

CABINET SCRUTINY COMMITTEE

Wednesday, 9th February, 2011

10.00 am

**Darent Room, Sessions House, County Hall,
Maidstone**





AGENDA

CABINET SCRUTINY COMMITTEE

Wednesday, 9th February, 2011, at 10.00 am
Darent Room, Sessions House, County Hall, Maidstone

Ask for: **Peter Sass**
Telephone: **01622 694002**

Membership

Liberal Democrat (1): Mrs T Dean (Chairman)

Conservative (11): Mr R F Manning, Mr R Brookbank, Mr A R Chell, Mr D A Hirst,
Mr E E C Hotson, Mr M J Jarvis, Mr R E King, Mrs J P Law,
Mr R L H Long, TD, Mr J E Scholes and Mr C P Smith

Labour (1) Mr L Christie

Independent (1) Mr R J Lees

Church The Reverend N Genders and Dr D Wadman

Representatives (3):

Parent Governor (2): Mr B Critchley and Mr P Myers

Refreshments will be available 15 minutes before the start of the meeting

Timing of items as shown below is approximate and subject to change.

County Councillors who are not Members of the Committee but who wish to ask questions at the meeting are asked to notify the Chairman of their questions in advance.

Webcasting Notice

Please note: this meeting may be filmed for live or subsequent broadcast via the Council's internet site – at the start of the meeting the Chairman will confirm if all or part of the meeting is being filmed.

By entering the meeting room you are consenting to being filmed and to the possible use of those images and sound recordings for webcasting and/or training purposes. If you do not wish to have your image captured then you should make the Clerk of the meeting aware.

UNRESTRICTED ITEMS

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

A. COMMITTEE BUSINESS

- A1 Introduction/Webcasting
- A2 Substitutes
- A3 Declarations of Interests by Members in Items on the Agenda for this Meeting
- A4 Minutes of the meeting held on 19 January 2011 (to follow)
- A5 Minutes of the meeting held on 24 January 2011 (Pages 1 - 12)
- A6 Follow-up Items from Cabinet Scrutiny Committee (to follow)
- A7 Notes of the Informal Member Group on Budgetary Issues held on 27 January 2011 (to follow)
- A8 Cabinet Scrutiny Committee Protocol (Pages 13 - 16)

The attached Cabinet Scrutiny Protocol has been drafted with input from the Chairman and Vice-Chairmen of the Cabinet Scrutiny Committee. Members are asked to note and approve the Protocol.

B. CABINET/CABINET MEMBER DECISIONS AT VARIANCE TO APPROVED BUDGET OR POLICY FRAMEWORK

There are no items for consideration

C. CABINET DECISIONS

- C1 Medium Term Plan 2011-13 (incorporating the Budget and Council Tax setting for 2011/12) - Update (to follow) (Pages 17 - 18)

Members are asked to bring their copy of the Draft Budget Book with them to the meeting

Mr P Carter, Leader of the Council, Mr J Simmonds, Cabinet Member, Finance and Procurement, and Mr A Wood, Acting Director of Finance, have been invited to attend the meeting between 10.30am and 11.15am to answer Members' questions on this item.

- C2 KCC Companies (Pages 19 - 32)

Mr J Simmonds, Cabinet Member, Finance and Procurement, Mr R Gough, Cabinet Member, Business Strategy and Support, Mr A Wood, Acting Director of Finance and Mr G Wild, Director of Governance and Law have been invited to attend the meeting from 11.15am to answer Members' questions on this item.

D. CABINET MEMBER DECISIONS

There are no items for consideration

EXEMPT ITEMS

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

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

Tuesday, 1 February 2011

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.

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KENT COUNTY COUNCIL

CABINET SCRUTINY COMMITTEE

MINUTES of a meeting of the Cabinet Scrutiny Committee held in the Darent Room, Sessions House, County Hall, Maidstone on Monday, 24 January 2011.

PRESENT: Mrs T Dean (Chairman), Mr L Christie, Mr R F Manning, Mr A R Chell, Mr R E King, Mrs J P Law, Mr R J Lees, Mr R L H Long, TD, Mr J E Scholes, Mr C P Smith, Mr M J Whiting and Mr A Sandhu, MBE (Substitute for Mr M J Jarvis)

PARENT GOVERNORS: Mr P Myers

ALSO PRESENT: Miss S J Carey, Mr P B Carter and Mr J D Simmonds

IN ATTENDANCE: Mr K Abbott (Director Resources and Planning Group), Mr D Shipton (Finance Strategy Manager), Mr A Wood (Acting Director of Finance), Mr P Sass (Head of Democratic Services and Local Leadership) and Mr A Webb (Research Officer To The Cabinet Scrutiny Committee)

UNRESTRICTED ITEMS

1. Budget 2011/2012 and Medium Term Financial Plan 2011 - 2013
(Item 4)

(1) The Chairman explained that the debate on the Budget would follow the order of the Medium Term Financial Plan (MTFP).

(2) Mr Simmonds introduced the Budget, explaining the aim had been to preserve frontline services, particularly to vulnerable people. In doing so, little had been cut, and an approach which was equitable as possible had been adopted. Replying to a question about whether it was difficult to see where the cuts were, Mr Simmonds explained that it was clear, by Directorate, where savings had been made.

(3) Responding to a comment that it was difficult to see where the reduction of approximately 1500 posts would be, Mr Simmonds explained that Managing Directors had undertaken to achieve these efficiencies throughout the year. The Leader added that in some Directorates conversations had already begun about the lower tiers. Mr Wood explained that there were around 960 vacancies across the authority as at November 2010, although some were posts that needed to be filled.

(4) Referring to a need to front load staff reductions, the Chairman asked when Members would know the effects of this in terms of post reductions. The Leader responded that there might be some announcements before the end of February, with different parts of the organisation at different stages in the process (e.g. Environment, Highways and Waste were already beginning to look at interviewing for posts in the new structure). Mr Simmonds and Mr Wood explained that Finance were in the process of evaluating the tasks the unit had to undertake and which were essential and non-essential, and the risks associated with each, and the structure would emerge over the next three months.

(5) Mr Manning expressed a view that, given that savings had been forced on the Council by Government, the focus should be on finding the £95 million of savings and that there was not a need to scrutinise staff cuts as part of the debate on the Budget. Mr Christie thought that it was not unreasonable to ask where posts were going to go, since it was impossible to reduce 1500 posts without affecting services. Responding to a question from Mr Christie about whether the turnover of 10% of staff had been factored into the plans to reduce posts, the Leader explained that this would enable the reshaping of the organisation without significant compulsory redundancies, since 1500 posts corresponded to 10% of the workforce, and that there were already approximately 900 vacancies in the organisation.

(6) The Leader explained that there was a desire to give staff certainty and reshape the organisation as quickly as possible but that it was difficult to identify what services would be stopped, because of the move to different and creative means of service delivery. There would be reductions to staff within Children, Families and Education (CFE), as the Council began to deliver the Secretary of State's more minimalistic approach; in Highways, as highways maintenance would be a priority and traffic improvement schemes would not take place over the next three to four years; and in Libraries, as the service was modernised through the use of technology. Mr Simmonds added that the Budget set out savings through efficiencies, policy savings and changes to procurement and this should give Members some indication where savings would be made within Directorates. Mr Wood's team had been as specific as possible about savings through the introduction of an A-Z of services in the Budget Book.

(7) The Chairman stated that it was difficult to see from the A-Z where reductions had been made without being able to compare the previous year's spending. Mr Shipton explained that officers had tried where possible to include the previous year's expenditure in the A-Z; however the Chairman made the point that it was not possible to ascertain how exactly savings would be achieved. A view was expressed that it was common in such situations for a strategic direction to be set, and further detail to be worked up in the future; if Members and Finance Officers had waited until all the detail was available, they would be criticised for not making the information available sooner. The Leader concurred with this view, stating that the Corporate Management Team and Cabinet had agreed the proposed Budget was deliverable, and that the next stage would be look at the staffing levels required to balance the books.

