



Summons to and
Agenda for a
Meeting on
**Thursday, 25th
October, 2012**
at **10.00 am**



DEMOCRATIC SERVICES
SESSIONS HOUSE
MAIDSTONE

Tuesday, 16 October 2012

To: All Members of the County Council

Please attend the meeting of the County Council in the Council Chamber, Sessions House, County Hall, Maidstone on Thursday, 25 October 2012 at **10.00 am** to deal with the following business. **The meeting is scheduled to end by 4.30 pm.**

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.

A G E N D A

1. Apologies for Absence
2. Declarations of Interest
3. Minutes of the meeting held on 13 September 2012 and, if in order, to be approved as a correct record **(Pages 1 - 12)**
4. Chairman's Announcements
5. Questions **(Pages 13 - 20)**
6. Report by Leader of the Council (Oral)
7. Dilnot Commission on Funding of Care and Support **(Pages 21 - 52)**
8. Peer Review of Children's Services **(Pages 53 - 60)**
9. New Governance Arrangements for Kent County Council **(Pages 61 - 90)**
10. Motion for Time Limited Debate

Mrs Dean will propose, Mr Chittenden will second that:

"Kent is a major beneficiary of S106 payments made by developers to fund many projects which benefit the people of Kent. New roads,

road improvements, schools, libraries, bus services and many other community services are paid for by KCC and others from these agreements. Kent County Council also negotiates s106 agreements with developers on land which it owns. KCC is also a consultee in Local Development Frameworks which determine housing provision including affordable housing, and has a declared interest in ensuring a high quality sustainable built environment for all residents.

This council therefore rejects the proposals from the Secretary of State for Communities and Local Government which recommend:

- a) The granting to developers a right of appeal against conditions relating to Section 106 agreements on planning permission already consented but now "deemed unviable" because of the number of affordable homes required, so that the Planning Inspectorate would then decide how many affordable homes and other S106 conditions will be removed and
- b) Legislation to allow applications to be decided by the Planning Inspectorate, if the local authority has a track record of consistently poor performance in the speed or quality of its discussion.
- c) The temporary lifting of planning law to allow rear extensions of up to 8 metres without requiring planning consent."

11. Quarterly Report on Urgent Key Decision: Contractual Arrangements for Academies post Building Schools for the Future **(Pages 91 - 92)**
12. Minutes for Approval **(Pages 93 - 98)**
Governance and Audit Committee – 25 September 2012
13. Minutes for Information **(Pages 99 - 106)**
Planning Applications Committee – 9 October 2012
Regulation Committee – 5 September 2012



Peter Sass
Head of Democratic Services
01622 694002

KENT COUNTY COUNCIL

MINUTES of a meeting of the Kent County Council held in the Council Chamber, Sessions House, County Hall, Maidstone on Thursday, 13 September 2012.

PRESENT:

Mr R E King (Chairman)
Mr E E C Hotson (Vice-Chairman)

Mrs A D Allen, Mr M J Angell, Mr R W Bayford, Mr D L Brazier, Mr R E Brookbank, Mr J R Bullock, MBE, Mr R B Burgess, Mr C J Capon, MBE, Ms S J Carey, Mr P B Carter, Mr N J D Chard, Mr A R Chell, Mr I S Chittenden, Mr L Christie, Mrs P T Cole, Mr N J Collor, Mr G Cooke, Mr B R Cope, Mr G Cowan, Mr H J Craske, Mr A D Crowther, Mr J M Cubitt, Mrs V J Dagger, Mr D S Daley, Mr M C Dance, Mrs T Dean, Mr J A Davies, Mr T Gates, Mr G K Gibbens, Mr R W Gough, Mrs E Green, Mr M J Harrison, Mr W A Hayton, Mr C Hibberd, Mr P M Hill, OBE, Mr D A Hirst, Ms A Hohler, Mrs S V Hohler, Mr P J Homewood, Mr M J Jarvis, Mr A J King, MBE, Mr J D Kirby, Mr J A Kite, MBE, Mr S J G Koowaree, Mr P W A Lake, Mrs J P Law, Mr R J Lees, Mr J F London, Mr R L H Long, TD, Mr S C Manion, Mr R F Manning, Mr R A Marsh, Mr M J Northey, Mr J M Ozog, Mr R J Parry, Mr R A Pascoe, Mr T Prater, Mr L B Ridings, MBE, Mr A Sandhu, MBE, Mr J E Scholes, Mr J D Simmonds, Mr K Smith, Mr M V Snelling, Mrs P A V Stockell, Mr B J Sweetland, Mr J Tansley, Mr R Tolputt, Mrs E M Tweed, Mr M J Vye, Mrs C J Waters, Mr J N Wedgbury, Mr M J Whiting, Mrs J Whittle, Mr M A Wickham and Mr A T Willicombe

IN ATTENDANCE: Geoff Wild (Director of Governance and Law) and Peter Sass (Head of Democratic Services)

UNRESTRICTED ITEMS

148. Apologies for Absence

The Director of Governance and Law reported apologies for absence from the following Members:

Mr Andrew Bowles
Mr Ken Pugh
Mrs Julie Rook
Mr Chris Smith
Mr Chris Wells

Following this the Chairman explained that a new hearing loop system had been installed in the Chamber. He stated that Members with a hearing aid would need to wear a device that relayed the sound to the hearing aids and that these devices, which were worn around the neck, needed to have the manufacturer's name showing to enable the transmitters to work correctly.

149. Declarations of Interest

Mr Cowan declared an interest as a foster carer with his wife in any item on the agenda relating to Children's Services.

