



AGENDA

CABINET

Monday, 1st February, 2010, at 10.00 am Ask for: **Karen Mannering /
Geoff Mills**
Darent Room, Sessions House, County Telephone: **(01622) 694367/
Hall, 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 11 January 2010 (Pages 1 - 8)
3. Revenue & Capital Budget Monitoring Exception Report (Pages 9 - 18)
4. Medium Term Plan 2010/13 (Incorporating the Budget and Council Tax Setting for 2010/11) - Update (To follow)
(Please bring with you to the meeting the Draft Budget and Medium Term Plan previously circulated)
5. Decision to award the Kent TV contract to an external company (Pages 19 - 102)
6. The Kent Supporting People Programme and the Five Year Supporting People Strategy 2010-2015 (Pages 103 - 112)
7. 'Personal Care at Home - A Consultation on Proposals for Regulations and Guidance' (Pages 113 - 134)
8. Care Quality Commission - Annual Performance Assessment Report for Adult Social Care (Pages 135 - 146)
9. Other items which the Chairman decides are relevant or urgent

EXEMPT ITEMS

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

Peter Gilroy
Chief Executive
Friday, 22 January 2010

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.

This page is intentionally left blank

KENT COUNTY COUNCIL

CABINET

MINUTES of a meeting of the Cabinet held in the Darent Room, Sessions House, County Hall, Maidstone on Monday, 11 January 2010.

PRESENT: Mr P B Carter (Chairman), Mr N J D Chard, Mr G K Gibbens, Mr R W Gough, Mr P M Hill, OBE, Mrs S V Hohler, Mr A J King, MBE, Mr K G Lynes, Mr R A Marsh and Mr J D Simmonds

IN ATTENDANCE: Mr P Gilroy (Chief Executive), Mr M Austerberry (Executive Director, Environment, Highways and Waste), Mr D Cockburn, (Executive Director, Strategy, Economic Development and ICT), Ms A Honey (Managing Director, Communities, Ms L McMullan (Director of Finance), Mr O Mills, (Managing Director – Adult Social Services) and Ms R Turner (Managing Director) Children, Families & Education)

UNRESTRICTED ITEMS

1. KCC Response to Recent Severe Weather

(i) Before the commencement of formal business Mr Carter and Mr Chard briefed Cabinet on the County Council's response to the recent severe weather. Whilst there were lessons to be learnt the Council's plans to keep open the County's strategic routes and services had worked well in the face of some severe and testing weather conditions. The Council was continuing to work in close collaboration with the Kent district council's, the Police and the other emergency services, the NHS, the media, the voluntary and private sectors and more recently the army to ensure that as far as was possible the Councils response and the actions that needed to be taken were timely and proportionate.

(ii) Mr Chard said an action plan was already in place to deal with expected additional potholes and work had already commenced with an additional budget of some £1m being allocated for that purpose.

(iii) Mr Carter said he wanted any necessary repairs to be undertaken swiftly and effectively and, within the terms of existing contracts, wanted to see as much of this work as possible allocated to Kent based tarmac firms. Mr Carter said he also wanted to clarify the legal position of businesses and individuals who under took to clear snow from the front of their own premises where they joined the public highway.

(iv) During the course of discussion several members of Cabinet spoke about the work and effort of KCC's gritting crews, staff from across its Directorates, including those in schools who, together with other bodies and agencies and individuals from across the wider Kent community had contributed in many different ways to keep the counties vital roads and services open and available. Mr Gibbens spoke in particular about the work and extra effort undertaken by staff in Kent Adult Social Services, carers working for domiciliary care agencies, apetito, (the contractor which delivers community meals), the 4x4 SE Response, (who are volunteers who use their vehicles to assist health and social care) staff in the emergency planning

unit and the Contact Centre in ensuring services were maintained to elderly and vulnerable people.

- (v) In noting the comments made during the course of the discussion Cabinet placed on record its thanks to all those members of staff who had worked so tirelessly to keep roads and other services open. Cabinet also placed on record its thanks and appreciation to all those from across the wider Kent community who had worked with the Council in order to mitigate the effects of the weather. In moving forward as well as allocating an additional fund of some £1m for repairing potholes on weather damaged roads for which KCC was responsible, it was agreed that a report would be submitted to a future meeting of Cabinet reviewing the Council's response to the challenges the severe weather had presented. This review would also seek to clarify the legal position of businesses and individuals who under took to clear snow from the front of their own premises where they joined the public highway

2. Minutes of the Meeting held on 30 November 2009

(Item 2)

The Minutes of the meeting held on 30 November 2009 were agreed and signed as a true record.

3. Revenue & Capital Budget Monitoring Exception Report

(Item 3 - Report by Mr John Simmonds, Cabinet Member for Finance; and Lynda McMullan, Director of Finance)

(i) Mr Simmonds said that the main point to note from this report was that after management action a revenue under spend of £4.454m (excluding schools and asylum) was projected by year end. Overall there was £12.050m capital expenditure that was more likely to occur after 31 March 2010, offset by a real variance of £4.7m (which had been addressed in the draft budget and medium term plan recently published for consultation).

(ii) Mr Simmonds also said there were a number of significant pressures that would need to be managed if the Council was to have a balanced revenue position by year end. The current underlying net revenue position by portfolio after the implementation of assumed management action, compared with the net position reported last month was set out in the report. Mr Carter said he remained cautiously optimistic that the ongoing discussions the Council was having with the Government regarding Asylum costs would soon reach a satisfactory conclusion.

(iii) Mr Mills briefed Cabinet on the pressures being placed on the KASS budget as a result of people with disabilities being placed in Kent by neighbouring local authorities and other agencies and the actions being taken in order to mitigate these increasing costs.

(iv) Cabinet resolved :

- (a) to note the latest forecast revenue and capital budget monitoring position for 2009-10 and the changes to the capital programme.

- (b) To agree that £11.694m of re-phasing on the capital programme be moved from 2009-10 capital cash limits to future years: and,
- (c) with reference to the discussion on the recent severe weather, to allocate a budget of some £1m for the repair of potholes on those roads for which the County Council was responsible in its capacity as the highway authority.

4. Provisional Local Government Settlement 2010/11

(Item 4 - Report by Mr John Simmonds, Cabinet Member for Finance and Ms Lynda McMullan, Director of Finance)

(i) This report informed Cabinet of the outcome of the provisional local government settlement and KCC's response to the consultation. The report also drew Cabinet's attention to the settlement for KCC compared to other councils.

(ii) Mr Simmonds said whilst the grant settlement was welcome it nonetheless was below the average settlement for County Councils and fell well short of what was needed in order for the Council to meet the pressures which it faced. Ms McMullen said she was pleased to note the government had honoured its previous commitments on Formula Grant and that it had confirmed the data used in the calculation would only be changed in very exceptional circumstances which would help when it came to future financial planning.

(ii) Mr Carter said he was concerned at the possible cost implications for the County Council of the Personal Care at Home Bill currently going through Parliament and a report on this matter would be submitted to the next meeting.

(iv) Cabinet resolved to note the provisional local government settlement and KCC's response to consultation.

5. Treasury Management Strategy

(Item 5 - Report by Mr John Simmonds, Cabinet Member for Finance and Ms Lynda McMullan, Director of Finance)

(i) This report set out a Treasury management Strategy for 2010-11. CIPFA had defined Treasury Management as "The management of the organisation's cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks."

(ii) Mr Simmonds briefed Cabinet on the contents of the report and the range of actions the County Council had and was undertaking in order to ensure the Treasury Management Strategy now being presented reflected the changing financial circumstances since Iceland and was compliant with CIPFA's Code of Practice.

(iii) Following discussion Cabinet resolved to agree the Strategy and to add Nationwide to the counterparty list with a maximum limit of £20m.

6. Kent Academies Batch 2 Procurement

(Item 6B – report by Mrs Sarah Hohler, Cabinet Member for Children, Families & Education Directorate and Ms Rosalind Turner, Managing Director (Mr Grahame Ward, Director of Resources, CFE and Rebecca Spore, Head of BSF, PFI and Academies Team were present for this item)

(i) KCC is at the forefront of local authorities developing Academies to provide the opportunity and resources to transform the life chances of disadvantaged communities, delivering a new learning infrastructure, enhanced curriculum opportunities and key skills for life and work. In continuing this work this expressions of Interest had been submitted to and approved by the DCSF to establish the following schools which would form the Batch 2 Academies project:

- Skinners' Kent Academy, Tunbridge Wells.
- Knole Academy, Sevenoaks
- Christchurch Academy, Dover
- Duke of York Royal Military Academy, Dover
- John Wallis Church of England Academy, Ashford.
- Astor of Hever, Maidstone

(ii) During the course of discussion Mr Carter said he supported the concept of Academies and wanted to see them playing an integrated part of providing a successful mixed economy of education across the county. Mr Ward said in relation to the Duke of York Academy that the County Council's Capital Programme made no provision for the development costs so the Council was positively looking for those to be provided for by the Government. Cabinet placed on record the fact that the Council would not itself be in a position to pay for any of the capital costs associated with the development of the Duke of York Academy.

Cabinet resolved:

(i) to agree to the submission of the Outline Business Case (OBC) for the Skinners Academy to the DCSF and Partnerships for Schools (PFS) based on the affordability parameters set out in the Cabinet report and upon approval of the OBC to undertake a mini competition to appoint a contractor from the National Framework to deliver the Batch 2 Academies.

(ii) to delegate authority to the Director of Capital Programme and Infrastructure, CFE and the Head of the BSF team, CFE in consultation with the Cabinet Member for CFE, the Managing Director of CFE and the Leader to proceed with the mini competition as described in the Cabinet report, including entering into necessary documents with PFS to enable access to the PFS National Framework within the affordability parameters set out within the report.

(iii) to note that a recommendation would be made to Cabinet as to the appointment of the Preferred Bidder and final confirmation will be sought to submit the Final Business Case, the affordability position and to proceed to contract award in respect of the Batch 2 Procurement and the Skinners Academy. Regular progress updates will be made to the BSF, PFI and Academies Programme Board.

(iv) to note in relation to the Duke of York Academy that the County Council's Capital Programme made no provision for the development costs so the County Council was positively looking for those to be provided for by the Government.

Should the Government not meet those costs then the Council would not itself be in a position to proceed with the development of the Duke of York Academy.

7. Kent Building Schools for the Future Wave 5 Part 1

(Item 7– report by Mrs Sarah Hohler, Cabinet Member for Children, Families & Education Directorate and Ms Rosalind Turner Managing Director – Children, Families & Education Directorate)

(i) This report provided an update on (a) current activity in respect of Kent's first Local Education Partnership (LEP1) and its Wave 3, 4 and 6 projects; (b) the current position in respect to Wave 5, LEP 2 establishment and (c) an update on LEP1, Waves 3,4 and 6.

(ii) Mr Carter and Mrs Hohler gave a presentation which provided an overview of the work being undertaken to deliver Wave 5. The Building Schools for the Future Programme was providing transformational education opportunities through the construction of modern schools delivering modern curriculums and placing the school at the heart of their community. The programme was also a key component of the Kent Secondary Schools Strategy with Academies being an important part of the Council's aim of providing a mixed economy of educational opportunities across the county.

(iii) Following discussion Cabinet resolved to note the current progress in respect of Local Education Partnership 1 and also the progress in respect of the Wave 5 Building Schools for the Future proposal and the procurement of Kent's second Local Education Partnership, as detailed in the Cabinet report.

8. Kent Freedom Pass - Progress Update

(Item 8 - report by Mr Nick Chard, Cabinet Member for Environment, Highways & Waste)

(i) Mr Chard said that since its inception the Kent Freedom Pass had been an outstanding success. Uptake had been high, with over 21,000 passes now on issue with around 600,000 journeys being made each month with *Freedom* Passes. Feedback from young people and parents had been positive and data collected suggested 30% previously travelled to school by car. *Freedom* was however being run at a significant cost to the County Council with every £50 pass issued in 2008/09 actually costing the Council some £390. Amongst a number of pressures, the Council was being pressed to make the scheme available to young people attending out-of-county schools and to extend *Freedom* beyond academic year 11.

(ii) Following discussion Cabinet resolved:

- (a) to endorse the updated Freedom Scheme as set out in Appendix 1 of the Cabinet report.
- (b) to extend the scheme to include all young people living in Kent and attending schools in Kent as well as outside of the County in academic years 7-11 at an estimated cost of £170k per annum at 09/10 prices.

These changes would apply from September 2010 with provision for the necessary funding being included in the draft Medium Term Financial Plan for Environment and Waste.

9. Decisions from Cabinet Scrutiny Committee - 9 December 2009

(Item 9 - Report by Mr Alex King – Deputy Leader and Mr Peter Sass - Head of Democratic Services and Local Leadership).

This report set out the decisions from the Cabinet Scrutiny Committee held on 9 December 2009 and the responses made as appropriate by the Cabinet members. Cabinet agreed the report and noted that the matter relating to the Reception Closure Programme would now be discussed at the meeting of the Corporate Policy Overview and Scrutiny Committee taking place on 14 January 2009. If following that meeting there should be a wish to make changes to these officer decisions then that would be reported back to the Cabinet.

10. Kent Building Schools for the Future Wave 5 Part 2

(Item 11- Report by Mrs Sarah Hohler, Cabinet Member for Children, Families and Education and Ms Rosalind Turner Managing Director – Children, Families & Education Directorate)

The following is an **unrestricted** Minute of a matter which contained exempt information as defined in paragraph 3 of Schedule 12a of the Local Government Act 1972, as amended.

(i) This report sought approval to progress with the development of Kent's Building Schools for the Future Project (BSF), through the submission of the Wave 5 Outline Business Case to Partnerships for Schools for approval and upon the receipt of Government approvals to undertake a procurement using the Competitive dialogue procedure in accordance with European Regulations to establish a Local Education Partnership to deliver initially Wave 5 projects but also be granted exclusivity over waves 7-15 of the Kent BSF Programme.

(ii) Item 7 on the Cabinet agenda entitled Kent Building Schools for the Future Wave 5 Part 1 provided an update on the current activity in respect of the Council's first Local Education Partnership (LEP1) and its Wave 3, 4 and 6 projects together with the current position in respect to Wave 5, LEP 2 establishment. This report covered the commercial areas surrounding the Wave 5 scheme and the LEP 2 Procurement and set out options in order to secure the investment in all the Wave 5 schemes. The report also put forward recommendations as to what needed to be included as part of the Outline Business Case which had to be submitted to the DCSF. The decision as to the final bidder and the award of contract would be the subject of a further report to Cabinet.

(iii) During the course of discussion it was said, and agreed, that the wider benefits and opportunities of BSF in support the Kent economy are a key strategy priority in Kent. It was agreed that as part of the procurement process Bidders should be required to submit proposals setting out how if they were successful they would contribute to adding value to local communities and the Kent economy.

Cabinet resolved

(a) to note the current progress in respect of Kent's first Local Education Partnership.

(b) to agree the submission of the Wave 5 Outline Business Case (OBC) to the DCSF and Partnerships for Schools (PFS) based on the affordability parameters set out in the exempt report and upon approval to undertake a procurement in accordance to the competitive dialogue regime as set out by European Regulations to select a partner to establish Kent's Second Local Education Partnership (LEP). The LEP would deliver the BSF programme for Wave 5 and have exclusivity over any BSF projects in the LEP 2 area.

(c) to agree to delegate authority to the Director of Capital Programme and Infrastructure, CFE and the Head of the BSF Team, CFE in consultation with the Cabinet Member for CFE, the Managing Director of CFE and the Leader to proceed with the Procurement including the following within the affordability parameters set out within the exempt report:

- a. the issuing of the "OJEU notice"
- b. the issuing of the "Pre-Qualification Questionnaire"
- c. to undertake the evaluation of the Pre Qualification responses
- d. the issuing of the "Invitation to Participate in Dialogue"
- e. to engage in dialogue with prospective bidders
- f. to evaluate responses to the "Invitation to Participate in Dialogue" and shortlist to three prospective bidders
- g. to issue the "Invitation to Continue Dialogue"
- h. to engage in dialogue with prospective bidders, including facilitated discussion with schools
- i. to evaluate responses to the "Invitation to Continue Dialogue" and shortlist to two prospective bidders
- j. to engage in negotiations with two final prospective bidders
- k. issue the "Invitation to Submit Final Tenders"
- l. recommend a Preferred Bidder to full Cabinet for formal ratification
- m. engage in final and concluding negotiations with a Preferred Bidder
- n. recommend that the Cabinet award contracts to the Preferred Bidder, following the satisfactory conclusion of final negotiations.

4. To also note that:

(a) a recommendation would be made to Cabinet as to the appointment of the Preferred Bidder and that final confirmation would be sought to submit the Final Business Case, the affordability position and to proceed to contract award, in respect of Wave 5.

(b) regular progress updates will be reported to the BSF, PFI and Academies Programme Board.

(c) as part of the procurement process Bidders will be asked to put forward proposals setting out how if they were successful they would contribute to adding value to local communities and the Kent economy.

This page is intentionally left blank

To: CABINET – 1 February 2010

By: John Simmonds, Cabinet Member – Finance
Lynda McMullan, Director of Finance

REVENUE & CAPITAL BUDGET MONITORING EXCEPTION REPORT

1. Introduction

1.1 This exception report is based on the monitoring returns for December and highlights the main movements since the November monitoring report presented to Cabinet in January.

2. REVENUE

2.1 There are a number of significant pressures that will need to be managed during the year if we are to have a balanced revenue position by year end. 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	
Children, Families & Education	-0.968	-	-0.968	-0.968	-
Kent Adult Social Services	+0.776	-0.776	-	-	-
Environment, Highways & Waste	-0.072	-	-0.072	-0.291	+0.219
Communities	-	-	-	-	-
Localism & Partnerships	+0.127	-	+0.127	+0.127	-
Corporate Support & Performance Mgmt	+0.075	-0.202	-0.127	-0.127	-
Finance	-3.022	-	-3.022	-3.022	-
Public Health & Innovation	-	-	-	-	-
Regeneration & Economic Development	-0.239	-	-0.239	-0.173	-0.066
Total (excl Asylum & Schools)	-3.323	-0.978	-4.301	-4.454	+0.153
Asylum	+3.819	-	+3.819	+3.808	+0.011
Total (incl Asylum & excl Schools)	+0.496	-0.978	-0.482	-0.646	+0.164
Schools	+6.000	-	+6.000	+6.000	-
TOTAL	+6.496	-0.978	+5.518	+5.354	+0.164

2.2 **Table 2** shows the forecast underlying gross position **before** the implementation of proposed management action, compared with the gross position reported last month.

Table 2: Gross Revenue Position before Management Action

Portfolio	Variance		Movement £m
	This Month £m	Last Month £m	
Children, Families & Education	-0.968	-0.968	-
Kent Adult Social Services	+0.776	+0.973	-0.197
Environment, Highways & Waste	-0.072	-0.291	+0.219
Communities	-	-	-
Localism & Partnerships	+0.127	+0.127	-
Corporate Support & Performance Management	+0.075	+0.075	-
Finance	-3.022	-3.022	-
Public Health & Innovation	-	-	-

Portfolio	Variance		Movement £m
	This Month £m	Last Month £m	
Regeneration & Economic Development	-0.239	-0.173	-0.066
Total (excl Asylum & Schools)	-3.323	-3.279	-0.044
Asylum	+3.819	+3.808	+0.011
Total (incl Asylum & excl Schools)	+0.496	+0.529	-0.033
Schools	+6.000	+6.000	-
TOTAL	+6.496	+6.529	-0.033

- 2.3 The gross underlying revenue underspend (excluding Schools and Asylum) has increased by £0.044m this month to £3.323m as shown in table 2 above, but this is expected to increase further to an underspend of £4.301m (excluding Schools and Asylum) by year end, after assuming the implementation of management action, as shown in table 1.
- 2.4 Table 1 identifies that even after management action, a small residual pressure remains forecast within the Localism & Partnerships portfolio but this is offset by underspending within the Corporate Support & Performance Management portfolio, both of which are managed within the Chief Executives directorate.
- 2.5 With the inclusion of the Asylum pressure of £3.819m, the overall KCC revenue position after management action is currently a forecast underspend of £0.482m as shown in table 1. KCC will continue to lobby the Government regarding the funding of this service.
- 2.6 Table 2 shows that overall there has been a small reduction of £0.033m in the gross position before management action this month. The main movements, by portfolio, are detailed below:

2.7 Children, Families & Education portfolio:

- 2.7.1 The underspend on this portfolio (excluding Asylum) has remained the same this month at £0.968m, however there have been some compensating movements as follows:
- +£0.250m due to an increase in the number of new placements into KCC Fostering.
 - -£0.250m Assessment & Related – this service continues to experience difficulties with recruiting to vacancies and new posts funded from the additional money made available as part of the 2009-12 MTP. As a result, this budget is now forecasting an overall underspend of £2.845m.

2.7.2 Asylum

The forecast has increased slightly this month from a funding shortfall of £3.808m to £3.819m, of which £3.595m is due to 18+ Care Leavers and £0.224m due to Unaccompanied Asylum Seeking Children (UASC) (Under 18's).

Negotiations with Ministers and the UK Border Agency (UKBA) to recover this year and last year's shortfalls, as well as seeking assurances that all future costs are met in full, are continuing.

Looking forward to the 2010-11 financial year, the draft budget proposals published on 5 January 2010 include an additional £4m for the Asylum Service (which equates to an additional 0.71% increase in council tax). If we do receive assurances before the County Council meets to consider the budget on 18 February 2010, that the Asylum costs are to be met in full by the Government, then this pressure (and the consequential additional increase in council tax) will be removed. Currently the draft 2010-11 budget does not include any assumptions on a likely settlement with Government as the offer that has been made is not acceptable to us.

In 2008-09 we covered a £3.1m shortfall in funding from the Asylum reserve pending further negotiations with Government. In addition, following data matching, we have a further shortfall of £0.7m on the 18+ care leavers grant for 2008-09, which in the interim will also need to be met from the reserve. Negotiations continue regarding this £3.8m shortfall from 2008-09 and the current £3.8m shortfall forecast for 2009-10 but the latest proposals from the UKBA fall a very long way short of this level of funding. We will however continue to lobby for the best possible outcome and remain hopeful that we will be fully reimbursed.

2.8 Kent Adult Social Services portfolio:

2.8.1 The latest forecast indicates a pressure of £0.776m, which is a reduction of £0.197m since last month. The main changes are:

- +£0.109m Older People Residential Care – a reduction in the underspend from £0.714m to £0.605m following an increase in client numbers from 2,781 to 2,803. This increase relates primarily to people with dementia, services for who are more expensive than other clients.
- +£0.111m Older People Nursing Care – an increase in the pressure from £0.079m to £0.190m. Although the number of clients has reduced slightly, the forecast has increased because attrition remains below the level that was previously assumed.
- -£0.260m All Adults Assessment & Related – a reduction in the pressure from £0.106m to an underspend of £0.154m after a further review of the forecast following the restructure of the Directorate on 1 October and revising estimates for turnover and vacancy management.

There are also a number of other smaller reductions below £0.1m.

The KASS directorate is wholly committed to delivering a balanced outturn position by the end of the financial year and a range of 'Guidelines for Good Management Practice' is in place across all teams in order to help manage demand on an equitable basis consistent with policy and legislation. However the issue of Ordinary Residence, as reported last month, is entirely outside the control of the Directorate and raises a significant challenge to balancing the budget, although this is still the stated aim.

2.9 Environment, Highways & Waste portfolio:

The underspend on this portfolio has reduced by £0.219m to £0.072m this month. This is due to the emergency weather response in Kent Highways Services. The snow in the lead up to Christmas cost KHS an additional £0.320m. At the time of writing this report, the costs of the recent more widespread and prolonged snow have not yet been fully assessed and are also set to continue while we wait for the snow and ice to clear. An estimated cost of responding to this period of adverse weather is currently in the region of £1m. This is based on estimated costs of between £0.100m and £0.130m per day (which will vary on a number of factors such as the number of salting runs and amount of salt used). This gives a total spend on emergency weather responses of approximately £1.3m to date.

The underspend of £0.291m reported last month included a net £0.072m in relation to re-phased projects and £0.219m real underspend. This £0.219m has now been removed from the forecast to cover some of the £1.3m additional costs. There is also £0.813m available in the Emergency Conditions reserve. This will leave a balance of approximately £0.3m, which may be an overall pressure for the portfolio, but it is currently hoped that we may be able to contain this either within the normal adverse weather budget, if February and March are more mild than usual, or if waste tonnage continues to fall, any further underspend on the waste budget could be used to address this shortfall.

However, there will be some road surface issues as a result of the snow and ice, some of which will need urgent attention. The portfolio had set aside some of its budget to deal with these potholes and in addition, Cabinet agreed at its meeting on 11 January to redirect at least £1m from the underspend from 2008-09 which was put into the Economic Downturn reserve, to address the pothole damage, subject to further information on timing and the level of need.

The £0.072m underspend reported for this portfolio relates to the net re-phasing required to complete the following committed projects, as reported last month: -£0.460m signs & lines project; -£0.120m land use survey and -£0.065m external funding for land use survey, and +£0.573m permit scheme costs to be offset against future permit scheme income.

2.10 Communities portfolio:

The forecast for this portfolio has remained at breakeven this month but there are some compensating movements:

- +£0.041m Coroners – an increase in the pressure from £0.225m to £0.266m. Despite management action implemented in prior months to attempt to reduce the overall pressure on this budget, the Coroners have presented a number of aged invoices relating to long inquests and specialist (pathology) fees.

As a result of the continuing and increasing pressures on the coroners budget, each of the other services has been tasked with reducing their forecast spend. Subsequently Adult Education, the Arts Unit and Kent Scientific Services have reported favourable movements in variance this month which offset the increased pressure on Coroners meaning that the directorate can continue to present a balanced budget position. The ongoing review of the Supporting Independence Programme (SIP) may also deliver further savings by the end of the year but the ability of the service to continue to deliver an underspend of such magnitude, (currently forecast at -£0.136m), will diminish in 2010-11 by the removal of funding, as reflected in the draft 2010-13 MTP.

2.11 Regeneration & Economic Development portfolio:

The forecast underspend on this portfolio has increased by £0.066m this month to £0.239m. The main movements are:

- -£0.101m Economic Development Team, which reflects an increase in the underspend for the team from £0.130m to £0.231m, mainly due to further staff vacancy savings.
- We have also had confirmation of the final income allocation from the Local Authority Business Growth Incentive Scheme (LABGI) which is £0.537m above the budgeted allocation. £0.2m of this is committed for an enhanced PR campaign with Visit Kent; £0.037m is needed to offset the additional cost of the contract with Mouchel for services related to developer contributions and it is proposed that the remaining £0.3m is allocated to the Regeneration Fund to be spent on projects approved by the Regeneration Board. There is therefore a net nil effect on the forecast position of the portfolio as a result of this.

3. CAPITAL

3.1 There have been a number of cash limit adjustments this month as detailed in **table 3** below:

Table 3: Capital Cash Limit Adjustments

	£000s 2009-10	£000s 2010-11
1 Cash Limits as reported to Cabinet on 30th November	418,197	447,838
2 Re-phasing as agreed at Cabinet on 30th November		
Children, Families & Education (CFE)	-9,963	8,495
Kent Adult Social Services	-100	-2,030
Environment, Highways & Waste	-393	10
Community Services	-2,008	1,116
Corporate Support Services & Performance Management	770	1,180
3 Ashford Gateway Plus - reduction in prudential/revenue and pef2 and additional revenue funding - CMY portfolio		-727
4 LDDF partnership - additional external funding - KASS portfolio	59	
5 Primary Capital Programme - grant increase - CFE portfolio	198	
6 Kings Farm ARC - PEF2 monies already banked - CFE portfolio	31	
7 Home access to ICT - additional grant and revenue funded - CFE portfolio	462	
	407,253	455,882
8 PFI	54,983	27,101
	462,236	482,983

3.2 The current forecast capital position by portfolio, compared with the position reported last month is shown in **table 4** below.

Table 4: Capital Position

	Variance	Variance	Movement
	This month	Last month	This month
Portfolio		exc re-phasing	
	£m	£m	£m
Children, Families & Education (CFE)	2.455	3.114	-0.659
Kent Adult Social Services	-0.675	-0.260	-0.415
Environment, Highways & Waste	-0.179	1.479	-1.658
Communities	-1.657	-0.006	-1.651
Regeneration & Economic Development	-0.001	-0.087	0.086
Corporate Support Services & PM	-3.879	-0.150	-3.729
Localism & Partnerships	0.000	0.000	0.000
Total (excl Schools)	-3.936	4.090	-8.026
Schools	0	0	0
Total	-3.936	4.090	-8.026

Overall there is -£7.3m of re-phasing of projects and a real variance of -£0.7m this month, as identified in table 4, the main movements are detailed below:

3.3 Children, Families & Education portfolio:

The forecast for the portfolio has moved by -£0.659m in 2009/10 since the last month.

- Special Schools Review (-£0.352m):
 - a. Orchard – Dunkirk (-£0.450m) - The works to this site are in abeyance following the decision to investigate providing primary provision at the Orchard School.
 - b. St Nicholas School (+£0.249m) - The increase in forecast has arisen as a result of discussions over the final account with the lead consultant. The position reflects the worst case.
 - c. Grange Park School (-£0.198m) - The works to this project have been affected by delays, especially to the external envelope (roof waterproofing membrane).
 - d. The Wyvern School, Clockhouse & Buxford (+£0.161m) - At the request of the Building Inspector, additional work was required to the foundations of the care suite and toilets. In addition, the reimbursement to the school for the supply and installation of care beds, has increased the costs of the project.
 - e. Portal House School (+£0.143m) – The costs have increased following Member agreement to purchase mobile accommodation which was previously being rented, whilst waiting for the BSF scheme to start.
 - f. Valence School (-£0.65m) - The cost to the Special Schools Review programme has reduced as the school has increased its contribution to the project.
- Primary Improvement Programme (-£0.230m): The programme rephasing relates to 2 projects:
 - a. The Manor Primary School (-£0.171m in month, -£0.119m overall) - the Manor building is not weather tight and progress has been delayed.
 - b. Crockenhill Primary School (-£0.059m) - the project has been delayed whilst changes to the gas & electricity mains have taken place.
- Specialist Schools (-£0.122m) – The major change in this programme relates to the sports college project at Ursuline College where the project has been delayed whilst estimates are sought for work which is within the resources they have available.