(8) Mr Simmonds explained that over the previous few months, Members and officers had looked at the efficiency and cost of each of the more than 300 services delivered by the Council, had had detailed discussions with Directorates and had asked whether the Council should continue to do certain things and whether certain services could be reduced.

(9) Mr Christie stated that he recognised that Government had imposed budgetary limits upon Councils and cited the example of Manchester City Council, which was facing problems implementing the savings. Referring to announcements that the Council would save £20 million in staff costs, he asked whether the need to make the saving had caused KCC to look at how staff cuts could make up that amount or whether the Council had looked at how many posts could be reduced and that happened to equate to £20 million. Assuming that the headings 'modernisation' and 'improvement' corresponded to staffing reductions, Mr Christie referred to savings of £21 million, £5 million and £4 million in the CFE, Kent Adult Social Services (KASS)

and Communities Directorates respectively and asked for the detail used to arrive at these figures.

(10) The Leader responded that the Council would need to reduce the cost of procurement, change service specifications, reduce staff costs or raise income, and it could be assumed that staff reductions would comprise part of the necessary savings. Using schools as an example, the Leader cited the direction of travel of Government and stated that changes in the Budget book reflected this, with more funding being given to schools and support services provided by the Council being reduced. Mr Simmonds added that Manchester had admitted that they had not made savings in previous years, but that Kent had been more proactive in anticipating the cuts; it was the element of front-loading which had taken the Council by surprise. Miss Carey stated that the savings that KCC was seeking to make, including staff reductions, were in-line with those of neighbouring authorities.

(11) Mr Manning made the point that uncertainty affected staff morale and performance, and asked when Members would know where the reductions would take place. Mr Wood explained that, in the case of Finance, this would probably be May with some colleagues in other Directorates further on in the process, while others were further behind. The Budget book assumed the process would take ten months.

(12) Using his own unit as an example, Mr Wood explained that initially officers had been asked to identify savings within their teams, but when the new structure of the Council had been agreed at County Council, and it was clear the Finance function had been centralised, officers had looked at how they could make savings of 30% over the next 2-3 years across the piece, rather than proceed with reductions in the Directorates. A draft would be presented to the Finance Strategy Board, then to Senior Management Teams and then to the Policy Overview and Scrutiny Committees (POSCs) before staffing changes could be confirmed. Mr Simmonds added that in some cases, contractual obligations would have an impact on the staff changes.

(13) Mr Christie requested that, in addition to the response from KCC to consultation on the Provisional Local Government Grant Settlement for 2011/12 which accompanied the agenda, a copy of the previous year's response be provided.

(14) The remainder of the discussions related to specific elements of the budget book

Introduction

(15) Responding to a question as to whether the funding settlement received by Kent was disadvantageous compared to other Councils, including its neighbouring or comparator authorities, Mr Simmonds explained that one area it had been affected more than other Councils was connected to 'damping', which was dependent on the proportion of funding Councils obtained from grant funding compared with council tax. Mr Shipton explained that there had not been a comparison with other Councils in the Budget book on this occasion due to the complexity of grant changes, but a comparative exercise by officers had shown Kent faring slightly worse than the average of County Councils.

(16) Miss Carey informed Members that there was going to be a review of Local Government funding, and this is why there had only been a two year settlement. There would be a need to press for fairer and more transparent funding. Replying to a question about whether Kent had received a response to its request for an earlier review of the funding formula, and whether any indication had been given about what changes may be made, the Leader responded that the Government's intent was to reduce the amount of recycled non-domestic rates and allocate spending to where commercial and domestic council taxes were collected, to reduce the amount of recycled money from the treasury. South East England Councils would be producing a report evaluating the various funding options, including the option put forward by Government, to arrive at a solution which was needs-based and transparent.

(17) The Leader explained that he, Mr Simmonds and Mr Shipton had met with the Parliamentary Under Secretary of State for Communities and Local Government, and on asking about the timeframe for the funding review, had been informed that it was expected to be completed by June. Mr Shipton added that this would take effect from the 2013-14 settlement onwards.

(18) Responding to a question about whether Kent had been treated unfavourably as a result of damping, Mr Simmonds explained that the Council's fears about what might happen to Preserved Rights grants had not been realised, but the Council had been worse hit by the education budget remaining static, cuts to education grants such as the Early Intervention Grant and in-year cuts that had taken place the previous May. On the question of whether Kent had more academies than other councils, the Leader responded that Kent was at the higher end, but that as the largest council it had more schools than other local authorities.

(19) There was a discussion about how Kent had fared in terms of funding allocated on the basis of deprivation, and whether more of this money had been allocated to Councils in the North of England. Mr Shipton commented that there was no particular pattern to the funding changes, except that they depended on the grants that Councils previously received and former recipients of the Working Neighbourhoods Fund had benefitted from the transitional grant. The Leader added that where Councils were dependent on grants in addition to the Revenue Support Grant, for example due to areas of high deprivation, when grants had been amalgamated this had meant some Metropolitan authorities had seen a larger reduction in funding. Mr Christie requested a comparative table of how each Council had fared as a result of the grant settlement.

(20) Referring to the Council's response to the Government consultation, the Chairman made the comment that the situation regarding some of the grants was still undecided, and asked if it could be assumed that these grants were being discontinued. Mr Shipton explained that in the Budget, it had been assumed that all the grants in Table 5 on page 27 of the Budget book would be discontinued, except those from the Home Office which would be announced by the end of January. This would amount to a loss of approximately £10 million in grant funding.

(21) Regarding the capitalisation of redundancy costs, the Leader explained that the Local Government Association had been pushing for a relaxation of the rules. Officers had assumed that this would not be able to be capitalised and would instead need to be dealt with under revenue. The assumption was that the £4 million in the Budget for modernisation would meet all redundancy costs.

(22) Responding to a question about Pupil Premiums, the Leader explained that he had attended a meeting of the Schools Forum the previous Friday where the matter was discussed. The premium allocated more money to schools with high deprivation indicators, and there had been a discussion that resolved that the Council should use the regulation that allowed it to write to the Secretary of State for more variation in the way the money was allocated. Mr Abbott stated that the premium amounted to £430 for each qualifying pupil, and £200 for each child from a service family, but this amount could treble through the lifetime of the process.

(23) Regarding the removal of the Early Intervention Grant (EIG), Mr Abbott stated that he was working through the issue with a number of managers, and a number of proposals were being worked up. There was a one off pressure arising from the fact that the funding would cease on 1 April, but some contractual obligations could not be terminated before this date. All the detail of how the EIG pressures would be dealt with would be available in the Budget Book that went to County Council. The Leader suggested that debates on how cuts resulting from the EIG reductions would be achieved could take place at the relevant POSCs, and that proposals could be circulated for wider Member consultation.

Revenue Strategy

(24) Mr Christie referred to the lowering or stopping of pension contributions (a 'pension holiday') and asked why the Council was confident that it would not create problems in the future, with demographic predictions suggesting that people were living longer and therefore drawing their pensions for longer. Mr Simmonds explained that the actuarial review had analysed the liabilities and assets of the pension fund, the diversification of its investments had created income which had enabled the fund to maintain its capital position in adverse market conditions, and he was confident that the fund would be able to meet its liabilities. Mr Christie asked whether the impending report from the Hutton Review of public service pensions could have a significant impact, and whether it was taken into account; Mr Scholes, Chairman of the Superannuation Fund Committee, responded in the affirmative.