150. Minutes of the meeting held on 19 July 2012 and, if in order, to be approved as a correct record

Resolved: that the minutes of the meeting held on Thursday, 19 July 2012, be approved as a correct record and signed by the Chairman.

151. Chairman's Announcements

(a) Death of Mr Malcolm Robertson

(1) The Chairman informed Members of the sudden death of Malcolm Robertson, Liberal Democrat Member for Maidstone Central, on Friday 10 August 2012.

(2) The Chairman stated that Malcolm had been a fine Councillor and a good friend and that he was greatly saddened by his passing. They had worked together as Councillors on the Planning Applications Committee and Malcolm's knowledge of, and interest in, this area was invaluable. The Chairman stated that Malcolm had worked tirelessly for his constituents, a gentle giant who held the respect of people from all political parties and would be greatly missed at County Hall.

(3) Mr Daley, Mrs Dean, Mr Davies, Mrs Stockell and Mr Cowan all paid tribute to Mr Robertson.

(b) Death of Mr Dennis Hunter

(4) The Chairman informed Members of the death of Dennis Hunter, former Conservative Member for Whitstable West, on Wednesday 29 August 2012. Mr Hunter was a member from 1977–1993.

(5) Mr A King paid tribute to Mr Hunter.

(6) At the end of the tributes, all Members stood in silence in memory of Mr Robertson and Mr Hunter.

(7) After the silence, it was moved by the Chairman, seconded by the Vice Chairman and:

(8) Resolved unanimously: that this Council desires to record the sense of loss it feels on the sad passing of Mr Malcolm Robertson and Mr Dennis Hunter and extends to their family and friends our heartfelt sympathy to them in their sad bereavements

(c) London 2012 Olympic and Paralympic Games

(9) The Chairman offered his sincere thanks and congratulations to all of the competitors, medal winners, officials and volunteers with connections to Kent for their hard work and success at this summer's Olympic and Paralympic Games. He said

that there were far too many individuals to mention all by name but he was sure all Members agreed that the games were an overwhelming and outstanding success for the country.

(10) He stated that KCC had been awarded "Beacon Status" for its work on the London 2012 games and was only one of 5 authorities to achieve this accolade and the only one to secure the top grade of "Outstanding".

(11) The Chairman offered the Council's sincere thanks and congratulations to the Cabinet Member for Customer and Communities, Mike Hill, Corporate Director, Amanda Honey and staff in the Customer and Communities Directorate, particularly Chris Hespe and his team for their hard work. He stated that this included securing the Paralympic cycling event for Kent as well as training facilities for a number of international teams in the run up to the games and there had been a truly remarkable effort by all concerned.

(d) Members' Information and Communications Technology (ICT)

(12) The Chairman informed Members that staff from the ICT service would be offering advice and support to enable Members to make the most of the ICT needed to fulfil their Council duties. ICT staff would be outside the Darent Room at lunchtime and after the meeting.

(e) Petition

(13) The Chairman informed Members that he had received a petition from Mr Peter Lake on behalf of Hever Parish Council asking for Traffic Calming Measures to be introduced in and around the village of Four Elms. He presented the petition to the Cabinet Member for Environment Highways and Waste, Mr Bryan Sweetland, and asked him to investigate the matter and to respond to the petitioners in accordance with the Council's petition scheme.

152. Questions

Under Procedure Rule 1.17 (4), 7 questions were asked and replies given. 3 questions remained unanswered at the end of the thirty minutes and written answers were given.

153. Report by Leader of the Council (Oral)

(1) The Leader stated that he intended to spend the majority of his time talking about the budget proposals for the year 2013/14 which had been launched the previous week, but that there were a number of other important issues he would briefly touch on.

(2) He said that he wanted to endorse the Chairman's remarks on the success of the Olympics. It had been good to see one of the venues in Kent being used to its fullest and the Council was enormously indebted to Chris Hespe and his team, along with Mike Hill and Amanda Honey, for securing the Paralympic cycling to be held at Brands Hatch, it had been an enormous success and this had really showcased Kent at its very best.

(3) The Leader stated that the Council owed an enormous debt of thanks to all the individuals in Kent who volunteered to be Gamesmakers. He said that when you met people who had been to the Olympic and Paralympics, their work and engagement really made the Games such a phenomenal success and everybody he had met who had been to the Games had talked about the atmosphere those Gamesmakers helped to set. He said he had met a number of Kent volunteers at Brands Hatch who were Gamesmakers and they had done a phenomenal job.

(4) The Leader said that he had been in recent dialogue with Hugh Robertson, the Sports Minister. The dialogue had been about how the National School Games can mirror and reflect to a greater extent the extraordinary success of the Kent School Games where every year 30,000 young people participate and enjoy competitive sport and how to bring together the schools across the country and the professional sports bodies in really giving the National School Games gravitas so that there really is a long term legacy of getting more young people enjoying and participating in sport. He said that it was not just about those who are at the elite level, but those young people who are doing for the first time much more activity and much more competitive sport.

(5) The Leader then turned to one the prime priorities in supporting the Kent economy. He spoke about the recent engagement with Seven Hills, a new fresh marketing agency that had been engaged to really promote and put the East Kent economy on the map. He said that a presentation had been given in the lecture theatre and again at the Chairman's reception in East Kent which had been enormously well received by the business community in East Kent and colleagues in local government of all political persuasions across the four districts. He spoke about getting behind the campaign to realise the enormous opportunity that the East Kent economy could deliver.

