation notice and misdescriptions (2 events).
- Unsolicited carpet sales (2) – cash taken, carpets not fitted – theft.
- Counterfeit Tiffany jewellery sold at boot fair.
- Counterfeit clothing on Ebay – 3 linked enquiries.
- Counterfeit DVDs on Ebay with threats to buyer.

### **(3) Formal written authority provided for covert human intelligence source**

**2 in total**

- Engagement with roadside car seller (2 events)

By: Graham Gibbens, Cabinet Member for Adult Social Services  
Oliver Mills, Managing Director, Kent Adult Social Services

To: Cabinet – 12 January 2009

Subject: **COMMISSION FOR SOCIAL CARE INSPECTION – ANNUAL PERFORMANCE REVIEW REPORT FOR ADULT SOCIAL CARE**

Classification: Unrestricted

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Summary: Enclosed is the Performance Review Report for Kent Adult Social Services. It outlines the Commission for Social Care Inspection's view of the Adults Social Services Directorate's performance over the last year.

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## Introduction

1. On 25 July 2008, Kent Adult Social Service's Annual Review Meeting with the Commission for Social Care Inspection took place to audit performance for the year 2007/08. This was the third year where adult social care was reviewed separately from Children's Social Services. Enclosed with this report is the letter from CSCI informing us of our star rating for the period 2007- 2008 (Appendix 1). There is a requirement to present the letter to an executive meeting of elected members.
2. Although in the main the services this assessment applies to cover the Kent Adult Social Services Directorate, it also covers KDAAT (Kent Drug & Alcohol Action Team), managed within the Communities Directorate.
3. Kent is one of only three authorities nationwide which has achieved three stars in each year since star rating was introduced seven years ago, the others are Leicestershire and Sunderland. This is the last year that star ratings will be awarded to authorities by the Commission for Social Care Inspection. In April 2009, the Commission for Social Care Inspection will merge with the Healthcare Commission and the Mental Health Act Commission to form the Care Quality Commission.

## Policy Context

4. The letter outlines areas where Kent Adult Social Services have improved and recommends areas for improvement. The recommendations are intended to help the council improve outcomes and the quality of services.
5. In assessing performance, CSCI uses Performance Assessment Framework (PAF) indicators and other statistical data, including the self assessment statement (SAS).

6. Key points KASS were commended for were:

- The council's strong partnerships with other bodies such as the NHS and voluntary organisations.
- Strong commitment to ensure that users and carers are given every opportunity to be actively involved in policy development and decision making.
- Innovative use of technology to help people live independently.
- Clear understanding of the local social care market and innovative work with care providers to promote the quality of services.
- The council can demonstrate strong recruitment, retention and training and development opportunities for staff.

7. The main areas for improvement identified were levels of practice learning for Kent staff and continuing to work with the PCT to commission suitable accommodation and care arrangements for people with a learning disability who are currently in NHS provided care. Both of these are being addressed.

8. The outcome of the performance analysis of Kent Adult Social Services for 2007-08 was announced on 27 November 2008. KCC has retained its **3-star rating** for the **seventh year** for Kent Adult Social Services. This is excellent news for KCC and people and their carers who use Kent Adult Social Care Services as it demonstrates that 'we serve most people well and have excellent capacity for improvement', while recognising the hard work and dedication of staff.

### **Recommendations**

9. Cabinet is asked to NOTE this report and the Star rating letter.

Nick Sherlock  
Public Involvement and Performance Manager  
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*Attached documents:*  
Appendix 1: Star rating letter.

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*Making Social Care  
Better for People*

Mr. Oliver Mills  
Managing Director of Adult Social Care  
Kent County Council  
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27<sup>th</sup> October 2008

Ref: JS / JW / 2008 APA / KCC

Dear Mr Mills

## **PERFORMANCE SUMMARY REPORT of 2007-08 ANNUAL PERFORMANCE ASSESSMENT OF SOCIAL CARE SERVICES FOR ADULTS SERVICES FOR KENT COUNTY COUNCIL**

### **Introduction**

This performance summary report summarises the findings of the 2008 annual performance assessment (APA) process for your council. Thank you for the information you provided to support this process, and for the time made available by yourself and your colleagues to discuss relevant issues.

Attached is the final copy of the performance assessment notebook (PAN), which provides a record of the process of consideration by CSCI and from which this summary report is derived. You will have had a previous opportunity to comment on the factual accuracy of the PAN following the Annual Review Meeting.