Overall this leaves a residual balance of +£0.045m on a number of more minor projects.

3.4 Kent Adult Social Services portfolio:

Excluding PFI, the forecast for the portfolio has moved by -£0.415m in 2009/10 since the last month.

The main variance is due to a project subject to re-phasing affecting 2009/10:

- Excellent Homes project (-£0.568m): This is mainly due to the transfer of £0.500m to Communities for the Ashford Gateway project which has rephased.

Overall this leaves a residual balance of +£0.153m on a number of more minor projects

3.5 Environment, Highways & Waste portfolio:

The forecast for the portfolio has moved by -£1.658m in 2009/10 since the last month.

The main variances are due to projects subject to re-phasing affecting 2009/10:

- Energy and Water Investment Fund (+£0.132m): The Gibson drive lighting project within the energy water investment fund programme is now expected to be carried out in this financial year.
- East Kent Access phase 2 (-£1.789m): The profiled spend for 2009-10 has re-phased because of slower progress being made during the current period. Future year's expenditure has been re-profiled to match the DfT grant allocations. However, the likely spend profile based on the contractor's programme is higher in 2010-11. Discussions are in hand with the DfT and the contractor to see what options there are to deal with this.

Other variances affecting later years:

- Sittingbourne Northern Relief Road (re-phasing -£0.486m in 2010-11, -£1.452m in 2011-12 and +£1.938m in future years and underspend -£0.058m 2010-11 and -£1.289m in 2011-12): The overall budget for this project has been reduced due to the element of the S106 contribution. The scheme can still be delivered within the reduced allocation as the risk and contingency budgets are sufficient to cover this.

3.6 Communities portfolio:

The forecast for the portfolio has moved by -£1.651m since last month. Projects subject to re-phasing and overall variances affecting 2009/10 are:

- Gravesend Library (-£0.132m): After a protracted process, planning approval for this project has now been granted and work is expected to commence in early March 2010. This is slightly later than originally envisaged and £0.132m of forecast costs have been re-phased accordingly. It is currently anticipated that the new library will reopen in the spring of 2011.
- Kent History Centre (-£0.287m) re-phasing +£0.943m and funding variance -£1.230m: This project is an innovative method of procurement and negotiations with our development partner and two housing providers, through very difficult economic times, has been more protracted than anticipated. This has delayed final agreement of the cost profile and the contract documents, the latter including a number of complex lease and maintenance agreements. This method of procurement is very new to the Authority and officers are being thorough with all of the contractual conditions so as to reduce any risk of cost or programme rephasing once the contract has been executed. Works are anticipated to commence onsite in February 2010 and in line with the revised cost profile and contract negotiations, the project's forecast spend in 09-10 has a variance of £0.287m. The project's anticipated completion date remains unchanged by this timing adjustment.
- Turner Contemporary (-£1.220m): The cost profile of this project has been re-phased by £1.2m, with significant expenditure relating to the facade and roof of the building now forecast to be incurred in quarter 1 of 2010-11, as opposed to the original profile of quarter 4 of 2009-10. The anticipated completion date of the project however remains unchanged.

Overall this leaves a residual balance of -£0.012m on a number of more minor projects.

Other variances affecting later years:

- The Beaney project (+£0.400m in 2010-11): As previously reported, the current cost profile includes a figure of £0.400m to be met from external fundraising activities. Due in part to the current economic climate and exacerbated by the existence of three other significant capital

projects in the Canterbury area (the Theatre, Cathedral and Concert Hall) that are attempting to generate significant funds, it is felt that these funds will not or may not be received. Therefore, as a contingency, this funding gap will be covered from a variety of projects within the Communities' capital programme to ensure that the project is not delayed due to funding uncertainties and this prudent course of action is felt appropriate by all partners concerned.

3.7 Corporate Support & Performance Management portfolio:

The forecast for the portfolio has moved by -£3.729m since last month. Projects subject to re-phasing and overall variances affecting 2009/10 are:

- Better Workplaces (-£2.750m): Much of the cost of the Better Workplaces programme is related to the location of the new West Kent office. There have been a lot of discussions about this and, as yet, no final decisions have been reached. Given the time of year, it is now impossible to spend this year's capital before the end of the current year. In fact, current indications are that West Kent will be delayed until 2011/12, hence the re-phasing in to later years.
- Oracle release 12 (-£0.612m): The project has encountered a number of difficulties which have resulted in a 4 month delay. Problems experienced include:
 - Delay in procuring & delivery of additional disc storage needed to install R12 environment on development server
 - A bug was identified on SUN hardware and a fix was needed
 - Technical problems encountered which needed Oracle support
- Gateway Multi-Channel Service Delivery (-£0.200m): This is a new project which has been given external funding from the Regional Improvement & Engagement agency. Although funding was agreed there has been a hold up in receiving it, thus delaying the spend and requiring re-phasing of £200k in to 2010/11.

Overall this leaves a residual balance of -£0.167m on a number of more minor projects.

Other variances affecting later years:

- Sustaining Kent – Kent Public Services Network (-£1.491m in 2010-11): The Schools have now migrated across on to KPSN and we will shortly be able to assess the cost of a 'standard' month. Migration has been slower than anticipated and changes to the core have been held back until everyone was migrated and capacity demands could be accurately assessed. This has resulted in us being able to postpone increased costs until later in the contract hence the need to re-phase this money in to later years.

3.8 Regeneration & Economic Development portfolio:

The forecast for the portfolio has moved by +£0.086m since last month. The main movements are detailed below:

- Swale Parklands (-£0.1m): The delay is mainly due to the local consultation before implementation (scheduled for Jan/February) and the 3 months advance notice that the contractor requires. Some works will start on site in February but the bulk of the works will commence implementation in the early part of 2010/11.
- Gravesend Old Town Hall (+£0.186m): The variance is mainly due to unforeseen costs incurred in connection with the portico works. The problem only arose once work started and the contractor discovered that in order to remove the columns for restoration, bore holes and steel piles needed to be inserted to erect the scaffolding needed to support the roof of the portico. These extra capital costs will be met from re-directing funding for revenue expenditure.

3.9 Capital Project Re-phasing

Normally, cash limits are changed for projects that have re-phased by greater than £0.100m to reduce the reporting requirements during the year. Any subsequent re-phasing greater than £0.100m is reported and the full extent of the re-phasing will be shown. The tables below summarise the proposed re-phasing this month of £7.3m. This also reflects project re-phasings of less than £0.100m, as the cash limits resulting from this report will be reflected in the 2010-11 Budget Book, as this is the last monitoring report before the Budget Book is published.

Table 5 – re-phasing of projects >£0.100m

Portfolio	2009-10	2010-11	2011-12	Future Years	Total
	£k	£k	£k	£k	£k
CFE					
Amended total cash limits	212,127	190,421	60,614	138,655	601,817
Re-phasing	-241	241	0	0	0
Revised cash limits	211,886	190,662	60,614	138,655	601,817
KASS					
Amended total cash limits	5,655	18,697	18,210	12,651	55,213
Re-phasing	-568	568	0	0	0
Revised cash limits	5,087	19,265	18,210	12,651	55,213
E,H&W					
Amended total cash limits	105,296	165,403	118,886	355,719	745,304
Re-phasing	-1,657	-7,434	4,229	4,862	0
Revised cash limits	103,639	157,969	123,115	360,581	745,304
Community Services					
Amended total cash limits	19,008	24,880	5,205	5,670	54,763
Re-phasing	-409	-1,127	1,536	0	0
Revised cash limits	18,599	23,753	6,741	5,670	54,763
Regen & ED					
Amended total cash limits	8,533	7,268	4,730	6,222	26,753
Re-phasing	0	0	0	0	0
Revised cash limits	8,533	7,268	4,730	6,222	26,753
Corporate Support & PM					
Amended total cash limits	19,329	22,023	17,299	14,693	73,344
Re-phasing	-3,662	-2,334	3,645	2,351	0
Revised cash limits	15,667	19,689	20,944	17,044	73,344
Localism & Partnerships					
Amended total cash limits	584	500	500	1,000	2,584
Re-phasing	0	0	0	0	0
Revised cash limits	584	500	500	1,000	2,584
TOTAL RE-PHASING >£100k	-6,537	-10,086	9,410	7,213	0
Other re-phased Projects below £100k	-758	+774	+70	-86	0
TOTAL RE-PHASING	-7,295	-9,312	+9,480	+7,127	0

Table 6 details individual projects which have further re-phased since being reported to Cabinet on 11 January.

	2009-10	2010-11	2011-12	Future Years	Total
	£k	£k	£k	£k	£k
CFE					
Primary Capital Programme - The Manor					
Original budget	+5,687	+295			+5,982
Amended cash limits	-1,624	+1,598	+26		0
additional re-phasing	-119	+119			0
Revised project phasing	+3,944	+2,012	+26	0	+5,982
E,H&W					
Energy and Water Investment Fund					
Original budget	+751	+572			+1,323
Amended cash limits		-148	+148		0
additional re-phasing	+132	-244	+112		0
Revised project phasing	+883	+180	+260	0	+1,323
East Kent Access phase 2					
Original budget	+22,243	+27,745	+21,574	+11,936	+83,498
Amended cash limits	-8,293	+16,245	+1,058	-9,010	0
additional re-phasing	-1,789	-6,704	+5,569	+2,924	0
Revised project phasing	+12,161	+37,286	+28,201	+5,850	+83,498
Sittingbourne Northern Relief Road					
Original budget	+10,058	+15,235	+6,860		+32,153
Amended cash limits	-851	-815	-1,095	+2,761	0
additional re-phasing		-486	-1,452	+1,938	0
Revised project phasing	+9,207	+13,934	+4,313	+4,699	+32,153
CSS&PM					
Sustaining Kent KPSN					
Original budget	+7,882	+7,314	+7,314	+4,816	+27,326
Amended cash limits	-1,491	+1,491	0		0
additional re-phasing		-1,491		+1,491	0
Revised project phasing	+6,391	+7,314	+7,314	+6,307	+27,326
R&ED					
Swale Parklands					
Original budget	+750				+750
Amended cash limits	-600	+350	+250		0
additional re-phasing	-100	+100			0
Revised project phasing	+50	+450	+250	0	+750
Communities					
Gravesend Library					
Original budget	+1,700	+763			+2,463
Amended cash limits	-1,342	+711	+631		0
additional re-phasing	-132	+132			0
Revised project phasing	+226	+1,606	+631	0	+2,463
Turner Contemporary					
Original budget	+10,512	+3,774	+222		+14,508
Amended cash limits	-1,684	+1,809	-125		0
additional re-phasing	-1,220	+1,018	+202		0
Revised project phasing	+7,608	+6,601	+299	0	+14,508

- 3.10** The forecasts included in this report were best estimates as at the end of December. The bad weather through the first half of January will inevitably have caused delays to a number of projects. While some of that 'lost time' may be recoverable, there will almost certainly be further re-phasing to report next month.

4. RECOMMENDATIONS

Cabinet is asked to:

- 4.1 **Note** the latest forecast revenue and capital budget monitoring position for 2009-10.
- 4.2 **Note** the changes to the capital programme.
- 4.3 **Agree** that £7.295m of re-phasing on the capital programme is moved from 2009-10 capital cash limits to future years.

By: Roger Gough – Cabinet Member for Corporate Support Services
& Performance Management
Peter Gilroy – Chief Executive

To: Cabinet – 1st February 2010

Subject: Decision to award the Kent TV contract to an external company.

Classification: Unrestricted

Summary: This report seeks to inform members of the progress of the tender for the provision of community TV

1. Introduction

During its two-year pilot period, Kent TV has received over 2.5 million visits and provided opportunities for Kent to showcase itself regionally, nationally and internationally. It has provided the county with an innovative and effective way of communicating in the 21st Century. Over those last two years, the pilot has given us the opportunity to learn a great deal; we have had the chance to explore what does and does not work in terms of content and what things we would like to do differently. The re-tender presents an opportunity to expand the reach of the project further to include training facilities, web casting and a youth channel.

2. The Review

- 2.1 In the summer of 2009, the decision was made to extend the existing contract with Ten Alps until March 2010, in order to conduct a review of the service. The review was conducted to determine Kent TV's successes & shortcomings and identify areas for development against the original Cabinet paper written in April 2007.
- 2.2 Thirty-six interviews were conducted with Kent TV Board members, elected members, businesses, voluntary organisations, public sector organisations and service users. Participants were asked for their views on the current service and what they would do to improve it in the future.
- 2.3 The review examined the original Cabinet report submitted in April 2007 and assessed Kent TV's successes, weaknesses and opportunities in various areas including Local Content, Widening Participation, Education, Commercial Benefits, Technological Innovation, Employment, Partnership Working and Governance.
- 2.4 The review found that the general response to the Kent TV pilot was positive and highlighted areas for improvement.
- 2.5 The review informed the specification for the tender process.

3. The Tender Process

- 3.1 Following the review, specifications were developed in partnership with Cabinet, Directorates, Personnel, Procurement, Information Services Group, Legal & Democratic Services, the Kent TV Board and partner organisations such as Visit Kent.
- 3.2 To encourage economies of scale the tender document integrated the existing What's On and Webcasting contracts with the Kent TV contract.
- 3.3 The combined contracts are valued at £750,000 per annum and a contract will not be awarded for more than this figure. These costs are broken down to £600,000 for Kent TV, £100,000 for What's On and £50,000 for Webcasting.
- 3.4 The advert was placed on the South East Business portal and also in the Official Journal of the European Union. The companies who expressed an interest were all sent a copy of the specifications and contract.
- 3.5 In November, the specifications and proposed contract were sent out to the interested parties. The Council received a number of tender documents by the December deadline.

4. Interviews and the contract discussions

- 4.1 The companies which met the minimum requirements were invited to pitch their ideas for the future of Kent TV to a panel.
- 4.2 Due to the adverse weather conditions, the original presentation date of 18 December 2009 was moved to 14 January 2010.
- 4.3 The panel consisted of Paul Carter (Leader of the Council), Roger Gough (Cabinet Member for Corporate Support Services & Performance Management), Bryan Sweetland (Deputy Cabinet Member for Corp Support Services & Performance Management), Michael Northey (Deputy Cabinet Member for Corp Support Services & Performance Management), Chris Luke (Interim Head of Procurement) and Tanya Oliver (Director for Strategic Development and Public Access).
- 4.4 The presentations confirmed there were a number of strong contenders to run the channel.
- 4.5 Officers have been clarifying the proposals of the contenders and there will be an oral update as to the progress of these discussions at Cabinet.

5. Conclusion

Due to the adverse weather conditions the tender process has been delayed. The companies wishing to run the channel have made their presentations however the assessment of their proposals within the procurement process is still as yet unfinished. It is expected that a decision regarding the continuation of Kent TV will be made shortly; however due to time constraints Cabinet is asked to delegate to the Cabinet Member for Corporate Support Services & Performance Management the decision of the final approval of the provider company and the award of the contract.

6. Recommendation

Cabinet is asked to:

1. Note the progress made to date.

2. Authorise the Chief Executive to extend the existing Kent TV and Webcasting contracts by one month should this be necessary.
3. Delegate to the Cabinet Member for Corporate Support Services & Performance Management the final selection and approval of the provider company; and, subject to satisfactory outcome to the clarification of the tenders' proposals, the Cabinet Member for Corporate Support Services & Performance Management be authorised to enter into the relevant contracts with such service provider.

7. Background Documents:

GapGemini Review of Kent TV

Specifications for Kent TV

8. Author Contact Details

Tanya Oliver – Director of Strategic Development and Public Access

✉ Tanya.oliver@kent.gov.uk ☎ 01622 221878

This page is intentionally left blank

KENT COUNTY COUNCIL

Invitation to Tender for the Provision of Community TV

Section 1 Instructions to Tenderers

Context of Requirement

Kent County Council (the Council) has been increasingly innovative in its use of web based technology to both inform and interact with its residents, businesses and visitors to Kent. The initial service contracts for three separate initiatives (Kent TV, What's On and Webcasting) are all coming to an end enabling the Council to seek a single contractor to take these initiatives forward whilst benefiting from the bringing together of the complementary technology platforms they use.

Kent TV is transformational. The digital age is upon us and Kent TV is an essential part of the Council's service delivery, community engagement and communication in this world. It is also a key way to promote Kent as a county for tourism and inward investment. The Council has always been forward-thinking and Kent TV is an example of how we have grasped the digital agenda in a way others are now beginning to follow. We have a strong platform upon which to build and as well as providing a critical delivery and communication tool, save significant money on training and communication.

Kent TV has developed significantly from its launch in September 2007, with the third site refresh launching on 1 September this year as a result of user feedback. Undoubtedly we have learned a lot over the last two years and this will inform the future of Kent TV as whilst we have seen considerable success, there is more to be done and it is time to take this initiative even further.

It has always been the Council's vision that Kent TV is a community channel and asset. Although throughout the pilot it was exclusively funded by the Council it was never intended to be a Kent County Council channel. As we look to move forward with the service we anticipate that the service will make further links with, and be used by, schools, universities and local authorities including the NHS.

The Council is looking for this usage by the other bodies to not only be at no additional cost to the Council but also contribute to the infrastructure and running costs of the channel thus reducing the Council's financial commitment across the life of the contract.

The Council developed the "What's On" site to provide a single point where details of events across the County could be found. The site went live in November 2008 and since then has had over 16,000 events listed with over 190,000 page visits.

Wholly funded by the Council the functionality enables businesses / attractions and members of the public to load details of events which, once moderated, are searchable and viewable on the site.

The Council has been webcasting its major meetings (full Council, Cabinet etc) which have viewable on its website - kent.gov.uk - both live and for up to six months afterwards. These webcasts have generated significant public interest and the Council is now looking, to help

meet its aspiration of enabling the people of Kent to have more involvement in democracy, to expand this service both in terms of the number of meetings covered and the available functionality.

Whilst the Council is looking for a single contractor to cover the three strands a solution with specialist sub-contractors suitably supporting a prime contractor could also be acceptable. The Council will not contract separately via this procurement.

The current value of the combined contracts is £750,000 per annum and a contract will not be awarded for more than this figure.

The contract and service for Kent TV has had a high profile throughout the pilot period. Whilst this, and all invitations to tender are issued in good faith by the Council any contract award decision will be subject to formal review by elected members through the Council's 'Key Decision' process.

Governance

Kent TV will continue to be run independently by the Service Provider and comply to Ofcom regulations. The contract management relationship will be between the Service Provider and a Council Officer (currently the Director of Strategic Development and Public Access). This arrangement will exist purely to monitor contract compliance.

For editorial purposes, the Service Provider will report to an Independent Board but day to day editorial control will be in the hands of the Service Provider.

Existing Arrangements

Both the Kent TV and "What's On" contracts are currently with Ten Alps plc. Tenderers should be aware that there are currently 10 members of Ten Alps' staff employed on Kent TV.

A 'TV Studio' exists at Sessions House, County Hall to be used for interviews and news reports for streaming via <http://www.KentTV.com>. Suitable for 1 on 1 interview and up to 3 people discussions (with a host and two guests). The studio has appropriate lighting for digital video/television, a degree of sound proofing and the following, Council owned, technical facilities:

- 2 Camera fixed setup (dependent on number of guests) on tripod with dolly wheels, cameras to have DV tape drives for additional backup;
- mixing for Audio and Vision (located in studio as opposed to a gallery/studio setup) with operator mixing live;
- wired/radio tie clip microphones and sound reinforcement studio microphones;
- autocue on one camera for piece to camera application (with supporting software);
- studio lighting system;
- broadcast monitor for reassurance monitoring; and
- digital video capture system for taking video material in digital form to non linear edit system (Avid Xpress pro).

Designed to be operated by one technician, allowing for minimal interaction during recording sessions.

The Council's view is that the award of a contract would be likely to involve the transfer of an undertaking under EU Directive 77/187/EEC, as amended by Directive 98/50 EC and consolidated in 2001/23/EC (regarding the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses) ("The Directive") and the Transfer of Undertaking (Protection of Employment) Regulations 2006 ("The TUPE Regulations"). The term "TUPE Regulations" throughout the tender documents (unless the Contract otherwise requires) also incorporates the Directive.

However, Tenderers should take their own advice as to the applicability of the TUPE Regulations.

Tenderers should be aware that in the event of the Contract being awarded to them the Council cannot warrant that:

- a) immediately before the commencement of the Contract there will be sufficient staff assigned to the Services and in a position to transfer to the successful Tenderer's employment to enable him satisfactorily to carry out the Services without reliance on other staff or resources, or
- b) that such staff as are in post at that time will be willing to transfer employment to the successful Tenderer.

No indemnities or warranties will be given by the Council in respect of the transferring employees or liabilities arising under the TUPE Regulations.

The webcasting service is delivered by a combination of Council staff with technical support, provision of software and hosting services from Public-i Group Ltd.

Democratic Services and Local Leadership manage the Council and Public meetings for the Council, including organising the meetings, preparing the agendas, compiling the associated committee documentation and commissioning the webcasts of meetings.

Webcasts are currently supported by the Public-i D500 system comprising:

- a control unit (with DVD-RW)
- Public-i proprietary software
- 3 mobile cameras
- 14 mobile microphones
- 8 static cameras (4 in the Council Chamber and 4 in Darent Room)

The system interfaces to the dedicated recording facilities (cameras and speaker phones) in the 2 fixed locations (the Council Chamber and the Darent Room, Sessions House). The preparation, management and recording of the live meetings are undertaken by staff from the Council's Information Services Group.

The Council's Communications & Media Centre has access to the Public-i online Content Management System to book the live broadcast, maintain associated content links and run statistics reports.

The current contract provides up to 300 hours of live webcasts (e.g. during August '08 – August '09 used 195 hours). Public-i also hosts the archived webcasts, currently for 6 months from date of broadcast.

Webcasts are currently organised (on the website) by:

- this month's webcasts
- recent webcasts
- archived webcasts

Number of meetings covered	(*as at Aug '09)
• County Council Meetings	3
• Cabinet Meetings	5
• Cabinet Scrutiny Committee	4
• Health Overview and Scrutiny Committee	3
• Highways Advisory Board	2
• Schools Organisation Advisory Board	4
• Policy Overview Committee	10
• Other webcasts	6

* n.b. as an election year, the number of meetings is lower than normal as members campaigning.

Example size, webcast (27/07/09) 1hr 52mins:

- DVD copy 1.95 gb
- Broadcast quality 155 mb
- Archive quality same as broadcast

<u>Month</u>	<u>Live webcast hours (approx)</u>
April '08	7
May '08	27
June '08	19
July '08	6.5
August '08	
September '08	33.75
October '08	8.5
November '08	14.75
December '08	12
January '09	25.75
February '09	14.75
March '09	19.75
April '09	17

The live and the archived webcasts are accessed via the Council web-site:

<http://www.kent.gov.uk/council-and-democracy/democracy-and-elections/webcasts.htm>

Democratic Services and Local Leadership have been working with the Corporate Communications team to integrate the Council's Committee Management System (Modern.gov) with the Public-i system to automate as much as possible the preparation and booking of a webcast and to improve the quality of the associated information by providing it from a central point.

Return Date

Tenders must be submitted by no later than noon on:

Tuesday 1st December 2009

Kent County Council
Strategic Procurement
3.21 Sessions House
County Hall
Maidstone
Kent ME14 1XQ

Tenders can be received between the hours of 0800 & 1700, Monday to Friday. Documents must not be returned to any other place.

Since delays frequently occur in the post and the Council's standing orders prevent consideration of a tender received after the appointed date and time, you are strongly advised to post the tender well in advance of the last date for receipt or arrange for delivery direct as allowance cannot be made for postal delay.

All responses are to be submitted with no reference to the sender on the packaging or accompanying delivery paperwork. The Tenderer's attention is drawn to the practice of franking postal packages whereby the sender is identified on envelopes. This practice may make the response unacceptable.

The package must have the following Tender reference number clearly displayed:

SP0926

Required Response

Three printed copies of the response are required and tenders must remain open for acceptance for at sixty (60) days after the tender return date.

Tenderers should complete the form of tender (Section Four), provide the information requested in the Specification section and complete the attached Equality and Diversity questionnaire.

Tenderers must, using the clause numbering, respond to each point in the Requirement Section. The response must detail how you propose meeting the requirement and not just that you will. The Council requires this information to:

- ensure that you have the appropriate understanding of the requirement;
- allow it to seek evidence of where you have undertaken similar solutions;
- evaluate that the costings for your proposed solution are realistic and sustainable;
- and
- determine the impact on the Council and its resources of your proposed solution.

The Council sees at least two possible ways of taking the 'Webcasting' service forward: utilising the existing split of responsibilities between the Council and the Service Provider but with increased functionality; or requiring the full service from the Service Provider.

The decision on the appropriate approach will be determined by your responses to the tender both in terms of solution and costs. As a consequence the Requirement section for this service has had to be generic and Tenderers are asked to respond to and price both approaches.

In addition to this point by point response Tenderers must also provide details in the following areas:

Costs

- a detailed budget, including:
 - proposed profit/production fee;
 - break down of estimated costs for each requirement including details of which (if any) are to be subcontracted and who the proposed sub-contractor would be; and
 - specific proposals for the 'Promoting Democracy' element. Tenderers should note the 'aspirational' element to the published quantity of 300 hours per annum. The Council hopes that Tenderers propose innovative solutions for this area that might allow pricing flexibility for variations - in both directions - to this quantity;
- their company's most recent annual accounts;
- proposals for revenue generation. NB the Council does not wish to charge viewers for access and is aware of the potential for advertising on the site.

Accommodation

The Services must be provided from within Kent. Tenderers must therefore budget for suitable accommodation and for all other overheads. Tenderers are not necessarily expected to use a studio but if they wish to, they should set out plans and costings for how it would be equipped, staffed and managed.

Management

- full details of their proposed management structure.

Technical

- how they would guarantee the service in terms of:
 - available hours
 - times of unexpectedly high demand
 - room for growth in viewing numbers; and
 - storage of current and archived content.
- how the services would cope with:
 - further public involvement or process improvement through changing or new technology. This may include other areas of rich media technology, e.g. provision of podcasts or interaction through webcam.
 - the requirements of Government legislation, such as, the Local Democracy, Economic Development and Construction Bill.

Implementation Plan

The Council requires a seamless transition to the new contracted service. Tenderers should provide a plan covering the period from contract award up to commencement of the service on 1st April 2010 detailing the following areas

- (i) necessary activities
- (ii) timescales (start and completion dates) for each activity;
- (iii) requirements on Council and/or existing Kent TV staff and/or other resource /access requirements; and
- (iv) obligations of either party in relation to each activity.

Terms and Conditions

Section Three of this tender includes the proposed Terms and Conditions for the Contract. Tenderers must detail any and all concerns with this proposal in their tender response. The detail must include exactly what section(s)/wording are of concern, what the concern is and your proposed alternative wording. Just flagging areas for 'further discussion' is unacceptable.

Experience

Tenderers are reminded that the OJEU Notice and the ad on the South East Business Portal advised all potential contractors that they had to be able to evidence experience in online media projects as well as an understanding of the challenges involved in running an online television channel.

Tenderers therefore must provide details of existing contracts where they are:

- delivering a broadband service with video content forming at least a part of the service;
- delivering and supporting a 24/7 information platform;
- providing high quality video content; and
- working with a wide range* of public and private sector partners to deliver video content.

Details provided must be sufficient for the Council to view the service(s) and take up the reference with the contract owner without further contact with the Tenderer.

Tenderers must show experience of all four elements but this experience does not have to be from the same contract. * The Council is looking for details of a contract where you are working with a minimum of five partners, at least two of whom must be from the public sector.

Please note that this section, together with your proposed costs, will be evaluated first and that tenders which do not meet this criteria and / or exceed the stated budget will be rejected at this stage and will not be progressed to the full evaluation stage.

The outline in this document is not intended to be prescriptive and Tenderers are encouraged to include any additional ideas they have for the services.

Assessment of Tenders

All tenders received will be considered on the information contained in the tender or obtained by the Council as a direct result of the tender process. Submissions will be assessed on the basis of most economically advantageous offer which will take into account the following:

Criteria	Weighting
Proposed Solution	70
Technical Solution	20
Implementation Plan	10

The above weighting of '70' for the 'Proposed Solution' will be further allocated as follows:

- Kent TV 45
- Promoting Democracy 15
- What's On 10

The Criteria will be judged on the assessment of a combination of the written responses and presentation / demonstrations. Presentations / demonstrations will be made to an evaluation team of Officers and Members. Tenderers should note that the submission of a Tender by the due date does not guarantee an invitation to present their proposal.

Firms Declining to Tender

There is no need to return the tender documents if you are not quoting but an e-mail to procurement.office@kent.gov.uk prior to the closing date advising that you do not intend to respond would be appreciated.

Tenders Not Meeting Specified Requirements

Tenderers submitting offers not complying with the specified requirement may not be considered.

Post Tender Negotiations

Post tender negotiation on price is not the usual practice of the Council. Tenderers must make their best offer on this tender by the closing date.

Acceptance of Tenders and Pre-Contract Negotiation

The Council does not bind itself to accept the lowest or any tender and reserves the right to accept any items in any tender to the exclusion of other items.