(6) He stated that since the Council last met, the transfer of ownership of the Pfizer site at Discovery park had taken place and that the Council must work to support the ambitious new owners who had a phenomenal track record of success in turning round some very challenging sites, particularly in the North East, to make sure to maximise the opportunity of creating really good employment prospects in East Kent and contributing to the East Kent economy. Likewise in West Kent, the Council had a very ambitious Regional Growth Fund bid before national government at the moment, working with district colleagues and Medway Council. The 'Tiger bid's' aim was to be recipients of a significant similar Regional Growth Fund allocation to East Kent to really stimulate and help and support the Thames Gateway to get underway.

(7) He said that it was very refreshing to be able to announce, alongside Dartford Borough Council, some of the work that had been going on with national government to increase viability and start to get things happening in Eastern Quarry of a significant nature, for the first time after an enormous amount of negotiation and talking. Flexibility both from national and local government had lead to this happening. He stated that he was pleased to announce that in the next few weeks the Council hoped to announce the first recipients of the first loans from the Regional Growth Fund for East Kent which would hopefully be a significant contributor to building confidence in the East Kent economy, helping and supporting new and existing ventures to grow and expand.

(8) The Leader stated that as far as the budget proposals were concerned, he hoped everybody would agree that the document produced the previous week 'Framing the budget' was very fresh in the way that the document was laid out, not just in pulling together a number of figures, but also showing how the budget could be utilised to deliver that transformational service delivery around the four 'P's that he had mentioned in his last speech to full Council; greater investment in prevention, productivity, procurement and partnership. He said that this would all come to the fore, particularly around the health reforms, in trying to improve the quality of support and services to the elderly and vulnerable with better use of national health resource and social care resource.

(9) He stated that drafting the budget proposals really had been a quite extraordinary challenge. He reminded everybody that the 2013/14 budget would complete the three year journey of significant pain, imposed by national government on local government, with some 30%, outside of schools, being taken out of the budget. He said that the next year would be the completion of the three year programme and he thought that, in Kent, the County Council had responded very intelligently in a very innovative way going about transforming services to try and do more with less money and at the same time hopefully completing a three year freeze in council tax for the residents of Kent. Most importantly, the Council had a proven track record of delivering the past two years' very challenging budgets and there was an indication in the quarterly monitoring report that this year's budget was already starting to deliver a modest underspend in projections and the next year would be no different.

(10) He stated that in the proposals, the Council were still planning to maintain many discretionary services including; the Freedom Pass, Community Wardens and an ambitious capital programme, preserving member grants, continuing to invest significantly in the Kent economy, maintaining the Big Society Fund, introducing the first district partnership on the local authority mortgage scheme for first time buyers in the endeavour to help and support stimulating the housing market in Kent. He said there would also be a particular focus on trying to create employment opportunities for young people through the Kent Jobs for Kent Young People programme and he hoped that the proposals would be well received.

(11) Finally he explained that the proposals had been launched much earlier than before to give time for a comprehensive consultation with the residents of Kent, the businesses in Kent and partners in the voluntary and community sector in Kent to shape the final proposals which will come to the County Council in February and more importantly go through a committee stage to receive feedback from that consultation process and give more shape and form in continuation of transforming how front line service with less money deliver better support, particularly for the elderly and vulnerable in the county.

(12) Mrs Dean, as the Leader of the Opposition and Mr Cowan, as Labour group leader both responded to the Leader's report as is their right under paragraph 1.19(2) of the Constitution.

154. Community Safety Framework 2012-2015

(1) Mr Hill proposed, Mrs Waters seconded that the County Council approve the adoption of the Community Safety Framework 2012-2015.

- (2) RESOLVED that this recommendation be approved.

155. The Integrated Youth Service – Youth Justice Plan 2012-13

(1) Mr Hill proposed, Mrs Waters seconded that the County Council approve the statutory Annual Youth Justice Plan.

- (2) RESOLVED that this recommendation be approved.

156. Treasury Management Annual Review 2011-12

(1) Mr Simmonds proposed, Miss Carey seconded, that the County Council note this report.

- (2) RESOLVED that this report be noted.

157. Petition Scheme Review

(1) Mr A King proposed, Mr Homewood seconded, the recommendations below that the County Council be invited to approve the following recommendations from the Selection and Member Services Committee:

(a) Revisions to the Petition Scheme, together with the amendments and aspects to be retained, as set out below:

- (i) There be no change to the details that must be included for a petition to be valid, other than that petitions should be signed by people who live, work or study in Kent (paragraphs 2(3) & (4) of the report refer);
- (ii) Retention of timescale for processing and responding to petitions (paragraph 2(5) of the report refers);
- (iii) Replacement of the current list of ways that the County Council will respond to petitions with the following wording (paragraphs 2(6) to (8) of the report refer):

“Each petition that does not have the required number of signatures to trigger a debate will receive a written response from the appropriate Cabinet Member(s), which will set out their views on the petition and what action, if any, will be taken.”

- (iv) Retention of the provision to consider petitions on matters outside the County Council’s direct remit but over which it may have some influence (paragraph 2(9) of the report refers);
- (v) Introduction of amended provisions for:
 - Debates for those petitions that achieve 10,000 or more signatures to be considered at County Council;
 - Debates for those petitions that achieve between 2,500 and 9,999 signatures to be considered at the appropriate Cabinet Committee;

- District/Borough specific petitions of 1,000 or more signatures to be considered at the most appropriate local level (usually by a Local Board, Locality Board or a Joint Transportation Board);
 - Petitions that achieve up to 1,000 signatures to be referred to the appropriate Cabinet Member(s) for response, which may include a discussion at a Local Board, Locality Board or Joint Transportation Board (paragraphs 2(10) and (11) of the report refer),
- (vi) Amendment of the time allocated to the lead petitioner and Cabinet Member to speak on the petition at County Council or Cabinet Committees debates to three minutes (paragraph 2(12) of the report refers);
- (vii) Retention of the facility for e-petitions (paragraphs 2(13) and (14) of the report refer);
- (viii) Removal of the requirement for an officer to give evidence at the Scrutiny Committee if a petition requesting this achieves a certain number of signatures (paragraph 2(15) of the report refers); and
- (ix) Amendment of the process set out in the scheme for reviewing the way that a petition has been dealt with, to refer any requests to the Selection and Member Services Committee and the terms of reference of that Committee be amended accordingly (paragraphs 2(16) and (17) of the report refer).