The judgments outlined in this report support the performance rating notified in the performance rating letter. The judgments are

- Delivering outcomes: **Good**

*And*

- Capacity for Improvement: **Excellent**

The judgment on Delivering Outcomes will contribute to the Audit Commission's CPA rating for the council.

The council is expected to take this report to a meeting of the council within two months of the publication of the ratings (i.e. by 31<sup>st</sup> January 2009) and to make available to the public, preferably with an easy read format available.

### **ADULT SOCIAL CARE PERFORMANCE JUDGMENTS FOR 2007/08**

<b>Areas for judgment</b>	<b>Grade awarded</b>
<b>Delivering Outcomes</b>	<b>Good</b>
Improved health and emotional well-being	Good
Improved quality of life	Good
Making a positive contribution	Excellent
Increased choice and control	Excellent
Freedom from discrimination and harassment	Good
Economic well-being	Good
Maintaining personal dignity and respect	Good
<b>Capacity to Improve (Combined judgment)</b>	<b>Excellent</b>
Leadership	Excellent
Commissioning and use of resources	Excellent
<b>Performance Rating</b>	<b>3 Stars</b>

The report sets out the high level messages about areas of good performance, areas of improvement over the last year, areas which are priorities for improvement and where appropriate identifies any follow up action CSCI will take.

## KEY STRENGTHS AND AREAS FOR DEVELOPMENT BY PEOPLE USING SERVICES

Key strengths	Key areas for development
<b>All people using services</b>	
<ul style="list-style-type: none"> <li>• Comprehensive range of information to promote healthy lifestyles.</li> <li>• Well established and expanding use of telecare and Telehealth.</li> <li>• Well established interactive online assessment service. This provides potential users with an immediate indication of their needs and includes a fast track provision of equipment for eligible people.</li> <li>• Active involvement of people in development work and review of services.</li> <li>• Good number of people arranging their own care through direct payments.</li> <li>• Almost all people receive a timely assessment and care package.</li> <li>• The numbers of clients receiving a review is at a good level.</li> <li>• The availability of single rooms has improved to a very good level.</li> <li>• Eligibility for services has been maintained at the “moderate” level.</li> <li>• Increasing numbers of people supported into employment.</li> <li>• Highly competent, ambitious and determined leadership by senior officers.</li> <li>• Transformation programme building on existing strengths.</li> <li>• Skilled and experienced workforce.</li> <li>• Well-established and robust financial management planning and reporting systems and a track record of competently managing its social care budgets.</li> <li>• Clear understanding of the local social care market, and innovative work with care providers to promote the quality of services.</li> </ul>	<ul style="list-style-type: none"> <li>• The levels of practice learning for Kent staff are at an adequate level and below the levels in other similar councils.</li> </ul>

<b>Older people</b>	
<ul style="list-style-type: none"> <li>• The Brighter Futures Group project encourages active older people to volunteer in the support of other older people.</li> <li>• Continued development of preventative services, extra care housing and telecare minimises the need for people to be admitted to residential or nursing home care.</li> <li>• Extensive use of volunteers to support older people.</li> </ul>	
<b>People with learning disabilities</b>	
<ul style="list-style-type: none"> <li>• The number of people with learning disabilities helped to live at home is at a very good level and higher than average.</li> <li>• Better Homes Active Lives Modernisation Board is developing apartments for people with special needs.</li> <li>• High number of people with learning disabilities helped into paid work.</li> </ul>	<ul style="list-style-type: none"> <li>• The council should continue to work with the PCT to commission suitable accommodation and care arrangements for people with a learning disability who are currently in NHS provided care.</li> </ul>
<b>People with mental health problems</b>	
<ul style="list-style-type: none"> <li>• The numbers of people with mental health problems helped to live at home are at an excellent level.</li> <li>• Improvements in the number of people with mental health problems helped back to work.</li> </ul>	
<b>People with physical and sensory disabilities</b>	
<ul style="list-style-type: none"> <li>• The number of people with physical disabilities helped to live at home is at a very good level and higher than average.</li> <li>• The Kent Supported Employment service is helping an increasing number of people to gain and sustain employment, or to increase their pre-employment skills.</li> </ul>	
<b>Carers</b>	
<ul style="list-style-type: none"> <li>• Services for carers are at a very good level and the council is performing particularly well in this area.</li> <li>• There is a high rate of carers of people with learning disabilities who receive assessments or reviews.</li> </ul>	