Any condition contained in any offer made against this invitation which may vary or replace any term or condition of contract shall not be binding unless such conditions of business or of contract are specifically accepted in writing by the Council.

a) A contract shall not be concluded between the Council and the Tenderer until the Tenderer has received a written acceptance from the Council signed by or on behalf of the

Council's Director of Finance. Acceptance of the tender shall be deemed to incorporate any modification or amendments agreed in writing in consequence of any discussions or correspondence referred to in (b) below.

b) Until the conditions set out in (a) are satisfied, any discussions/correspondence between the Council and the Tenderer shall be entirely subject to contract and conducted without any obligation whatsoever by the Council to enter into or become bound by any contract with the Tenderer.

c) Unless notified to the Tenderer in writing by the Council's Director of Finance, no Officer of the Council is authorised to change, amend or modify any of the terms or conditions herein relating to pre-contractual negotiations and/or acceptance of tender.

Section 2 Requirement

Contract Period

Forty eight months from 1st April 2010 to 31st March 2014.

Specification

Kent TV

General

- 1.1 The Service Provider will:
 - 1.1.1 host a community broadband internet channel which should host content that covers a wide spectrum of topics and events related to Kent; and
 - 1.1.2 provide a complete hosting service for Kent TV. This includes all the hardware, software, communications links and necessary support and administration for the technical environment to operate the Site and the Channel;
 - 1.1.3 ensure the website is accessible and easy to use.;
 - 1.1.4 ensure that Kent TV is fresh and lively with content updated on a regular basis;
 - 1.1.5 ensure that Kent TV promotes both inward investment in Kent and Kent as a tourist destination; and
 - 1.1.6 Kent TV is available 24/7.

Content

- 1.2 The Service Provider will:
 - 1.2.1 ensure that approximately 40% of the budget is spent on commissioning content from local providers in the county;
 - 1.2.2 encourage the development of a sense of community in the county by ensuring that a minimum of 20% of the content will be user generated content;
 - 1.2.3 increase opportunities and encourage the public to upload their own content;
 - 1.2.3.1 as part of this the Service Provider will run video journalist training for community groups, staff and other interested parties to encourage more user generated content from the community and businesses.

- 1.2.4 provide, on average, at least 1 hour of new content per week. This will not include any webcasting, user generated or acquired content. Created content should cover a wide spectrum of topics and events related to Kent;
- 1.2.5 ensure that old content is archived and readily available to audiences through a search facility;
- 1.2.6 all content available to the public has been moderated to ensure its compliance to Ofcom guidelines and its suitability for younger viewing;
- 1.2.7 host quarterly debates/Webinars on current topics relevant to Kent, this should involve members of the public and be attended by relevant experts;
- 1.2.8 run quarterly competitions to engage and encourage local talent, for example Sound Clash and Animate & Create;
- 1.2.9 create content which informs the public in terms of citizenship, career and apprenticeship opportunities and services available to Kent residents. This should be done innovatively such as Hollywould... released in October 2009;
- 1.2.10 create content that is relevant to people of all ages and from a wide range of backgrounds and interests;
- 1.2.11 deliver content which explains 'How to'. For example 'How to get planning permission', 'How to become a Fire Officer';
- 1.2.12 provide a 'Youth area' which is a safe area for young people to interact by uploading videos, engaging in discussions and voting on topics relevant to them;
- 1.2.13 provide a Teachers area of Kent TV populated with relevant content and enabling discussion between participants;
- 1.2.14 work with children centres, schools, colleges and the local Universities to showcase material. The service should encourage schools to actively participate in the service by creating and using content available on Kent TV. For example, through the Media and Creative Diploma;
- 1.2.15 create the ability to host micro areas to highlight special campaigns or competitions;
- 1.2.16 create a password protected training area for various organisations. This would have the ability to show training videos, have quiz functionality and be interactive. As well as monitoring who has watched the videos and completed the relevant quizzes;
- 1.2.17 Kent TV also receives acquired content from third parties and also from the Council; provision must also be made to upload this content.
- 1.2.18 actively find content that can be hosted on Kent TV;
- 1.2.19 increase content sharing opportunities with other media partners in the county; and

- 1.2.20 ensure that all content produced and acquired becomes, and remains, the property of the Council.

Volumes

- 1.3 The Service Provider will:
 - 1.3.1 promote Kent TV to increase visit numbers;
 - 1.3.2 deliver an average audience for Kent TV of 150,000 visits per month by 1st October 2010 and will increase this by 20% per annum thereafter; and
 - 1.3.3 Kent TV will utilise at least the top five most used social media sites to encourage greater audience numbers.

Revenue Generation

- 1.4 The Service Provider will:
 - 1.4.1 foster partnerships and increase revenue streams with other Kent based authorities/businesses and institutions.

Technical Requirements

- 1.5 The Service Provider will ensure that:
 - 1.5.1 the service is configured such that maintenance can be carried out without the need to close the service. In the event that the full service is not available an announcement page should appear as the front page explaining that the service is not available. It is not expected that a 404 error message, service not available, will be generated;
 - 1.5.2 the Site is secure so that it is not subject to hacking or defacement by unauthorised users, nor can it be used for the dissemination of viruses, malware or other software liable to damage Visitors' devices. User Generated Content must be screened before it is released on the Site to ensure that it does not contain viruses or other malware;
 - 1.5.3 there is sufficient capacity to store all content material generated within the Term online for immediate viewing by Visitors. This material should be managed so that it is fully recoverable in the event of hardware, software or other system failure;
 - 1.5.4 there is a full content management system that supports the categorisation, retrieval, management and automated publishing of the website contents;
 - 1.5.5 the service is capable of serving 2000 concurrent video streams at the highest quality setting. This in effect means that the system is capable of supporting 2000 concurrent users to receive streaming material. Additional users should be supported who are using the text base services in the user content pages

- 1.5.6 material is stored in the highest available quality and reformatted automatically for smaller sizes as needed by the end user device;
- 1.5.7 the video content is initially made available to Visitors based on the System's automatic detection of the Visitor's connection speed, with the facility for the Visitor to change the connection speed rate if they so choose once connected;
- 1.5.8 a RSS feed is provided to advise Visitors of the latest programmes available on the site;
- 1.5.9 Kent TV is accessible to broadband users from 1MB;
- 1.5.10 Kent TV utilises embedding facilities to embed relevant content on other sites. For example Kent.gov.uk and Wildlife Trust;
- 1.5.11 100% of the content produced and commissioned by Kent TV has subtitles (where possible BSL) and be accessible to the visually impaired;
- 1.5.12 all content is searchable by Keyword, geographical area, postcode and by type/theme;
- 1.5.13 viewers can personalise their site to include topics they are interested in;
- 1.5.14 viewers can embed content from Kent TV on to their own sites;
- 1.5.15 the Youth Channel is capable of integrating or using Shibboleth based standards, to ensure the security/identity of users from Kent Schools;
- 1.5.16 the web site and content complies with the legal obligations as stated in the Disability Discrimination Act (DDA) 1995. Therefore the software should be compliant with the internationally recognised Web Accessibility Initiative from the World Wide Web Consortium (W3C) for a double A (AA) rating;
- 1.5.17 all content is viewable through the common browsers available at the time throughout the life of the Contract; and
- 1.5.18 all content can be downloaded by viewers on to their MP3/MP4 players or mobiles.

Other

- 1.6 The Service Provider will:
 - 1.6.1 actively engage with young people offering them training opportunities to help them gain valuable work experience in the industry; and
 - 1.6.2 work on a joint European funded project (interreg) with the Council and a European partner to produce content of interest on both sides of the English Channel.

Reporting

1.7 The Service Provider will:

1.7.1 produce quarterly reports outlining the progress of Kent TV, including visits, page views, uploads and other relevant statistics; and

1.7.2 provide statistics on an ad-hoc basis for the Council's reporting purposes.

Promoting Democracy

General requirements

- 2.1 The Council is looking for an innovative service that uses broadband technology to not only record the democratic process by webcasting Council meetings but to open this process to more community engagement. This should be, at a minimum, by a combination of real-time public involvement in the meetings themselves but also, by appropriate editing, provide a concentrated focus on the important issues via Kent TV.

The following is an extract from an internal discussion document that explores the use of Webcasting for more of the Council's meetings. Tenderers should view this as indicative of the Council's vision of opening up the democratic process to wider community engagement.

Webcasting locally based Council run public meetings

The Council runs public meetings across the 12 Districts in Kent. These 'local board' meetings are run to listen to the needs of the communities in these locations, address local concerns and improve local engagement and communication between the Council and community. In order to widen participation in the democratic process and local engagement, there is the need to webcast parts or all of these meetings and the discussions at these meetings.

Each Local Board meets 4 times a year in locations around each district. These locations can vary from basic village halls, scout huts to equipped town centre facilities. Each meeting can last 3-4 hours, in the evening mainly, and involves presentations by service providers, discussions between locally elected County Councillors and the community on local concerns and services.

In some of the Districts, the local board has evolved into Neighbourhood forums or Local Engagement forums. Rather than one Local Board covering the whole district, these are more locally run meetings that involve a wider variety of partners working with the Council. Each of these also meets 4 times a year and so there may be anything from 12-30 or more every year. The locations can vary as well between basic halls and better facilities.

Currently in total there are 92 meetings every year in Kent that is a mixture between local boards and the various types of forum. August and December are the quiet periods.

It is envisaged that webcasting these meetings is planned to be piloted in one or two locations over a period of about 3 months.

If successful it may be taken up by other Local boards/forums/local engagement forums etc in other places. However, there is no guarantee that take up would happen as each meeting is run by different county members who have different needs.

Therefore, it is estimated that there may be 1 meeting every month (of 3-4 hours in the evening) to be webcast.

Functionality

2.2 The solution must:

- 2.2.1 enable broadcasting of either pre-recorded or live Council and Public meetings to the public (viewer) via the internet;
- 2.2.2 enable the viewer to access webcasts from the Kent County Council website (www.kent.gov.uk) or Kent TV (www.kenttv.com);
- 2.2.3 enable the viewer, during live webcasts, to interact with the speaker/panel/moderator, such as: to make comment, raise questions or vote; to which the speaker/panel may respond;
- 2.2.4 enable the viewer to access a library of previous webcasts.;
- 2.2.5 be mobile to enable filming, recording and live webcasting of Council and Public meetings within the Council offices and any other location. These may be locations not owned/managed by the Council or 'open air';
- 2.2.6 enable live webcasting over a wireless connection as some locations do not have a wired connection;
- 2.2.7 be able to support up to two, parallel occurring or overlapping, meetings which may be in different locations;
- 2.2.8 enable the minimum number of steps to configure and use facilities such as vision mixing, captions, subtitles and remote control of cameras;
- 2.2.9 provide the webcast at optimal quality for the particular speed (e.g. from dial-up to high speed broadband) of the viewer's connection;
- 2.2.10 enable addition of Agenda Points, Speaker Points and captions to the webcast so that viewer may follow the progress of the live meeting or view an archived webcast from any of those points;
- 2.2.11 enable the webcast operator to amend or add agenda items during the live webcast;
- 2.2.12 enable the viewer to 'pause', 'rewind' and 'jump back to live' points during a live webcast (e.g. similar to 'Sky +');
- 2.2.13 enable presentation material, e.g. Powerpoint presentations, dvds or movie clips, to be shown to the viewer in parallel with viewing the meeting as it is being presented;
- 2.2.14 enable the viewer to access (view only) the Agenda and any supporting documents (e.g. in PDF format) provided for the meeting;
- 2.2.15 support the use of rich media (e.g. embedding 'tickers' such as community or council news items or downloadable content);
- 2.2.16 integrate with the Council's Committee Management System (modern.gov) to improve and automate set-up of the webcast, booking webcast time and maintain links to committee documentation and presentation material;

- 2.2.17 present Speaker profiles; integrating with the Kent County Council Committee Management System (modern.gov) – the central database for Members' information – to link to the base information;
- 2.2.18 have a video and audio output to allow interaction with video conference systems (e.g. as available in the Council Chamber and the Darent Room in Sessions House, County Hall);
- 2.2.19 enable, in the case where a live webcast is overrunning the booked time slot, existing viewers to continue to view, and new viewers to view, the live webcast;
- 2.2.20 provide output compatible with leading players (e.g. Real, Windows Media and Quicktime), browsers and operating systems; and
- 2.2.21 provide access to viewers to content for at least a year, including all the relevant documents.

Volumes

- 2.3 It is anticipated that around 300 hours of live broadcasts will be prepared annually.

Reporting

- 2.4 The Service Provider should provide monthly statistics on customer usage to the Council which should include, Webcasts: number of visits, number of times a meeting is viewed (live and archived), how long viewed (duration), most popular live webcast, most popular webcast viewed, most popular committee document, most popular meeting presentation.

The following sections are requirements for a service broadly similar to the current contract but may not be so relevant to the potential 'full' service contract.

Security/Access Levels

- 2.5 The Solution must provide:
 - 2.5.1 secure third party access complying with the Council's IT security policy;
 - 2.5.2 different access levels to ensure security for users and data;
 - 2.5.3 an interface whereby non-technical system administrators can fully define the permissions of users;
 - 2.5.4 the facility to add/amend/delete users;
 - 2.5.5 a password setting facility;
 - 2.5.6 a 'forgotten' password facility;
 - 2.5.7 security for documents set to individuals; and

2.5.8 a defined audit trail facility.

User Groups

2.6.1 The Council would expect the solution to have a formal user community group already established where there is the opportunity to discuss best practise and to suggest/view new system developments.

2.6.2 The Service Provider should ensure the Council is kept informed of ideas/developments from other areas.

Data Migration

2.7.1 Archived webcasts should be migrated; including Agenda Points, Speaker Points, Captions and any links to documents or presentation material.

Accessibility

2.8.1 The system should be accessible via a web browser/pda which can be accessed from any PC with no requirement for client-side software.

2.8.2 Ensure the system is accessible by staff with disabilities through compliance with the WAI guidelines to "AA" standard.

System Support

2.9.1 In the event that application failure occurs, the application must be fully recoverable to the state prior to the failure.

2.9.2 The Service Provider must ensure that back ups are taken periodically – daily/weekly/monthly for hosted solution.

2.9.3 The Service Provider must provide telephone support for technical and operational assistance, Monday-Friday 8am-6pm and outside of these hours to support webcast of evening meetings.

Training and Documentation

2.10 The Service Provider should:

2.10.1 provide guides relevant to administrators and all levels of user;

2.10.2 ensure Product Manuals relevant to the user are available;

2.10.3 provide site specific implementation documentation;

2.10.4 provide online help in a recognised standard format available to Council staff and members of the public using the solution;

2.10.5 provide Train the Trainer instruction (to a core team) for all access levels;

- 2.10.6 provide an administrator specific training course with separate training for IT Support as necessary;
- 2.10.7 provide the presented training course material for the Council staff to take-away and copy; and
- 2.10.8 provide on-line training and ensure training documents are available on the system and accessible to authorised Council staff.

What's On

- 3.1 The Service Provider will:
 - 3.1.1 host What's On guide, detailing events and attractions open to the public;
 - 3.1.2 moderate the What's On Guide to ensure the suitability of uploaded content;
 - 3.1.3 ensure that all attractions, recognised by Visit Kent as of 1st April 2010, are listed on What's On;
 - 3.1.4 ensure at least 75% of these have video content attached by 1st October 2010. Content on attractions should be regularly reviewed and updated;
 - 3.1.5 work closely with partners, such as Visit Kent, to ensure wide coverage of Kent events;
 - 3.1.6 ensure that the public and attractions are able to upload their events to the website easily;
 - 3.1.7 promote the What's On website to increase both visit numbers and also the number of events uploaded to the site;
 - 3.1.8 ensure that out of date information is removed from the site;
 - 3.1.9 ensure that users are able to easily search for attractions and events by geographical area, electoral ward or postcode;
 - 3.1.10 ensure the content complies with the Disability Discrimination Act 1995 – at least "AA" compliant; and
 - 3.1.11 integrate Kent TV's What's On events with www.kent.gov.uk.

Volumes

- 3.2.1 What's On should be attracting a minimum of 20,000 page views per month by October 2010, this should increase by a minimum of 20% per year thereafter; and
- 3.2.2 What's On should be populated with a minimum of 20,000 Kent events per annum.

Section 3 Conditions of Contract

DATED:

2009

PARTIES

- (1) Kent County Council of County Hall, Maidstone ME14 1XQ ("the Council");
- (2) ("Service Provider").

INTRODUCTION

- A. The Council is authorised under s142 of the Local Government Act 1972 and s148 of the Communications Act 2003 to use electronic communications networks in order to provide information concerning the services available within its area.
- B. The Service Provider submitted a tender on..... in response to the Council's notice inviting tenders for a proposal to provide a website and broadband television channel on the Council's behalf over the Internet and related services.
- C. The Council has agreed, after completion of its tendering process, to appoint the Service Provider to provide this website and television channel and related services on the terms and conditions set out in this Agreement.

1 INTERPRETATION

- 1.1 In this Agreement the following words and expressions shall, unless the context otherwise requires, have the following meanings.

"Availability Threshold" 99.9% of Transmission Hours;

"Board": the committee to be established by the Council with responsibility for editorial control of the Site and the Channel and whose functions and remit are described in the Terms of Reference forming part of the Editorial Specification;

"Branding Guidelines": The Council's guidelines for the use of the Council's Branding, a copy of which is attached as Appendix 1;

"Budget": the all-inclusive budget for the provision of the Services during the Term which comprises Appendix 2;

"Change Control Procedure": the procedure set out in The Schedule;

"Channel": the webcast broadband television service provided as part of the Site and to be known as "Kent TV" (or such other name as the Council may nominate);

"Content": all material of any description provided by the Service Provider, or by third parties on its behalf, for incorporation in and transmission via the Site and the Channel;

“Contract Period”:	the period commencing on the Start Date and expiring at midnight on 31 st March 2014;
“Director of Programmes”:	the person employed by the Service Provider as overall manager and editor of the Site and the Channel;
“Editorial Specification”:	the specification describing the editorial guidelines and content principles of the Site and the Channel and the functions and remit of the Board, a copy of which appears as Part 2 of Appendix 3;
“Instalments”:	the on-going costs incurred by the Service Provider for operating the Site and the Channel and acquiring the Content, which are indicated accordingly in the Budget;
“Intellectual Property Rights”:	all intellectual property rights wherever in the world arising, whether registered or unregistered (and including any application), including copyright, know-how, confidential information, trade secrets, business names and domain names, trade marks, service marks, trade names, patents, petty patents, utility models, design rights, semi-conductor topography rights, database rights and all rights in the nature of unfair competition rights or rights to sue for passing off;
“the Council’s Branding”:	the logos and trade marks of the Council which are exhibited in Appendix 1;
“the Council Project Director”:	Director of Strategic Development and Public Access, or such other person as may from time to time be nominated by the Council;
“Kent TV Marks”:	the logos and the trade marks developed and/or to be developed by the Service Provider on behalf of the Council and to be utilised in the branding of the Site and the Channel;
“Ofcom Broadcasting Code”:	the Code issued by Ofcom from time to time which regulates the content of licensed television programme services;
“Relevant Change”:	as defined in Clause 14.1;
“Service Credits”:	the monies payable by the Service Provider to the Council in respect of any System Failure in accordance with Clause 12, being the sum of £1.80 per minute;
“Services”:	the services of designing, developing and operating the Site and the Channel and providing and producing the Content, together with all related services;
“Services Specification”:	the specification describing the Services to be provided by the Service Provider which comprises Part 1 of Appendix 3;

“Site”:	the website at the URL to be advised by the Council (“the URL”) to be developed and operated by the Service Provider on behalf of the Council pursuant to this Agreement for the purpose of providing the Channel;
“Specifications”:	together, the Editorial Specification, the Services Specification and the Technical Specification;
“Start Date”:	1 st April 2010;
“System”:	the server, other computer equipment and software used by the Service Provider to host, store, operate and make available for accessing by Visitors the Site and the Channel;
“System Failure”:	any breakdown, loss or failure of the System which results in the Site or the Channel being unavailable for accessing by Visitors;
“Technical Specification”:	the specification of the technical and operational criteria of the Site and the Channel which comprises Part 3 of Appendix 3;
“Term”:	the period commencing on the date of execution of this Agreement and expiring at the end of the Contract Period;
“Transmission Hours”	Twenty four hours a day, 365 days a year (366 days during a leap year);
“Visitor”:	a person who visits the Site using a computer or similar electronic service.

- 1.2 Words denoting the singular shall include the plural and vice versa, words denoting any gender shall include all genders and words denoting persons shall include firms and corporate bodies.
- 1.3 Unless the context otherwise requires, references to any Clause, Schedule or Appendix shall be deemed to be a reference to a Clause, Schedule or Appendix of this Agreement. References to this Agreement include any Schedules and Appendices.
- 1.4 Any reference to any statute, statutory provision, delegated legislation, code or guideline shall be a reference to it as the same may from time to time be amended, modified, varied or re-enacted.
- 1.5 In the event of a conflict between any of the terms contained in the main body of this Agreement and the terms contained in any of the Schedules or Appendices, the former shall prevail.
- 1.6 Any undertaking by the Service Provider to do or not to do any act or thing shall be deemed to include an undertaking to procure or not to authorise the doing of that act or thing.

2 APPOINTMENT

- 2.1 The Council appoints the Service Provider and the Service Provider accepts the appointment to design, develop and operate the Site and the Channel and to provide the Content and related services during the Term in accordance with the Specifications and the terms and conditions of this Agreement.
- 2.2 The Service Provider shall ensure that at all times during the Term the Services are provided:
- 2.2.1 in a good, safe and professional manner and in a manner free from dishonesty and corruption;
 - 2.2.2 without material deviation from the best practice of a reasonable and prudent provider of websites and television channels and all associated content and with adherence to relevant standards;
 - 2.2.3 in accordance with all relevant provisions of this Agreement, the Specifications and the Budget;
 - 2.2.4 in co-operation with the Council and the Board; and
 - 2.2.5 in a manner which is not detrimental to the public image and reputation of the Council.
- 2.3 The Service Provider shall ensure that the Site and the Channel are available for accessing by Visitors for the Availability Threshold during the Contract Period and shall use all reasonable endeavours to ensure that the Site and the Channel are available for accessing by Visitors during Transmission Hours during the Contract Period.

3 TIMESCALE AND ACCEPTANCE

- 3.1 The Service Provider shall operate the Site and the Channel and to provide the Content and related services on a fully operational and transmittable basis at 00:00 hours on the Start Date in accordance with an implementation plan to be approved by the Council.

4 EDITORIAL

- 4.1 The Council will establish the Board. The Board will exercise ultimate editorial control over the Site and the Channel on behalf of the Council, subject to and in accordance with this Agreement. The functions and remit of the Board are set out in The Editorial Specification.
- 4.2 The Council will have ultimate operational control over all aspects of the Site and the Channel. In particular, the Service Provider shall, if required by the Council, suspend the provision of the Site and the Channel for any period specified by the Council.
- 4.3 The Council may provide or procure the provision of certain Content comprised of recordings of proceedings of Kent County Council and similar material for inclusion in the Site and the Channel which the Service Provider will duly incorporate and transmit over the Site and the Channel in accordance with the Specifications.

- 4.4 The Service Provider shall be responsible for dealing with and responding to any complaints from Visitors relating to any Content, in consultation with the Council's Project Director and in accordance with any guidance issued from time to time by the Board. Any unresolved Visitor complaints shall be referred to the Board for resolution.

5 INTELLECTUAL PROPERTY RIGHTS

- 5.1 Subject to Clause 5.2, the Service Provider as beneficial owner with full title guarantee assigns to the Council all Intellectual Property Rights in:

5.1.1 the Content, including without limitation the interests of individuals as authors of the Content, all rental and lending rights, all rights of exploitation and communication to the public by any means, the rights of directors of any of the Content and all subsidiary and ancillary rights whether now or in the future created for the whole period of such rights;

5.1.2 the Site, the Channel (including the specification for the Site and the Channel, but excluding the content management system), the Kent TV Marks, the name, branding and the look and feel and all and any software for the Site and the Channel,

together with all renewals and extensions throughout the World.

- 5.2 Where and to the extent that the Content consists of material the Intellectual Property Rights to which are owned by third parties, the Service Provider shall use all reasonable endeavours to procure the grant to the Service Provider and assignment to the Council of a non-exclusive licence to include such third party Content in the Site and the Channel for the longest period reasonably obtainable.

- 5.3 The Service Provider confirms to the Council the assignment and grant by all relevant persons of all rights and consents which may be required for the publication of the Content; and the irrevocable and unconditional waiver by all relevant owners of all moral rights relating to the Content to which such persons may be entitled.

- 5.4 The Council grants to the Service Provider a non-exclusive licence for the Term to use the Council Branding for incorporation into the Site and the Channel and for the purposes of marketing and promoting the Site and the Channel. All such use of the Council Branding shall be subject to the Council's prior approval and strictly in accordance with the Branding Guidelines and such other guidelines as may be issued by the Council from time to time.

- 5.5 The Council also grants to the Service Provider on exclusive licence for the Term to use the Kent TV Marks for incorporation into the Site and the Channel and for the purposes of marketing and promoting the Site and the Channel. Any such use of the Kent TV Marks shall be in accordance with any guidelines or requirements laid down from time to time by the Council.

- 5.6 The Service Provider shall do all such further acts and execute all such further documents as the Council may from time to time reasonably require in order to vest or further confirm any of the rights expressed to be granted or assigned in this Agreement. In the event of the Service Provider failing to do so within 14 days' notice to this effect from the Council, the Council shall be entitled to execute any such documents in the Service Provider's name as its duly authorised irrevocable attorney.

6 BUDGETS AND PAYMENTS

- 6.1 The Service Provider shall provide the Services in accordance with the Budget and shall bear and pay all costs and liabilities incurred in connection with the design, development and operation of the Site and the Channel and the provision of the Content in accordance with the Budget.
- 6.2 The Council shall pay the Instalments to the Service Provider in accordance with the Budget and this Agreement, subject to the due performance by the Service Provider of its obligations, but if the Council shall in its discretion elect to make any payments, it shall not be deemed to have waived any of its rights under this Agreement.
- 6.3 The Instalments shall be payable within 30 days of the Council's receipt of the Service Provider's relevant invoice.
- 6.4 All fees and charges referred to in this Agreement are exclusive of Value Added Tax which shall be payable together with the principle sum.
- 6.5 If the Council fails to pay any amount payable by it under this Agreement within 30 days from the date of receipt of relevant invoice, it shall become liable for interest on such overdue amount from the due date up to the date of actual payment whether before or after judgment at the rate of 2% per annum over the base rate of NatWest Bank plc.
- 6.6 The Service Provider shall open a special Bank Account designated as a trust account, identified with the name of the Council and shall pay into such account all sums paid by the Council pursuant to this Agreement. The Service Provider shall procure that the bank mandate for the account entitles the Council in its absolute discretion by notice to the Bank to require that all cheques drawn on such account and any other instructions relating to it shall require the counter-signature of representatives of the Council.
- 6.7 The Service Provider shall at such intervals as the Council may reasonably require give to the Council a statement of the balance of the account, together with details of expenditure to that date and expenditure required to be made until the next statement is due.
- 6.8 The Service Provider shall hold all funds in such account on trust to pay the same and to draw on such account only for the payment of expenses incurred in the acquisition of Content and the design, development and operation of the Site and the Channel in accordance with the Budget and the provisions of this Agreement.
- 6.9 At the end of each three month quarter during the Contract Period the Parties shall review the Service Provider's expenditure against the Budget. Where the Service Provider has provided the Services in accordance with the terms of this Agreement, but below Budget, then provided the Council is satisfied that the provision of the Services has not been achieved by unjustified reduction in the cost of any Budget item, or any reduction in the quality of the Site and the Channel, then the Service Provider shall be entitled to retain or be paid one half of any excess of the budgeted cost over the actual cost as certified by the Council's financial representative.

7 ADVERTISING

- 7.1 The Budget includes provision for advertising, marketing and promotion of the Site and the Channel. The Service Provider shall, in consultation with the Council, and in accordance with any guidelines laid down by the Council from time to time, undertake such advertising, marketing and promotion as is reasonable and appropriate and consistent with the objectives of the Site in order to maximise the number of Visitors.
- 7.2 Unless authorised in writing by the Council on terms to be agreed, the Service Provider shall not include any advertising or sponsorship on the Site or the Channel. In addition, the Service Provider shall not, directly or indirectly, accept, solicit or encourage any payment or other consideration from any third party for the inclusion of any Content on the Site or the Channel.
- 7.3 Without prejudice to Clause 7.2, the Council may introduce third party sponsors and advertisers for the Site and the Channel. The Service Provider shall, if required by the Council, enter into a tripartite agreement with the Council and the relevant third party(s) for the provision of any such advertising and sponsorship.

8 MONITORING

- 8.1 The Service Provider will promptly supply the Council with such information, progress reports and cost statements in relation to the Services as the Council may from time to time reasonably require. In particular the Service Provider shall keep true and accurate books of account relating to expenditure made in connection with the provision of the Services during the Term and for a period of three years following its expiry or termination and the Council shall be entitled by its duly authorised agents, both during and after the Term, to inspect such books of account and records at all reasonable times during business hours.
- 8.2 The Council's Project Director and the Director of Programmes shall meet regularly (and not less than once a month) to review the operation of the Site and the Channel and the conduct of the Budget and to discuss future plans, programmes and strategies for the Site and the Channel. In particular the Parties shall assess the extent to which the Site and the Channel are meeting the requirements of the Specifications. In addition, the Director of Programmes shall attend the meetings of the Board.