(b) The Petition Scheme agreed by the County Council be reviewed by the Selection & Member Services Committee after 12 months.

(2) Mr Christie moved, Mrs Dean seconded an amendment to these recommendations that the Lead Petitioner and Cabinet Member should have up to 5 minutes to address the Council/Cabinet Committee on each petition. The mover and seconder of the original motion, Mr A King and Mr Homewood, agreed to this requested change to the recommendations.

(3) Mrs Dean proposed, Mr Chittenden seconded, an amendment to the recommendations as set out above in paragraph 1(a) and (b) as follows; it being noted that the third part of Mrs Dean's original amendment in relation to the length of time allocated to the lead petitioner to address the meeting had already been accepted by the mover and seconder of the original motion earlier in the debate:

2. (a)(iii) insert the words "*following discussion with the local Members(s)*" after the words Cabinet Member(s)
2. (a)(v) first bullet point delete 10,000, insert 6,000;
second bullet point delete 9,999 insert 5,999; and
add the words "*meeting in public*" at the ends of both the third and the fourth bullet points

(4) Following a debate, the Chairman put to the vote the amendment as set out above, when the voting was as follows:

For (10)

Mr I Chittenden, Mr L Christie, Mr G Cowan, Mr D Daley, Mrs T Dean, Mrs E Green, Mr G Koowaree, Mr R Lees, Mr T Prater, Mr M Vye

Abstain (3)

Mr C Capon, Mr B Cope, Mr P Lake

Against (60)

Mrs A Allen, Mr R Bayford, Mr D Brazier, Mr R Brookbank, Mr R Bullock, Mr R Burgess, Miss S Carey, Mr P Carter, Mr N Chard, Mr A Chell, Mrs P Cole, Mr N Collor, Mr G Cooke, Mr H Craske, Mr A Crowther, Mr J Cubitt, Mrs V Dagger, Mr M Dance, Mr J Davies, Mr T Gates, Mr G Gibbens, Mr R Gough, Mr M Harrison, Mr W Hayton, Mr C Hibberd, Mr M Hill, Mr D Hirst, Ms A Hohler, Mrs S Hohler, Mr P Homewood, Mr E Hotson, Mr M Jarvis, Mr A King, Mr J Kirby, Mr J Kite, Mrs J Law, Mr J London, Mr R Long, Mr S Manion, Mr R Manning, Mr A Marsh, Mr M Northey, Mr J Ozog, Mr R Parry, Mr R Pascoe, Mr L Ridings, Mr A Sandhu, Mr J Scholes, Mr J Simmonds, Mr M Snelling, Mrs P Stockell, Mr B Sweetland, Mr R Tolputt, Mrs E Tweed, Mrs C Waters, Mr J Wedgbury, Mr M Whiting, Mrs J Whittle, Mr A Wickham, Mr A Willicombe

Lost

(5) Mr Christie moved, Mr Cowan seconded that a maximum of two petition debates be heard at any one meeting of the County Council or a Cabinet Committee. The mover and seconder of the original motion, Mr A King and Mr Homewood, agreed to this requested change to the recommendations.

(6) RESOLVED that the substantive recommendation be approved as follows:

(a) Revisions to the Petition Scheme, together with the amendments and aspects to be retained, as set out below:

- (i) There be no change to the details that must be included for a petition to be valid, other than that petitions should be signed by people who live, work or study in Kent (paragraphs 2(3) & (4) of the report refer);
- (ii) Retention of timescale for processing and responding to petitions (paragraph 2(5) of the report refers);
- (iii) Replacement of the current list of ways that the County Council will respond to petitions with the following wording (paragraphs 2(6) to (8) of the report refer):

“Each petition that does not have the required number of signatures to trigger a debate will receive a written response from the appropriate Cabinet Member(s), which will set out their views on the petition and what action, if any, will be taken.”

- (iv) Retention of the provision to consider petitions on matters outside the County Council’s direct remit but over which it may have some influence (paragraph 2(9) of the report refers);

- (v) Introduction of amended provisions for:
- Debates for those petitions that achieve 10,000 or more signatures to be considered at County Council;
 - Debates for those petitions that achieve between 2,500 and 9,999 signatures to be considered at the appropriate Cabinet Committee;
 - District/Borough specific petitions of 1,000 or more signatures to be considered at the most appropriate local level (usually by a Local Board, Locality Board or a Joint Transportation Board);
 - Petitions that achieve up to 1,000 signatures to be referred to the appropriate Cabinet Member(s) for response, which may include a discussion at a Local Board, Locality Board or Joint Transportation Board (paragraphs 2(10) and (11) of the report refer),
- (vi) Amendment of the time allocated to the lead petitioner and Cabinet Member to speak on the petition at County Council or Cabinet Committees debates to five minutes (paragraph 2(12) of the report refers);
- (vii) Retention of the facility for e-petitions (paragraphs 2(13) and (14) of the report refer);
- (viii) Removal of the requirement for an officer to give evidence at the Scrutiny Committee if a petition requesting this achieves a certain number of signatures (paragraph 2(15) of the report refers);
- (ix) Amendment of the process set out in the scheme for reviewing the way that a petition has been dealt with, to refer any requests to the Selection and Member Services Committee and the terms of reference of that Committee be amended accordingly (paragraphs 2(16) and (17) of the report refer); and
- (x) A maximum of two petition debates be heard at any one meeting of the County Council or a Cabinet Committee.