(25) Referring to paragraph 3.14, Mr Christie asked for more information about the £5 million that had been set aside for a Big Society Fund, including whether it would only be available during the next financial year. The Leader explained that the fund was to encourage new social enterprises and entrepreneurship, and for existing social enterprises to expand. The criteria for which money could be bid for would need to be worked out, but there would be several key themes such as creating job opportunities, aiding community cohesion and health delivery in line with the aspirations of Equity and Excellence.

(26) The Chairman made the point that some social enterprises could be of relatively small scale, and asked whether the Council would have difficulty in engaging so many small organisations. The Leader explained that the detail around how social enterprises would be engaged and how the money would be allocated was still being worked on.

(27) The Chairman referred to the fact that the Moderate level of eligibility for Adult Social Services had been maintained and asked whether this was because it was cheaper for the Council to do so. Mr Simmonds responded by saying that work had

been done within KASS which looked at the effect on councils which had changed to more stringent criteria, and the result had been that their costs had increased. Mr Wood commented that those councils which had raised their eligibility criteria had experienced a steeper demographic increase against the budget in the ensuing 2-3 years, although there was not evidence to be certain of a link.

(28) There was a discussion around the management of risk. A question was raised about the fact that a number of risks in the Corporate Risk Register were allocated to officers who were leaving the organisation. Mr Wood explained that every departing officer was asked a series of questions about the risks they were holding as part of the handover, and where appropriate, risks would be transferred to a new named owner. The Chairman referred to the risk related to Organisational Transformation, and asked whether risks relating to the restructure had changed since they were first reported to the Corporate POSC. Mr Wood explained that they had not changed significantly, since the Council was still early on in the process and it was not possible to see if the risks had been mitigated.

(29) Mr Wood explained that by the time the Budget was reported to Cabinet the following week, this section would be updated to reflect the known tax base position from the district councils and the balance on their collection funds. The amount in the draft budget for the increased cost of children's social services would also need to be revised because of the increasing numbers of children in foster care since the original draft. These revisions would then result in the final position.

Capital Strategy

(30) Referring to Table 14 on page 46 of the Budget Book, a question was asked why Developer Contributions were rising while less was being spent on Capital projects. Mr Wood explained that this was for longer term projects, and citing the example of Eastern Quarry development, explained that programmes were slowing down over the next two years but would gain momentum again in the future. If they were projected into the future, Developer Contributions would be shown to be increasing further still.

(31) The Chairman asked whether, in paragraph 4.21, the additional use of borrowing in the 2011-14 plan to accelerate improvements in facilities and address backlog maintenance issues would arrest or reverse the backlog of school buildings maintenance (£17 million) and roads (approximately £400 million). The Leader responded that the 80% reduction in devolved capital to schools and the cancellation of the Building Schools for the Future (BSF) programme would have an impact, but over the previous 10-12 years the Council had had some good years in terms of school maintenance and renewal programmes, resulting in stock that was in much better condition than in a number of years previously. The current year's schools maintenance budget of £14 million, which was a combination of revenue and capital, had been retained in the Budget Book, but the backlog maintenance figures might go up in the medium term, until the Government were in a position to be more generous with capital funding for schools. On the subject of roads, the Leader stated he was hopeful that the Council would be able to maintain its current position, with highways maintenance being a top priority but with less invested in new projects such as traffic calming or crossings, due to a reduction in resources from £110 million to £80 million. The Leader agreed with the Chairman's assertion that, rather than addressing

backlog issues, the Council may be in a position where the backlog may increase over the next two years, due to the challenging financial circumstances.

(32) Mr Simmonds explained that, despite an increase to the cost of borrowing of 1% from the Public Works Loan Board, the Council had managed to maintain a capital investment of £772 million over the next three years, and this would benefit Kent businesses.

Treasury Strategy

(33) The Chairman asked for an update on the position regarding the Council's deposits in Icelandic banks. Mr Simmonds explained that a dividend from Heritable had taken the amount recovered from that bank to over 50% and that there were two important cases coming up – Landsbanki in February, and Glitnir in March – where KCC's preferential creditor status would be under review. If the court cases went as expected, the Council could receive between 90% and 92% of its original investment. With time the economy would improve, meaning that the banks' underlying assets would increase in value; the worst case scenario would be that the Council would receive about 30 - 35% of its original investments. The position was clear under Icelandic law, and the Icelandic Government's priority was to maintain a good relationship with the European Union, which would increase the likelihood of the money being returned.

(34) Mr Wood explained that the current financial year was the first time that the Council had to formally write the impact of potential losses into the accounts, in accordance with guidelines from the Chartered Institute of Public Finance and Accountancy (CIPFA). To employ the previous year's thinking, where it was written into the accounts but did not impact, the Council would have to set aside approximately £6 million. Mr Wood explained that this figure was arrived at by calculating the lost interest into the future, but that the Council was already budgeting for the reduced interest received from the Icelandic investment, and would therefore need to adjust one of the figures in conjunction with the external auditor to avoid double counting. Responding to a question about how much of the original £50 million had been recovered, Mr Simmonds explained that the £9 million from Heritable constituted the total amount received to date.

(35) In relation to paragraph 5.8, a question was asked about when the sub-committee of the Cabinet (the Treasury Advisory Group) had been established. Mr Simmonds explained that it was established in 2008 and that the last meeting was in December 2010; the issue of the Icelandic bank deposits had been discussed regularly by the Committee since the financial crisis.

(36) The Chairman spoke about a local authority bank which had been promoted by the Local Government Association, whereby local authorities pool their investments, and asked whether the Council had any intention to invest in such a bank. Mr Simmonds explained that a Treasury Management paper would be going to Cabinet on 2 February, but that the issue would need to be explored in greater detail in the future. Mr Christie raised the concern that investing in a local authority bank would not spread the risk, and Miss Carey added that there was a likelihood of councils wanting access to funds at the same time.

Risk Strategy

(37) In relation to the roles and responsibilities set out in paragraphs 6.8 and 6.9, a question was asked about who was responsible for understanding the detail relating to risks and ensuring they were captured. Mr Wood explained that the ownership lay with CMT but the person overseeing the recording of risk was the Head of Audit and Risk. Mr Long added that the Governance and Audit Committee also took a continuing interest in the monitoring of risk. Referring to paragraph 6.26, which detailed the reporting between the Head of Audit and Risk and the Governance and Audit Committee, the Chairman asked whether the Informal Member Group on Budgetary Issues could also receive risk updates. Mr Simmonds thought the Governance and Audit Committee the most appropriate forum for Members to be kept updated on risk.

Appendices

(38) Making reference to page 78 of the 'A-Z of services' and the report to Cabinet on 10 January, Mr Christie inquired where exactly the pressure lay relating to Asylum Seekers and explained that when it had become a pressure the previous year, a figure of £3 million was quoted and special precept was being considered. The Leader stated that the Council had done a deal with the Home Office the previous year, that involved bringing down the weekly costs of looking after asylum seekers, but the Home Office was now suggesting that the terms of the deal were different to what was previously negotiated. Mr Abbott explained that the budget proposals reflected this previous agreement, and corresponded to a reduction of the unit cost of looking after asylum seekers from £200 to £150 per week. One of the issues that had arisen related to an agreement with the UK Border Agency that they would repatriate asylum seekers who had exhausted all rights of appeal, but this routinely took over a year to happen, yet the asylum seekers were no longer funded after three months. The Leader explained that Members and officers would be meeting the Immigration Minister jointly with the London Borough of Hillingdon to press the Home Office to honour the agreement.

(39) Referring to the footnote on page 83, Mr Christie inquired whether the Chancellor's announcement that pay would not be frozen for those earning less than £21,000 per annum and increases to inflation, the costs of rail travel and fuel, and VAT had been taken into account when arriving at the decision to freeze the pay of lower paid staff and whether it had been a political decision. The Leader explained that decisions about pay had not yet been taken, but the Budget book was based on a 0% increase in pay. He added that it would be interesting to reflect on Mr Christie's suggestion, and asked officers what a 1% increase for staff earning under £21,000 would cost. Mr Wood explained that this would cost just under £1 million (*Post meeting note: Mr Shipton confirmed that the figure for non-schools staff would be £932,000 and for schools staff an estimate was between £1.4 million and £1.5 million*).