9 PERSONNEL

- 9.1 The appointment of the Director of Programmes requires the prior written approval of the Council.
- 9.2 The Service Provider will use suitable, appropriately qualified, experienced and competent personnel in the provision of the Services and will use all reasonable endeavours to ensure continuity of personnel. The Service Provider shall indemnify the Council against any employment liabilities which it may incur arising out of or in connection with the Service Provider's staff however arising.
- 9.3 The Service Provider shall, in respect of any of its employees, contractors and agents who are involved in the provision of the Services, procure that:

- 9.3.1 each such individual is questioned as to whether he or she has any criminal convictions;
 - 9.3.2 results are obtained of a check of the most extensive available kind made with the Criminal Records Bureau in respect of each such individual; and
 - 9.3.3 the outcome of the enquiries referred to in sub-clauses 9.3.1 and 9.3.2 is notified to the Council.
- 9.4 The Service Provider shall procure that no individual who discloses or is found to have any criminal convictions shall be employed or engaged in the provision of the Services without the Council's prior written consent (not to be unreasonably withheld or delayed).

10 Clause not used

11 WARRANTIES, INDEMNITY AND LIABILITY

11.1 The Service Provider warrants to the Council:

- 11.1.1 to promptly pay all sums due to any person who is or may be entitled to any payment in respect of services or facilities rendered or rights granted in connection with the Site, the Channel and the Content;
- 11.1.2 to obtain all necessary consents, grants, clearances and rights to enable it to produce and deliver the Content and to assign all rights in the same to the Council free of any claims or encumbrances;
- 11.1.3 that in respect of any music and lyrics contained in the Content: all relevant fees have been paid; the relevant rights are controlled by the Music Collecting Societies to the extent required for the purpose of this Agreement; or they are in the public domain;
- 11.1.4 that to the best of the Service Provider's knowledge, information and belief, no claim or litigation is pending or threatened in respect of any of the Content and the Service Provider will give full particulars to the Council immediately upon learning of any such claim or threatened claim;
- 11.1.5 that the Content contains no material which is in contravention of the Ofcom Broadcasting Code or is defamatory or infringes any right of privacy, duty of confidence, intellectual property or any other right whatsoever of any third party or which violates any legislation or is in contempt of court;
- 11.1.6 the Budget is a comprehensive, informed and bonafide estimate of all expenditure likely to be incurred in the course of providing the Content and the Services during the Term;
- 11.1.7 the Service Provider shall be responsible for establishing appropriate industrial relations and health and safety arrangements for personnel engaged by it in any capacity in connection with the Services and in producing the Content the Service Provider will comply with all applicable laws, regulations and codes of practice;

- 11.1.8 the Service Provider does not and will not unlawfully discriminate on the grounds of sex, age, sexual orientation, marital status, race or disability in the provision of the Services and shall procure that the Site and the Channel comply with all such legislation and requirements;
- 11.1.9 that the sources of supply of the Content will meet the requirements agreed from time to time with the Council for local content production.
- 11.2 The Service Provider agrees to indemnify and hold harmless the Council and its officers, directors, agents and employees against all and any claims, damages, liabilities, losses and expenses, including reasonable lawyers' fees arising out of any breach by the Service Provider (whether actual, alleged, apparent or potential) of any term of this Agreement or arising from the negligent or wrongful act or omission of the Service Provider, its employees, agents or contractors.
- 11.3 The Service Provider shall:
- 11.3.1 promptly notify the Council of any proceedings instituted, claims or complaints made in respect of any of the Content;
- 11.3.2 provide all such assistance and co-operation as the Council may require in respect of any proceedings instituted, claims or complaints made in respect of the Content;
- 11.3.3 disclose and supply to the Council in good faith all facts, circumstances, information, documents and material which might reasonably be considered relevant or which the Council may reasonably request to enable the Council to satisfy itself that the Service Provider is not in breach of any of its representations, undertakings and warranties set out in this Clause 11.
- 11.4 The Service Provider's aggregate liability to the Council arising by reason of or in connection with this Agreement, whether arising in or for breach of contract, tort (including negligence), breach of Statutory duty, indemnity or otherwise, shall be limited to £5,000,000.
- 11.5 The Council's aggregate liability to the Service Provider arising by reason of or in connection with this Agreement, whether arising in or for breach of contract, tort (including negligence), breach of Statutory duty, indemnity or otherwise, shall be limited to the sum of £1,000,000.
- 11.6 Nothing in this Clause 11 or otherwise in this Agreement shall exclude or in any way limit either party's liability for: (i) fraud, (ii) death or personal injury caused by its negligence (including negligence as defined in s1 Unfair Contract Terms Act 1977), (iii) breach of terms regarding title implied by s12 Sale of Goods Act 1979 and/or s2 Supply of Goods and Services Act 1982, or (iv) any liability to the extent the same may not be excluded or limited as a matter of law.

12 SERVICE CREDITS

- 12.1 In the event of any System Failure occurring during the Contract Period, then without prejudice to the Council's other remedies, the Service Provider shall be liable to pay the Council Service Credits in accordance with Clauses 12.2 and 12.3.

- 12.2 At the end of each 3 month period during the Contract Period, the Parties shall exchange any relevant information and agree in good faith the aggregate duration of any System Failures occurring during such 3 month period and the amount of any Service Credits payable to the Council, calculated at the rate of £1.80 for each minute of System Failure. The Service Provider shall, within 14 days of such determination remit any Service Credits due to the Council.
- 12.3 The Service Provider shall have no liability to pay Service Credits where or to the extent that any System Failure:-
- 12.3.1 is attributable to maintenance, the nature and duration of which has been agreed in advance by the Council;
 - 12.3.2 is caused by a Force Majeure Event (as defined in Clause 17.1);
 - 12.3.3 occurs between the hours of 24.00 and 05.00; or
 - 12.3.4 does not prevent the Availability Threshold from being reached.

13 INSURANCE

- 13.1 Unless otherwise required by the Council, the Service Provider shall effect and maintain with a reputable insurer to be approved by the Council (such approval not to be unreasonably withheld or delayed), the following insurances on terms commensurate with standard production and webcasting practice:
- 13.1.1 production insurance incorporating cover for public liability and employer's liability;
 - 13.1.2 media liability insurance and such other insurances as may be prudent in the circumstances of the production of the Content or as may reasonably be required by the Council or by law.
- 13.2 The media liability policy shall cover claims made during the period of 5 years from the first transmission of the Content and shall be in an amount of £5,000,000 in aggregate, £1,000,000 per claim and with a deductible of no more than £10,000 per claim. The Service Provider shall ensure that all such policies are written in the name of the Service Provider with the Council named as an additional insured party for its rights and interests.
- 13.3 The Service Provider will promptly furnish the Council on request with proof of such insurances. If the Service Provider fails to furnish such proof on demand the Council may on 14 days' notice to the Service Provider secure such insurance on behalf of the Service Provider and charge any premium payments to the Service Provider or set these off against any sums that may be due to the Service Provider under this Agreement.
- 13.4 The Service Provider shall ensure that all premiums and renewals are paid when due.

14 CHANGE CONTROL

- 14.1 Save as provided in the next sentence, the Parties shall consult with each other about any changes to the Services or the Specifications. If the either Party wishes to make any changes to the Services or the Specifications which has any of the following consequences (“a Relevant Change”), the Parties shall follow the Change Control Procedure set out in the Schedule:
- 14.1.1 an increase in the overall Budget;
 - 14.1.2 a reallocation of any Budget item(s) resulting in a reduction of more than 10% of the aggregate allocation in the Budget for programming items; or
 - 14.1.3 a significant impact on the quality of the Services or the Specifications.

15 TERM AND TERMINATION

- 15.1 Unless terminated earlier in accordance with its terms, this Agreement will commence on the date of execution and will expire at the end of the Contract Period save that the Council, without default on the part of the Service Provider, may terminate this Agreement at any time after giving six month’s notice in writing to the Service Provider.
- 15.2 A Party (the “Initiating Party”) may terminate this Agreement with immediate effect by notice to the other Party (the “Breaching Party”) on or at any time after the occurrence of any of the following events in relation to the Breaching Party:-
- 15.2.1 the Breaching Party being in material or persistent breach of any provision of this Agreement and, if the breach is capable of remedy, failing to remedy the breach within 14 days (or such longer period as the Initiating Party may stipulate) after receipt of written notice from the Initiating Party giving details of the breach. For the purposes of this Clause 15.2.1 a breach is capable of remedy if time is not of the essence for performance of the obligation and if the Breaching Party can comply with the obligation within the 14 day period;
 - 15.2.2 the Breaching Party passing a resolution for its winding up or a court of competent jurisdiction making an order for the Breaching Party’s winding up or dissolution; the making of an administration order in relation to the Breaching Party or the appointment of a receiver over, or an encumbrancer taking possession of or selling, a substantial asset of the Breaching Party; the Breaching Party making an arrangement or composition with its creditors generally or making an application to a court of competent jurisdiction for protection from its creditors generally. The provisions of this Clause 15.2.2 shall not apply to a bona fide amalgamation or restructuring or reorganisation or where such event does not prevent the Breaching Party from carrying out its obligations under this Agreement.
- 15.3 Without prejudice to Clauses 15.1 & 15.2, the Council may also terminate this Agreement with immediate effect:
- 15.3.1 if in any quarter the Availability Threshold falls below 90%; and
 - 15.3.2 as provided in Clause 17.2.

16 CONSEQUENCES OF TERMINATION

- 16.1 Prior to termination or expiry of this Agreement the Service Provider shall make the necessary arrangements to secure a handover of the Site, the Channel and all Content to the Council or to any third party supplier nominated by it. The Service Provider shall provide all reasonable assistance to the Council and any such third party to ensure a smooth handover and to enable them to continue the operation of the Site and the Channel without any loss of continuity. The Service Provider shall deliver up all data, documents, materials and properties required for the continuation of the Site and the Channel.
- 16.2 The Service Provider shall ensure that all separate web pages, video, text and data comprised in the Site are delivered up to the Council in a form in which they can be inputted without difficulty by any replacement service provider onto its own content management system.

17 FORCE MAJEURE

- 17.1 The Service Provider shall not be liable for its failure to perform its obligations for any period to the extent only that such performance is prevented or directly adversely affected to a material degree by any of the following events: any Act of God, national or local emergency, fire, flood, severe inclement weather, national epidemic or power failure (each a "Force Majeure Event"), all to the extent that these events are beyond the Service Provider's reasonable control.
- 17.2 The period of excused non-performance shall be limited to the duration of such events provided that where any such suspension lasts for a period of more than 20 days and the Service Provider has failed, during such period, to fully restore the System to meet the requirements of this Agreement, the Council shall be entitled to terminate this Agreement forthwith upon written notice to the Service Provider.
- 17.3 The Service Provider shall give prompt notice to the Council of any claim that the performance of its obligations is prevented or adversely affected by any Force Majeure Event and shall use all reasonable endeavours to recommence performance as soon as practicable.

18 TUPE

- 18.1 The Parties acknowledge that on termination or expiry of this Agreement TUPE may apply and to the extent that TUPE does apply there may be a transfer of the Service Provider's staff involved in the provision of the Services to the Council or to any third party supplier appointed by the Council to operate the Site and the Channel from such date.
- 18.2 Within 14 days of delivery by either party of a termination notice issued under Clause 15 or in any event no later than 3 months before the expiry of the Term, the Service Provider shall, subject to any applicable data protection legislation, provide to the Council (or if directed by the Council to any third party supplier) a list of the Service Provider's employees who are or will be primarily engaged in the performance of the Services at the date of termination or expiry. The list shall include details of the terms of employment of all such staff and such other information as may be reasonably required by the Council to permit compliance with TUPE by the Council and any third party supplier. The Service Provider shall warrant to the Council that the relevant

information is complete and accurate in all material respects as at the date of disclosure. The Service Provider shall use all reasonable endeavours to obtain such consents as are necessary from the relevant employees to enable the Service Provider to supply the list and any other information required by this Clause 18.2.

- 18.3 After the relevant information has been provided, the Service Provider shall, subject to any applicable data protection legislation, within 14 days of a change or receipt of any request inform the Council of any material change in any part of the relevant information.
- 18.4 The Service Provider shall not during the 3 month period prior to expiry or during any period of notice of termination, without the prior written consent of the Council:-
- 18.4.1 make or promise to make any changes to the terms and conditions of employment of any of the relevant employees, unless such change is required by law;
- 18.4.2 make or promise to make any changes to the costs of employing any of the relevant employees which has the effect of increasing by 5% or more the total cost of employing them; or
- 18.4.3 increase the relevant number of relevant employees, nor dismiss or transfer to duties unconnected with the Services any relevant employee.
- 18.5 The Service Provider shall ensure that all salaries, wages and other remuneration for which it is liable as employer of the relevant employees shall be paid up to the termination date.
- 18.6 On termination of expiry of this Agreement, the Service Provider shall indemnify and keep indemnified the Council against all employment liabilities arising from any claims, demands or proceedings brought against the Council by any of the relevant employees or any other employee of the Service Provider directly or indirectly in connection with:
- 18.6.1 the termination of employment of any such employees by the Service Provider up to the termination date;
- 18.6.2 any act or omission of the Service Provider up to and including the termination date;
- 18.6.3 any claim that the Service Provider has breached its obligations under TUPE;
- 18.6.4 the termination of employment of any such employees by the Service Provider at any time after the Termination Date.

19 CONFIDENTIALITY

- 19.1 The Parties shall:
- 19.1.1 preserve the confidentiality of all confidential information of the other which it receives (“Confidential Information”);

- 19.1.2 keep such information secure and protected against theft, damage, loss or unauthorised access;
 - 19.1.3 not use or disclose such information for any purpose except as contemplated by this Agreement; and
 - 19.1.4 ensure that these obligations are observed by its employees, officers, agents and contractors.
- 19.2 The confidentiality obligations imposed by this Clause 19 shall survive the termination or expiry of this Agreement, but shall not apply to information which: is already in or subsequently comes into the public domain through no fault of the recipient, its employees, officers, agents or contractors; is lawfully received by the recipient from a third party on an unrestricted basis; or is legally required to be disclosed by a competent authority.

20 FREEDOM OF INFORMATION

- 20.1 The Service Provider acknowledges that the Council is subject to the requirements of the Freedom of Information Act 2000 (“the Act”) and shall assist and co-operate with the Council (at the Service Provider’s expense) to enable the Council to comply with these information disclosure requirements.
- 20.2 The Service Provider shall:
- 20.2.1 transfer any request for information which it receives to the Council as soon as practicable after receipt and in any event within two business days of receiving such request;
 - 20.2.2 provide the Council with a copy of all information in its possession or power in the form that the Council requires in order to respond to the request within five business days of receiving such request; and
 - 20.2.3 provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to a request for information within the time for compliance set out in section 10 of the Act.
- 20.3 The Council shall be responsible for determining in its absolute discretion whether any commercially sensitive information:
- 20.3.1 is exempt from disclosure in accordance with the provisions of the Act;
 - 20.3.2 is to be disclosed in response to a request.
- In no event shall the Service Provider respond directly to a request for such information unless expressly authorised to do so by the Council.
- 20.4 The Service Provider acknowledges that the Council may, acting in accordance with the Department for Constitutional Affairs Code of Practice on the Discharge of Functions of Public Authorities under Part I of the Act, be obliged to disclose information:
- 20.4.1 without consulting with the Service Provider; or

- 20.4.2 following consultation with the Service Provider and having taken its views into account.
- 20.5 The Service Provider shall ensure that all information produced in the course of this Agreement or relating to this Agreement is retained for disclosure pursuant to this Clause 20 and shall permit the Council to inspect such records as requested from time to time.
- 20.6 The Service Provider acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and that the Council may nevertheless be obliged to disclose Confidential Information in accordance with this Clause 20.

21 COMPETITION

- 21.1 The Service Provider shall not use or re-create the style, design, colours or branding of the Site or the Channel, other than in the provision of the Services.
- 21.2 The Service Provider shall not without the Council's prior written consent during the Term nor for a period of 12 months following its expiry or termination for any reason be engaged directly or indirectly in any capacity in the provision of services similar to the Services on its behalf or to any other party involved in the electronic publication of information relating to events, services and amenities available in the County of Kent. This shall not prevent the Service Provider from providing services to any electronic publisher whose target audience or subscribers includes the whole of England or the UK and not specifically the County of Kent.

22 CREDITS

- 22.1 The Service Provider shall be entitled to a credit appearing on the home page of the Site of a form and size to be agreed with the Council.

23 DATA PROTECTION

- 23.1 The Council and the Service Provider acknowledge that for the purposes of the Data Protection Act 1998 ("DPA"), the Council is the data controller and the Service Provider is the data processor of any personal data relating to any Visitor ("Personal Data").
- 23.2 The Service Provider shall process the Personal Data only to the extent, and in such a manner, as is necessary for the purposes of this Agreement and in accordance with the principles of DPA and the Council's instructions from time to time and shall not process the Personal Data for any other purpose.
- 23.3 The Service Provider shall promptly comply with any request from the Council requiring the Service Provider to amend, transfer or delete the Personal Data.
- 23.4 If the Service Provider receives any complaint, notice or communication which relates directly or indirectly to the processing of the Personal Data or to either party's compliance with the Data Protection Act 1998 and the data protection principles set out in that Act, it shall immediately notify the Council and it shall provide the Council with full co-operation and assistance in relation to any such matter.

23.5 At the Council's request, the Service Provider shall provide to the Council a copy of all Personal Data held by it in the format and on the media reasonably specified by the Council.

23.6 The Service Provider shall not transfer the Personal Data outside the European Economic Area without the prior written consent of the Council. The Service Provider may not authorise any third party or sub-contractor to process any Personal Data.

24 MISCELLANEOUS

24.1 Assignment and Sub-Contracting

24.1.1 the Service Provider may not assign any of its obligations under this Agreement. The Service Provider may sub-contract part of its obligations under this Agreement subject to the prior consent of the Council which the Council at its absolute discretion may withhold; and

24.1.2 the Service Provider shall ensure that all contracts which it enters into for the provision of Content and otherwise relating to the Services are consistent with the provisions of this Agreement and the objectives of the Specifications and in particular vest in the Service Provider all the Intellectual Property Rights and other rights referred to in Clause 5.

24.2 Dispute Resolution

If a dispute arises in relation to any provision of this Agreement, then the Parties shall be entitled jointly to refer the matter for determination by an independent expert nominated by agreement between the Council and the Service Provider or, failing agreement within 15 business days of the first nomination proposal, by the President for the time being of the Royal Television Society in England and Wales. Such expert shall be instructed to determine (acting as an expert and not as an arbitrator) any such dispute and such determination shall be final and binding upon the Parties failing any manifest error on the face of the decision or bad faith. Each party shall co-operate in providing to the expert such information as the expert reasonably requests to assist in his deliberations. Either party may submit material to the expert on the basis that it will remain confidential and not be disclosed to any other person. The costs of the expert shall be shared equally by the Parties.

24.3 General

This Agreement and any document referred to in this Agreement constitute the entire agreement, and supersedes any previous agreement between the Parties relating to the subject matter of this Agreement.

24.4 Waiver

The failure to exercise or the delay in exercising a right or remedy provided by this Agreement or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies. No single or partial exercise of a right or remedy provided by this Agreement or by law prevents further exercise of the right or remedy.

24.5 Effect

24.5.1 The rights and remedies contained in this Agreement are cumulative and not exclusive of rights or remedies provided by law, save to the extent that any rights or remedies provided by law are expressly excluded in this Agreement.

24.5.2 No provision of this Agreement creates a partnership or joint venture between the Parties. Save as expressly provided, a party has no authority or power to bind, to contract in the name of, or to create a liability for the other party in any way or for any purpose.

24.5.3 The invalidity, illegality or unenforceability of a provision of this Agreement does not affect or impair the continuation in force of the remainder of this Agreement.

24.6 Notices

Any notices required to be given under this Agreement shall be in writing and shall be deemed to have been duly served if hand delivered or sent by fax (followed by mailing of a hard copy of such notice) or by first class post correctly addressed to the other Party's address as specified in this Agreement or at such other address as a Party may designate from time to time in accordance with this Clause and any notice so given shall be deemed to have been served:-

24.6.1 if hand delivered, at the time of delivery;

24.6.2 if sent by fax, at the end of transmission (provided that a positive transmission result report back on such fax is received);

24.6.3 if sent by prepaid post, within 48 hours of posting (exclusive of the hours of Sunday).

For the avoidance of doubt, notices may not be given by email and any purported notice so given shall have no legal effect.

24.7 Third Parties

The Parties do not intend that any term of this Agreement shall be enforceable by any person who is not a party to this Agreement by virtue of the Contracts (Rights of Third Parties) Act 1999, but this does not affect any right or remedy of a third party which exists or is available otherwise than from such Act.

Signed on behalf of the Parties on the above date.

Signed by
Duly authorised for and
on behalf of Kent County Council

.....

.....
(Print name)

Signed by

Duly authorised for and
on behalf of

.....

.....

(Print name)

SCHEDULE

CHANGE CONTROL PROCEDURE

1 PRINCIPLES

- 1.1 Any Relevant Change contemplated in Clause 14.1 shall be dealt with in accordance with the Change Control Procedure set out in paragraph 2.
- 1.2 Until such time as the Relevant Change is approved in accordance with the Change Control Procedure, the Service Provider shall, unless otherwise agreed in writing, continue to supply the Services in accordance with the Budget and the Specifications as if the request or recommendation had not been made.
- 1.3 Any discussions which may take place between the Council and the Service Provider in connection with a request or recommendation before the authorisation of a Relevant Change shall be without prejudice to the rights of either party.
- 1.4 Any work undertaken by the Service Provider or its sub-contractors, which has not been authorised in advance by the Council shall be undertaken entirely at the expense and liability of the Service Provider.

2 CHANGE CONTROL PROCEDURE

- 2.1 Discussion between the Council and the Service Provider concerning a Relevant Change shall result in any one of the following:

- 2.1.1 no further action being taken; or

- 2.1.2 a written request by either Party to make a Relevant Change.

All change control note(s) ("**CCN**") shall only be valid if submitted via the Council Project Director and the Service Provider's Director of Programmes. Further, all CCNs shall be in the form attached to this Schedule.

- 2.2 A written request by either Party to make a Relevant Change shall be submitted direct to the other Party in the form of 2 copies of a CCN duly signed.

- 2.3 Each CCN shall contain:

- 2.3.1 the title of the Relevant Change;

- 2.3.2 the date of the request for the Relevant Change;

- 2.3.3 the reason for the Relevant Change;

- 2.3.4 full details of the Relevant Change including any specifications;

- 2.3.5 the budgetary implications, if any, of the Relevant Change;

- 2.3.6 a timetable for implementation together with any proposals for acceptance of the Relevant Change;

- 2.3.7 details of the likely impact, if any, of the Relevant Change on the Services and the Specifications.
- 2.3.8 provision for signature by the Service Provider and by the Council.
- 2.4 For each CCN submitted, the Party receiving the CCN shall, within 14 days or as soon as reasonably practicable following receipt of the CCN:
 - 2.4.1 allocate a sequential number to the CCN;
 - 2.4.2 evaluate the CCN and as appropriate request further information;
 - 2.4.3 either: (i) approve the CNN and arrange for 2 copies of the CNN to be signed on its behalf and return 1 of the copies to the Party requesting the Relevant Change; or (ii) return the CCN to the Party requesting the Relevant Change duly rejected.

Change Control Notice (“CCN”)

The purpose of this CCN is to document an agreed modification to the Services or the Specifications.

Change Title:			
Description of Change:			
Reference:			
Further Documentation Appended:			
Reason for Change:			
Reply by Date:			
Change Evaluation Authorisation		Budgetary Impact	£
Position	Name	Signature	Date
Originator:			
the Council Service Representative:			
Service Provider Representative:			
Change Rejected:			

APPENDIX 1

THE COUNCIL'S BRANDING GUIDELINES

Kent County Council Logo Guidelines



The KCC logo **must** appear on:

- all materials sent outside of KCC
- all publications which KCC has sponsored or supplied funding for
- publications about projects KCC has sponsored or been involved with.

The logo consists of:

- the background block of red or black
- the horse
- the words Kent County Council
- the rule.

The logo should not be recreated from scratch, distorted, stretched, dismantled, added to or in any other way tampered with.

The horse, words and rule are always reversed-out of the block (white on black or red) - under no circumstances are they to be printed in any colour other than white.

The logo stands alone, without directorate or department names. There should be no encroachment from text or other images. This means an exclusion zone should be maintained around the logo of 10mm on brochure covers, and 5mm on newsletters. Specifications will be developed separately for corporate stationery (letterheads, compliment slips etc). If in doubt, contact Communication and Media Centre.

Proportions

The minimum height of the logo is 20mm.

Minimum sizes for the KCC logo in different sized publications are:

Page size		Logo height	
A6	A5	1/3 A4	20mm
		A4	25mm
		A3	35mm
		A2	45mm

The block and use of colour

The block out of which the logo is reversed, should be red (Pantone 185) or, if printing in one colour a black block may be used instead.

In partnership publications only, where colour choices exclude Pantone 185, and where black would be inappropriate (e.g. where a column of sponsors' logos are *all* reversed out of blue), it is acceptable for the KCC logo to be reversed out of any dark colour (as long as it is clearly visible, and no other image or text encroaches).

Corporate stationery

Layouts for letterheads, compliment slips and business cards have been agreed. Contact County Print for general information and to organise printing. Letterheads are generally printed without unit names and addresses.

For guidance on templates, contact your Directorate Representative (see below).

Directorate Contacts

Please check with your Directorate Communications representative about how to use the logo and for other communication advice:

Corporate Services	?
Children, Families and Education	Jill Johnson
Kent Adult Social Service	Phil Porter
Environment and Regeneration	Alison St Clair Baker

Leaflets, brochures and general branding queries

Toolkits are currently being prepared to help and support staff on all marketing activity. In the meantime, please contact KCC Branding and Publication Manager, Shelley Whittaker for further information.

APPENDIX 2
THE BUDGET

APPENDIX 3
THE SPECIFICATIONS

Section 4 Tender Documents

Invoice Payment

The Council encourages its Contractors to receive payment through the Bank Automated Clearing System (BACS) as this facilitates payment and cuts costs for both parties.

If you accept payment by this method, please supply your bank details below.

Name of Bank _____

Sort Code ___ - ___ - ___ Account Number _____

VAT Registration Number _____

If you are currently unable to accept BACS payments, please specify the date by which you intend to be able to:

Settlement discount for payment within _____ days of receipt of invoice _____%

TENDER FOR COMMUNITY TV

To the Kent County Council

_____ the undersigned, hereby offer and undertake to supply and deliver and/or carry out work upon the order of the Council and other specified Local Authorities & Public Bodies in accordance with the annexed schedule and Conditions of Contract, and now to be taken as part of the tender, the goods and/or work described and specified in the tender documents in such quantities in such manner and at such times as may be required, at the prices or discounts related to the work or item or items therein, during the period as stated.