## **KEY STRENGTHS AND AREAS FOR DEVELOPMENT BY OUTCOME**

### **Improved health and emotional well-being**

**The contribution that the council makes to this outcome is Good**

#### **Key strengths**

- A comprehensive range of information about healthy lifestyles is available; with arrangements in place to ensure that hard to reach people receive appropriate information. There is good evidence that people use this information to improve their lifestyles.
- A number of Healthy Living Centres are supported across the county, and there is a range of services targeted to the diverse needs of the population.
- Specialist care management teams for people with HIV/AIDs and for those with drug-related problems and long-term neurological conditions.
- An extensive use of volunteers to support older people receiving services.
- Intermediate care services continue to provide effective support to prevent hospital admission and to facilitate hospital discharge, with an increasing emphasis on the former.
- Social care and PCT partners work together effectively to ensure comprehensive provision across the county. The council and PCT partners have responded proactively to an increase in the rate delayed discharges at the beginning of the year.

#### **Key areas for development**

- The council and PCT partners are working actively to commission suitable accommodation and care arrangements for people with a learning disability who are currently in NHS provided care.

### **Improved quality of life**

**The contribution that the council makes to this outcome is Good**

#### **Key strengths**

- Kent has continued to expand its Telecare provision and the innovative Telehealth service, which minimise the impact of disabilities and enable people to remain in their own homes wherever possible.
- Kent is one of three areas forming the National Demonstrator Programme for Telecare and Telehealth. The services are comprehensively monitored and evaluated and positive impacts have been demonstrated.
- The council continues to perform very well in delivering items of equipment within 7 days. The numbers of people in most user groups who are helped to live at home is very good.
- A very good rate of carers are supported, and the council has commissioned research to identify which services make a difference to the quality of life for carers.
- Preventative services such as the provision of equipment to prevent falls is fast-tracked with direct provision at the first point of contact.

- The Brighter Futures Group programme in the West of Kent, and the POPs project in East Kent ensure that people receive timely and targeted information, advice, risk evaluation and support.
- The council is working actively with local PCTs to assess the needs of people with learning disabilities who remain in NHS-run provision, with the use of independent advocacy services.
- The council is developing a range of specialist community housing options for these people, and are making increasing use of Independent Living and Direct Payments.
- The council is committed to developing suitable services for adults with special needs. For example a members select committee review of the needs and gaps in services to people with autistic spectrum disorders is being carried out.

#### **Key areas for development**

- None.

### **Making a positive contribution**

#### **The contribution that the council makes to this outcome is Excellent**

#### **Key strengths**

- The council's on-line self-assessment is now well established. This provides potential users with an immediate indication of their needs and includes a fast track provision of equipment for eligible people.
- Almost all people who use services and their carers have been actively involved in development work and planning and review of services. For example people who used services have been involved in the writing of key guidance, consultation, tendering and training.
- There is strong encouragement for members of the general community to become volunteers to work in social care and support services.
- Community Involvement and Liaison Assistances is one of a number of schemes through which vulnerable people receive advice and support and access to different services.
- The council actively seeks ongoing feedback from most people who use services and from carers, as well as the wider community, using a range of media that enables most to participate.

#### **Key areas for development**

- None.

### **Increased choice and control**

#### **The contribution that the council makes to this outcome is Excellent**

#### **Key strengths**

- The council continues to perform very well on the timeliness of assessments and of services provided within four weeks of assessment. The council supports a very high number of carers who are caring for people with learning disabilities.

- Information and support is available on request and easily accessible to all relating to service standards and the complaints/comments procedure.
- The council uses the outcomes of complaints to inform service development.
- The council actively seeks the engagement of people through user involvement mechanisms.
- The number of people who arrange their own care through Direct Payments is good. The council is using the In Control model for Self Directed Support to maximise people's control over their own care.

#### **Key areas for development**

- None.

### **Freedom from discrimination and harassment**

#### **The contribution that the council makes to this outcome is Good**

##### **Key strengths**

- The council provides clear information about its eligibility criteria, which are fair to all. The level of eligibility remains at "moderate".
- There is access for most people to initial assessments to determine the needs of the individual.
- There is a strong multi-agency commitment to joint working between teams to ensure that no individuals fall between services.
- The council has almost completed a full screening of Equality Impact Assessments of its policies, practices and procedures, a programme in place to minimise any adverse impacts.