(b) The Petition Scheme agreed by the County Council be reviewed by the Selection & Member Services Committee after 12 months.

158. Independent Person - New Standards Regime

(1) Mr A King proposed, Mr Homewood seconded, that the County Council consider the recommendation of the Panel of Honorary Aldermen and appoint Mr M E George as the County Council's Independent Person for the new Standards Regime for a four year term 1 July 2012 to 30 June 2016.

(2) RESOLVED that Mr George be appointed as the Independent Person for the County Council's new Standards Regime for a four year term 1 July 2012 to 30 June 2016.

159. Motion for Time Limited Debate

(1) Mr M Vye proposed, Mr T Prater seconded the following Motion for Time Limited Debate:-

'KCC receives an increasing number of requests for 20mph limits, reflecting the findings of a DfT survey which has consistently found 80% of the public and 75% of drivers support 20 mph speed limits on residential streets (1).

Local Authorities are able to use their powers to introduce 20 mph speed schemes in residential roads in cities, towns and villages (2).

This Council agrees that Kent County Council should act on these powers without further delay and gives its authority to allow Member Highway Funds to be used to fund the creation of new 20mph schemes (zones/limits) where there is community support and where streets are being used by pedestrians and cyclists.'

Notes:

- (1) Survey source – [Department for Transport \(DfT\) 'British Social Attitudes Survey: attitudes to transport'](#), conducted annually over the last ten years.
- (2) Particularly where this would be reasonable for the road environment, there is community support and where streets are being used by pedestrians and cyclists where business on foot is more important than delaying road traffic.

(2) Mr Sweetland proposed, Mr Brazier seconded the following amendment to the original motion as set out in paragraph (1) above:

"Delete all of the original text and substitute the following:

'KCC has one of the best road safety records of any local authority. In Kent, serious road casualty numbers continue to fall year on year. Over the last ten years KCC has supported over fifty 20mph schemes covering 791 roads in Kent.

This council agrees to continue our current policy of providing 20mph schemes on appropriate roads in residential areas as part of a Casualty Reduction programme until the current trial schemes in Maidstone have been evaluated and reviewed by Members.

Any new 20mph schemes will follow the normal process of consultation involving local communities and where the criteria for central funding are not met, the council agrees that schemes promoted by Members through their Member Highway Funds should be considered."

(3) The mover and seconder of the original motion, Mr Vye and Mr Prater, agreed Mr Sweetland's amendment without the need for a vote and, therefore, the amendment outlined in paragraph (2) above became the substantive motion.

(4) After further discussion, Mr Christie moved, Mr Cowan seconded that the question of the substantive motion be put. There was no debate on this procedural motion and it was agreed. The Chairman then asked if Members agreed the substantive motion and it was agreed.

(5) RESOLVED that:

- (a) the Council notes that 'KCC has one of the best road safety records of any local authority. In Kent, serious road casualty numbers continue to fall year on year. Over the last ten years KCC has supported over fifty 20mph schemes covering 791 roads in Kent;
- (b) the Council agrees to continue its current policy of providing 20mph schemes on appropriate roads in residential areas as part of a Casualty Reduction programme until the current trial schemes in Maidstone have been evaluated and reviewed by Members; and
- (c) any new 20mph schemes follow the normal process of consultation involving local communities and, where the criteria for central funding are not met, schemes promoted by Members through their Member Highway Funds should be considered.

160. Minutes for Approval

RESOLVED: that the Minutes of the meeting of the Governance and Audit Committee held on 26 July 2012 be noted.

161. Minutes for Information

Pursuant to Procedure Rule 1.10(8) and 1.23(4), the minutes of the Planning Applications Committee meetings held on 24 July 2012 and the Superannuation Fund Committee meeting held on 29 June 2012 were noted.

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COUNTY COUNCIL MEETING

Thursday, 25 October 2012

Question by Michael Northey to

Graham Gibbens, Cabinet Member for Adult Social Care and Public Health

Very good health developments in recent years have resulted in people living longer. Many residents in Kent and in my Canterbury South East division are now concerned about the ever increasing cost of long term social care. It is worrying that in some cases people must sell homes to cover the cost of their care.

Would the Cabinet Member for Adult Social Care and Public Health please advise me what actions he has taken to encourage the Government to implement the recommendations of the Dilnot Commission?

Answer

The Member for Canterbury South East division is correct to point to the evidence that people are living longer which, good health provision and social care support play important contribution.

I can advise Members that KCC's residential care policy makes provision for people with property moving to residential accommodation, to enter into a deferred payment agreement with KCC. As a result the sale of a property can be delayed.

Turning to the actions that I have taken, I can confirm that I have used every opportunity in the past year to press the case for the implementation of the Dilnot Commission's recommendations. I have lobbied ministers and Kent MPs in my capacity as the Cabinet Member for Adult Social Care and Public Health.

I have used my position as the chair of the South East Councils Adult Social Care, a network of cabinet members of local authorities, to raise the general profile of adult social issues with directors of adult social care and government officials. I would also like to mention the key role played by Paul Carter, in his capacity as the chair of South East England Council to make the case in the recent 'Fixing a Broken System' report, that was published in June 2012.