Dated this _____ day of _____ 20 _____

Signature _____

Name of person signing _____

Position of person signing _____

Full name of tendering firm _____

Address _____

e-Mail address _____

Telephone Number _____

For Kent County Council Use Only Below this Line

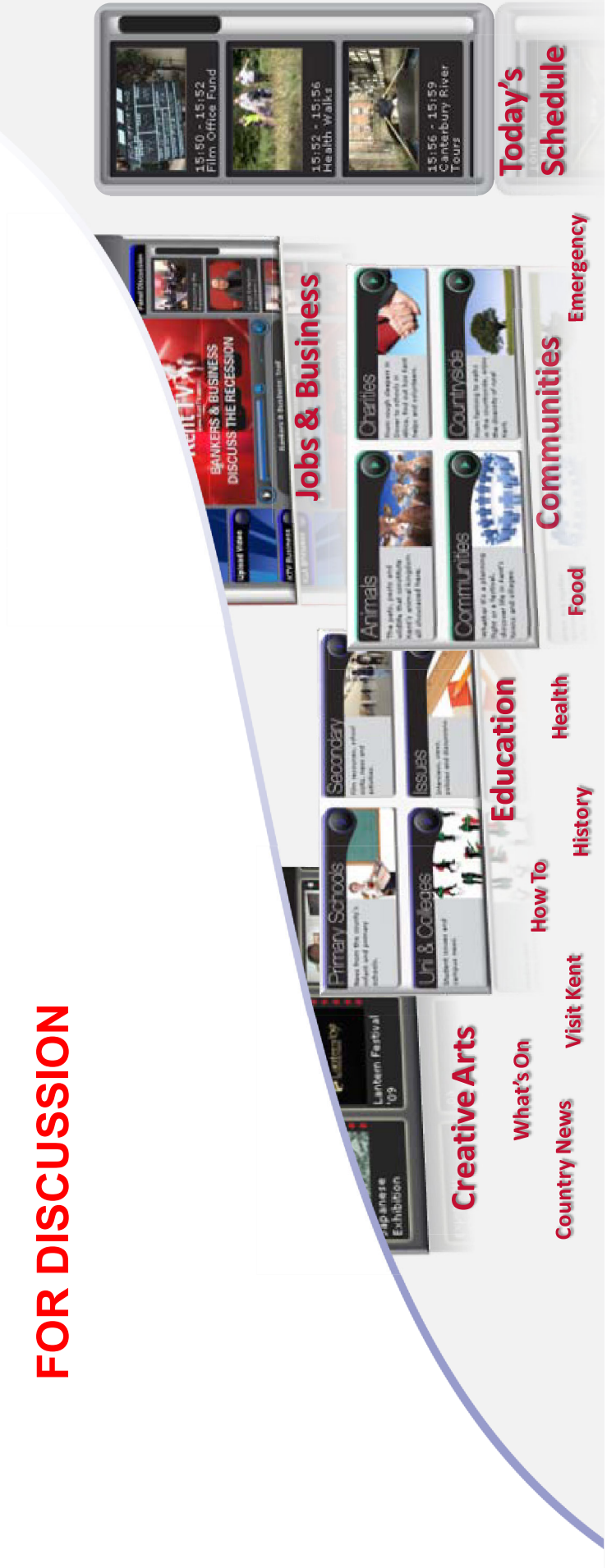
This page is intentionally left blank

Kent TV Review

28 August 2009

Main Findings

FOR DISCUSSION



Contents

- The Context
- Executive Summary
- Detailed Findings
- The Changing Landscape
- Appendix

The Context

The Kent TV pilot launched in September 2007 and was designed to be a community broadband channel covering a range of topics and issues relevant to Kent

It is the first public funded broadband TV channel in Europe and recognises the need for local government to interact with the public through new, convenient channels

This commission reviewed the progress of the pilot against the objectives outlined in the original Cabinet paper and describes how the landscape of public media channels is forecast to move increasingly towards a model of converged Broadband and Digital TV

The study highlights how Kent TV has made significant progress in engaging with young people and remaining at the forefront of technological progress. To this end, stakeholders recognise that, whilst there are areas for consideration, Kent TV has been a truly innovative development in the use of broadband by local government

Executive Summary

This study has used focus interviews and data analysis to review the progress of Kent TV during the pilot phase

1 Three Main Objectives

1. Review the achievements of the Kent TV pilot against the objectives in the Cabinet paper
2. Provide a snapshot of the wider digital world, including other broadband channels (with particular emphasis on public sector channels or content), and any other contextual information that is relevant
3. Suggest areas for focus in the post pilot phase

2 We reviewed Board reports, viewing figures and published articles...

- Original Cabinet Paper
- Board Reports:
 - Fourth Quarter 2007
 - First Quarter 2008
 - Second Quarter 2008
 - Second and Third Quarters 2009
- Website viewing figures, video play figures and breakdown of programme source
- Comparison of Kent TV to other UK county councils' use of broadband and digital TV channels

3 ...As well as speaking to 36 people from 5 stakeholder groups

- Kent CC**
 - Pascale Blackburn
 - Tanya Oliver
 - Jane Clarke
- KTV**
 - Alex Connock, CEO Ten Alps
 - Nigel Dacre
 - John McGhie
- KCC Cabinet**
 - Paul Carter, Conservative Leader (yet to finalise)
 - Leslie Christie, Labour Leader
 - Trudy Dean, Liberal Democrat Leader
 - Roger Gough, Current portfolio holder
 - Alex King, Conservative Deputy Leader
- Kent TV Board of Governors**
 - Cheryl Armitage, Consultant
 - Charlie Hendry, Chief Fire Officer
 - Martin Jackson, Media Consultant
 - Phil Wookey, CEO, Locate in Kent
 - Geoff Miles, Maidstone Studios
- Other Stakeholders**
 - Andrew Bethell, Teachers TV*
 - Tony Buddin, Marketing Director, Business Link Kent
 - Miranda Chapman, Pillary Barn*
 - Duncan Lesley – Hever Castle
 - Simon Davies, Sevenoaks District Council, Walk Leader
 - Denise Garrett, English Heritage SE
 - Luke Griffiths, Kent Youth County Councillor
 - Colin Hill, Lupofresh
 - Peter Hobbs, CEO, Channel Chamber of Commerce
 - Jo James, CEO, Invicta Chamber of Commerce
 - Tracy Manley, CEO, Thames Chamber Commerce
 - Michelle Moularuk, Canterbury City Council
 - Sandra Matthews Marsh, MD, Visit Kent
 - Krystyna Matyjaszkiewicz, Canterbury Roman Museum
 - Matthew Nicks, Chief Superintendent of Kent Police
 - Adrian Oliver, Cycle Age
 - Mark Parry, Porchlight
 - Dr Bruce Pollington, Medical Director, Heart of Kent Hospice
 - Simon Reed, Campaign for Real Ale
 - Neil Webster, MD, Heart Kent FM

These ran in parallel to KCC's ongoing public questionnaire



The general response to the Kent TV pilot is positive.....

"Kent TV has been a resounding success"

"The MI is awful...the targets should be more measurable"

"The marketing of the site is dreadful...it needs a sustained clever advertising campaign"

"The schools work sounds really impressive – very powerful"

"So far, I have the impression that it is very insular"

"It's successfully moved from a paper plan to a vibrant community online site"

"I think they are highly professional and have lots of passion"

"The board is confused as to its meaning and its set up is bizarre"

"It's widened peoples thinking within KCC of how we can communicate with the public"

"I was thinking over the weekend, here's a resource that we have not been taking advantage of..."

"I love anything that they do on us"

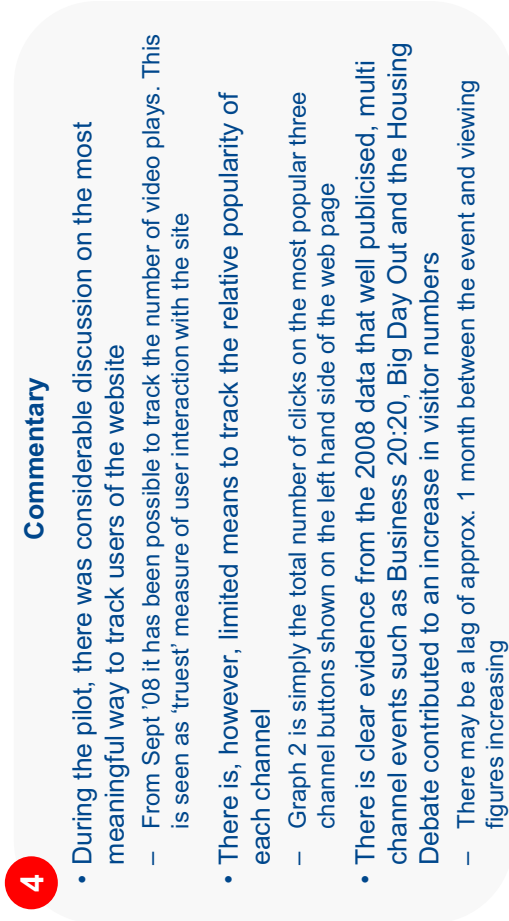
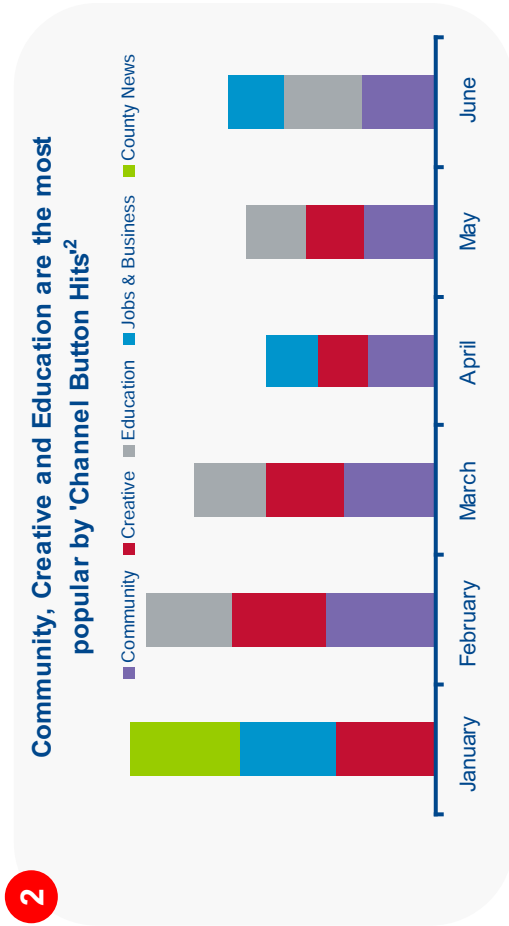
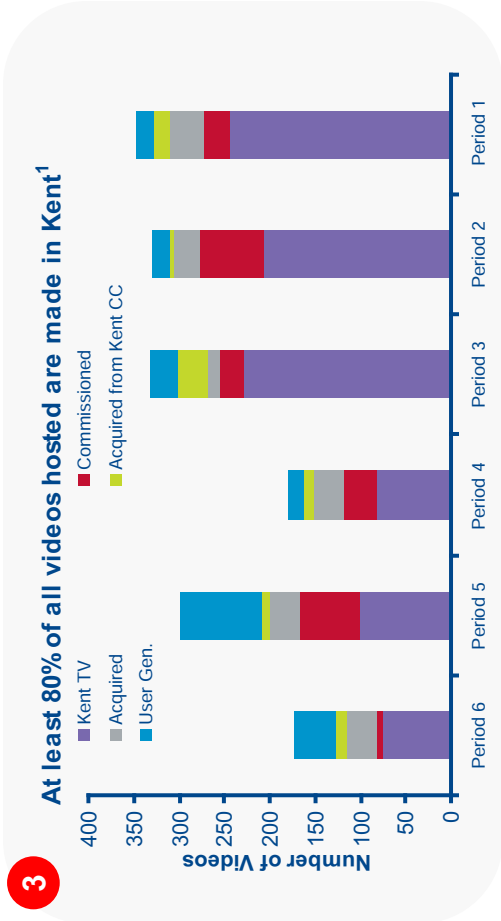
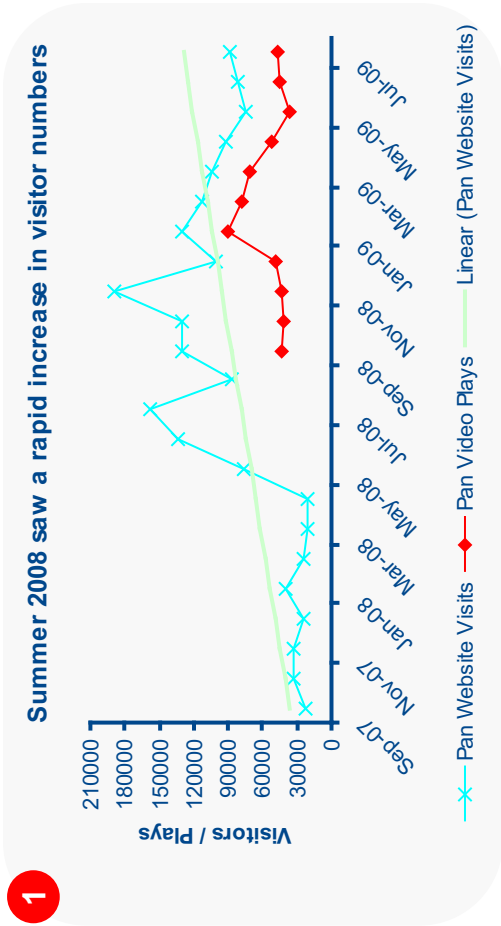
"Kids are one of the biggest opportunities for KTV...get them uploading their stuff and accessing others ..."

"No-one I have asked has seen the website"

"I hope it continues"



The viewing figures are above forecast and demonstrate the role of Kent TV in publicising local events such as 20:20 and Big Day Out



Notes: (1) Period 1: 17/11/07 – 15/03/08; Period 2: 16/03/08 – 01/06/08; Period 3: 02/06/08 – Sept 08; Period 4: Sept 08 – Dec 08; Period 5 Jan 09 – 27/03/09; Period 6: 28/03/09 – June 09;
 (2) See Appendix for limitations of "Channel Button Hit" metrics



Assessment: the main areas for future focus are governance, partnership working, and supporting education / training

Objective Category	RAG ¹	Commentary
Local Content (obj. 3, 16 *)	Green	At least 80% of videos hosted on the website were produced in Kent
Board Governance (17)	Orange	The constitution and purpose of the Board needs to be reviewed post pilot
Widening Participation (2; 4)	Green	Events such as "Sound Clash" and the Housing Debate have reached out well to the under 30s
Increased After School Educational Opportunities (8)	Orange	Initial progress made with schools was slow but recent events such as "animate / create" have been popular. The potential to host vocational training material on the site should further develop this area.
Increased School Educational Opportunities (9)	Orange	
Technological Innovation (14, 45)	Green	This has been a strong area during the pilot, as demonstrated by, e.g. Kent TV Player and KentTV.mobi
Commercial Benefits (5; 6; 7; 11; 12)	Green	Whilst very difficult to quantify, the exclusive use of Kent film companies and success of business events such as Backing Kent Business and 20:20 suggest progress in this area is significant
Partnership Working (13; 18)	Orange	There is potential to further develop networks with the business community, especially Chambers of Commerce
Employment (1)	Green	All except one member of Kent TV lives in Kent and employment will have benefited from the drivers of "Commercial Benefits"
Reduce paper use (10)	Orange	Kent TV has contributed to wider savings in KCC of £200,000 last financial year and will help towards savings of £1 million during this financial year.

Green: Quantified evidence or strong qualitative evidence of the objective having been achieved

Orange: Some evidence of progress having been made towards this objective but not sufficient for it to be achieved

Red: Quantified evidence or strong qualitative evidence that the objective has not been achieved

Original KTV objective numbers shown. Grouped for study purposes



Recommended actions ...

FOR DISCUSSION

1. Define Post-Pilot Governance Model
2. Research expected trends in Local Government media channels
3. Develop a limited number of 'could be' business models of the future state of Kent TV
4. Agree commercial model and agree resourcing mechanism
5. Clarify and strengthen partnerships
6. Focus on increasing Kent TV visibility
7. Refresh targets & metrics, and processes for benefits tracking

Headline

- Revisit the purpose and constitution of the Board.
- Introduce a greater proportion of non political / customer group / stakeholder representatives
- Gain an informed detailed understanding of how Broadband and Digital TV channels, and other technologies will develop over the medium term. Determine the type and scale of investment needed for Kent TV
- Develop future models of Kent TV that follow the above trends; adjusting emphasis on target audience, news/current affairs, channel focus, etc
- Conduct high level value analysis of each model to determine the preferred option
- Explore potential sources of resource; be they direct funding from sponsorship or advertising; partner funding based; committed resource from collaborators for content; incentive mechanisms to increase viewer content
- Explore untapped synergies with public partners; institutions and associations; and private enterprises
- Identify all means to increase visibility, particularly in target customer groups; through engagement; earlier alerting to events; support to training of film makers in exchange for e.g. event tickets; co-production; engagement in schools; KTV in public places; (e.g. doctors surgeries; ...)
- Define new set of targets and mechanism to monitor and deliver them

Detailed Findings






In those areas assessed quantitatively, greatest progress was perceived in 'Local Content' whilst 'Education' was considered least advanced

Category ¹	Mean score ²	Range	Sample Size	Typical Quotes
Local Content	4	2 - 5	12	<ul style="list-style-type: none"> "Everything on the web site is to do with Kent" "All content has been produced / directed in Kent by Kent based companies"
Board Governance	3	2 - 5	12	<ul style="list-style-type: none"> "I have not seen any real evidence of governors playing a role" "The composition of the Board should be looked at so it is not dominated by the public sector"
Widening Participation	3	1 - 4	12	<ul style="list-style-type: none"> "Sound Clash had great take up; Invicta played it on their breakfast show" "Kent is becoming a destination for older people so it should show them as well what's on"
Increased After School Educational Opportunities	3	2 - 4	10	<ul style="list-style-type: none"> "The How To section is good at certain elements of adult education" "From professional education perspective, it is good at liaising with universities"
Increased School Educational Opportunities	3	3 - 5	8	<ul style="list-style-type: none"> "We struggled to engage with schools at the beginning" "Lots of work in this space since the new MD joined, e.g. imminent Youth Channel"

The range of scores, whilst from a small sample size, suggests inconsistent understanding, especially between different groups of stakeholders.

1) See Appendix for mapping of Objectives to Categories; 2) 1 poor, 5 high

Qualitative evidence suggests that technological innovation is strong but commercial and employment impact is difficult to quantify

Category	Progress	Observations	Typical Quotes
Technological Innovation		There has been demonstrable progress in this area that is in line with the objectives. This covers both user interfaces, e.g. links with Facebook, Twitter and accessibility by mobile internet as well as its reliable back end performance	<ul style="list-style-type: none"> ▪ "Technically, it is excellent" ▪ "Behind the scenes it runs very well"
Commercial Benefits		Whilst there have been a number of successful events with the business community there are acknowledged opportunities to work more closely with the both SMEs and larger organisations from the private sector	<ul style="list-style-type: none"> ▪ "We knocked on their [Pfizer's] door early on but they didn't know who we were but probably would now" ▪ "[Kent TV] were superb with the 20:20"
Partnership Working		There are recognised opportunities to improve the level of partnership working with media organisations, international affiliates of Kent Chambers of Commerce and large public sector organisations	<ul style="list-style-type: none"> ▪ "There are always more [organisations] that we can work with" ▪ "We want to pitch ourselves as an organisation that can liaise with other organisations"
Employment		Whilst local employment has been directly supported through Kent TV and commercial activities, we have not proven that it has "created employment by stimulating the local creative industry" ¹	<ul style="list-style-type: none"> ▪ "By the end of the pilot we will have spent £260,000 on 27 independent film companies, all of whom are exclusively in Kent"
Reduce paper use²		In 2008/9 there was a £200,000 saving target in the publication budget for KCC. Kent TV will have contributed significantly to this. However, we have not measured its specific impact	

There is a strong link between improving performance in 'Employment' and 'Commercial Benefits'.

1) Taken from Objective 1 in the Cabinet Paper; 2) No interviewees could provide more information on this category than that that shown in this panel. Therefore, no further analysis has been done.

Whilst initial progress in education was slow, Kent TV is now a media diploma partner and will benefit from the future 'Youth Channel'

Education

Strengths

- There "has been lots of work in this space since the new MD moved here":
 - Animate / Create
 - Housing Debate with Canterbury University
 - Work experience placements for college students with Kent TV
- In addition, Kent TV has become an industry partner for the media diploma which will be awarded through work experience placements. Currently, Kent TV is working with 12 schools in this area
- The educational videos on the website "enhance what they're learning" rather than provide specific content around the schools' curriculum

Weaknesses

- There is a feeling of having to make up for lost time in this area given "we struggled to engage with schools at the beginning"
- There is a perceived need for "greater interactivity and debate around educational issues"

Opportunities

- This area is seen as one of the "biggest opportunities for Kent TV"
- The Youth Channel pilot that will be launched in October. It will involve the Schools Network and Youth Centres and so is expected to increase youth awareness of Kent TV and encourage them to upload videos. In the pilot phase it will be run with 10 schools
- Engagement may improve by having "champions in the sector who would highlight the potential of Kent TV"
- There is scope for greater focus on "those going down the vocational route - vocational colleges and apprenticeships"
- There may be scope for greater involvement with "Teachers' TV"

Concerns

- There is a concern that those involved in Adult education "haven't cottoned on at all"

Kent TV has successfully engaged with the under 30s and there is perceived potential for further engagement with the retired population

Widening Participation

Strengths
<ul style="list-style-type: none"> ▪ There have been a number of very positive events aimed at the under 30s: <ul style="list-style-type: none"> - Sound Clash a "battle of the bands" competition - A housing debate featuring local university students - Coverage of the Radio 1 festival at Maidstone - Animate / Create ▪ In addition, a new serial "Holly Would..." where people can select alternative endings to stories should increase appeal <ul style="list-style-type: none"> - There is an embedded educational message in the content ▪ The embedded links with YouTube, Twitter and Facebook have helped signpost Kent TV from these popular sites

Weaknesses
<ul style="list-style-type: none"> ▪ Engagement with this section of the population has been adversely affected by the limited impact on schools

Opportunities
<ul style="list-style-type: none"> ▪ Develop our presence in and targeting of schools ▪ The plan for Kent TV to work in Youth Centres to give young people a platform in which they can upload their own work and network with one another in a safe environment ▪ Given that Kent is becoming a "destination for retired people", there is an opportunity to target them with information on what is available to "entertain and support them"

Concerns
<ul style="list-style-type: none"> ▪ We can never be certain "who is on the other end" and therefore accurately measuring our impact in this area is difficult ▪ There is still a suspicion amongst some that "we're just propaganda for KCC" which may limit our appeal to young people

The site has been very successful in using local content; the limiting factor will be the size of the team in covering local issues and events

Local Content

Strengths

- All commissioned films are made using local production companies and actors
- In the year to June 2009, over 80% of all uploaded videos were locally produced
- Planet Thanet was a success at overcoming local resistance by using locally produced media to create jobs in a "green company" and relatively deprived area
- In addition, some of the news coverage around new power stations was good and got picked up by the BBC

Weaknesses

- Whilst recognising that the majority of material is locally produced, one interviewee suggested that it "lacks imagination" because of a "lack of involvement of the independent sector" and no regime of "bold, new measures"

Opportunities

- Work more closely with community liaison managers and local county council committees in the periphery of Kent to ensure that they are aware of Kent TV and are encouraging its use
- Work more closely with independent production companies for support in coming up with new ideas
- Improve the ease with which local people can upload videos
 - This may extend as far as Kent TV providing training sessions for the community at large on making and distributing videos
- The demise of analogue local current affairs programmes may provide scope for Kent TV to increase its focus in these areas

Concerns

- The small scale of Kent TV means that it is impossible to cover all areas in Kent and their many events: "with only four editors we can't do everything"
- The high quality of Kent TV videos ("far better than You Tube") may deter some more amateur film makers from uploading their content

Whilst there are mixed views on board performance, common concerns are its constitution and the lack of a defined role

Governance

Strengths

- The board does provide a “good check and balance”

Weaknesses

- The main weaknesses with the current system were described as:
 - Lack of clarity on what is the role of the Board: *“we need a really clear focus and coherent direction on what is the board’s purpose”*
 - Low attendance: typically running at 50%
 - Inappropriate constitution which contributes to the *“political bickering”* and *“not getting the idea of Kent TV”*
 - The chair should not also be the CEO of KCC¹
 - Whilst Kent TV may listen to the recommendations of the Board, there is a feeling that *“the debates are dominated by those with a background in media but no challenge or action taken by Kent TV on our recommendations”*

Opportunities

- The opportunities suggested include:
 - Make the chair independent
 - Employ more people with a media background and be more representative of the county: *“the county is not all white middle aged males”*
 - Introduce more people from academics and business
 - Provide a clearer remit
 - Should it have an executive function?
 - Should it monitor performance?
 - Should it set strategy?
 - Should it act as a place of final dispute resolution?
 - Should members be independent (and therefore require payment)
 - Should the board be paid?

Concerns

- The main concern was the lack of readily available “best practice” governance model for this type of organisation that they can work towards

The BBC model of Board of Governors and Executive Committee has been mooted as a possible option

¹) It is important to note that the CEO of KCC offered to stand down as Chair during this pilot phase but at the request of other Board members continued his dual role. He will not Chair the Board should Kent TV continue after the pilot.

Kent TV has fully embraced the potential of technology and is linked to a number of external websites and launched itself on a mobile platform

Technological Innovation

Strengths

- Successful development of Kent TV player which can be used by external sites (such as the Kent Wildlife Trust) but is branded 'Kent TV' and contains a link back to the site
- Particularly strong progress was made in the second and third quarters of 2008:
 - Launch of Kent TV on a mobile platform: www.kenttv.mobi
 - Successful embedding of content in a range of external sites: YouTube, MetaCafe, Daily Motion, Yahoo, MySpace, Facebook, Twitter
 - Launch of Blue Fox which allows venues to automatically upload information about their events

Weaknesses

- N / A

Opportunities

- The main areas of opportunity include:
 - Devise a voting system, e.g. for Sound Clash and "Holly Would..."
 - Make more material available on a big screen: *"this requires some technical ingenuity"*
 - Improve the sophistication with which viewers are measured and tracked
 - Incorporate developments in broadband technology (e.g. through Digital TV set top boxes and games consoles) whilst still maintaining simple user operability)
- Digital Britain is seen as a good source of ideas for planning the next two years of Kent TV. Indeed, *"we are interested in piloting anything that the government thinks is worth piloting"*

Concerns

- The main consideration for future innovation is to ensure that the *"site is mainstream and elegant; there is no need to be overly hi tech"*

Events such as Backing Kent Business have engaged local business and there is a clear appetite for such support in similar events

Commercial Benefits

Strengths

- Tourism is a major source of revenue for Kent. To support this, Kent TV has worked with Visit Kent to publicise the "Big Day Out" and subsequently host videos of people visiting the attractions.
 - In addition, it has shown Kent TV videos on 'big screen TV' in Dover and a tourism video is shown on Norfolk Line Ferries to show what's on in the county
- It has also supported local businesses through specific events such as Backing Kent Business and 20:20. In supporting these events, Kent TV has been described as "superb, 5/5"
- There is progress being made towards attracting 2012 athletes to stay and train in Kent, as well as encouraging the Olympic torch to pass through Dover

Weaknesses

- Whilst justified and deliberate decision, Kent TV has not generated the sponsorship and advertising revenue that was proposed in the Cabinet paper¹
- There is a feeling that Kent TV is currently "very insular" and should "be more gregarious" in its interaction with the local business community

Opportunities

- Introduce Webinars focussing on business perspectives or topics that people can discuss and come to with pre-prepared questions
- Work more closely with Visit Kent to better realise the synergies between the two web sites and sources of information
- Optimise search results by identifying the top 5 buzz words from each dept and ensuring a Kent TV video is shown on the first results page of this search

Concerns

- Future commercial decisions will need to address the question of whether Kent TV should show news: "it is not advisable to half do news"
- There will need to be a strong focus on fully integrating the technology of KCC web site with that of Kent TV
- There may be need to be a greater focus on the level of "appointment viewing" on the web site in order to maximise commercial benefits
 - This would involve introducing regular updates of certain themes / channels that people become familiar with and so know when to look for new events in area x, for example.

1) The decision not to pursue sponsorship and advertising revenues was taken to avoid competing with existing local media companies and reducing their potential advertising revenue

The impact on the voluntary sector has been significant and there is scope for greater partnership with large public and private organisations

Partnership Working

Strengths

- Effective partnership working with a range of partners from the voluntary sector, including Demelza and Porch Light: *"Voluntary Sectors videos are not always the most popular but their impact on the charities is huge"*
- There is also strong working with other council organisations such as the Fire and Health services: *"We want to pitch ourselves as an organisation that can liaise with other organisations"*
- Whilst there are rival organisations such as *"Your Kent"*, there is a certain loyalty to Kent TV as it is free of charge and seen more as a partner than supplier: *"its just another job to them [alternative media partners]"*

Weaknesses

- There is scope for working more closely with Chambers of Commerce: *"I was thinking over the weekend, here is an organisation [Kent TV] that we have not been taking advantage of..."* It is recognised that the responsibility for developing this closer working lies with both the Chambers of Commerce and Kent TV
- Work with large public sector organisations is seen as suboptimal but *"discussions will be in place to help move this along"*
 - The potential to develop these relationships has been understandably limited by Kent TV's status as a 'pilot'

Opportunities

- Increase the recorded footprint of Kent TV videos by providing its content free of charge to *"reputable external organisations"* such as the BBC, Sky News etc
- Discuss with departments such as Fire, Police, Health etc, the possibility of allocating some of their marketing budget to Kent TV who can then develop suitable videos to host on the web site. In the longer term this could reduce the overall marketing spend of the council
- There is scope to work more effectively with media partners such as Kent on Sunday, Heart Kent FM and Visit Kent
- There may also be scope for international working with the twinned cities and organisations or KCC

Concerns

- The negative publicity of Kent TV from other media companies may deter some organisations from proactively seeking partnership

Employment has benefited from the exclusive use of Kent based production companies but indirect impact is difficult to track

Employment

Strengths
<ul style="list-style-type: none">▪ Kent TV has let 42 short term or day contracts since its launch- 11 of these have been work experience students▪ By the end of the pilot, it will have spent £260k on 27 independent film companies, all of whom are exclusively in Kent▪ All but one employee of Kent TV lives in Kent▪ Anecdotally, there is evidence of stimulating the local economy.- A Korean company using the 'What's On' section to understand more about the county when deciding where to invest▪ Measuring the indirect effect is more difficult.

Weaknesses
<ul style="list-style-type: none">▪ The 11 actual FTEs created has been described by one interviewee as "unimpressive"

Opportunities
<ul style="list-style-type: none">▪ It is expected that as the awareness of Kent TV increases amongst the community, its impact on job creation will increase; in part since it "differentiates Kent from other counties".