##### **Key areas for development**

- None.

### **Economic well being**

#### **The contribution that the council makes to this outcome is Good**

##### **Key strengths**

- The council has good working relationships with PCTs to ensure that people who may require continuing health care are appropriately assessed and funded.
- There is an increasing choice of pathways to meet diverse economic and employment needs. There is a Local Area Agreement target to increase the number of people supported into employment.
- There are three in-house services that operate as social enterprises. There are partnerships between the council; the NHS and Social care partnership Trust and the voluntary sector to increase the numbers of people with mental health problems back to work.
- The Telehealth project enables carers to return to work by reducing the need for GP and hospital visits, and the council provides an eLearning resource to breakdown barriers for learning and work.

- The council has supported comparatively high numbers of people with learning disabilities into paid work and voluntary work.
- Finance and Benefits visiting officers help service users to access all the benefits they are entitled to, and area benefits officers take on complex cases and cases involving appeals. This has resulted in significant additional benefits being received by vulnerable people.

### **Key areas for development**

- None.

## **Maintaining personal dignity and respect**

### **The contribution that the council makes to this outcome is Good**

#### **Key strengths**

- Effective arrangements are in place to manage and review any safeguarding or any events of abuse.
- The council makes sure that some internal front line staff within the council area are aware of how to identify vulnerable adults and respond appropriately to concerns.
- Most people admitted to care homes or supported living settings have access to single rooms if they choose.
- A Safeguarding Vulnerable Adults Committee and Board is in place and works effectively in accordance with POVA requirements.
- Recent development includes a new protocol regarding abuse occurring in hospital trust services.
- Safeguarding adults co-ordinators use a quality assurance/ abuse prevention model with contract staff to engage with services that are struggling to meet acceptable basic care standards.
- The 6 tier multi agency training programme is now supplemented by a customised adult protection awareness e-learning package to ensure that even hard to reach services can access basic awareness training.
- The council is strongly committed to the security of people's personal information and has contributed to the draft local government information governance toolkit.

### **Key areas for development**

- None.

## **Capacity to improve**

### **The council's capacity to improve services further is Excellent**

#### **Key strengths**

##### **Leadership**

- The council continues to have highly competent, ambitious and determined leadership by senior officers.
- The council continues to take a proactive lead in the development of policies and strategies in response to government policies and other drivers, whilst building on existing strengths.

- New developments are championed alongside the continual review and improvement of main stream services.
- The council is building on its innovative Active Lives for All programme, the JSNA and its ongoing commitment to improving services to implement "Putting People First".
- Almost all plans are comprehensive and linked strategically and address key developmental areas.
- There are the people, skills and capability in place at almost all levels to deliver service priorities and to maintain high quality core services.
- The council works proactively with the voluntary and independent sectors to promote workforce development.
- The council performs well on the level of staff turnover, vacancies and sickness.
- There is a clear, accessible performance management system in place, with effective performance monitoring arrangements at cabinet, corporate management and directorate levels. Most staff understand and use their departmental systems well.

### **Commissioning and use of resources**

- The council has a detailed analysis of need of most groups in the population.
- Expenditure on social care services reflects most national and local priorities and is fairly allocated to meet the needs of most.
- The council has well-established and robust financial management planning and reporting systems and a track record of competently managing its social care budgets.
- The council is addressing the need to realign budgets in the light of Putting People First.
- The council has a clear understanding about the local social care market and there are some innovative and imaginative measures taken jointly with providers to try to meet the needs of both publicly funded and self-funded individuals.
- Good use is made of joint commissioning and partnership working to improve the economy, efficiency and effectiveness of local services.
- The council makes effective use of data about the quality of care services to mitigate risk and safeguard users of services.

### **Key areas for development**

#### **Leadership**

- The rate of in-house Practice Learning remains at an adequate level, and is not as good as in similar councils.

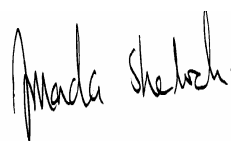
#### **Commissioning and use of resources**

- None

Yours sincerely

**AMANDA SHERLOCK**

South East Regional Director  
Commission for Social Care Inspection



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**By:** Leyland Ridings, Cabinet Member for Children, Families and Educational Achievement  
Mark Dance, Cabinet Member for Operations, Resources and Skills, CFE  
Ian Craig, Interim Managing Director for Children, Families and Education  
Keith Abbott, Interim Managing Director for Children, Families and Education

**To:** Cabinet – 12 January 2009

**Subject:** Annual Performance Assessment of Services for Children and Young People in Kent County Council 2008.

**Classification:** Unrestricted

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**Summary:** The report summarises the findings of the annual performance assessment (APA) for 2008.