(40) The Chairman referred to a statement by the Prime Minister about pursuing the concept of a 'living wage', and the approach by London Citizens to companies in the City of London to suggest that they took up this idea. All four companies which had adopted this policy had seen significant benefits, such as a reduction in staff turnover. The Leader explained that this had not yet been considered but that it would be an interesting piece of research to undertake, although allowances would need to be made for the significant variations in the cost of living throughout Kent.

(41) Mr Christie sought a definition of 'socially necessary but uneconomic bus routes', as mentioned on page 92 of the Budget Book. The Leader explained that a tendering process was currently underway which might lead to savings through better procurement. There were some services where the subsidy amounted to as much as £10 per passenger, and there was a need to rationalise timetables to make the best use of resources without isolating people who depended on the services. Mr Christie went on to ask about the removal of the 9am – 9.30am discretion on Concessionary Fares, and whether the £600,000 saving was based on usage from the previous year. The Leader explained that it was difficult to ascertain the exact cost, but £600,000 represented the amount demanded by district councils to run the service. There were plans to move to an 'Oyster Card' model, which would provide better information on the usage of the service. The Leader also informed Members that the Head of Transport and Development had been asked to approach bus companies to see if they would extend the concession free of charge.

(42) On the introduction of a parental contribution for denominational and selective transport, referred to on page 86, the Chairman asked for detail on the level of contribution expected, and how this related to the Freedom Pass. The Leader explained that the intention was to recover approximately 50% of the cost of providing this transport.

(43) Regarding transport for people with Special Educational Needs (SEN), a question was asked about why there was a discrepancy between the reduction from £18.74 million to £17.54 million on page 79 of the Budget Book and the savings of £500,000 on page 86. Mr Abbott explained that the £500,000 was the saving identified to reflect the underspend in the current year, and that there was also a saving of £100,000 to reflect the reduction in single occupancy taxi journeys but also a reduction due to the changes to the Area Based Grant relating to extended right to free travel, which it had been assumed would no longer be available.

(44) Responding to a question about whether there would be a grant from Government available for the adoption of Healthwatch nationwide, Mr Shipton explained that there would be a grant, but it was not expected to be available until 2013/14.

(45) Referring to the reduction in reserves of £9 million in 2011/12 mentioned on page 211, Mr Christie inquired whether auditors would give a qualified opinion on this and whether it represented a risk. Mr Simmonds explained that the money had been taken from long term reserves such as Private Financial Initiatives which would not mature until 2019/20, that the money would eventually need to be repaid, but that the Council had weighed up the risks and judged that it was a prudent measure to take. Mr Wood added that there was no risk, and explained that reserves helped smooth out the impact of varying expenditure over a number of years. Category 1 reserves represented the Council planning ahead for upcoming financial commitments, but in this case the reserves could be used to even out the impact of the front-loading of grant reductions from Government, but the money would be there to meet the financial commitments when they arose.

(46) There was a discussion about Category 3 reserves. Mr Wood explained that officers expected there were no plans to reduce the Emergency Conditions Reserve as part of the general draw-down of reserves.

(47) The Chairman referred to the reduction of £400,000 to voluntary sector organisations detailed on page 86, and asked whether the Council was making any other reductions to the voluntary sector. Mr Wood explained that officers were hoping to draw together a briefing note to set out voluntary sector reductions across the piece, including from which organisations that funding was being reduced. Mr Simmonds explained that the intention was for funding to go to frontline services, and there were some organisations with increasingly heavy overheads so discussions would be taking place around the conditions under which this funding would be made available. Responding to a question about whether this would delay the provision of funding to organisations such as Age Concern, to which the Council was a major contributor, Mr Simmonds responded that the Cabinet Member, Adult Social Services had already made announcements around Age Concern at the Adult Social Services POSC. Mr Abbott explained that the £400,000 in the budget book had been identified the previous year as a result of examining the 23 local partnerships and looking at how savings could be achieved through more countywide procurement.

(48) Referring to page 71, under Contributions to Voluntary Organisations, Mr Christie identified a £1.5 million gap between the 2010/11 and 2011/12 net expenditure and asked for the detail behind it. Mr Wood undertook to ask for a formal response from KASS.

(49) In response to a question about whether £4.07 million was sufficient for workforce reduction over the next two years, Mr Wood explained that although just over £4 million was predicted to still be in the reserves at the end of the current year, there would be an additional £4 million put into the reserves in the next year and another £3.5 million the year after, which would provide approximately £12 million for meeting redundancy costs, which officers felt was sufficient to meet redundancy costs over the next 2-3 years. Mr Wood also clarified that this sum did not include the £750,000 that was being saved as a result of the top tier restructure, although there would be costs associated with that process. Instead £750,000 represented the saving that was being made.

(50) The Chairman referred to the £162 million announced by the Secretary of State for Health, and asked how much of this Kent would receive and what the purpose of this grant would be. Mr Wood explained that the funding would be transferred to Councils and would have to be spent in the current year on services that benefitted Health; if Kent were to get its normal share of nationwide funding, it would amount to approximately £3 million.

(51) In response to a question about the Members Highway Fund on page 149, Mr Wood explained that the reason why no spend was shown for 2010/11 was because most of the money was being spent in a manner which was not deemed capital expenditure under the rules and was instead shown as revenue spend.

(52) Mr Manning posed a question about how the £75 million allocated to the Council through the Private Finance Initiative was accounted for in terms of cash flow. Mr Wood explained that the Council received a grant to meet its costs in any given year. Responding to a follow up question about a similar risk arising to the Asylum Seeker situation, with Government not honouring its commitments, Mr Wood explained that most grants have conditions attached to them so this could not happen.

(53) The Committee asked that formal thanks be recorded to the Finance team for their hard work in preparing the Budget.

RESOLVED: That the Cabinet Scrutiny Committee:

(54) Thank Mr Carter, Mr Simmonds, Ms Carey, Mr Wood, Mr Shipton and Mr Abbott for attending the meeting and answering Members' questions.

(55) Ask that the Cabinet Member, Finance, provides a copy of the letter sent by KCC to Government in response to the Provisional Local Government Grant Settlement 2010-11.

(56) Ask that the Cabinet Member, Finance, provides a table of the reduction in Government grants to other local authorities in England compared to Kent.

(57) Welcome the assurances given by the Leader that proposals on how reductions to the Early Intervention Grant will be implemented in Kent be put before Members for consultation, including through the relevant Policy Overview and Scrutiny Committee.

(58) Welcome the suggestion given by the Leader that research into implementation of a 'living wage' in Kent be undertaken, including mapping the variations in cost of living across the county.

(59) Ask the Group Managing Director to consider whether changes to the risks that the Council faces also be reported to the Cabinet Scrutiny Committee, no less frequently than every six months.

(60) Ask that the Cabinet Member, Finance, provides detail of the number of users of concessionary bus fares over the previous year, and how this relates to the £600,000 identified savings from providing this service from 9.30am.

(61) Ask that the Managing Directors of all Directorates affected provide detail of any reductions in funding to the voluntary sector.

(62) Formally commend Finance Members and Officers for their hard work during the run up to the publication of the budget.