Concerns
<ul style="list-style-type: none">▪ The difficulty in measuring indirect employment creation means that tracking progress against this objective will be heavily estimated

At the level of each objective, the opportunities centre on partnership, governance and tracking economic impact

Objective	RAG ¹
1. Kent TV will create employment both directly by the provider company and by stimulating the local creative industry, there will be indirect employment. The successful company delivering Kent TV will employ mainly local residents.	Green
2. The opportunities for Kent TV to enhance the democratic process are significant. KCC will be able to reach out to the people of Kent with information, particularly those in the younger age-bracket of 18-32, where the voting percentage is lowest and explore new ways of engaging in council processes	Green
3. The channel will maximise local produced content, e.g. from schools, universities and colleges as well as user-generated content from individuals, community groups etc.	Green
4. Kent TV can provide an outlet for a range of local talent, from music to acting and from journalism to presenting.	Green
5. Kent TV will showcase the best of Kent, particularly for tourism and inward investment purposes, working closely with organisations such as Kent Tourism Alliance and Locate in Kent. This medium will enable us to reach out to Kent residents and to people all over the world.	Green
6. It will enable us to maximise the benefits to Kent of major events, such as 2012 Olympics.	Green
7. Kent TV will provide a showcase opportunity for local businesses.	Green
8. Increased educational opportunities are key to this channel. With over 600 schools, the potential for shared learning and master-classes focussing on particular topics is being explored with education colleagues. This medium can open up a whole new range of opportunities for children at school and outside school.	Orange
9. Sharing professional training opportunities is also possible, e.g. social work or teaching.	Green
10. Critical to the longer-term funding of Kent TV, over time it will reduce KCC's reliance on paper communications, thereby saving money and supporting our green agenda.	Orange
11. The potential for advertising and sponsorship revenue is significant.	Orange
12. Viewing figures are hard to predict accurately with such a new channel, but 50,000 viewers per month is felt to be achievable within the first few months, increasing thereafter. The channel is aimed at all ages.	Green
13. The schedule will be varied but will focus on tourism, education, information, news, user-generated content, democratic participation etc. Any news element will be delivered independently from KCC. The channel will also maximise existing content where possible, both from KCC and other organisations where this is appropriate.	Green
14. As well as a live streaming option, viewers will be able to utilise a range of video on demand options from an archive that will increase over time.	Green
15. The channel will maximise the use of current and emerging technologies, such as podcasts on mobile phones, ipods and other MP4 players. There is also the potential for Kent TV to be streamed on television screens in KCC buildings that the public access, e.g. libraries and schools, and in public places, such as shopping malls.	Green
16. There will also be a moderating process for all user-generated content, which will be run by the provider company.	Green
17. To ensure the independence of the channel, particularly in terms of content, a Board of Governors will be established that will consist of representatives with an interest or level of expertise in Kent and/or the media. The role of the Board will be to essentially represent the interests of everyone in the county by monitoring the channel's performance against targets and standards, ensuring the channel delivers good value to the people of Kent, ensuring the channel is impartial and arbitrating on complaints from viewers in the last resort.	Orange
18. KCC will work with a range of partners in order to deliver Kent TV and maximise its benefits to Kent and beyond, including other public sector organisations such as Kent Police, Kent Fire & Rescue, NHS, voluntary organisations, district and borough councils etc., along with private sector partners.	Orange

Green Quantified evidence or strong qualitative evidence of the objective having been achieved

Orange Some evidence of progress having been made towards this objective but not sufficient for it to be achieved

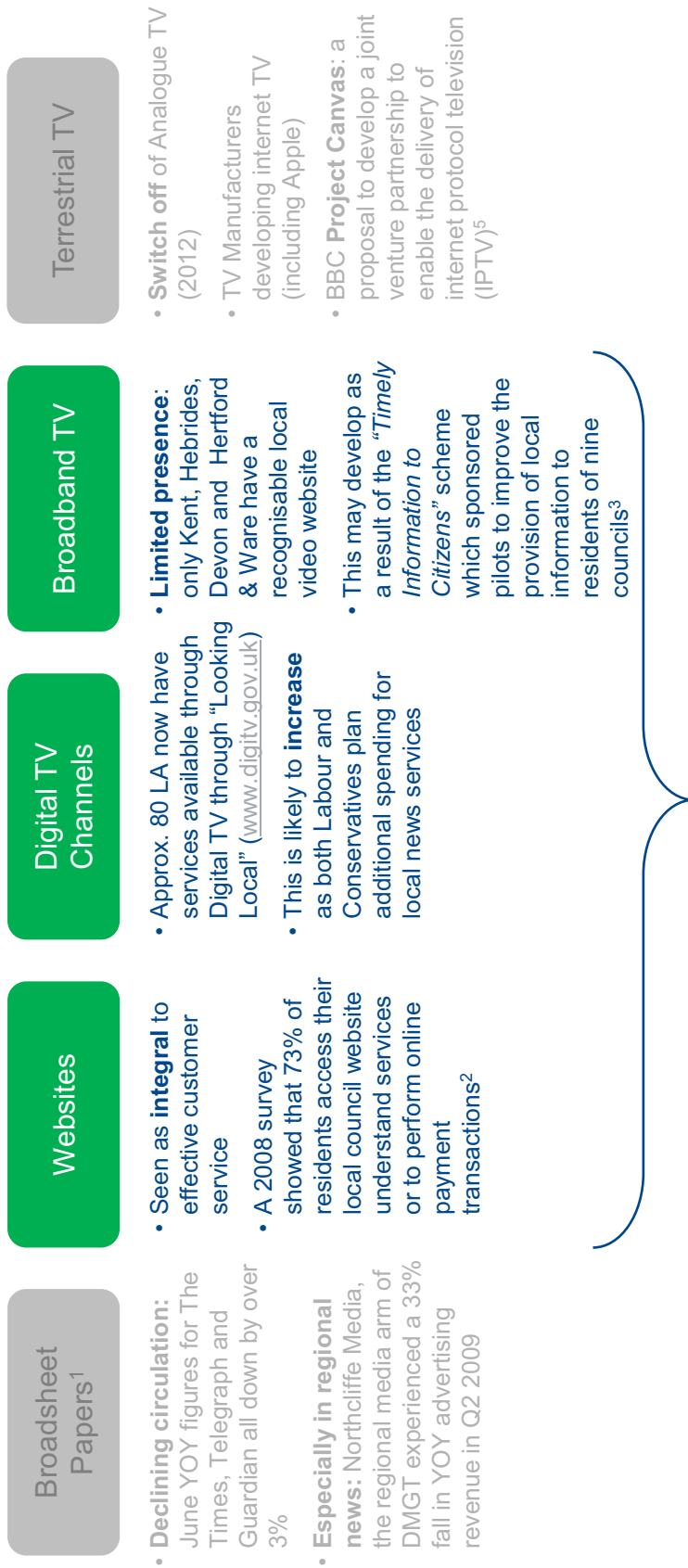
Red Quantified evidence or strong qualitative evidence that the objective has not been achieved

Notes: (1) RAG: Red, Amber, Green



The Landscape is Changing

The next 'big thing' in media channel development is the convergence of Broadband and Digital TV



1) www.pressgazette.co.uk; 2) <http://www.webcredible.co.uk/about-us/pdfs/townhall-jun08.pdf>; 3) This project is the result of the July 2008 Communities and Local Government launch of Communities in Control: Real People, Real Power; 4) Expected around 2014 – 2015, Discussion with Capgemini Subject Matter Expert; 5) http://www.bbc.co.uk/bbc/trust/news/press_releases/2009/project_canvas.html

The rise of Broadband and Digital TV is being fuelled by the decline of analogue TV channels and greater acceptance among the public

Drivers of new media channel

- Imminent shut down of analogue TV
- Growing diversity of media channels: *"We live in the e-mail and YouTube age so it's only right that we should try any technology that might help us improve the way we communicate with citizens."*¹
- Increasing appetite from the public: *"The trial is in response to public surveys showing how a large majority of residents wanted to be kept better informed about what their local council was doing and would welcome more experimental forms of communication which make use of the latest technology."*²

Digital TV Channels

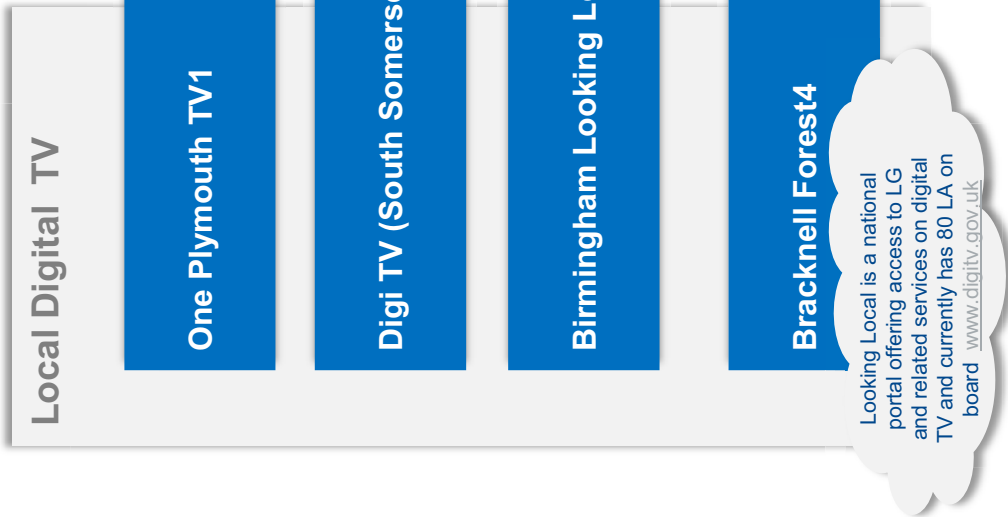
- Approximately 80 councils in the UK have taken on Digital TV
- Local Digital TV is supported by the Conservatives who claim it is possible to "set up 81 new television stations covering four fifths of the country after 2012"²
- These would be run by new local multi-media companies (LMCs) could be created in the UK, likely to be owned or part-owned by a handful of existing newspaper groups. A typical LMC would cover a single city or group of towns and would combine the media formats of television, radio, print and websites.

Community Broadband

- A significant proportion of the Digital TV stations have online functionality, either through associated websites or access to the TV station through IPTV
- The Government's Timely Information to Citizens scheme³ provided £620,000 to pilot schemes that provide better local information to residents of nine local councils.
- These pilots are expected to involve community websites "that will enable local people to influence the planning and delivering of services"³

1) Brian Greenslade, Devon Council Leader; 2) "Tories plan 80 city-based TV stations for local news", The Times, 16 July 2009; 3) This project is the result of the July 2008 Communities and Local Government launch of Communities in Control: Real People, Real Power, which set out the case for improving citizens' access to, and use of, information on local services and performance, to empower them to hold local service providers to account

Digital TV is seen as a way to provide services 24/7 and target those who do not have access to broadband

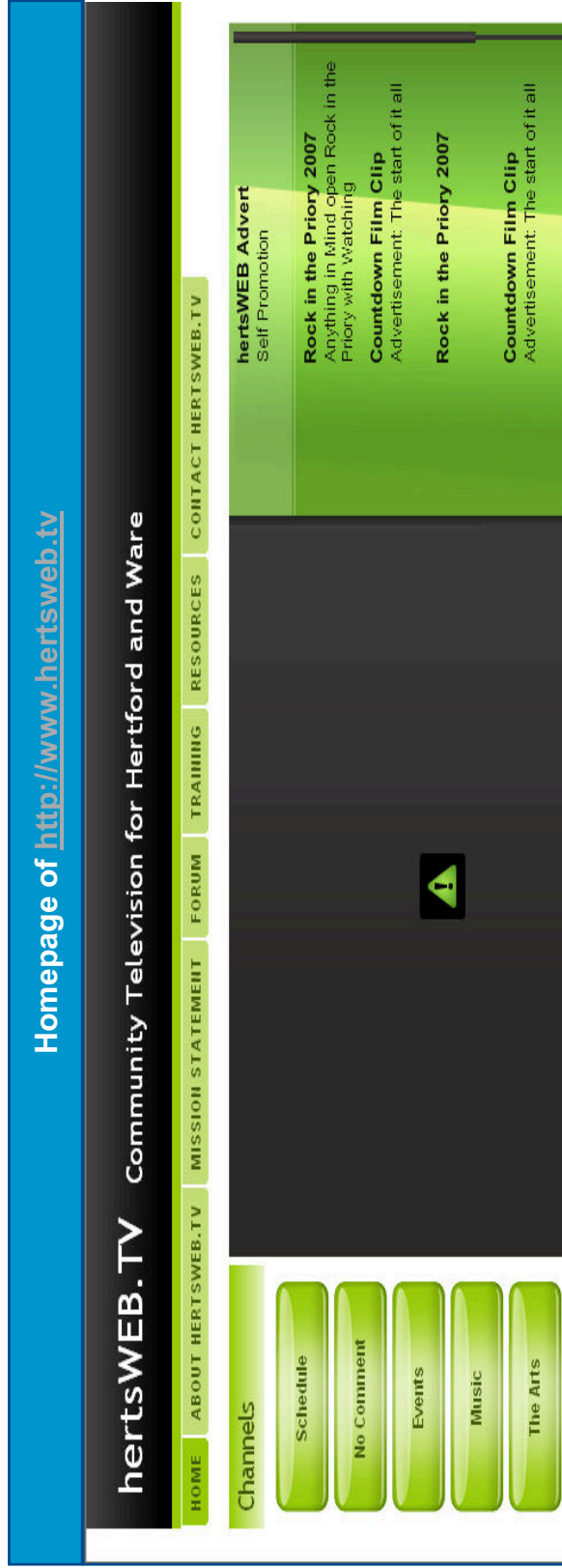


- A local TV station dedicated to local entertainment, sport and major events.
 - It received its broadcasting license in Feb 2007 and broadcasting started in Sept 2007
 - "Two half-hour programmes a night and ten minutes of local news will be produced at the studios and as many as 25 outside broadcasts a year are planned"
- A digital TV channel where people "can find out answers to popular questions such as what needs planning permission and how to apply for benefits, request for leaflets to be sent to their home address and search for local bus times or job vacancies"
 - The site received over 8,000 hits in 2008
- The channel, developed by Digital Birmingham and available through interactive digital television (idTV), allows residents to access a range of council and other local services
 - The service, launched in 2007, is the most popular council TV service in the country
 - "The new service will revolutionise the way people deal with the council and provide support for citizens who need it most."
- Through the service, users can find out what's on, search for a job, check bus and train timetables and book a doctor's appointment
 - The service is available on Sky, cable, broadband and Freeview.
 - "We hope this digital TV channel will help more residents [i.e. those without broadband] to access our services when it is convenient to them."

1) "Launch of City's very own television station", Western Morning News, 5 February 2007; 2) "Improved digital TV service launched by council", Yeovil Express, 3 July 2009; 3) "Birmingham's digi-TV service is most popular in the country", Birmingham Post, 4 August 2008; 4) BRACKNELL FOREST GETS NEW TV SERVICE, Press Association Regional Newswire - South East, 21 September 2007



A visit to hertsWeb.tv, which covers Hertfordshire and Ware, indicates a far more limited breadth and depth of coverage than Kent TV



- Launch Date: N / A
- Viewing Figures: N / A
- It shows content produced by local individuals or groups covering local issues and will support the community in the production of content
- Training is given in the use of standard industry equipment and it will help people make professional looking productions. It will host news stories, short films or animations.
- Equipment and editing facilities are offered to community groups to encourage production of interesting, local films.

myDevon.tv is more focussed on public service provision than cultural and entertainment video hosting



- Launched in May 2008

- Viewing Figures N / A

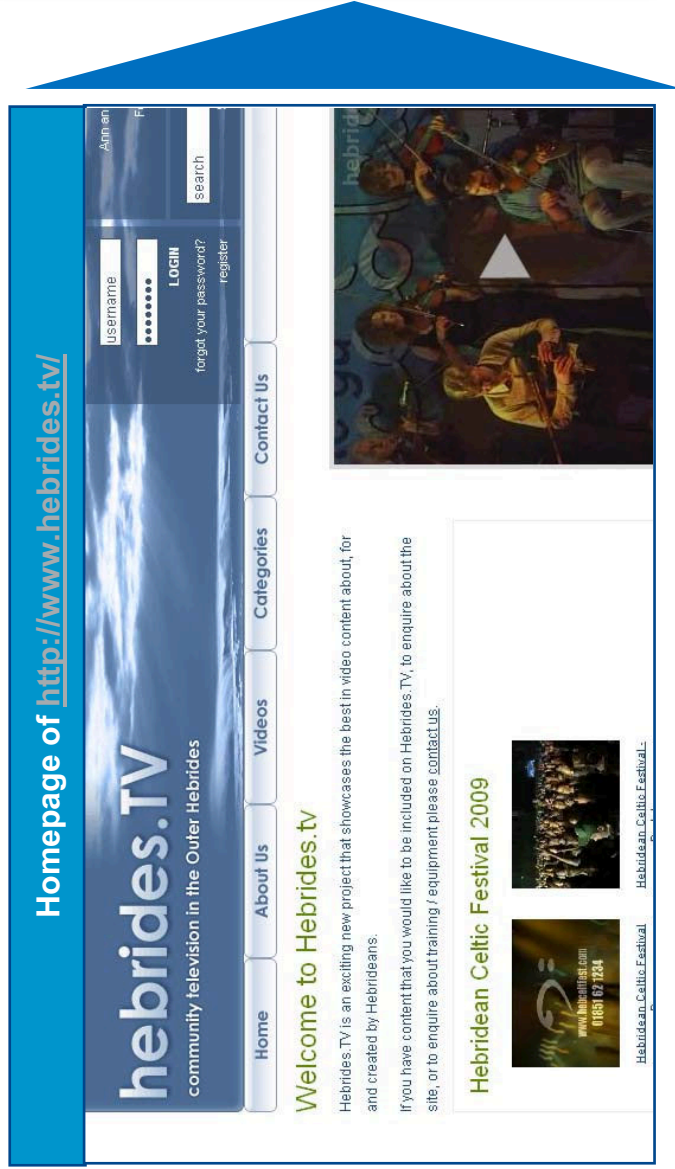
- According to press releases at the time:

- *"The trial of a video-bulletin is in response to public surveys showing how a large majority of residents wanted to be kept better informed about what their local council was doing and would welcome more experimental forms of communication which make use of the latest technology."*

- *"Council Leader Brian Greenslade said "We live in the e-mail and YouTube age so it's only right that we should try any technology that might help us improve the way we communicate with citizens."*

- In the July edition of the bulletin, the video selection included nine videos covering 'Post Offices' to 'Boundary Committees'

Hebrides.TV is more to Kent TV in content but it lacks regular contribution and “What’s On” features



- Launched in summer of 2007 with an £80,000 grant from the European Union, Western Isles Council and Western Isles Enterprise.
- Its mission statements is to “provide a positive and friendly place to post “Hebridean” content”
- It is seen as “an opportunity for young people to demonstrate their creativity through video content. It is an opportunity for local creative businesses to promote their creative products. It is an opportunity to really showcase the islands as a creative place emphasizing Gaelic language and cultural heritage.”¹
- It now contains 16 categories of video covering “Arts and Culture” through to “Public Information”
- Whilst this content is more similar to Kent TV than that of myDevon.tv and hertsWeb.tv, there is no “What’s On” feature
- There is no date tag of the videos hosted, but a small sample of those that do have dates provided in the commentary or description are from 2007

Visitor comparison to Kent TV²

- Between July 2008 and 2009 Hebrides TV recorded 4,560 visits and Kent TV 1,476,323
- Per head of local population, this equates to 0.17 and 0.9 visits respectively and so highlights the greater momentum behind Kent TV

Focus on Management Information (MI):

- Google Analytics creates a regular 6 page report for Hebrides TV, graphically outlining key MI in a structured template
- For example, it shows continuous tracking of visits over time and counts page views, views per visit, % of new visits and average time on site. In addition, it provides the source of visit (e.g. search engine, referring site or direct traffic) and the geographic location of the user
- Post pilot, Kent TV may wish to consider introducing a similarly structured report, albeit using different data sources that shows the key information graphically

1) “Creative Industries in the Outer Hebrides”, Presentation to the Community Cultural Network event, Tarbert, Isle of Harris, 1 December 2007; 2) Population of Kent 1,646,900 (2007), Population of Outer Hebrides 26,502 (2001), Kent TV visits measured using AWStats, Hebrides TV measured using Google Analytics

Appendix

How the 18 objectives were categorised into nine categories

Theme	Objective
Employment	1. Kent TV will create employment both directly by the provider company and by stimulating the local creative industry, there will be indirect employment. The successful company delivering Kent TV will employ mainly local residents.
Widening Participation	2. The opportunities for Kent TV to enhance the democratic process are significant. KCC will be able to reach out to the people of Kent with information, particularly those in the younger age-bracket of 18-32, where the voting percentage is lowest and explore new ways of engaging in council processes 4. Kent TV can provide an outlet for a range of local talent, from music to acting and from journalism to presenting.
Local Content	3. The channel will maximise local produced content, e.g. from schools, universities and colleges as well as user-generated content from individuals, community groups etc. 16. There will also be a moderating process for all user-generated content, which will be run by the provider company.
Commercial Benefits	5. Kent TV will showcase the best of Kent, particularly for tourism and inward investment purposes, working closely with organisations such as Kent Tourism Alliance and Locate in Kent. This medium will enable us to reach out to Kent residents and to people all over the world. 6. It will enable us to maximise the benefits to Kent of major events, such as 2012 Olympics. 7. Kent TV will provide a showcase opportunity for local businesses. 11. The potential for advertising and sponsorship revenue is significant. 12. Viewing figures are hard to predict accurately with such a new channel, but 50,000 viewers per month is felt to be achievable within the first few months, increasing thereafter. The channel is aimed at all ages.
Education	8. Increased educational opportunities are key to this channel. With over 600 schools, the potential for shared learning and master-classes focussing on particular topics is being explored with education colleagues. This medium can open up a whole new range of opportunities for children at school and outside school. 9. Sharing professional training opportunities is also possible, e.g. social work or teaching.
Reduce Paper Consumption	10. Critical to the longer-term funding of Kent TV, over time it will reduce KCC's reliance on paper communications, thereby saving money and supporting our green agenda.
Partnership Working	13. The schedule will be varied but will focus on tourism, education, information, news, user-generated content, democratic participation etc. Any news element will be delivered independently from KCC. The channel will also maximise existing content where possible, both from KCC and other organisations where this is appropriate. 18. KCC will work with a range of partners in order to deliver Kent TV and maximise its benefits to Kent and beyond, including other public sector organisations such as Kent Police, Kent Fire & Rescue, NHS, voluntary organisations, district and borough councils etc., along with private sector partners.
Governance	17. To ensure the independence of the channel, particularly in terms of content, a Board of Governors will be established that will consist of representatives with an interest or level of expertise in Kent and/or the media. The role of the Board will be to essentially represent the interests of everyone in the county by monitoring the channel's performance against targets and standards, ensuring the channel delivers good value to the people of Kent, ensuring the channel is impartial and arbitrating on complaints from viewers in the last resort.
Technological Innovation	14. As well as a live streaming option, viewers will be able to utilise a range of video on demand options from an archive that will increase over time. 15. The channel will maximise the use of current and emerging technologies, such as podcasts on mobile phones, ipods and other MP4 players. There is also the potential for Kent TV to be streamed on television screens in KCC buildings that the public access, e.g. libraries and schools, and in public places, such as shopping malls.



Limitations of “Channel Button Hit” metrics

- The figures on Panel 6 are sourced from Google Analytics. It simply records the number of clicks on each channel button on the left hand side of the homepage
- Limitations include:
 - Google analytics does not record viewers with cookies turned off. It is widely accepted that this underreports statistics by up to ten percent and for a site the size of Kent TV we suspect this percentage will be a lot higher.
 - In addition, it does not record traffic arriving into channels from:
 - **The Kent TV search facility:** Most web users are now familiar with on site search and this is increasingly the way people are finding films on the site. Each film when published is allocated a set of keywords that allow people to find the films easier by using the Kent TV search facility.
 - **Search engine traffic:** Each film is search optimised for the web using the metadata and outbound links within the synopses. This helps search engines such as Google pick up the films and recommend to their search users. However, hits coming directly from search results from, e.g. Google, will not be recorded in this data
 - **Inbound links:** There have been approx. 22,393 inbound links to the site since February 2008. This includes regular text hyperlinks, the embed players hyperlinked dog and more recently shortened URL’s which with the introduction of social media network such as Twitter, which allows people to easily pass on our films in a viral manner.
- Despite these limitations, it is currently the only means by which the relative popularity of channels can be estimated

This page is intentionally left blank

To: Cabinet –1st February 2010

By: Mike Hill, Cabinet Member, and Amanda Honey, Managing Director, Communities

Subject: The Kent Supporting People Programme and the Five Year Supporting People Strategy 2010-2015

Classification: Unrestricted

Summary:

The report presents a draft strategy for the Supporting People Programme for 2010-15 for endorsement and recommendation for approval to the Kent Supporting People Commissioning Body.

FOR DECISION

1. INTRODUCTION

1.1 The Supporting People Programme is funded by the Department of Communities and Local Government (DCLG) awarding local authorities an annual allocation of funding for services to enable vulnerable people to maintain their housing situation, and therefore continue to live within the community and contribute to the overall well being of life within those communities. In Kent in 2009/10 the Programme is expected to spend just under £35 million on housing related support services. The Programme is a key contributor to the Local Area Agreement supporting a range of indicators including for example, skills, health, mental health reducing offending and alcohol and drug misuse.

1.2 The Programme has been working within a 5 year plan which draws to a close in 2010 and a new medium term strategy is therefore now necessary. This report provides a resume of the Programme, and the context within which a proposed new strategy has been developed. An executive summary is attached at Appendix one. A full version is available via the following weblink:

www.kent.gov.uk/communityandliving/housing-related_support/policies_and_strategy.aspx

2. THE SUPPORTING PEOPLE PROGRAMME

2.1 The Programme seeks to promote independence and the prevention of the breakdown in independent living. It delivers, within a commissioning based framework, housing-related support services in short and long term accommodation, “floating support” and Home Improvement Agency/Handyperson services.

2.2 Floating support is currently delivered to 23,000 people across 21 client groups and is provided within any housing tenure to deliver housing related support for a period of up to two years. The service user profile reflects individuals and

groups known to Adult Social Services, Communities, Children, Families and Education, Probation, Housing and Health.

2.3 Housing related support provides the following services:

- Understanding tenancy or occupancy agreement
- Managing debt, budgeting and applying for benefits
- Getting on with neighbours
- Life and social skills
- Setting up home and resettlement
- Staying safe at home
- Dealing with other agencies
- Taking up daytime activities; training, education employment

2.4 The Home Improvement Agencies and the handyman services are funded in conjunction with district housing departments, other fee income, charitable funding, and in some cases health funding. The service enables people within the owner occupied and private rented sectors to remain living independently through the provision of adaptations and minor or major repairs. Services are also provided within the social rented sector.

2.5 Home Improvement Agencies/Handyman services have developed a range of ancillary services including gardening and decorating via social enterprise opportunities alongside services for people who have been or could be the victims of crime. The 2010 - 2015 strategy will be actively encouraging such developments within Kent.

2.6 The 2010 - 2015 Supporting People Strategy, which is outlined below and also summarised in Appendix One, has been developed after extensive consultation and needs and supply analysis. It explicitly recognises that the forthcoming years will herald significant changes - a potential change of government, economic uncertainty and a challenging financial backdrop that may lead to a reduction in funding levels of £4 million by 2011/12. In 2010 the Programme will be allocated within the Area Based Grant although the Audit Commission has already made explicit the expectation that the Programme will continue to deliver services within the existing Outcomes Framework, that the commitment to the Programme should be maintained and that it will continue to be an element for evaluation within the Comprehensive Area Assessment.

3. THE KENT SUPPORTING PEOPLE STRATEGY 2010 - 2015

3.1 The Supporting People vision is:

“Working in partnership to deliver well planned, value for money, high quality housing support services for vulnerable people”.

3.2 The proposed 2010 – 2015 strategic objectives are:

- To target resources on clearly evidenced support needs of vulnerable people living in Kent’s communities

- To commission services that help the Programme's partner agencies to deliver their priorities, contribute to achieving targets prioritised by the Local Area Agreement
- To generate additional income to reduce reliance for funding on the Programme e.g. charging for handyperson services.
- To deliver efficient services that demonstrate value for money
- To improve fair access and diversity to existing services
- To ensure vulnerable people move on to independent living in a timely fashion
- Service user involvement is at the core of the Programme

3.3 The commissioning priorities for additional services will be:

- Young people at risk (including young offenders)
- People who have mental health problems as well as substance misuse problems (dual diagnosis)
- Single homeless people
- Families with support needs (including teenage parents)

3.4 The 2010 – 2015 Strategy has identified the key activities necessary to achieve the delivery of the commissioning priorities these are set out below identifying the basis of the actions and the drivers for change:-

- Decommission services that are not strategically relevant. Strategic relevance means that the service meets an identified need and delivers an appropriate level of performance including the outcome for service users.
- Limit the maximum hours of support within long term supported housing and limit the duration of floating support to one year. Long term supported housing services are currently delivering up to 17.5 hours of housing related support per service user per week and for a period of a maximum of two years. The consultation has resulted in a consensus that to continue with this level of support is excessive and the strategy will seek to address this conclusion.
- Review both the Eligibility and Reconnection policy. The Supporting People Programme has an eligibility policy which endeavours to ensure that the services delivered are housing related support and are not, for instance, health or social care provision. The reconnection policy seeks to connect people who have lived in supported housing back to their originating district/borough.
- Redress the balance between accommodation-based services and floating support provision and within the capital and revenue funding available determine the most appropriate services. The Homes and Communities Agency provides capital grant funding to develop schemes and the Supporting People Programme revenue funds support within those schemes.
- Re-tender all floating support services including consideration of an option to withdraw specialist provision from certain client groups and redefine the process for the procurement of services across Kent.

- Access opportunities for the joint funding of services including revenue funding from other statutory and non-statutory agencies.
- Manage the Programme to prevent any practice that restricts access to and/or throughput within services.

4. CONCLUSION

- 4.1 This report outlines the strategic priorities and actions within the Kent 5 Year Supporting People Strategy 2010 - 2015. It summarises the strategic objectives and commissioning priorities for the next five years and outlines the necessary actions required to achieve the objectives.
- 4.2 The Strategy is currently subject to consultation, the consultation period ending 1st February 2010. This first draft of the Strategy was received by the Supporting People Commissioning Body on the 16th December 2009 and a planned sign off of the Strategy is scheduled for March 2010.

5. RECOMMENDATION

5.1 Cabinet is asked to:

- (i) Note and comment on the contents of the report.
- (ii) Recommend the attached draft Strategy for Supporting People 2010-15 to the Supporting People Commissioning Body for approval

Contact officer:-

*Claire Martin
Head of Supporting People
01622 221179
Claire.martin@kent.gov.uk*

Background Information:

Five-Year Kent Supporting People Strategy 2005-2010
Annual Plans 2003-2008
Strategy Refresh, June 2008
Commissioning Body Report Developing the Supporting People Strategy 2010-2015

Appendix 1: Summary of the Draft Kent Supporting People Strategy 2010-15

The document has been posted on the Kent County Council website
www.kent.gov.uk/supportingpeople

**KENT
SUPPORTING PEOPLE
STRATEGY
2010-2015

(SUMMARY)**

Kent Supporting People Programme

1. Strategic Context

The Supporting People Programme is a delivery vehicle for the strategic objectives of partnerships across the County of Kent to enable vulnerable people to maintain their housing situation, manage their finances, co-exist successfully in their community, acquire independent living skills, stay safe, liaise with other agencies, and access training, education, and employment. The Programme is closely inter-linked to other statutory and non-statutory agency strategies that aim to achieve similar or overlapping objectives. The Programme facilitates the delivery of the Local Area Agreement and contributes to achieving the Kent Partnership's jointly agreed targets relating to housing and independent living.