Some of the details of the actions have included:

Briefed Kent MPs on two occasions in February and June this year

I took part in the future of adult social care and support roundtable discussion with Paul Burstow, MP, the then Care Services Minister in July 2012, on the invitation of the Local Government Association's Community Wellbeing Board.

In a nutshell, the key messages I have consistently delivered are:

Firstly, advocate that the Government should push forward with implementation of the Dilnot Commission recommendations that do not require new money, mere policy changes.

Second, that a re-prioritisation of some existing public expenditure might be needed. For example, continuing with a shift of some of the NHS money to pay for the implementation of Dilnot.

Third, support state sponsored risk- pooling insurance approach to help individuals with long term care costs.

Finally, the extra cost that comes with the implementation of Dilnot is an appropriate investment to protect “our nation’s humanity” and the dignity of older people across the country.

COUNTY COUNCIL

Thursday 25 October 2012

Question by Mike Harrison to

Roger Gough, Cabinet Member for Business Strategy, Performance and Health Reform

My question is directed to Roger Gough, Cabinet Member for Business Strategy, Performance and Health Reform asking him to be kind to enough to give me and fellow members an update on the present position with regard to the seating arrangements here in the Council Chamber? I am given to understand that a request from numerous members has been made via your good self to have the present excellent chairs here in the Chamber serviced? I am sure that you will have noticed that many of them are in dire need of some TLC such as the hydraulic mechanism which is failing badly on many of them.

I do believe this work was to be included along with the upgrading of the sound system, which I am given to understand is still work in progress.

Answer

Property & Infrastructure Support in September engaged a company to review the faulty chair mechanisms in the Chamber. The replacement parts for these chairs have proved difficult to obtain due to their age and specialist nature however they have located a UK manufacturer and are awaiting confirmation as to the price of the replacement parts. Following receipt of the prices consideration will be given to replacing the faulty mechanisms initially on the chairs which need them as a priority.

Additionally a condition survey has been commissioned for all the chairs within the Chamber which are functioning correctly to determine remaining life span and to issue a report on which we can base any future changes and expenditure. This survey was carried out on Friday 12 October and the report is expected to be available on Friday 26 October.

Once Property have established when the parts will be available for repair they will update Democratic Services accordingly, in addition to sharing the results of the condition survey when received.

COUNTY COUNCIL

Thursday 25 October 2012

Question by Richard Parry to

Mike Whiting, Cabinet Member for Education, Learning and Skills

“Would I be right to blame the Labour government for reducing the choice to parents in primary school places given the surplus capacity limits, et al?”

Answer

Following the general election in 1997, the Labour Government introduced a series of substantial changes to the framework within which Local Education Authorities sought to balance local supply and demand of school places.

Following an Audit Commission report, Kent, like other authorities, was strongly recommended to remove surplus places to as little as 5%.

Surplus capacity, which hitherto had afforded parents a level of choice in selecting schools for their children was removed to meet the demands of the new framework.

Kent County Council therefore had to take action in the mid-2000s to reduce the number of school places. At that time, for example, Dover had overcapacity of 16%, while in Tonbridge and Malling the figure was 15%. The action recommended by the Audit Commission removed places from the system and impacted the choice available to parents.

Since being appointed as Cabinet Member, I have ensured that a new Commissioning Plan for Education Provision has been formulated to identify the expansions of schools which are now needed to help ensure that parents get the choice they deserve. Through the new commissioning plan, I expect to provide for a surplus capacity of up to 10% in localities, to rectify the situation that as was a result of the Audit Commission’s recommendation under the previous government.

COUNTY COUNCIL MEETING

Thursday 25 October 2012

Question by Tim Prater to

Mike Whiting, Cabinet Member for Education, Learning & Skills

At the September meeting, the Cabinet Member informed the Council that it was not possible to report on the exact number of children who would have previously been eligible for free home to school transport, who may not qualify under the new arrangements and that he would report back to the Council at the November Council meeting.

However, as there is no Council meeting in November scheduled, and unhappy at the prospect of waiting until December for information I feel should be available to the Council, I resubmit my question for a full response. Would the Cabinet Member for Education, Learning & Skills kindly inform this Council how many children have started this school term in Kent excluded from free home-to-school transport they would have been entitled to prior to the cut imposed by this Council on home-to-school transport provision?

Answer

The number of year 7 pupils starting secondary school being transported free from home to school at this time last year was 2457. This year that figure has reduced to 983.

This change is a reflection of the reduction in entitlement to home to school transport

The new policy is being introduced gradually – older pupils previously entitled under the old policy have retained that entitlement and will continue to be transported free.

It is impossible to be certain of the exact number of children who would have previously been eligible under the previous policy for two reasons:

- many parents have not applied for transport this year knowing that their children would not qualify under the new policy (there have been over 1000 fewer home to school transport applications this year) ;
- the numbers of children being transported changes constantly.

The Kent Freedom Pass has provided a welcome solution for some and 3000 more passes have been issued than at this time last year, bringing the current number of KFPs to almost 27,000.

Regardless of the changes to the transport policy, the number of pupils starting in Kent's grammar and denominational schools this year is slightly higher than last year.

COUNTY COUNCIL MEETING

Thursday, 25 October 2012

Question by Les Christie to

Graham Gibbens, Cabinet Member for Adult Social Care and Public Health

Following the Report on Home Care Agencies by Inside Out BBC South East on 15th October, can the Cabinet Member confirm what checks he makes to ensure Care Quality Commission guidelines are being followed by any Care Agencies he commissions to provide domiciliary care for the people in Kent? In particular can he confirm that of the 191 such agencies inspected by CQC in the South East KCC does not use any of the 4 which have failed to carry out CRB checks or any of the 5 identified as failing to have applied Safe Recruitment Procedures. Can he further advise if KCC is using any of the remaining 255 agencies not yet inspected by CQC and if so how many? If KCC is using any of that 255 what safeguarding actions has he taken to ensure that CQC guidelines are being applied.