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## Introduction

On 17 December 2008, CFE received its APA for 2008, which based its evaluations and judgements on a range of data and information covering the period 1 April 2007 to 31 March 2008.

The APA consists of six judgements, and an overall judgement for the service, using a four point scale:

- 1 Inadequate
- 2 Adequate
- 3 Good
- 4 Outstanding/excellent

## Outcome

We are pleased to report that of the six judgements, five were classified as 'good' and one, the 'Capacity to improve, including the management of services for children and young people' was judged to be "outstanding/excellent".

The overall judgement for the effectiveness of children's services was 'good'.

## **Follow-up**

Seven “areas for development” were identified and work has already been undertaken to address these.

## **Recommendation**

Cabinet is asked to note the outcome of the 2008 APA.


## **Background Documents:**

2008 APA letter attached as Appendix A.

## **Author Contact Details**

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17 December 2008

Mr Ian Craig and Mr Keith Abbott  
Acting Directors – Children, Families and Education Directorate  
Kent County Council  
Sessions House  
County Hall  
Maidstone  
Kent  
ME14 1XQ

Dear Mr Craig and Mr Abbott

## **Annual performance assessment of services for children and young people in Kent County Council 2008**

This letter summarises the findings of the 2008 annual performance assessment (APA) for your council. The evaluations and judgements in the letter draw on a range of data and information which covers the period 1 April 2007 to 31 March 2008. As you know, the APA is not based on an inspection of your services and, therefore, can only provide a snapshot based on the evidence considered. As such, I am grateful to you for assuring the quality of the data provided.

Performance is judged on a four point scale as detailed in the handbook. I should emphasise that the grades awarded are based on an overall 'best fit' model. For instance, an outstanding judgement of Grade 4 reflects that overall most aspects, but not necessarily all, of the services in the area are working very well. We know that one of the features of outstanding provision is the drive for greater improvement and no council would suggest, and nor would Ofsted, that a judgement of outstanding indicates that everything is perfect. Similarly within a judgement of inadequate overall, Grade 1, there could be some aspects of the overall service that are adequate or even good. Judgements are made in a rounded way, balancing all of the evidence and giving due consideration to outcomes, local and national contexts, priorities and decision-making.



The following table sets out the grades awarded for performance in 2008.

<b>Assessment judgement area</b>	<b>APA grade</b>
Overall effectiveness of children's services	3
Being healthy	3
Staying safe	3
Enjoying and achieving	3
Making a positive contribution	3
Achieving economic well-being	3
Capacity to improve, including the management of services for children and young people	4

*Inspectors make judgements based on the following scale  
4: outstanding/excellent; 3: good; 2: adequate; 1: inadequate*

## Overall effectiveness of children’s services

**Grade 3**

Kent County Council provides a service that consistently delivers above the minimum requirement for children and young people with innovative practice in a number of areas. It makes a good contribution to improving outcomes for children and young people. Services are well targeted at vulnerable groups and there is a strong track record of improvement. The outcomes for most children and young people are good and there is a narrowing of the gap with most vulnerable groups. Child protection arrangements are good and effective. Good support is provided for looked after children, including the disproportionately high number of unaccompanied asylum seeker children in Kent. Good progress has been made in improving the quality of schools and as a result the proportion of schools requiring special measures has fallen and is below that of similar councils and the national average. An innovative approach to developing vocational pathways has resulted in a significant increase in the number of young people participating in, and successfully completing, apprenticeships. However, in some areas there is room for further improvement, for example, youth re-offending rates.

Good progress has been made in the implementation of the action plan to address the recommendations of the JAR this year. The impact is already apparent in a number of areas, for example, recent improvement in services for children with disabilities and for looked after children, although in others it is too early to show impact, for example, through improved monitoring of teenage pregnancy across Kent.

The sustained and consistent improvement in outcomes for children and young people demonstrates that Kent County Council has shown excellent capacity to improve. High quality services have been maintained and the council has applied innovative solutions to solve problems.