Current Service Delivery

The Supporting People Programme currently supports over 23,000 vulnerable people in a wide range of client groups. More than half of the grant is spent on what might be termed 'traditional' client groups such as older people with support needs, people with learning disabilities, people with mental health problems and people with physical/sensory disabilities. Other services support groups such as single homeless people, young people at risk and people fleeing domestic abuse. Client groups with relatively minimal client group specific provision are people misusing alcohol and/or drugs, offenders, homeless families with support needs and gypsies and travellers.

With regard to types of services, the programme delivers as follows:

%	Units	Funding
Accommodation based	30.24%	63.96%
Community Alarm	40.43%	2.67%
Floating Support	18.21%	29.60%
Home Improvement Agency	11.13%	3.78%

The Programme inherited services which were not commissioned by the Supporting People Programme. The Programme has strategically commissioned accommodation based, handyperson and floating support services during the last five years. However, client group specific services are not equally distributed across districts/boroughs according to identified need or levels of deprivation. Therefore accommodation based services are provided in circumstances which mean that in some districts service users have to move across boundaries to access services. In addition to this the Communities and Local Government department has a grant funding stipulation that short term supported services are open to anybody in the country.

Finance

The Supporting People Programme forecast a spend of £35 million in 2009/10 and 2010/11 utilising the accumulated reserves and meeting the commitments to the steady state contracts within the current Supporting People Strategic Plan.

The next Comprehensive Spending Review may well result in the implementation of the national Supporting People funding distribution formula which in its purest form would see the programme in Kent losing up to four million pounds. The 2010 – 15 Strategy will aim to address delivery and re-prioritise services identified in the needs analysis to vulnerable groups requiring a significant shift in contractual arrangements

and commissioning. The Programme plans to realign resource expenditure including reducing average and total cost of delivering housing related support, decommissioning services that are not a priority and seeking additional funding from joint commissioning partners.

Developing the Strategy

The draft strategy has been produced by the Kent Supporting People team with the assistance of and using information from a wide range of organisations. The Programme recognises the potential of a limited and reducing Supporting People grant and the need to redefine the priorities for service delivery and this may conflict in some instances with local area priorities and demands. There have been extensive consultations which included one to one meetings with representatives from partner organisations, focus group meetings and the use of a survey with service users, workshop with members of the Commissioning Body including elected members, and a consultation conference with members of Supporting People bodies (e.g. service user panel).

Vision and Strategic Objectives for 2010-2015

The Programme's vision for the next five years is:

Working in partnership to deliver needs led, value for money, high quality housing support services for vulnerable people.

In addition the programme aims to ensure that these services are;

- **accessible to those who need them**
- **promote independence and well being**
- **enable people to take control over their lives**
- **participate fully in the social and economic life of their communities**
- **complement services delivered by statutory and non-statutory agencies.**

In order to achieve that vision the following strategic objectives have been set:

- (1) To target resources on clearly evidenced housing related support needs of vulnerable people living in Kent's communities that prioritise service delivery for those most in need ensuring that Supporting People funded support meets the criteria set out in the Kent eligibility policy.
- (2) To commission services that enable partner agencies to deliver their priorities, contribute to achieving targets prioritised by the Local Area Agreement and use resources and funding available across the key strategies to deliver better outcomes for service users and partners, in particular the enhancement of social capital and reduction in social inequality through the promotion of social and economic inclusion.
- (3) To generate additional income to reduce the reliance on the Programme
- (4) To deliver services that are efficient and demonstrate value for money, operate to best value principles, and achieve locally and nationally defined quality standards, and challenge services that underperform.

- (5) To improve fair access and diversity to existing services and ensure that services are flexible and accessible to the wider local communities.
- (6) To ensure that vulnerable people do not become dependent on support and that they can maximise their independence by moving on to independent living in a timely fashion and capacity building in their communities.
- (7) Service user involvement and consultation will be at the heart of the programme, as will enabling services users to no longer require the services within the Programme

Commissioning Priorities

The priorities for new service development are based on analysis of need, consultation with partner agencies and a methodology prioritising risk. Overall, the priority areas for service delivery and resource allocation are identified as client groups who are at high risk of harm to themselves or to the community if services are not provided, for whom there are relatively few services either in the county as a whole or in particular areas, and who have few advocates in the form of organisations with statutory responsibilities.

These groups are young people at risk (including young offenders), people who have mental health problems as well as substance misuse problems (dual diagnosis), single homeless people and families with support needs. There is also a need to strategically review the housing related support needs of Minority Ethnic communities including Gypsies and Travellers.

Overall Direction of Travel

The Supporting People programme will:

- Focus on ensuring that the services funded are clearly defined as housing-related support, meet the intended outcomes of maximising independence and are explicitly linked into the priority targets of the Local Area Agreement. Eligibility criteria for housing-related services will be reviewed and explicitly define high, medium and low support levels as well as be explicitly linked to required outcomes.
- The Programme will prioritise services that focus on prevention and help people to stay in their own accommodation. More emphasis will be placed on assisting service users to link to social and economic resources in the community as a route to greater independence.
- Resources will be targeted more effectively on those in need of support rather than on people living in particular types of services/accommodation. This is particularly true for older people with support needs. Currently services are mainly targeted at older people in sheltered accommodation whereas the vast majority of older people live in other accommodation in the community.
- The Supporting People Programme will prioritise short-term rather than long-term supported housing.

- There will be more emphasis on time-limited objectives and practical interventions such as those delivered by Home Improvement Agencies / handyperson services to sustain independence.

Over the lifetime of the strategy, any investment in new services will have to be funded at least in part by savings generated through decommissioning other services and priority will be given to short-term accommodation based and floating support services.

Delivering the Strategy

The Strategy will be delivered using a range of mechanisms and tools:

- Keeping service users at the heart of the programme, including capacity building and person-centred support planning
- Enhanced partnership working, with partners involved from identifying need to commissioning services
- Pursuing an efficiency agenda, including improving service efficiency, effectiveness and the use of and access to resources, benchmarking, new commissioning approaches

Governance

The Supporting People Programme is an inter-agency programme. It is envisaged that current governance arrangements will continue:

Kent County Council is the Administering Authority which provides the legal and administrative base for the programme. The Commissioning Body provides strategic direction and is comprised of representatives of all the local authorities in Kent, the Probation Board, the two Primary Care Trusts, Adult Social Services and other Kent Directorates, and elected members from both district and county councils.

The Core Strategy Development group has a similar representation on a more operational level and is responsible for undertaking detailed policy and analytical work identified as needed to develop and implement the Supporting People Programme.

The Supporting People Team supports these structures and carries out the day to day work of the programme,

Interfaces with other Regulatory Programmes

Supporting People is embedded in the current Local Area Agreement (LAA) through delivering on the National Indicator 141 and will ensure that it is included in the next generation of LAA. Responsibility for delivering the LAA sits with the Kent Partnership. Supporting People is already represented on the Safer and Stronger Communities Board. However, the programme's agenda and objectives span the targets of other boards such as Public Health Board and Children's Trust.

The Supporting People Programme will in future be regulated and inspected by the Audit Commission as part of the Comprehensive Area Assessment (CAA). The assessment will pay particular attention to how well an area meets the needs of vulnerable people including those not in receipt of statutory services who need additional assistance to ensure equity of access to services.

The contributions of the Supporting People Programme will be important evidence and will be measured by the CAA using the following: -

- Inspection findings of housing support providers and local authorities
- Analysis of data from the outcomes framework
- Progress against NI 141 and NI 142 and other national indicators that Supporting People contributes to
- Area based intelligence from a range of partners including service users

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

To: Cabinet – 1 February 2010

Subject: **'PERSONAL CARE AT HOME – A CONSULTATION ON PROPOSALS FOR REGULATIONS AND GUIDANCE'**

Classification: Unrestricted

Summary: The 'Personal Care at Home Bill' was announced in the Queen's Speech on 18 November, and was published on 25 November. Accompanying the Bill was a consultation, 'Personal Care at Home' on regulations and guidance which ends on 23 February 2010. Attached to this paper is the County Council's draft response to the consultation (Appendix A).

The report asks Cabinet's approval for the response to be submitted to the Government.

FOR DECISION

Introduction

1. (1) This paper informs Cabinet of Kent County Council's draft response to the consultation on 'Personal Care at Home' regulations and guidance. It seeks Cabinet's comments and agreement on the draft response, and also agreement for the manner in which any final points of detail and editing may be approved before submission of the response.

(2) The Government is consulting on the proposals until 23 February 2010. Kent County Council will be submitting a response to the consultation, having analysed its implications, including the financial and operational impact of implementation.

(3) This paper is accompanied by a draft response (Appendix A), which includes the Government's Consultation Questions.

(4) The purpose of this report is to recommend the County Council's draft response to Cabinet prior to its submission to the Department of Health. The draft response has been informed by debate of the Adult Social Services Policy Overview and Scrutiny Committee on 13 January 2010.

Background

2. (1) The 'Personal Care at Home Bill' was announced in the Queen's Speech on 18 November, and was published on 25 November. Accompanying the Bill was a consultation, 'Personal Care at Home' on regulations and guidance which ends on 23 February 2010, although the Department of Health has requested that responses reach them by 26 January if possible.

(2) The bill has completed its passage through the House of Commons, having undergone its third reading unopposed on 12 January 2010. It has now begun its progress through the House of Lords, with the first reading having taken place on 13 January 2010 with the second reading scheduled to take place on 1 February 2010.

(3) The regulations and guidance that are proposed should be viewed in the context of the recent Care and Support Green Paper and the *Transformation* agenda, a drive by Government over recent years to modernise Adult Social Care, particularly through an increased emphasis on *Personalisation*. The key policy documents which set forth these reforms are the White Paper *Our Health, Our Care, Our Say* (2006) and *Putting People First* (2007).

Personal Care at Home Bill - Overview

3. (1) The Personal Care at Home Bill amends previous legislation to make the necessary statutory provisions to require councils to provide free personal care indefinitely in settings other than care homes. **There is no requirement to provide free personal care in a care home setting.**

(2) The bill also makes the necessary provisions for free care to be linked to *Fair Access to Care Services eligibility criteria*, and grants councils the power to make free care conditional based on a person undergoing a process designed to maximise the person's ability to live independently (e.g. reablement).

Personal Care at Home Consultation – Key Proposals

4. (1) The consultation document contains the intended regulations based upon the powers conferred by the Bill. It anticipates that *free personal care for those with the highest needs* would be made available from *1 October 2010*. It states:

- Councils will be able to decide whether or not to make free personal care conditional on a person undergoing intensive support or reablement.
- There will be the possibility of individuals making retrospective claims for free care.
- No charge will be raised for intensive support or reablement services.
- That the 'highest needs' requirement be based on the FACS *Critical* criteria and a person's need to require *significant help* with *4 Activities of Daily Living* (ADLs). The latter will be a new requirement.
- The guidance will cover details of the assessment process, eligibility criteria and examples of what an intensive intervention / reablement package could include.
- That personal care should be provided in the form of a personal budget, services or a direct payment. Interestingly, the document states that *non-personal care elements of a personal budget will continue to be means tested*.

(2) It also sets out:

- Three options for allocating an amount to meet an individual's personal care needs.
- Key aspects of the proposals that impact upon councils, including implementation from 1 October 2010, reimbursement of individuals who present themselves after that date and the creation of a national assessment tool.
- Three potential options for the formula grant to distribute the funding to councils, each of which amount to between £5M and £6M for Kent for the half year 1 October 2010 – 31 March 2011.
- Funding of free personal care in the next spending review period (2011/12) is not addressed in the consultation. The consultation states that this will be discussed with councils separately.

Personal Care at Home Consultation – Key Implications

5. (1) If the Guidance is published as set out in the consultation document, it has a number of implications for KASS, including:

- The requirement to implement free personal care for those with highest needs from 1 October 2010, including those who are currently self – funding.
- The need to reimburse individuals who are shown to meet the criteria but present themselves after this date.
- Raised expectations of the public, due to high profile policy of 'free personal care'
- A decision would need to be taken on whether KASS should make free personal care conditional on an individual taking a period of reablement.
- A full public consultation on charging policy may need to be undertaken in relation to Kent's implementation of the Guidance when published.
- The need to carry out assessments using a new national assessment tool and to record additional information – implementation will add to the cost due to training, changes to the SWIFT system, etc.
- There will be increased demands on staff who would be required to carry out more detailed assessments to ascertain whether individuals qualify. This would increase transactional costs and reduce capacity.
- There may be disputes / appeals against decisions where individuals do not meet the criteria for free care. These could potentially become very costly and acrimonious.

- The consultation suggests that a distinction would need to be made between personal and non-personal care regarding what would be free. This would introduce further complications for charging (again perhaps leading to dispute), particularly in the light of more 'holistic' personal budgets. It also mitigates against the responsiveness to personal need, one of the main justifications for developing personal budgets.
- The determination of what is personal care and what is not has already become a fault line in Scotland, where for example, the provision of meals has been challenged in court as to whether it is personal care (i.e. ensuring that the person is fed) or not
- Those whose needs may be best met in a residential setting may resist entering a care home because of the financial incentive of receiving free care at home.
- The local market may become destabilised over time, as more people opt for care in their own homes.
- There is a risk that the requirement that to qualify for support people need to demonstrate a significant need for support in 4 or more activities of daily living could prove age discriminatory, in that it would exclude some profoundly disabled younger adults from the assessment.
- The current software does not record anywhere the need (or otherwise) for support in activities of daily living. To be able to implement this change, it will be necessary to specify appropriate changes, the software house will have to develop them, for us to apply and test, and to train staff in their use. All of this would need to be in place before October 2010.

Financial implications

(2) It is hard to provide a clear estimate for the likely cost of this policy. There are significant areas of uncertainty, notably:

- The extent to which current self-funders qualify for this financial support.
- The extent to which current service users on critical also need significant help with 4 or more activities of daily living (and the definition of 'significant').
- The extent to which people currently in residential care will seek to discharge themselves to benefit from this policy.
- The extent to which this will influence people's future choices on residential or non-residential care.
- The extent to which a reliable distinction can be made between personal and non-personal care.

(3) Other financial risks, which cannot be assessed but which could further increase costs are:

- People believing that they should be eligible for this support, when they are not, refusing to pay for their support, thereby increasing levels of debt.
- Individuals who are eligible for this support not seeing the need to apply for continuing health care status (and indeed PCTs being reluctant to assess for this) thereby increasing the numbers and costs of people supported.
- Informal carers stepping back from some or all of the care they currently provide, on the basis that this is now a free service.

(4) The overall funding proposed is only for the second half of the 2010/11 financial year, after that there is no clarity at all. Government will similarly have struggled with the uncertainties listed above, and therefore there is some concern that their figures do not adequately reflect the likely true cost of this policy. In addition, there is an assumption that, of the estimated £670m national cost, £250m (or 37%) will be found by efficiencies in local authorities. In Kent (as in many other local authorities) the efficiency savings arising from enablement and other preventative services have already been factored in to the Medium Term Plan to pay for the demographic increases in older people numbers. It is also considered that the assumption that local authorities will pay for part of a new policy is in direct contravention of the Government's own New Burdens Doctrine, which states that new Government requirements should be fully funded.

(5) The above factors give rise to considerable uncertainty in estimating the cost implications for Kent. This is clearly unsatisfactory. It is known that the Department of Health are currently revising some of the assumptions they have made in the light of responses already received to the consultation.

(6) There will be increased costs of administration as it is clear that the assessment and review processes will need to become more rigorous, and the recording of judgements will need to be sharp. It is inevitable that there will be legal challenge either from people (or their families) believing that they should qualify; or by KASS following up debts from people who are refusing payment. These costs are estimated at £700k per annum. There will also be costs of implementation (software changes and training). These are estimated at £100–200k.

Communication

6. (1) Due to the significant implications of the proposals, in particular the cost of implementation and concerns about the assumptions underpinning the Department of Health's Impact Assessment, Kent has been in touch with a number of key players at a local and national level.

(2) Communication has involved elected members, Kent MPs, senior civil servants, Local Government Association colleagues, and the Association of Directors of Adult Social Services, among others. It has largely been focussed on the significant financial risk posed to KASS and the services it provides to the people of Kent, should the funding provided by Government prove to be inadequate to implement the proposals.

Developing a Kent response

7. (1) The KASS Finance and Policy teams have been working on analysing the implications for Kent, with input from the Performance team. There has also been liaison with Corporate Finance regarding the budgetary implications for the Council, given the requirement to implement the proposals in the next financial year and the financial impact in subsequent years.

(2) The consultation has been discussed internally within the Directorate and with the Adult Social Services Policy Overview and Scrutiny Committee. The discussions that have taken place at these meetings have informed the Kent draft response to date.

Conclusion

8. (1) The ramifications of the Government's proposals are varied and far-reaching. The impact of the Bill, should it be enacted, and the regulations and guidance resulting from the Government consultation will have significant impacts.

(2) The financial risk of implementing this policy is significant for local authorities. It is quite clear that there are many unknowns in determining how many people will benefit and at what cost. This represents a very high risk to the authority, at a time when budgets need to be tightly managed.

(3) These considerations aside, the short timescale for implementation would in itself present challenges to KASS. The Directorate is already in the throes of modernisation as part of the *Transformation* agenda, and faces competing demands as a result of the current economic situation and the ageing population.

Recommendations

9. (1) Cabinet is asked to:

(a) NOTE the contents of this report and the key points raised in the draft response to the consultation.

(b) COMMENT on the draft consultation response; and,

(c) AGREE the proposed response to the consultation on 'Personal Care at Home' and further agree that the Cabinet Member for Adult Social Services together with the Managing Director for Kent Adult Social Services be granted authority to approve any final points of detail and editing before the response is submitted to Government which must be done by 23 February 2010.

Contact:

Adam Webb
KASS Policy Officer
(7000) x4895/ 01622 694895
adam.webb@kent.gov.uk

Michael Thomas-Sam
Head of Policy and Service Standards
7000 x4843 / 01622 694843
michael.thomas-sam@kent.gov.uk

Background documents:

Personal care at home - A consultation on proposals for regulations and guidance, Department of Health, 25 November 2009;

Impact Assessment Personal Care at Home, Department of Health, 25 November 2009;

Equality Impact Assessment Personal Care at Home, Department of Health, 25 November 2009;

Personal Care at Home Bill 2009-10, Parliament, 18 November 2009.

This page is intentionally left blank

DRAFT RESPONSE

KENT COUNTY COUNCIL'S RESPONSE TO PERSONAL CARE AT HOME – A CONSULTATION ON PROPOSALS FOR REGULATIONS AND GUIDANCE

1. Introduction

(1) Kent would like to thank the Department of Health for the opportunity to comment on the proposals presented in the Government consultation, 'Personal Care at Home'.

(2) We welcome the Government's **intention** to provide free personal care at home for those with the highest needs. We strive to provide the best possible care for those in Kent who require our support, and welcome any move that helps to enable people to live healthy and fulfilling lives in their own homes.

(3) We are also pleased that Adult Social Care has come out of the shadows and been accorded the increased importance and higher public profile that it has long deserved. To this end, we eagerly await the Care and Support White Paper, which we hope will place Adult Social Care on more sustainable foundations and ensure that the health and well-being of the people of Kent are safeguarded for as long as possible.

(4) Kent also welcomes the emphasis placed on reablement services as a means to assist people to live as independently as possible. Kent has a strong heritage of pioneering transformation in Adult Social Care, and will continue to build on this through our commitment to promoting independence as part of the *Personalisation* agenda.

(5) One particular concern we must raise is the issue of the **affordability** of the Government's proposals. Having given careful consideration to the details in the consultation document and accompanying impact assessment, we have grave misgivings and have reached the conclusion that the proposals have not been sufficiently assessed and costed.

(6) As these proposals will increase the cost of providing local authority services, a failure to adequately fund this increase would be a breach of the New Burdens Doctrine, the Government's commitment to ensure new burdens falling on local authorities are fully funded. In particular, since the proposals rely on local authorities finding further efficiencies, it is clear that they will not be fully funded. We consider these proposals to fall within reasonable interpretation of the principle which underpins the Doctrine; as the Government has stated:

"A new burden is defined as any new policy or initiative which increases the cost of providing local authority services. The new burden need not necessarily arise as a result of a proposed statutory duty. For example,

guidance to act can result in additional costs falling on local authorities, putting pressure on council tax.

Government as a whole are committed to ensuring new burdens falling on local authorities are fully funded. This commitment is called the New Burdens Doctrine.”¹

(7) We would like to draw the Department’s attention to the fact that this is a view echoed by organisations which represent Councils with Adult Social Services Responsibilities (CASSRs) across the country. Most notable among them are the Local Government Association (LGA), the Association of Directors of Adult Social Services (ADASS) and the Society of County Treasurers (SCT).

2. Background

(1) Kent is the largest Council with Adult Social Services Responsibilities in England, and provides Adult Social Care to around 37,000 people in the community and 9,000 in residential and nursing care throughout the year. We also support over 10,000 people in the community through services we fund through the voluntary sector.

(2) Kent’s delivery of social care was assessed as three stars by the Commission for Social Care Inspection (CSCI) from the inception of the star rating system until CSCI was replaced by Care Quality Commission (CQC) and the star rating system was replaced by an assessment that focuses on delivery of outcomes. Throughout this time, Kent has continued to support individuals right down to the Moderate Fair Access to Care Services (FACS) eligibility level.

(3) In the most recent assessment of Kent Adult Social Services (KASS), we were awarded ‘Excellent’ in three of the seven outcomes:

- Improved Quality of Life
- Making a Positive Contribution
- Economic Well-being

and judged as ‘Performing well’ in the other four outcomes.

(4) Key areas which Kent was commended for in 2008/9 were:

- A clear focus on promoting the independence of older people and a strong emphasis on enablement and rehabilitation.
- Well-developed joint working arrangements with Health and other partners.
- Increased focus on Self-Directed Support.

¹ <http://www.communities.gov.uk/localgovernment/localgovernmentfinance/newburdensdoctrine/>

(5) In order to maintain this performance, Kent has had to raise additional funding through local taxation, but has managed to maintain a non-residential charging policy which is in the middle range compared to those operated by many other authorities.

(6) Due to the demographic pressures of an ageing population, the current financial climate and the need to deliver the initiatives set out as part of the *Transformation* agenda, Kent Adult Social Services has been undergoing a seismic shift in the way it delivers care and support to the people of Kent. Kent has had to do this to ensure that it can continue to provide quality services as efficiently as possible.

3. Structure of the response

(1) We have a number of comments on the proposals outlined in the Government consultation. These are set out in the remainder of this document, along with our responses to the consultation questions, in the following sections:

4. Financial implications

5. Boundary and definition issues

6. Implementation

7. Operational and process issues

8. Conclusion

Annex – Responses to individual consultation questions from DH

4. Financial implications

(1) As the Department of Health Impact Assessment (IA) concedes, there is “inherent uncertainty in estimating the costs of offering free personal care in their homes to those with 4 or more ADLs”². The IA is replete with such statements:

“the number of people who are defined as FACS Critical at any point in time and the relative distribution of their needs/disability is not something that is routinely collected at the centre”³

“We know very little about the disability of those younger adults who do not already receive free personal care, so all of the estimated costs of extending free care to this group have been included in the 4+ADL figures. These costs are themselves uncertain...”⁴

“Due to the inherent uncertainty in estimating the costs of offering free personal care in their homes to those with 4 or more ADLs, the overall costs reported in this Impact Assessment are estimated over a period of

² Impact Assessment of Personal Care at Home Regulations and Guidance, p 8

³ p7, *ibid.*

^{4,5,6} p8, *ibid.*

just two and a half years. With better information and two and half years of experience, more accurate costs will be able to be produced.”⁵

“Estimating the costs of re-ablement is difficult. We do not know for certain how many people are already receiving re-ablement services. In addition, we do not know exactly what proportion of individuals require no further care following re-ablement or for how long they derive such a benefit.”⁶

(2) Whilst we accept that assumptions are necessary in any financial modelling, we urge the Department not to underestimate that there is a high level of uncertainty about the true cost of the proposals and this poses a serious risk to local authorities’ ability to deliver them.

(3) Particularly alarming, is the fact the Department have used 6.54 hours in their modelling of costs⁷. Independent research carried out by the Personal Social Services Research Unit (PSSRU)⁸ suggests that the target hours of personal care for an individual needing help with 4 ADLs is 15.6 hours per week, and for an individual needing help with 5 ADLs the figure is 18.7 hours per week. This evidence, combined with our experience in providing care and support in Kent, suggests that 6.54 hours would be woefully inadequate to meet the requirements of those with the highest level of need.

(4) For example, one of our service users is a 50 year old lady with Cerebral Palsy; she is a wheelchair user at all times. She lives with her brother-in-law, who carries out all domestic tasks. She requires seven ‘double-handed’ one hour visits per week, twenty double-handed half hour visits per week, and 1 hour visit from one member of staff. The Independent Living Fund pay for someone to take her out. It can be seen that, due to the requirement for double-handed care, she requires 35 hours of care per week.

(5) We have carried out our own analysis of what implementing the proposals would cost. It is hard to provide a clear estimate for the likely cost of this policy. There are significant areas of uncertainty, notably:

- The extent to which current self-funders qualify for this financial support
- The extent to which current service users on Critical also need significant help with 4 or more Activities of Daily Living (and the definition of ‘significant’)
- The extent to which people currently in residential care will seek to discharge themselves to benefit from this policy

⁷ Impact Assessment of Personal Care at Home Regulations and Guidance, p16 (Annex B)

⁸ Forder, J and Fernandez, JL, *Analysing the costs and benefits of social care funding arrangements in England: technical report*, Personal Social Services Research Unit, July 2009.

- The extent to which this will influence people's future choices on residential or non-residential care
- The extent to which a reliable distinction can be made between personal and non-personal care.

(6) Other financial risks, which cannot be assessed but which could further increase costs are:

- People believing that they should be eligible for this support, when they are not, refusing to pay for their support, thereby increasing levels of debt
- Individuals who are eligible for this support not seeing the need to apply for Continuing Healthcare status (and indeed PCTs being reluctant to assess for this) thereby increasing the numbers and costs of people supported
- Informal carers stepping back from some or all of the care they currently provide, on the basis that this is now a free service.

(7) The overall funding proposed is only for the second half of the 2010/11 financial year, after that there is no clarity at all. It is evident that the Department has similarly struggled with these uncertainties, and therefore there is concern that its figures cannot adequately reflect the likely true cost of this policy.

(8) In addition, there is also the assumption that, of the estimated £670m national cost, £250m (or 37%) will be found by efficiencies in local authorities. In Kent (as in many other local authorities) the efficiency savings arising from enablement and other preventative services have already been factored in to the Medium Term Plan to pay for the demographic increases in older people numbers. It is also considered that the assumption that local authorities will pay for a part of a new policy is in direct contravention of the Government's own New Burdens Doctrine, which states that new Government requirements should be fully funded.

(9) It is our assessment that there will be increased costs of administration. It is clear that the assessment and review processes will need to become more rigorous, and the recording of judgements will need to be unambiguous. It is highly probable that there will be legal challenges, either from people (or their families) believing that they should qualify; or by Kent Adult Social Services following up debts from people who are refusing payment.

(10) Taking all of these factors together, the current estimate of the costs of this policy for Kent is £9m-22m. This is over and above an assumed level of grant from Government, and includes the unfunded level of efficiencies.

(11) This scale of gap is a function of the level of uncertainty regarding how many people will be eligible for financial support, and for how much. It also represents a fundamental concern that government has seriously underestimated the level of personal care required by people with 4 or more ADLs.

(12) In addition to this it is estimated that the implementation costs will be between £100-200k, while ongoing administration will cost around £700k. Both of these estimates depend on the complexity of the regulations and guidance, when published, and will therefore be subject to review at the time.

5. Boundary and definition issues

(1) We have serious concerns about how well-defined the boundaries will be regarding an individual's eligibility for free personal care at home, and the problems that will result from this lack of clarity.

(2) Despite the fact the consultation document proposes that the guidance would cover what does and does not fall within the definition of 'personal care'⁹, we think this would introduce further complications for charging (and may lead to dispute). This would happen particularly with the implementation of more holistic and flexible personal budgets. It also mitigates against responsiveness to personal need, which may change from day to day, and this is one of the main justifications for providing personal budgets.

(3) At a time when authorities are, quite rightly, moving to give individuals more choice and control over the way in which their care and support needs are met, with 'light touch' monitoring of how they are meeting those needs, it would be very difficult to ensure that they are using the free 'personal' care element of their budget exclusively for items of personal care.

(4) The determination of what is personal care and what is not has already become a fault line in Scotland, where for example, the provision of meals has been challenged in court as to whether it is personal care (i.e. ensuring that the person is fed) or not. The same scenario may arise should the proposals be implemented in England, so we urge the Department to pay careful attention to this to ensure that the final policy makes the distinction abundantly clear.

(5) In borderline cases, an individual's needs might just fall short of the criteria that qualify them for free personal care. This may lead to acrimonious and costly disputes. Our authority, like others across the country, is mindful of the need for resources to be used as effectively as possible, particularly in the light of the current economic climate and the increasing pressures on the social care budget. It can be seen from disputes that already arise as a result of the Ordinary Residence regulations, that legal challenge can be very costly, and can divert resources away from where they are needed most.

(6) Due to the separation that will be required to be made between personal and non-personal care in a personal budget context, we strongly oppose the way that the proposals have been presented to the public. We think the wording needs to be changed in order to manage public expectation; otherwise most individuals will be expecting to receive all of their care free, when clearly this will not be the case since non-personal care will be subject to normal means-testing.