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Cabinet Scrutiny Committee Protocol

1. Agenda Setting

The Council has appointed this committee under section 21 of the Local Government Act 2000 to:

- (a) review or scrutinise formal decisions made by the Leader, the Cabinet, Cabinet Members or Cabinet committees.*
- (b) call-in any decision made but not yet implemented by the Leader, the Cabinet or a Cabinet Member and either:
 - (i) recommend that the decision be reconsidered by the person who made it or*
 - (ii) arrange for its function under (a) above (so far as it relates to the decision) to be exercised by the Council**
- (c) make reports or recommendations to the Leader, Cabinet, Cabinet Member, the relevant officer or the Council arising out of its functions.*

Scrutiny of decisions taken by the Cabinet collectively will be subject to the following process:

- (1) Meetings of the Cabinet Scrutiny Committee will normally take place within eight working days of the meetings of Cabinet.*
- (2) A copy of the agenda and all papers submitted to the meeting of the Cabinet will be sent at the time of publication to all Members of the Cabinet Scrutiny Committee.*
- (3) The Chairman and spokesmen on the Cabinet Scrutiny Committee shall agree:
 - (a) which matters the Committee is to scrutinise*
 - (b) the amount of time to be allowed for questioning and debate on each of these items*
 - (c) which Members of the Cabinet and officers it requires to attend and answer questions*
 - (d) which other witnesses it will ask to attend**

(These agreements should be based on the principle of fair shares between political groups in selecting the items to be discussed)¹

2. Invitation of witnesses

The invitation of witnesses shall be agreed in advance by the Chairman and spokesmen on the Cabinet Scrutiny Committee during the agenda setting process.

¹ Please note: text in italics in this document represents a direct quote from the Constitution of the Council.

The Chairman and spokesmen shall agree:

- (a) The names of those to be invited.
- (b) Which items or parts of items witnesses shall be asked to comment on or answer questions.
- (c) Whether each witness shall be asked to prepare a statement to the Committee, and whether this statement should be circulated to the Chairman and spokesmen in advance of the meeting.
- (d) Whether each witness shall be permitted to ask questions of other witnesses or decision makers.
- (e) Whether, in the event of any named witness not being able to attend, a representative may be sent.

(1) Any Member of the Council may attend any meeting of a Committee, including those parts of the meeting from which the public and press are excluded. They do not have a right to vote or move a motion or amendment, but may speak with the consent of the Chairman (such consent to be sought before the meeting and should not normally be withheld).

(2) If a Committee is considering an item of business in private that relates to the personal or financial affairs of an individual employee or a member of the public, it may resolve to exclude from the meeting any Member who is not a member of the Committee. Before doing so, a Member representing a member of the public must be given the opportunity to speak.

If a County Councillor who is not a member of the Committee has identified an item for call-in, they shall be permitted to speak at the meeting in order to set out the reason for call in, and to ask questions of the witnesses. If a County Councillor who is not a member of the Committee attends the meeting as a guest, they shall be able to ask questions of the witnesses with the Chairman's permission, but only after the Committee members have had the opportunity to ask questions.

3. Requests from members of the public to speak / give evidence

Submitting written views about decisions already called-in for scrutiny.

The agenda for each Cabinet Scrutiny Committee meeting is published one week in advance on the KCC website (www.kent.gov.uk). The agenda shows which decisions are to be scrutinised at the next meeting. Written statements of views will be requested of public witnesses to inform members of the reason for their wish to give evidence. The written statement should be no more than 500 words long and should be sent to the Democratic Services Unit (give contact e-mail) to arrive at least two days before the Committee meeting. Written statements will then be circulated to Members of the Committee prior to the meeting;

All Committee meetings are normally open to the public and the public is more than welcome to attend to listen to the Committee's debates.

Members of the public may also ask to address the Committee on any item already on the agenda. Please note that:-

- (i) requests must be made in advance of the meeting to the Democratic Services Unit and are subject to agreement by the Chairman of the Committee in consultation with the Spokesmen from the other two political parties;
- (ii) in normal circumstances, members of the public will be encouraged to appoint a spokesman to address the Committee on any one item.
- (iii) any member of the public allowed to address the Committee:-
 - must normally have submitted a written statement first (see above);
 - will be allowed to address the Committee for up to 5 minutes to summarise their views, and amplify – but not repeat – any points in their written statement;
 - will then be allowed up to 5 minutes to ask questions of the witnesses (the 5 minutes does not include the time for answers to be given). These questions should be used to seek genuinely new information. Questions must not be asked to which the member of the public already knows the answer.

4. The order of discussion / debate

If previously agreed during the agenda setting process, the Chairman shall invite each witness to speak to the Committee to amplify their statement.

The Chairman shall allow Members to ask questions of any witness present for an item, or specific element thereof. The order in which this will take place will be in agreement with the spokesmen. If a Member of the Council is not a member of the Cabinet Scrutiny Committee but has requested that an item be called in for scrutiny, they may be allowed to ask questions before other Members and be able to come back and ask further questions.

5. Formulating and agreeing recommendations

During any meeting of the Committee the clerk shall record any comments made in the course of the discussions by Members of the Committee. The Chairman shall then ask Members of the Committee to agree to each comment being made to the Cabinet or appropriate Cabinet and in respect of the resolution, by majority vote, to either:

- (a) make no comments*
- (b) express comments but not require reconsideration of the decision*
- (c) require implementation of the decision to be postponed pending reconsideration of the matter in the light of the Committee's comments by whoever took the decision or*

(d) require implementation of the decision to be postponed pending consideration of the matter by the full Council.

If a decision has to be taken or implemented for reasons of urgency before the procedures set out above have been completed, it may be taken and/or implemented provided that the Chairman and spokesmen on the Cabinet Scrutiny Committee have been consulted (unless the circumstances render this impractical) and:

(1) the Group Managing Director or relevant Senior Manager; and

(2) (in the case of a key decision that ought to be included in the Forward Plan) the Chairman of the Cabinet Scrutiny Committee agree that the making of the decision is urgent and cannot reasonably be deferred. If the Chairman of the Cabinet Scrutiny Committee is unable to act, the Chairman or Vice-Chairman of the Council may be consulted and agree instead. The reasons why it was not practical to comply with the relevant procedures and the agreement and any comments of the Group Managing Director, relevant Senior Manager and Chairman and spokesmen of the Cabinet Scrutiny Committee must be included in the published written statement of the decision. The Leader shall report quarterly to the Council giving details (including particulars of the matters in respect of which decisions were made) of any key decision which was taken as an urgent matter during the previous three months.

By: Peter Sass: Head of Democratic Services and Local Leadership
To: Cabinet Scrutiny Committee – 9 February 2011
Subject: Medium Term Plan 2011-13 (incorporating the Budget and Council Tax setting for 2011/12) - Update

Background

(1) Members would like more information on the schools budget and the effects of the removal of the Early Intervention Grant.

(2) Members are asked to bring their copies of the Draft Budget Book, which was published on 6 January 2011, to the meeting. A further report, which will be tabled at Cabinet on 2 February 2011, will be circulated to the Committee when it becomes available.

Guests

(1) Mr P Carter, Leader of the Council, Mr J Simmonds, Cabinet Member, Finance and Procurement, and Mr A Wood, Acting Director of Finance, have been invited to attend the meeting between 10.30am and 11.15am to answer Members' questions on this item.

Options for the Cabinet Scrutiny Committee

(1) The Cabinet Scrutiny Committee may:

(a) make no comments

(b) express comments but not require reconsideration of the decision

(c) require implementation of the decision to be postponed pending reconsideration of the matter in the light of the Committee's comments by whoever took the decision or

(d) require implementation of the decision to be postponed pending consideration of the matter by the full Council.

Contact: Adam Webb Tel: 01622 694764

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By: Peter Sass: Head of Democratic Services and Local Leadership
To: Cabinet Scrutiny Committee – 9 February 2011
Subject: KCC Companies

Background

- (1) Members would like more information on the protocol for KCC Companies.
- (2) The Cabinet report and appendices are attached for Members' information.