## Being healthy

**Grade 3**

The contribution of services to improving outcomes for children and young people in this aspect is good. The council’s analysis of its strengths and areas for development for this outcome area is consistent with the evidence.

### Major strengths

- Over 99% of schools are participating in the Healthy Schools Programme and the proportion achieving the award is good.
- Sexual health provision is appropriately targeted at vulnerable groups.
- There is increased investment in child and adolescent mental health services (CAMHS) to improve access for vulnerable groups, including children with learning difficulties.

<p><b>Important weaknesses and areas for development</b></p>
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| <ul style="list-style-type: none"> <li>▪ The proportion of looked after children receiving timely annual health and dental checks, although improved, is lower than for similar councils.</li> </ul> |
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## Staying safe

**Grade 3**

The contribution of services to improving outcomes for children and young people in this aspect is good. The council's analysis of its strengths and areas for development for this outcome area is consistent with the evidence.

<p><b>Major strengths</b></p>
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- |   |
|---|
| <ul style="list-style-type: none"> <li>▪ Strong leadership and contribution to the work of Kent's Safeguarding Children Board.</li> <li>▪ Timeliness of initial and core assessments of children and their families, which are above similar councils.</li> <li>▪ Stability of placements for looked after children are better than in similar councils, including the number of children adopted.</li> </ul> |
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<p><b>Important weaknesses and areas for development</b></p>
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- |   |
|---|
| <ul style="list-style-type: none"> <li>▪ Multi-agency use of the common assessment framework and monitoring arrangements are not fully embedded in localities.</li> </ul> |
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## Enjoying and achieving

**Grade 3**

The contribution of services to improving outcomes for children and young people in this aspect is good. This is in line with the council's self-assessment. The council's analysis of its strengths and areas for development for this outcome area is consistent with the evidence.

<p><b>Major strengths</b></p>
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- |   |
|---|
| <ul style="list-style-type: none"> <li>▪ The percentage of young people gaining five or more GCSE grades A* to C, at 66%, is above the national average and similar councils. The contextual value added figure for Key Stage 2 to Key Stage 4 is significantly above the national average.</li> <li>▪ The number of schools in special measures has continued to reduce and consequently the proportion of schools in special measures is below that of similar councils and the national average. There has also been improvement in the number of schools inspected judged to be good or better so that relative performance has moved up from the lowest quarter to the second quarter nationally.</li> <li>▪ The improved proportion of children and young people leaving care with five or</li> </ul> |
|---|

more good grades at GCSE is 16%. This figure is much higher than in similar councils and nationally, which are 9% and 11% respectively.

**Important weaknesses and areas for development**

- Low overall standards in reading and writing in primary schools compared to similar councils and nationally.
- Standards at Key Stage 3 are rising more slowly than in similar councils and nationally.

**Making a positive contribution**

**Grade 3**

The contribution of services to improving outcomes for children and young people in this aspect is good. The council’s analysis of its strengths and areas for development for this outcome area is consistent with the evidence.

**Major strengths**

- Children and young people make a positive contribution to both strategic planning and service development, and effective strategies are in place to enable them to do so, including the participation of looked after children in their reviews.
- Good action is taken to identify and reduce anti-social behaviour.
- There is a good range of services for those who are at risk of offending and those who have offended.

**Important weaknesses and areas for development**

- Proportion of children and young people who do not feel consulted in decision making in schools.

**Achieving economic well-being**

**Grade 3**

The contribution of services to improving outcomes for children and young people in this aspect is good. The council’s analysis of its strengths and areas for development gives too much weight to the significance of some of the improvements that have been made. Economic well-being outcomes are generally better than in similar councils but, although improving, are not consistently considerably better. For example, the proportion of young people achieving a Level 3 qualification and GCE/VCE average points scores are not significantly better than those of similar councils but have the same trend of improvement.

**Major strengths**

- The numbers of children and young people in education, employment or training.

- The proportion of young people achieving a Level 2 qualification by age 19.
- The good 14–19 strategy that is based on effective collaboration, which has led to improvement in participation rates and outcomes for young people. Figures for apprenticeships are higher than those in similar councils and nationally.

**Important weaknesses and areas for development**

- Lower proportion than similar councils of children aged 14 or over with disabilities who have a transition plan in place.
- Accommodation and resources in alternative education centres.