⁹ Personal Care at Home, a consultation on proposals for regulations and guidance, p14

(7) The first two options for allocating the amount to an individual to meet their care needs are based on setting an indicative amount and an indicative range. However, the local authority will still be required to fund personal care needs above that indicative amount. Assuming the indicative amount is assessed on average costs, there is a serious risk of over-compensating service users whose personal care costs are below average. This will add to the financial pressures of the system.

(8) If people believe that they should be eligible for free personal care when they are not, they may refuse to pay their assessed contribution. This would increase further pressures on our budget due to the accruing debt.

(9) There are implications relating to NHS Continuing Health Care (CHC), another potential source of dispute under the current arrangements. Even if an individual may be eligible for CHC, they may have less reason to apply for it because of the possibility (and high public profile) of 'free' personal care. If someone thinks they can have all their needs met free of charge under the proposals, it is questionable that they would bother going through *another* assessment process for arguably the same result. This would put further pressure on the social care budget.

(10) Finally, we are very surprised that the consultation document does not cover scenarios where individuals may recover over the longer term, and so cease to meet the eligibility for free personal care. Withdrawing free personal care from individuals may perversely create *dependency*, since a consequence of regaining independence would be that an individual would then start paying for care that was previously free. As such, this would serve to undermine one of the key objectives of *Putting People First*, namely better management of long term conditions.

6. Implementation

(1) We have begun to analyse the steps that will need to be taken in Kent to implement the Government proposals. Given the particularly short time-frame requirement for making significant changes, coupled with work already being undertaken to transform the way in which we provide care and support for the people of Kent in line with the *Transformation* agenda, we believe the implementation date is unrealistic. This is for a number of reasons, namely:

- It is likely that we would need to conduct a full public consultation on our charging policy, in line with Cabinet Office guidelines. This would mean that we would have to spend a minimum of 12 weeks in consultation, with further time required to analyse the responses and amend our charging policy accordingly.
- We would need to make a number of key changes to our client database system in order to begin to record information on Activities of Daily Living (a new requirement) and splitting the recording of care needs between personal and non-personal. This would involve specification of changes,

development by our software house, testing of the new functionality and training of our staff in its use.

- Staff would need to be trained to carry out more detailed assessments in order to assess an individual's ability to carry out 4 or more ADLs, and would also need to be conversant with the new National Assessment Tool that the Department of Health is proposing to develop. We would also need to consider how we deal with the increased workload of our assessment staff and the further transactional costs that would be entailed.
- Kent would also need to make changes to its charging mechanisms, both at a systems and operational level, to implement the distinction between personal and non-personal elements of a personal budget. Many authorities are already struggling with a similar distinction as a result of the move from 'traditional' care packages to personal budgets and as a result of the Fairer Contributions Guidance, published by the Department last year. These proposals will complicate this situation further.

7. Operational and process issues

(1) There are a number of operational and process issues that will be encountered once any proposals are implemented. Most of these have been covered elsewhere in this document, but are presented below to illustrate the effects these proposals would have on the day-to-day provision of services:

- If people believe they are eligible for free personal care, they may refuse to pay their assessed financial contribution. This would place a further burden on our staff undertaking income collection and debt recovery
- It is difficult to estimate to what extent the proposals will affect those delivering informal care (i.e. unpaid carers), but it is likely that some service users will instead opt for support from the local authority, as it will be free
- Individuals will be less likely to apply for Continuing Healthcare if they believe they are able to get free care and support from the local authority, particularly as Personal Care at Home has been afforded a high public profile
- As well as after a period of intensive support, such as reablement, individuals may also recover in the longer term. Those who cease to meet the eligibility for free personal care will have to start paying a contribution, so there is risk that this would create a perverse incentive to not recover - *dependency*
- The requirement to record an individual's ability to carry out Activities of Daily Living would mean that more information would need to be recorded

- Reporting extra information in statistical returns would place an additional burden on the staff (practitioners and performance) already producing information for the National Indicator Set, the existing statutory returns and information collected for local performance frameworks.

8. Conclusion

(1) We reiterate our concern that this policy as currently drafted is unaffordable, at high risk of generating legal challenge and impossible to implement within the proposed timeframe. We strongly urge Government to consider piloting the proposals to ensure the above risks and issues can be better understood and managed before implementation. We also urge Government to give local authorities a guarantee that all costs of the policy will be funded.

Annex - Responses to individual consultation questions from DH

Do you agree with the substance of the proposal as set out in this document? If not, why not?

(1) Whilst we agree with the *principle* of the proposal, we think that the costings in the IA demonstrate that it will not be adequately funded (see section 4 of this document). We think:

- the expectation placed on local authorities to find further efficiencies to help fund the proposal is optimistic at best
- the implementation date is unrealistic, given the changes needed to implement the proposals, particularly while also undergoing *Transformation*.

Are there any potential positive impacts on equalities of this policy? Similarly, are there any potential negative impacts?

(2) We think that this policy is heavily focussed on older people. As such it does not take into account the needs of younger adults in any great depth, and is likely to benefit older people disproportionately in relation to younger adults with care and support needs.

(3) Furthermore, since it will only apply to those who would normally be eligible to pay the full cost of their care, this policy gives benefit to the more affluent with little or no benefit to those with limited means.

(4) As the intention is to provide free *personal* care, this policy will not benefit individuals with other care and support needs, such as social isolation or mental health issues. We think this will have a negative impact upon equality.

An Impact Assessment is available to accompany this consultation document. Do you have any comments on the perceived costs and benefits outlined in the Impact Assessment?

a) Option 1 (do nothing):

Costs

(5) The assertion that, “*Compared to option 2, people will not be protected from future increases in personal care charges by councils as part of their domiciliary care charging policies.*”, is disingenuous because only those with the ‘highest needs’ will be protected from future increases in personal care charges. Indeed, should the proposal be implemented, local authorities may face increased pressure to put up domiciliary care charges in order to help fund free personal care for those who do qualify.

b) Option 2 (the proposal):

Costs

(6) As documented throughout this response, we have serious misgivings about the costs of this option. The IA is riddled with uncertainty (see section 4(1) of this response), and we think the assumption that those with the highest needs would require, on average, 6.54 hours per week is particularly alarming.

Benefits

(7) We wholeheartedly endorse the (non-monetised) benefits of reablement set out in the IA, namely more people living in their own home and improvement in individuals' health and well-being.

Is the level of detail proposed for the regulations appropriate? If not, why not?

(8) We are concerned that, if the regulations are not sufficiently watertight, local authorities could face legal challenge as a result of their interpretation of them. Precedents set as a result of case law judgements may subsequently alter interpretation of the regulations, and this could mean increased costs to CASSRs if they suddenly find they have to fund free personal care for more individuals than previously.

(9) We also have concerns that, since the Department have only attempted to cost these proposals for the first two and a half years after the implementation date, local authorities could become liable for great expense in funding their portion of delivering free personal care. We would therefore ask that the regulations in some way limit local authorities' liability in terms of their contribution to the cost of these proposals.

(10) Kent endorses the proposal that no charge will be raised for intensive support and reablement services. We are of the opinion that not only does providing such a service free promote independence, health and well-being, but it also saves local authorities money in the longer term, since individuals are less likely to present themselves at a point of crisis.

Is the balance right between regulations and guidance? If not, why not?

(11) Please refer to paragraphs 8 – 10 above.

Is there anything that you feel should be in the guidance rather than regulations, or vice versa?

(12) Whilst we believe that it would be helpful to have explanations of what does and does not fall within the definition of personal care in the guidance, it would be more helpful to have water-tight definitions in the regulations, since these will carry more weight in a court of law.

Has anything been omitted from this document that should be included in either the regulations or the guidance?

(13) Since the whole policy hinges on the meaning of 'personal care', we are concerned that the definition needs to be crystal clear in order to prevent costly legal disputes, it would be useful to have:

- Further detail of the definitions of 'physical assistance' and what forms that could take (e.g. would assistive technology that might be able to fulfil tasks instead of a person amount to 'physical assistance'?)
- More detail on what actually constitutes each of the six activities in the draft regulations
- Further examples of what the definition does *not* cover.
- Real-life case studies, which may help illustrate the above.

Which of the 3 options do you feel would be most appropriate for allocating the amount needed for personal care needs to eligible individuals?

[The options are: Setting an indicative amount (of £x per week); Setting an indicative range (of between £x and £y per week); Leaving councils to determine on an individual basis.]

(14) We prefer the 3rd option for allocating support to individuals. As we will be required to pay for the full costs of personal care, the other two options, by fixing an amount, presumably based on an average, give rise to the risk that we would over-compensate those who had care needs less than the average. As it would be necessary to estimate the total cost in all cases to ensure that the requirement to meet the full cost is met, there can be little advantage in using a fixed or banded payment.

Do you have any further comments on the allocation of the amount needed for personal care needs to eligible individuals?

(15) Self-funders may currently be receiving services at a cost over and above that which we would normally fund. We would therefore need the ability to cap the level to which we fund provision for those individuals ceasing to fund their own care.

Do you have any comments on the aspects of implementation outlined in the document?

(16) We think that the implementation date is unrealistic. Please see section 6 of this response.

In particular, do you have comments around any level of retrospection?

(17) It is hard to see how a period of retrospection could work if a local authority required reablement as a prerequisite to accessing free personal care. However, where reablement is already a standard offer for local authorities, there are cases where a period of retrospection could apply.

(18) The proposed timeframe for retrospection (3 months), would mean that individuals would have a short timescale in which to apply to have their free personal care backdated. This would mean that the opportunity to do so would be limited, and may also mean that the volume of such applications would be very high within a short space of time, which would add to the cost of implementation.

Do you have any comments on the collection of new data and its relation to existing information?

(19) Reporting extra information in statistical returns would place an additional burden on the staff already producing information for the National Indicator Set, the existing statutory returns and information collected for local performance frameworks.

(20) The implementation of the National Indicator Set was intended to reduce the burden on local authorities and give them more capacity to deliver local performance frameworks (e.g. Comprehensive Area Assessment) in order to support the transformation of social care.

(21) Although acknowledging the need for this information, there are concerns that the development of personalisation, local strategic commissioning and markets to support people's choices would be hindered if resources are diverted to prepare for this.

(22) In particular, this is from:

A practitioner perspective - with more time spent assisting with intensive information gathering and data input as opposed to supporting users with self directed support

A commissioner perspective - where the real need for streamlined outcome information to support market development and to ensure peoples needs are met will be diluted for a time.

A performance perspective - the resource needed to implement this would be significant and would reduce the capacity of a local authority to evaluate and support the Directorate with personalisation and ensuring the best outcomes for people are delivered.

Which of the 3 options do you prefer for the funding formula for the Free Personal Care Grant?

(23) We prefer the 3rd option for a funding formula, as this is the only option which seeks to take into account the fact that people supporting themselves on benefits will already be receiving all of their social care for free. The first two options, by factoring an adjustment for deprivation, will effectively skew the funding to where it is not needed.

Do you have any specific comments about the 3 funding formula options?

(24) It is clear that the main issue driving the uncertainties about self funders coming for support is the actual number of self funders who may exist in any local authority area. This will be driven by the market in that area, and the extent to which capacity exists, beyond that already purchased by the local authority. We wonder if it would be possible to work with CQC to develop a view of market capacity, against which current local authority usage can be mapped, allowing a more robust assessment to be made of actual self-funders and a view of the numbers who would be eligible for this support.

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

To: Cabinet – 1 February 2010

Subject: **CARE QUALITY COMMISSION – ANNUAL PERFORMANCE ASSESSMENT REPORT FOR ADULT SOCIAL CARE**

Classification: Unrestricted

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

Introduction

1. On 30 June 2009, Kent Adult Social Service's Annual Review Meeting with the Care Quality Commission (CQC) took place to audit performance for the year 2008/09. This was the fourth year where adult social care was reviewed separately from Children's Social Services. Enclosed with this report is the letter from CQC informing us of our performance rating for the period 2008- 2009 (Appendix 1). There is a requirement to present the letter to an executive meeting of elected members by 31 January 2010.
2. Although in the main the services this assessment applies to cover the Kent Adult Social Services Directorate, it does cover some services now managed within the Communities Directorate such as KDAAT (Kent Drug & Alcohol Action Team).
3. In April 2009, the Commission for Social Care Inspection merged with the Healthcare Commission and the Mental Health Act Commission to form the Care Quality Commission.
4. The Care Quality Commission no longer award star ratings to Local Authorities and has made the annual performance assessment a 'harder test'.
5. Over the last three years there have been changes in the rating system. In the previous two years the three star rating was made up of two domains. These were
 - The Delivery of the seven outcomes first identified in 'Our Health, Our Care, Our Say'
 - Capacity to Improve, which consists of two elements, '*Leadership*' and '*Commissioning and Use of Resources*'
6. To obtain an overall rating of 'Excellent' in the Delivery of Outcomes, four out of the seven outcomes had to be rated as 'Excellent' and none below 'Adequate'.

7. In the previous two years to obtain 'Excellent' in 'Capacity to Improve', both elements of 'Leadership' and 'Commissioning and Use of Resources' had to be 'Excellent'.

8. In order to obtain 3 stars in the previous two years, a council needed to score an overall 'Excellent' in the Delivery of Outcomes or Capacity to Improve and at least 'Good' in the other domain. As can be seen from the table below KASS had achieved 3 stars through the Capacity to Improve domain.

9. For CPA/CAA purposes, only the overall rating for the Delivery of Outcomes has been used for this and previous years.

10. For 2008/09, star ratings have not been awarded. Furthermore, there is now no rating given for Capacity to Improve. The rating is based solely on the Delivery of Outcomes. As the table illustrates, over the last three years we have continued to improve in the Delivery of Outcomes.

Delivery of Outcomes	2006-7	2007-8	2008-9
1. Improved health and emotional well-being	Good	Good	Good
2. Improved quality of life	Good	Good	Excellent
3. Making a positive contribution	Good	Excellent	Excellent
4. Increased choice and control	Good	Excellent	Good
5. Freedom from discrimination and harassment	Good	Good	Good
6. Economic well-being	Good	Good	Excellent
7. Maintaining personal dignity and respect	Good	Good	Good
Capacity to Improve (Combined judgment)	EXCELLENT	EXCELLENT	Not graded
Leadership	Excellent	Excellent	Not graded
Commissioning and use of resources	Excellent	Excellent	Not graded
Performance Rating	3 STARS	3 STARS	PERFORMING WELL

Policy Context

11. 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.

12. In assessing performance, CQC uses Performance Assessment Framework (PAF) indicators and other statistical data, including the self assessment statement (SAS).

13. Key points we were commended for were:

- Clear focus on promoting the independence of older people and a strong emphasis on enablement and rehabilitation.
- Well-developed joint working arrangements with Health and other partners.
- Increased focus on Self-Directed Support.
- Support for service users and carers to contribute their views and to shape services. This encourages integration into community life and local activities. The council is committed to actively involving people in planning, delivery and monitoring of its services.
- Commissioning and contracting arrangements are strong with regard to adult safeguarding.

14. The main areas for improvement identified – continue working on the transfer of people with learning disabilities out of NHS provision, address the recommendations made by the service inspection, continue to increase the focus on minority groups, act upon the feedback given by carers in the Carers Satisfaction Survey, increase the rate for safeguarding awareness and training for all relevant staff - are being addressed.

15. The outcome of the performance analysis of Kent Adult Social Services for 2008-09 was announced on 3 December 2009. Instead of the annual star ratings of KASS, in which we have been awarded three stars in the last seven years, Kent Adult Social Services was awarded 'Excellent' in three of the seven outcomes:

- Improved Quality of Life
- Making a Positive Contribution
- Economic Well-being

and was judged as '*performing well*' in the other four outcomes.

16. This is a further improvement on last year's performance where we were judged as 'excellent' on achieving two outcomes and 'good' on the five others.

17. This performance assessment is taken with the judgements reached in the Independence, Wellbeing and Choice inspection in March 2009, which rated Kent Adult Social Services as follows;

- Safeguarding adults Good
- Delivering preventative services (focussed on older people) Excellent
- Capacity to improve Excellent

18. This is excellent news for KCC and people and their carers who use Kent Adult Social Care Services, reflecting the energy, commitment and skill of staff right across the Directorate.

Recommendations

19. Cabinet is asked to

- a) NOTE this report and the Annual Performance Assessment letter.

Nick Sherlock
Planning and Public Involvement Manager
01622 696175

Katherine Stephens
Senior Planning Officer
01622 694556

Attached documents:

Appendix 1: Annual Performance Assessment letter.

**Annual Performance Assessment Report
2008/2009**



Adult Social Care Services

Council Name: Kent

This report is a summary of the performance of how the council promotes adult social care outcomes for people in the council area.

The overall grade for performance is combined from the grades given for the individual outcomes. There is a brief description below – see Grading for Adult Social Care Outcomes 2008/09 in the Performance Assessment Guide web address below, for more detail.

Poorly performing – not delivering the minimum requirements for people

Performing adequately – only delivering the minimum requirements for people

Performing well – consistently delivering above the minimum requirements for people

Performing excellently- overall delivering well above the minimum requirements for people

We also make a written assessment about

- Leadership and
- Commissioning and use of resources

Information on these additional areas can be found in the outcomes framework

To see the outcomes framework please go to our web site: [Outcomes framework](#)

You will also find an explanation of terms used in the report in the glossary on the web site.

Delivering Outcomes Assessment

Overall Kent County Council is performing:

Well

Outcome 1:

[Improved health and emotional well-being](#)

The council is performing: Well

Outcome 2:

[Improved quality of life](#)

The council is performing: Excellent

Outcome 3:

[Making a positive contribution](#)

The council is performing: Excellent

Outcome 4:

[Increased choice and control](#)

The council is performing: Well

Outcome 5:

[Freedom from discrimination and harassment](#)

The council is performing: Well

Outcome 6:

[Economic well-being](#)

The council is performing: Excellent

Outcome 7:

[Maintaining personal dignity and respect](#)

The council is performing:

Well

Click on titles above to view a text summary of the outcome.

Assessment of Leadership and Commissioning and use of resources

Leadership

The council has demonstrated its commitment to the transformation agenda and this is supported by the development of the ten year Active Lives strategy launched in 2006. This has enabled the council to move rapidly along the transformation process. There has been a wide ranging review of roles and restructure of the whole adult social care workforce, including senior managers, to reflect the needs of the transformation agenda. The council has trained staff for the changes brought about by transformation and continues to support the workforce through a range of training opportunities. Despite potential disruption posed by the restructure, staff turnover has remained lower than average. Senior Managers have continued to focus on improvements to services and managed required changes within budget, with areas of over-spend offset by under-spends in other services. For example, the reduced spending in older people's services has been attributed to the increased management focus on preventative services. This has enabled increased spending on learning disability services, where additional pressures from long term demographic issues have arisen. The council works well with a range of partners to achieve improved and streamlined services. An example of this was the council's work with the Primary Care Trusts to reduce the number of delayed discharges from hospital.

Commissioning and use of resources

The council's 'Active Lives' strategy has been a major influence in commissioning and the council has used engagement opportunities to gain feedback from service users and carers to inform future commissioning. The council's commissioning strategies have also been informed by the joint strategic needs assessment, which has identified shared priorities that fed into the Local Area Agreement. The council has developed an innovative "Dashboard" system to inform commissioners about the assessed quality of service provided by both council run and independent care services. The council provides a very good directory, in both electronic and paper format, to inform the public about services available in Kent. Through the council's transformation agenda, more people are beginning to be offered personal budgets and brokerage services to facilitate access to services based on individual needs.

Summary of Performance

The council and partners are working hard to promote healthier and safer lifestyles for the people of Kent. The Brighter Futures Group is a good example of this because it focuses on preventative work and social inclusion. The council's work through telecare and telehealth is continuing, including the current focus on the Whole System Demonstrator pilot, which aims to lead to a better understanding of the level of benefit associated with such developments. The council recognises that further work needs to be done to make this available to a greater number of eligible people.

The council is supporting people to live independently through a wide variety of means, including supporting people into work in some areas and in addition the council is helping to tailor available housing to specific service user groups needs, for example supported housing for people with mental health problems. The council and its partners have continued to develop a full range of clear information regarding healthy lifestyles, and have begun to take steps to improve the accessibility of the information to people. The council is developing systems to show in more detail that this information is having an impact on the health and wellbeing of people who use services in Kent.

The council has well-developed joint working arrangements with health and other partners, which provide appropriate support for most people. However, the council acknowledges the need to improve support for people with particular needs, such as minority groups and those with learning disabilities. The innovative "Healthwatch" service provides an additional mechanism for feedback and dialogue between the council, the NHS and the public. People in Kent are able to leave hospital as soon as they are well and there have been good improvements in the length of delays, which has brought the council back into line with similar authorities. This has been achieved by increasing the use of intermediate care provision in residential settings.

There was a clear focus on promoting the independence of older people and a strong emphasis on enablement and rehabilitation. The council is supporting people to stay independent, with an increased focus on self directed support, which is reflected in the increased uptake of Direct Payments. The council has actively invested in the independent and voluntary sectors to provide a wide range of preventative services, and the innovative Gateways service helps people to access public services and those provided by voluntary organisations. There is, however, a need for the council to monitor the outcomes for older people and carers who were referred to some arms-length services.

Carers are increasingly able to balance caring with a life of their own through direct payments and one off payments from the Carers Grant. The council has a Young Carers Strategy, "Invisible People" and good work is being done for this group of young people, but the council should monitor the impact of this strategy. People who use services and their carers are able to have a social life and to use mainstream local services. This is achieved through services such as The Brighter Futures Project, and the Guide Communicator for Deaf-blind people. Similarly, the council continues to support people and their carers who have complex needs. This can be seen in the consistently above average levels of additional extra-care housing places and other specialist housing places provided in partnership with district councils. The council is aware of gaps in provision, and takes steps to rectify these.

There is some evidence that people who use services feel safe and the council has explicitly set this as a target. In general the council provides advice and support at an early stage; however

the March 2009 Independence, Wellbeing and Choice CQC service inspection highlights some limited public awareness about preventative services.

The council provides support for service users and carers to contribute their views and to shape services. This encourages integration into community life and local activities. The council is committed to actively involving people in planning, delivery and monitoring of its services. People who use services in Kent are able to contribute their views on services through a wide variety of routes, including Partnership Boards, staff recruitment and user groups. The council also holds regular conferences and workshops, which help to capture people's views.

Voluntary organisations in Kent are thriving and accessible, and the council recognises the essential role that they will take in moving towards personalisation and self directed care. The council has provided evidence of how it uses complaints from people using services to improve those services. People are able to easily input their views and experiences of the care that they receive in many different ways, including the LINKs network. The council is an early adopter of Making Experiences Count, a system that aims to ensure user experience shapes future service provision. The council also works with carers' organisations, including hard to reach groups, to gather information and feedback from carers in order to make further improvements, although it acknowledges that there is still work to be done, especially for those with complex needs.

Overall the council is performing very well in increasing the choice and control of the people who use services. Self Directed Support is a central part of the council's modernisation strategy, and the number of people in receipt of Direct Payments continues to rise across all services user groups. The council is aiming to increase the number of people receiving personal budgets.

The council has a variety of sources of information and advice for people and is planning to increase these still further. People are given advice and information that helps them think through support options such as the Carers' Training and Education provided by the council and the carers' self assessment tool. The council is also making progress in ensuring fair access to services for most people and has worked to promote its services to the black and minority ethnic community.

The percentage of people receiving timely assessments for service provision has improved and people receive services soon after assessment. Advocacy services for people with a learning disability are provided by a voluntary organisation and the council has demonstrated its commitment by continuing a good level of funding for advocacy. People with physical disabilities increasingly have had their support personalised, with closure of older day services and replacement by services focused on individual preferences.

The council has taken a variety of steps to improve accessibility to services. There are a range of support services for people to assist with independent living, such as the Carers' Emergency Support card, which provides a 24-hour service or the Carers' respite service. Young people receiving social care have person-centred transition planning. Most people who use services and their carers can contact service providers when they need to. Although complaints have increased this year and are higher than average, this may reflect the ease with which people are able to register a complaint. The council recognises that there are still further improvements to make on this outcome.

The council has provided funding workshops and other capacity building advice and support to community groups whose members may face discrimination and harassment. However, these are localised to small areas of the county and need to be more widespread. The council is addressing issues of Hate Crime, especially for people with learning disabilities and has provided a lead with this group in conjunction with Kent Police and the 12 District Councils.

The council is providing support to people who use services and their carers to meet living and support costs and is working with the Department for Work and Pensions to enable people to make the maximum benefit claims possible. The County Benefit Service also operates a Benefits Helpline and provides training in benefit issues to a range of staff, including those from voluntary organisations. Support for people who are unable to manage their own financial affairs is available through a range of services including advocacy services and independent mental capacity advocates. As part of its new Carers' Strategy the council is working with other public service employers to provide flexible working policies. The rate of people with learning disabilities in employment is good.

The Kent and Medway Safeguarding Vulnerable Adults Committee is effectively managed and takes the lead for safeguarding across Kent. The council and its partners generally respond quickly to allegations that people are at risk of harm or abuse and implement effective safeguarding arrangements.

The council is aware of the need to increase its capacity to provide training on safeguarding for its staff. Whilst the percentage of staff trained to identify and assess risks to vulnerable people has improved, the percentage is well below the average of similar councils. The amount of safeguarding training provided to relevant staff in the independent sector is also improving, but there is still further work to be done.

A number of preventative support services are in place enabling early warning and effective monitoring of risk. The links between adult safeguarding and community safety are strengthening at both strategic and operational levels to develop more preventative work in relation to the safeguarding agenda. The council provides a range of information to the public about adult safeguarding, although service inspection identified that this was not effectively raising awareness amongst service users, carers or the public.

Commissioning and contracting arrangements are strong with regard to adult safeguarding. The council purchases more places from services rated as good and excellent than it did in the previous year, and there are no longer any new places purchased in poor services.

Outcome 1: Improved health and emotional well-being

The council is performing: Well

What the council does well.

- There has been good improvement in the Delayed Transfers of Care figures and there has been a consistently lower number of people staying in hospital longer than they need to.
- The council and partners promote healthier and safer lifestyles. The Brighter Futures Group is a good example of this.
- The council has a wide range of strategies to promote health and wellbeing for people who use services. The outcomes of the implementation of these strategies should become more apparent in the forthcoming year.

What the council needs to improve.

- Continue working on the transfer of people with learning disabilities out of NHS provision.
- The council should continue to improve its monitoring of the usefulness of information provided to the public and service users.
- The council should monitor the progress of its alcohol abuse comprehensive action plan
- After the completion of Whole System Demonstrator pilot, the council should return its focus to the establishment of a wider telecare infrastructure and roll out of telecare to eligible people.

Outcome 2: Improved quality of life

The council is performing: Excellent

What the council does well.

- The March 2009 CQC Service Inspection concluded that the delivery of preventative services in Kent was excellent.
- The council's Handyvan service scheme provides improved home security for vulnerable people.
- The council's Young Carers strategy provides a wide range of services to support this group of young people, including guidance for schools.
- The council's work in relation to providing information about bogus callers and controlling cold calling contributes to security for vulnerable people.
- The rate of provision of extra care housing is very good and well above average.

What the council needs to improve.

- The council should address the recommendations made by the CQC Service Inspection.
- The council should continue to increase its focus on minority groups such as people with autism and their carers.
- The council should act upon the feedback given by carers in the Carers Satisfaction Survey.
- The council should continue to promote independent living for adults with profound learning disabilities and multiple physical and sensory disabilities, where appropriate.

- The council should monitor the impact of the outcomes for young carers as a result of the implementation of the Young Carers Strategy.

Outcome 3: Making a positive contribution

The council is performing: Excellent

What the council does well.

- Kent has been an early adopter of Making Experiences Count and is well prepared for the introduction of the new complaints process from 1 April 2009.
- Provides a wide variety of methods for people to contribute their views on social care.
- Strong links with the voluntary sector.

Outcome 4: Increased choice and control

The council is performing: Well

What the council does well.

- The number of people in receipt of Direct Payments continues to rise.
- The speed at which people receive services after having an assessment is very good.
- The council enables people to make informed choices over the types of care that they receive.

What the council needs to improve.

- The council should continue to roll out personalised budgets for all service user groups, where individuals are willing and able to use this option.

Outcome 5: Freedom from discrimination and harassment

The council is performing: Well

What the council does well.

- The council held a multi-agency event on the Department of Health consultation “No Secrets” to discuss and generate ideas on how to safeguard vulnerable people in the community and the responsibility/role of the wider community, public and agencies in this.

What the council needs to improve.

- The council should ensure that its work with black and minority ethnic communities extend to all areas of the county, especially those areas where there is a high black and minority ethnic population.
- Further work needs to be done to ensure equality of access for those people from minority groups across the whole county.

Outcome 6: Economic well - being

The council is performing: Excellent

What the council does well.

- Adults with learning disabilities in employment: The council is performing at a level that is better than the average for other similar councils and for England.
- The council is working with the Department for Work and Pensions to enable people make the maximum benefit claims possible.

What the council needs to improve.

- Monitor the impact of the Carers' Strategy on improving economic wellbeing for carers.
- The council should monitor their progress in employing greater numbers of people with a disability.

Outcome 7: Maintaining personal dignity and respect

The council is performing: Well

What the council does well.

- The CQC Service inspection found that Kent's safeguarding of adults was good.
- There has been an increase in reporting of safeguarding concerns as a result of work undertaken to raise the profile of adult safeguarding across Kent.
- The council and its partners responded promptly to allegations that people were at risk of harm or abuse.

What the council needs to improve.

- The council should address the recommendations made by the CQC Service Inspection.
- The council should endeavour to increase the rate for safeguarding awareness and training for all relevant staff.