Guests

(1) Mr J Simmonds, Cabinet Member, Finance and Procurement, Mr R Gough, Cabinet Member, Business Strategy and Support, Mr A Wood, Acting Director of Finance, and Mr G Wild, Director of Governance and Law, have been invited to attend the meeting between 11.15am and 12.00 noon to answer Members' questions on this item.

Options for the Cabinet Scrutiny Committee

- (1) The Cabinet Scrutiny Committee may:
 - (a) make no comments
 - (b) express comments but not require reconsideration of the decision
 - (c) require implementation of the decision to be postponed pending reconsideration of the matter in the light of the Committee's comments by whoever took the decision or
 - (d) require implementation of the decision to be postponed pending consideration of the matter by the full Council.

Contact: Adam Webb Tel: 01622 694764

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By: John Simmonds, Cabinet Member for Finance
Roger Gough, Cabinet Member for Corporate Support
Services & Performance Management

Andy Wood, Acting Director of Finance
Geoff Wild, Director of Law & Governance

To: Cabinet 2 February 2011

Subject: KCC Companies

Classification: Unrestricted

Summary

To recommend to Cabinet the approach to be taken in the forthcoming report to Audit and Governance on a Protocol for KCC Companies

Introduction

1. Given the existence and likely future increase in the number and variety of company interests that are held by the Council, there is a need to introduce a Protocol, in the form of a framework of rules, governing how KCC-owned companies are to operate.
2. KCC currently has 20 companies as shown in **Appendix A**, although 5 of these are dormant at present. Whilst there is no suggestion that these have been established incorrectly, it is thought appropriate that such entities are brought together in governance terms to ensure best practice across the council.

The proposed process

3. Following discussions between officers and Members, it is agreed that there is a need for a general Protocol together with a specific Cabinet report for all KCC companies, involving the following three stage process:
 - (a) a report to Governance & Audit Committee proposing a general Protocol governing all KCC companies
 - (b) a report to the relevant Cabinet Member(s) seeking formal endorsement (followed by referral to Scrutiny if required) in respect of each new KCC company, setting out the terms on which the company is being formed, what Council policies do (or do not) apply, the appointment of directors, within what limits those directors are expected to operate, etc
 - (c) once the rules for a particular company have been established then such rules should be enshrined in the Memorandum of Association and Articles and/or in some form of agreement with the directors
 - (d) any further changes required to be made, e.g. as to KCC policies applicable or the appointment of new directors, should be reported to the relevant Cabinet Member(s) for formal approval

Recommendation:

4. Cabinet is requested to endorse the terms of the general Protocol, which will be put before Governance & Audit Committee for approval.

Author: Geoff Wild

Tel: 01622 694302

Email: geoff.wild@kent.gov.uk

There are no background papers.

Protocol relating to companies in which KCC has an interest

1. In relation to companies in which the Council has an interest, it is imperative that they are set up, managed and run according to rules of good governance so that risks are mitigated. This protocol aims to establish processes and provide additional controls to ensure such rules are in place.
2. Anyone within the Council intending to set up a company should refer to the [‘Guidance on Local Authority Companies’](#) document on KNET. A robust business case must be provided which gives a cost benefit analysis, considers the accounting and tax implications for the Council and identifies any risks to the Council. The business case must go through the Governance and Audit Trading sub group who will examine this and make recommendations. In light of the recommendations the relevant Cabinet Member shall approve the company’s business case. Where the company is intending to exercise the power to trade pursuant to section 95 of the Local Government Act 2003, the business case shall contain enough detail to satisfy the requirements of this Act and be similar to that required by the Council for major capital projects.
3. This Protocol relates to the following companies:
 - (a) in the case of companies with issued share capital, those companies in which the Council’s interest is more than 1% of the issued share capital, where those shares are held other than for solely investment purposes
 - (b) in the case of any company without shares, where the Council is a member
 - (c) any company of whatever sort in which the Council nominates one or more directors or itself is (or has the right to be) a company director
4. In the case of a company formed or controlled by the Council (or where the Council has, or can reasonably have, input into the wording of the Memorandum and Articles), the following provisions must appear in the company’s Articles:
 - (a) The registered office shall be specified as: Sessions House, County Hall, Maidstone, Kent ME14 1XQ (care of the Corporate Director of Finance and Procurement).
 - (b) The Corporate Director (or Managing Director) within whose remit the company’s business lies, shall be responsible for nominating a secretary for the company from among his/her staff. A register of all company secretaries will be maintained.
 - (c) Any Member or officer of the Council who is appointed as a director or secretary of that company shall not be appointed in their own private capacity but shall be appointed as a nominee of the Council, which shall have the power to remove and replace such director or secretary as it may see fit.
 - (d) It shall be the responsibility of the Council’s representative on the board to make whatever arrangements may be necessary to ensure the

company makes a full annual report of its activities to the Cabinet within three months after the end of its financial year.

- (e) No Member or officer of the Council who is appointed as a director or secretary of that company (or who represents the Council at any meeting of the company or of the board) shall receive any income from the company unless the Council's Corporate Director of Finance and Procurement so agrees in writing in advance. If any income is received by a Member or officer, it must be documented in the relevant Register of Interests and published on the Council's website.
5. In respect of any company to which this Protocol applies the following rules shall also apply (even if not included in the company's Articles):
- (a) Any director of the company who is nominated by the Council (and any person authorised to represent the Council at a meeting of the company or of the board) shall be appointed by the Cabinet or relevant Cabinet Member in accordance with the decision making procedures set out in the Council's Constitution.
 - (b) Any person authorised to represent the Council at a meeting of the company (where the Council is a member of the company) or of the board (where the Council is a director of the company) shall follow such directions as to the operation of the company as may be determined by the Cabinet or relevant Cabinet Member from time to time in accordance with the decision making procedures set out in the Council's Constitution.
 - (c) Directors nominated by the Council shall (so far as permitted by law and their duties to the company as directors) follow such directions as to the operation of the company as may be determined by the Cabinet or relevant Cabinet Member from time to time in accordance with the decision making procedures set out in the Council's Constitution.
 - (d) Members or officers representing the Council on any board shall only take decisions which are in accordance with the company's articles and any Council policies that are to apply to the company.
 - (e) Where Members or officers of the Council incur expenses as a result of their involvement in the company, this shall be claimed by them from the company as the Council's Corporate Director of Finance and Procurement may direct.
6. In any situation where a Member or officer of the Council (or any member of their close family) is (in their private capacity) a member, director or secretary of a company of which the Council is also a member or director, or in respect of which the Council has the right to nominate one or more directors, then such Member or officer shall notify the Corporate Director of Finance and Procurement of this in writing as soon as they become aware of the same. These should be documented in the relevant Register of Interests or Statement of Related Party Transactions, The purpose of this is to prevent the company becoming a local authority company without the Council becoming aware of it.
7. The Council shall only become a member or director of a company following a decision of the Cabinet or relevant Cabinet Member taken in accordance with the decision making procedures set out in the Council's Constitution. When

seeking such a decision any report to the Cabinet or relevant Cabinet Member shall state:

- (a) the Council's rights of membership and to nominate directors (or to itself become a corporate director)
 - (b) the purpose of the company and of the Council's involvement
 - (c) the identity of the initial nominated directors and secretary and any person who is intended to be authorised to represent the Council at a meeting of the company (where the Council is a member of the company) or of the board (where the Council is a corporate director of the company)
 - (d) what Council policies (if any) are to apply to the company. It is assumed that if none is specified then no Council policies will apply and the company directors will be free to set their own policies different from those of the Council
 - (e) any other limits the Councils' Corporate Director of Finance and Procurement or Monitoring Officer recommend be placed on the activities of the company.
9. Once the decision process is completed, the company shall be formed and the Council Members and officers involved with the company shall ensure (so far as it is within their remit) that the relevant policies are applied by the company.
10. This Protocol shall also apply to companies already in existence and as regards such companies:
- (a) a decision dealing with all the relevant matters set out in this Protocol is to be taken under the decision making procedures set out in the Council's Constitution by Cabinet or the relevant Cabinet Member as soon as reasonably practicable and
 - (b) the Articles to such companies shall (where appropriate and reasonably practicable) be amended as soon as possible
11. Both as regards companies already in existence and companies yet to be formed, all Members and officers of the Council should, from the date of adoption of this Protocol, act (so far as is reasonably practicable) as if the Articles had already been amended as required by this Protocol, whether or not this has in fact happened.
12. Members and officers of the Council who are running KCC companies must seek appropriate advice from time to time to ensure that:
- (a) they and the company are operating within the law, specifically where they intend to change or expand the business activities of the company
 - (b) they are aware of the extent of their potential personal liabilities, conflicts of interest and any indemnities or insurance cover provided by KCC that may apply to them.