Answer

The statutory regulation of domiciliary care agencies is undertaken by CQC and KCC will only commission agencies that are registered through CQC. In letting contracts we ensure that providers meet the quality threshold.

People receiving a KCC supported service are reviewed regularly by KCC staff who pick up issues in relation to quality of care, safety and wellbeing. As at 30 September 2012, 7,102 service users were receiving a domiciliary service and in 2011/2012, 30,441 individual service user reviews were undertaken. These reviews are one of the key ways of monitoring the effectiveness of the service for the individual.

Additionally KCC staff meet regularly with Health, the Police and other key organisations to share information on safeguarding and focus improvement efforts where needed. Safeguarding Co-ordinators and contracting staff have a key role in ensuring good practice.

Regarding the recent BBC South East programme, I can confirm that KCC does not commission services from the named agency that was the subject of specific concerns. We asked the BBC before the programme was broadcast to share the information they based the programme on and have repeated that request this week. Accordingly, we cannot currently confirm how the BBC have produced these figures or how they affect the people of Kent.

However I can tell council that, of the 122 domiciliary care agencies the council uses, there are only 2 which have not fully met the CQC's safe recruitment practices. Both of these were identified in the last 12 months and there has been intensive work undertaken with both care agencies by KCC's safeguarding and contracts staff to

ensure the agencies have raised their standards. Both agencies are awaiting re-inspection by CQC to confirm that they now meet the required standard.

CQC targets its inspections on those agencies about which it has the most concerns, meaning that high performing agencies are inspected less frequently. From information provided by CQC, of the 122 agencies KCC uses, 49 have not been inspected by CQC in the last 2 years. As described earlier, regular service user reviews, quality monitoring and shared information from other organisations ensures that the council maintains current information on the quality of these agencies and that the welfare of vulnerable people is safeguarded.

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By: Graham Gibbens, Cabinet Member, Social Care and Public Health
Andrew Ireland, Corporate Director, Families and Social Care

To: County Council – 25 October 2012

Subject: Dilnot Commission on Funding of Care and Support

Classification: Unrestricted

Summary: This report outlines the main recommendations of the Commission on Funding of Care and Support report (Dilnot Commission) and it updates Members on the Government's progress report on funding reform.

FOR DEBATE

Introduction

1. (1) The Commission on Funding of Care and Support, an independent body tasked by the Government, was launched on 20 July 2010 with reviewing the funding system for care and support in England¹. The Commission was chaired by Andrew Dilnot with Lord Norman Warner and Dame Jo Williams as fellow Commissioners. The Commission laid down out its advice and recommendations on how to reform the system to the Government in 'Fairer Care Funding: The Report of the Commission on Funding of Care and Support' on 4 July 2011(Dilnot Commission).

(2) The Government published a progress report on social care funding reform – 'Caring for our future: progress report on funding reform' on 11 July 2012. The progress report confirmed that the Government 'agrees with the principles of the Dilnot Commission's model – financial protection through capped costs and an extended means test – would be the right basis for any new funding model'.

(3) A number of national newspapers (Telegraph, Guardian, Independent, and Daily Mail) reported on 16 August 2012, that the Government had indicated it would take steps to bring in implementation of key Dilnot Commission recommendation. It was stated that the amount of money people will have to pay towards their 'care cost' could be capped at £35,000. A formal announcement about this is expected to be made in the Government's autumn statement.

(4) The Commission believes that greater government resources should be devoted to adult social care and the resources made available to local authorities should be transparent. The Commission estimates that, at current costs, the recommended changes would cost from around £1.3 billion for a cap of £50,000 to £2.2 billion for a cap of £25,000. Relying on the general assumption that KCC is allocated about 2.5% of the national funding for social care, the additional cost to

¹ The Commission was given four areas on which to produce recommendations:

- (i) How best to meet the costs of care and support as a partnership between individuals and the state;
- (ii) How people could choose to protect their assets, especially their homes, against the cost of care;
- (iii) How, both now and in the future, public funding for the care and support system can be best used to meet care and support needs; and
- (iv) How any option can be delivered.

Kent based on the Commission's calculation may be £32.5m and £55m respectively, depending on where the cap is set.

(5) This report summarises the main recommendations of Dilnot Commission. It also provides a summary position of the Government on the issue of care and support funding reform.

Policy Context

2. (1) Members will be aware that a number of the proposals put forward by the Dilnot Commission are in line with some of the Law Commission recommendations on the reform of adult social care law which was published in May 2011.

(2) The implementation of Dilnot Commission would have far reaching implications for adult social care provision in England. The Draft Care and Support Bill which is currently subject to a pre-legislative scrutiny consultation (closing date of 19 October 2012) would result in a fundamental reform of adult social care law not seen since the National Assistance Act 1948. If the bill is enacted, a single legal framework will sweep away some 30 pieces of legislation governing adult social care.

(3) Most commentators make the point that the present system is not sustainable given the demographic pressures and their financial implications. In line with demographic changes across the country, Kent's population over 65 is set to increase year on year, increasing 55% by 2030, with incidence of long-term conditions expected to rise at a similar rate. The Local Government Association have estimated that if the current trend continues, 70% of Council expenditure in 2019/20 will be on adult social care².