**Capacity to improve, including the management of children’s services**

**Grade 4**

The contribution of services to improving outcomes for children and young people in this aspect is excellent. The council’s analysis of its strengths and areas for development for this outcome area is consistent with the evidence.

The council’s capacity to improve its services for children and young people is outstanding and its management of these services is excellent. Leadership is very strong and work with partners very effective in delivering the very ambitious and challenging priorities agreed to improve outcomes for children and young people in Kent. Financial management is secure and integrated with strategic and service planning and there is a clear and sustained focus on achieving value for money. Joint commissioning arrangements are well established and increasingly cost effective. The council actively seeks and responds to the views of children and young people and partners, for example, in the review of the Children and Young People Plan 2008–2011.

**Major strengths**

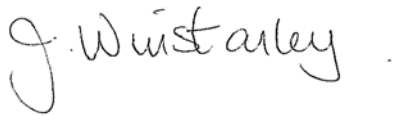
- Outstanding leadership and direction.
- Strong and consistent record of improvement and partnership working.
- Well targeted services to improve outcomes for vulnerable groups.
- Good performance management.
- The focus on value for money is embedded across all services.

**Important weaknesses and areas for development**

The children's services grade is the performance rating for the purpose of section 138 of the Education and Inspections Act 2006. It will also provide the score for the children and young people service block in the comprehensive performance assessment to be published by the Audit Commission.

We are grateful for the information you provided to support this process and for the time given by you and your colleagues during the assessment.

Yours sincerely

A handwritten signature in black ink that reads "Juliet Winstanley".

Juliet Winstanley  
Divisional Manager, Local Services Inspection

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By: Alex King – Deputy Leader  
Peter Sass - Head of Democratic Services and Local Leadership

To: Cabinet – 12 January 2009

Subject: Decisions from Cabinet Scrutiny Committee – 10 December 2008

Classification: Unrestricted

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Summary: This report sets out the decisions from the Cabinet Scrutiny Committee and invites a response from Cabinet.

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### **Introduction**

1. The Leader has agreed the decisions from Cabinet Scrutiny Committee will be reported to the following meeting of the Cabinet for a response. The responses will be reported back to the Cabinet Scrutiny Committee.
2. The decisions from the meeting of the Cabinet Scrutiny Committee on 10 December 2008 are set out in the Appendix to this paper.

### **Recommendation**

3. That Cabinet agree responses to these decisions, which will be reported back to the Cabinet Scrutiny Committee.

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Background Information: *Nil*

## Cabinet Scrutiny Committee – 10 December 2008

Title	Purpose of Consideration	Invitees	Decisions	Cabinet Member Response
<b>Department for Communities and Local Government – Consultation Paper on the Codes of Conduct for Members and Employees</b>	To question the Deputy Leader and Cabinet Member for Corporate Support and External Affairs and the Director of Personnel and Development on the Council's response to the proposed Code of Conduct for Employees and why this had not been discussed at Member level in the same way as the Members Code of Conduct	<b>Mr A King</b> , Cabinet Member for Corporate Support and External Affairs and <b>Ms A Beer</b> , Director of Personnel and Development	<ol style="list-style-type: none"> <li>1. Ms Beer and Mr King be thanked for attending the meeting to answer Members questions</li> <li>2. Members noted Mr King's welcome but belated offer that the proposed draft response to the DCLG consultation paper on a proposed model code of conduct for local government employees would be reported to an extraordinary meeting of the Personnel Committee.</li> <li>3. Members welcomed Mr King's offer of a briefing on the way in which consultations are tackled by Kent County Council.</li> </ol>	<p><b>The Cabinet Member asked for an additional meeting of the Personnel Committee as soon as he was aware that this aspect had not been dealt with.</b></p> <p><b>Members will be provided with a consultation briefing in the first quarter of the New Year.</b></p>
<b>Press Release 538/08 - £600 Million Schools Building Project</b>	To question the Deputy Leader and Cabinet Member for Corporate Support and External Affairs and the Head of Communications and Media Centre on the composition, content and issuing of this press release	<b>Mr A King</b> , Cabinet Member for Corporate Support and External Affairs and <b>Ms J Clarke</b> , Head of Communications and Media Centre	<ol style="list-style-type: none"> <li>1. Ms Clarke and Mr King be thanked for attending the meeting to answer Members questions on the issuing of the press release.</li> <li>2. In light of the information provided at the meeting in response to questions the Committee agreed that they did not need to make any formal comments to Cabinet.</li> </ol>	