13. KCC Legal Services and KCC Finance between them have produced 'Guidance on Local Authority Companies' that covers these issues in detail and will update and expand this as necessary from time to time.
14. In order that Members and officers of the Council can be fully aware at all times of the extent of KCC's interests in local authority companies and their exposure to potential legal, financial and reputational risks, the Corporate Director of Finance and Procurement shall maintain an accurate, complete and up-to-date record of all companies in which KCC has an interest, clearly identifying those that are trading. Members and officers of the Council are required to supply timely information to the Corporate Director of Finance and Procurement so as to ensure that these records can be fully and properly maintained.
15. Pursuant to Part II of the Local Authorities (Companies) Order 1995, where a company is regulated by KCC (i.e. KCC either controls or has serious influence over it) then the company must provide any Member of the council who requests it such information as that Member reasonably requires for the proper discharge of their duties (but not so as to require breach of any law or of any obligation to a third party).
16. Members and officers representing the Council on the board of any company will at all times comply as appropriate with the County Council's Code of Member Conduct and the Officers Code of Conduct as set out in the Constitution from time to time.
17. Under Appendix 2 Part 2 of the Council's Constitution, the Selection and Member Services Committee is responsible (inter alia) for "making appointments and nominations on behalf of the Council to serve on outside bodies (except those needing to be made by the Leader in connection with a delegation by him of his functions, the list of those appointments to be agreed between the Leader and the Committee from time to time)". Where a decision to appoint rests with the Leader, then the formal decision of the Cabinet or relevant Cabinet Member under paragraph 6 of this Protocol shall act as such appointment. Where the decision rests with the Selection and Member Services Committee, then such appointment shall not take effect unless and until the Committee has resolved to make such appointment.
18. Company directors' duties are codified in Companies Act 2006. There are seven specific duties:
 - (a) to act within powers
 - (b) to promote the success of the company
 - (c) to exercise independent judgement
 - (d) to exercise reasonable skill and care
 - (e) to avoid conflicts
 - (f) to declare any interest in a proposed transaction
19. As a matter of general principle, the overriding duty of any director in considering an item before the company is to vote in accordance with the interests of that company. In the case of a director who is also an elected Member, or an officer of KCC, this might give rise to a conflict with the interests of KCC.
20. Directors and company officers are responsible for keeping accounts and making relevant returns to the Registrar of Companies.

21. Elected Members and council officers are under a specific obligation (under the Local Authorities (Companies) Order 1995) to report back to the council through the Trading sub group on their involvement in outside companies to which they have been nominated by KCC. Any changes to companies' structure should also be reported to this group.
22. Various breaches of obligation can lead to a director having personal liability or being disqualified from acting as a director. In particular, failure to declare an interest is a criminal offence.
23. KCC's insurance arrangements do not provide an indemnity for Members and officers involved with outside bodies when they act:
 - (a) solely on behalf of an outside body
 - (b) outside their delegated powers, i.e. in a decision-making capacity rather than as advisors or observers
 - (c) outside the authority's statutory powers
24. Companies should purchase directors' and officers' liability insurance to protect their directors and officers against claims of negligence, breach of duty, trust, default, etc. Directors should liaise with the company to ensure that such a policy of insurance is maintained at all times, and covers the director as much as it can.
25. KCC may exceptionally give a wider indemnity to specific members/officers where the council specifically requires that person to become a director for KCC business reasons. KCC would insist that such a wider indemnity only dealt with anything not covered by the company's insurance.
26. More detail on indemnities and insurance can be found in the advice note "Members & Officers Indemnity" prepared by the Finance Unit to which reference should be made.
27. There can be a tendency to assume that a new venture requires a new legal entity, and that therefore a new project should be commenced in a new company. This is not necessarily the case. There are a limited number of situations where a limited company might be appropriate. These are:
 - (a) (a) Where there is trading to be carried out under the provisions of section 95 of the Local Government Act 2003. Section 95 provides a specific power to trade but the Act says that such trading must be carried out through a limited company. It must be noted that not all trading by KCC is necessarily under the provisions of Section 95. There are other cases where trading can be carried on under other powers (and where therefore a limited company may not be needed). Examples of these other powers are:
 - i. Where what is being done is the provision of goods and/or services to another public body under the provisions of the Local Authorities (Goods and Services) Act 1970, whether a particular organisation is a public body for the purposes of that Act is specified in regulations.
 - ii. Where what is being done is incidental to the main function that is being carried out. An example of this might be a library occasionally selling books as part of a promotion of reading. This power will be fairly tightly interpreted. If the main purpose of the

activity is to raise money that will not be considered incidental to the original function.

iii. Where what is being done is use of surplus capacity. An example might be a council landscape service having raised too many plants and selling off the surplus to the public. If the activity requires the taking on of additional staff or the procurement of new services or equipment then it will almost certainly not come within this category.

(b) Where for some other specific reason it is advised that a limited company be formed. Typically these reasons will include the wish to take the activity out of the mainstream of KCC activity – either so as to encourage external funding or involvement, or to permit employment of staff outside KCC's usual terms and conditions for directly employed staff, e.g. Kent Top Temps.

28. Whatever power is being used, and whether a company is being formed or not, care must be taken not to exceed the scope of activity permitted by such powers.

29. More detail on companies generally can be found in the advice note "Local Authority Companies" prepared by the Corporate Director of Finance and Procurement and the Director of Governance and Law to which reference should be made.

Author's name and title:

Date:

Co No	Company/Trust	Division	Status	Registered Office	Type - CLG (with no share capital)	Type - CLS	Date of Incorporation [Nb: *Trading Order issued in July 2004]	Share Capital	Directors	C Secretary	Board members	Contact	Comments	Last Accounts	Last Returns	Co Search done	KCC Control 100% share capital	Influence >= 20% voting rights	KCC has no control or influence	Unknown
Active companies < 50% control																				
4	02608373	Association of Tourist Attractions in Kent	R&ED	Active - trading	Ridge Cottage, Speldhurst, Kent, TN3 0LE	Private, Ltd by Guarantee, no share capital	07/05/91		F Warrington - used to be director but resigned				Networking purposes only	31/03/2009 (TOTAL EXEMPTION SMALL)	31/05/11	✓				
5	03068263	Groundwork Kent and Medway		Active	48 Canterbury St, Gillingham, Kent, ME7 5UN	Private, Ltd by Guarantee, no share capital, S30 Cos Act	09/06/95	0	No				KCC officer attends for networking purposes only	31/03/2009 (GROUP)	09/06/10	✓				
6	03114198	Aylesham and district Community Workshop Trust	R&ED	Active	Ackholt Road, Aylesham, Canterbury, Kent, CT3 3AJ	Private, Ltd by Guarantee, no share capital, S30 Cos Act	16/10/95	0	No				SEEDA heavily involved, KCC owns property rented to the Trust at a peppercorn rent.	31/03/2009 (FULL)	14/09/10	✓				
8	03294664	The Individual Learning Co Ltd		Active	37 St Margarets St, Canterbury, Kent, CT1 2TU	Private, Ltd by Guarantee, no share capital	19/12/96	0						31/03/2009 (TOTAL EXEMPTION SNMALL)	19/12/09	✓				
9	3284438	The North Kent Architecture Centre Ltd	R&ED	Active	The Historic Dockyard, Main Gate Rd, Chatham, Kent ME4 4TZ	Private, Ltd by Guarantee, no share capital					Mike Bodkin (officer)	Gillian.Willavoy s@kentarchitecture.co.uk	Other guarantors are MedwayC, UoGreenwich & Chatham Historic Dockyard Trust.	31/03/09	27/11/09	✓				
12	04400592	Kent Tourism Alliance Ltd became Visit Kent Ltd from 21.3.08	R&ED	Active	3 The Precincts, Canterbury, Kent, CT1 2EE	Private, Ltd by Guarantee, no share capital	21/03/02		Kevin Lynes KCC member, Theresa Bruton KCC officer, Nigel Bunting Shepherd Neame Ltd, Michael Bedingfield Tourism South East, Colin Carmichael Canterbury CC, Amanda Cottrell Chairman, Simon Curtis Medway Council, Juliana Delaney Continuum Group, Bill Ferris Chatham Historic Dockyard, Robin Hales Sevenoaks DC, Sandra Matthew Marsh CE, John Meardon Caanterbury Cathedral				To carry on busi and activities as may promote, market, advertise and develop nationally and internationally the tourist industry in the county of Kent and all bodies, entities, persons associated and involved therein: etc	31/03/2009 (FULL)	21/03/10	✓				
7	03230721	Locate in Kent Ltd (as amended on 5/5/2000)	R&ED	*Active - trading on commercial basis	35 Kings Hill Avenue, Kings Hill, West Malling, Kent, ME19 4AQ	Private, Ltd by Guarantee, no share capital	29/07/96	£0 - ltded liability up to £1 per member towards asset of co in event of co winding down. Three equal shareholders - the Chairman, the Kent Developer s Group and Kent County Council. liability £1 per member	Alex King	S Draper	Sir Brandon Gough Chairman Paul Wookey CEO Locate in Kent Alex King Kent County Council Barbara Cooper Kent County Council Kevin Lynes Kent County Council David C Brooks-Wilson Noble-Wilson Ltd Andrew Blevins Liberty Property	Paul Wookey 01732-520700	Locate in Kent was formed in 1997, as a subsidiary company of the Kent Training and Enterprise Council. It became independent of the Kent Training and Enterprise Council on 1 April 2000 at which time its membership structure changed to three equal shareholders - the Chairman, the Kent Developers Group and Kent County Council.	31/03/2010 (SMALL) draft 31/3/05 showed res of £132k(audited) dir fees charged	29/07/10	✓				

05259365	Trading Stds South East Ltd		Active	Mid Surrey Area Office, Bay Tree Avenue, Kingston Rd, Leatherhead, Surrey, KT22 7SY	Private, Ltd by Guarantee, no share capital		*14/10/2004	0 - all members contribute to assets of the Co.19 SE Authorities			For larger authorities, is the Trading standards director or Head of service. For smaller authorities - the Trading Standards director.			31/01/2009	14/10/2009
03000723	Business Support Kent Community Interest		Active	85 High Street Chatham, Kent, ME4 4EE		Private Ltd Co. Community Interest Company	12/12/94	No						31/03/2009 (FULL)	12/12/09

04410176	East Kent Spatial Development Company	R&ED	Active	Kent Innovation Centre, Broadstairs	Company Limited by guarantee				D Tucker, V Carter, P Cudsin, C Moore, K Harvey (SEEDA), D Ashworth HCA, K Lynes KCC, R Latchford TDC. D Spalding CEO	D Tucker (SEEDA)	Member Organisations: SEEDA, KCC TDC, DDC SDC CCC HCA			31/03/10	05/04/10
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Active > 50% control

05242899	Kent County Trading (KCT) Ltd	Commercial Services	Active - holding co	Commercial Services, Gibson Drive, Kings Hill, West malling ME19 4QG		Private Ltd Co	*27/09/2004	£2 - wholly owned by KCC	Cllr Mike Snelling		Cllr Mike Snelling			31/03/09	27/09/09
05242900	Kent Top Temps Ltd - [Kent Temps Ltd to 14/12/04]	Commercial Services	*Active - trading on commercial basis - started 4th April 2005. Subsidiary co. of KCC owned Co.	Commercial Services, Gibson Drive, Kings Hill, West malling ME19 4QG		Private Ltd Co	*27/09/2004	£1000 divided into 1000 shares of £1 each; **Issued 2 shares - wholly owned by KCT?? Share trfd fr Duport.	min-1; Kevin Harlock, Laurence Faulkner, M Snelling	Laurence Faulkner	Laurence Faulkner, Michael Victor Snelling	Laurence Faulkner; KG Phillips, LS(x4393) DX No 123693?	Co set up by Duport Associates Ltd, whose cos **Duport Secretary Ltd and Duport Director Ltd were the first director, secretary and also the shareholders (1 share each); resignation fr dir and sec sighted BUT NOT SHARE TRANSFERS	31/03/09	27/09/09
05505567	Produced in Kent (PINK) Ltd	R&ED	KCC and Hadlow College have equal voting powers	Bourne Grange Stables, Tonbridge rd, Hadlow, Kent TN11 0AU		Not for profit Private Company Limited by guarantee	*12/07/2005		Julian Barnes, Stephen Clarke, Paul Hannah, William Opie, Timothy Piper, Michael Solomon, Andrew Wickham	Stephanie Durling (officer)	Andrew Wickham (KCC) Paul Hannah (Hadlow College)		Provides for any liabilities to be agreed in the same ratios as the funding is provided i.e. 150:50 = 3:1	31/03/2009	12/07/10
07320291	Kent Cultural Trading Limited	Lib and Arch	Active	Lib and Arcives Springfield			20/07/10		Des Crilley, Lesley Spencer and Mike Hill						
05858178	Kent County Facilities Ltd	Commercial services	Active	Commercial services			26/06/06							31/03/09	26/06/10

Dormant companies

02341975	Kent Training Centres Ltd	Legal & Democratic Services	Active - dormant (co registered to protect)	KCC Regeneration & Projects Division, Invicta House, Kent, ME14 1XX	Private, Ltd by Guarantee, no share capital		01/02/89	£0	Sue Maglona Stoneham	Nana Bowen (officer)				30/09/2009 (DORMANT)	15/07/10
02965139	Kentish Fayre Ltd	R&ED	Active - dormant (co registered to protect name)	Strategic Planning Directorate, Economy & Environment Division, Invicta House, Kent, ME14 1XX	Private, Ltd by Guarantee, no share capital	Private Ltd Co	05/09/94	Authorised SC £100 Ord shs - Issued - 2 @ £1 shs to Econ Dev Unit,	All directors resigned beginning of April - current dir is A King, Julie Monkman (officer)	Stephanie Durling (officer)	Alex King		sp Novella has Memorandum and Articles	30/09/2009 (DORMANT)	05/09/09
4447738	Invicta Innovations Ltd	Legal & Democratic Services	Dormant	c/o Regeneration and Economy KCC, Invicta House, ME14 1XX		Private Ltd Co	27/05/02	3 @ £1 held by R Neame	Robert H B Neame				SP has Co on file.	31/3/2009 (Dormant)	03/09/10
05858177	Kent County Supplies Ltd	Commercial services	Active Dormant	Commercial services			26/06/06							31/03/09	26/06/10

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