(4) The funding issue was also laid bare by the recent South East England Councils' (SEEC) report, 'Fixing a Broken System'³ which highlighted the historical inequity in funding for the South East, with the region receiving significantly less per head than London and metropolitan areas, across both Local Government and Health funding. In his introduction to the report, former SEEC Chairman and KCC Leader, Paul Carter said "We welcome Government's commitment to updating public finances but we would like to move faster and further to change the current inequitable and unsustainable system." KCC would call for the new long-term adult social care funding approach to respond to the findings of the report and ensure that the South East is fairly funded to meet demand. There is a strong case for reprioritising existing public expenditure, for example a shift of 2% of NHS funding to pay for the implementation of Dilnot.

(5) This is the backdrop to changes in adult services. The Adult Social Care Transformation Programme has been developed to help KCC manage and ensure that we continue to respond to those with care and support needs and their carers in a challenging financial context. At the heart of the County Council's Adult Social Care Transformation Programme is the aim of supporting more people to live independently in their own homes for as long as possible, through innovative and personalised way of delivering services.

² LGA, 'Funding Outlook for Councils from 2010/11 to 2019/20: Preliminary modelling', June 2012

³ South East England Councils, 'Fixing a Broken System', June 2012

(6) The underpinning principles of the Adult Social Care Transformation Programme⁴ are broadly in-line with policy direction of the Dilnot Commission, Care and Support White Paper and Draft Bill. However, there are a number of issues that Members may wish to consider, chief amongst these being the timing of implementation of key Dilnot Commission proposals.

Two key recommendations

Contribution to social 'care costs' should be capped

3. (1) The Commission recommended that contribution to social care costs should be capped. That is, an individual's lifetime contribution to adult social 'care costs' should be capped at, between £25,000 and £50,000 (£35,000 being the Commission's preferred figure). The Commission believes that this certainty about the maximum an individual has to pay will lead to a great increase in the social care insurance products available to individuals. It is important to engage the financial sector now, to develop and test products which will underpin the implementation of Dilnot. Without this, we doubt that there will be the necessary confidence and incentives for the sector to fully respond to this challenge.

(2) This contribution could be made in various ways including from weekly income from pensions and benefits, savings, the equity in property either now or the future (secured via a legal charge as with Deferred Payments) and money paid out from specific care related insurance policies.

(3) The capped contribution of those below retirement age should be less, reducing to zero for those who develop their need for care and support under the age of 40. Once a person has made their capped contribution, the state will pick up any further 'care costs', provided they are assessed as needing care and support.

(4) This capped contribution does not cover general living costs such as food, heating and accommodation. Individuals will need to find additional funding to cover this separate 'hotel cost'.

Means-tested support should continue but the threshold should be raised

(5) For those of lower means who cannot afford to pay the full cost of their care and support, means-tested support should continue. However the asset threshold for those in residential care beyond which no means-tested help is given should increase from the current threshold of £23,250 to £100,000. This does not mean that people with less than £100,000 will not have to use their capital at all, as it is recommended that capital between £14,250 and £100,000 is assumed to generate a "tariff income" of £1 per week for every £250 between these limits.

(6) It is presumed that a person making only a partial weekly contribution towards the cost of their care could still reach the capped contribution of £35,000. After that it appears they would cease having to make a contribution to this element of their care cost (see Appendix 1 for outline of the other recommendations).

⁴ Adult Social Care Transformation vision: People are at the heart of all adult social care activities, receiving integrated services that are easy to access, of good quality and that maximise their ability to live independently and safely in their community

Financial Implications

4. (1) It is estimated that, at current costs, the recommended changes would cost from around £1.3 billion for a cap of £50,000 to £2.2 billion for a cap of £25,000. Applying the general assumption that KCC is allocated about 2.5% of the national funding for adult social care, the additional cost to Kent based on the Commission's calculation may be £32.5m and £55m respectively, depending on where the cap is set. Case studies of what this may mean for older Kent residents is provided in Appendix 2.

(2) The present recommendations, if implemented as proposed would lead to an increase in the number of people requiring a care assessment. This is because in order to work out when a person has spent up to their capped contribution (e.g. £35,000) they and the state will need to know how much they need to spend on their care in order to meet their needs. This will be worked out according to national and local criteria.

(3) There would be an increase in the number of people requiring a detailed financial assessment as all people with less than £100,000 could potentially receive financial support from the local authority. Whether they do actually receive financial support will depend on the means test.

(4) Furthermore, the potential increase in transactions from needs and financial assessments could be compounded by the effect of young people with care and support need who are placed by other local authorities in Kent. As noted above, people born with a care and support need or who develop one in early life would be eligible for free a state support to meet their care needs. This is because the current ordinary residence rules result in children placed by other local authorities acquiring ordinary residence in Kent. When this happens they become the responsibility of adult social care in Kent. The Law Commission report on the reform of adult social care law did not make a recommendation on changing the ordinary residence rules.

(5) The proposal to base the national eligibility criteria at the substantial level may work against KCC financially, if the local government funding formula is not sensitive to the issues of authorities such as Kent that has invested in providing services at the moderate level of the eligibility criteria and has long been regarded as key aspect of KCC's preventative response.

(6) Taking all of the above factors into account, lead to the conclusion that the associated transactional costs (assessment, monitoring and tracking changes in need and review) could be substantial. These concerns will be reduced if the reforms are backed by adequate funding for local government.

Training implications

5. All indications are that implementation of key Dilnot Commission proposals will take place only after the fundamental reform of adult social care law along the lines of the Law Commission recommendations. The effect of this will mean that all frontline social care staff, managers and lawyers in local government will all have to be trained in order to understand and carry out the new responsibilities.

Progress report on funding reform

6. (1) The Government has confirmed that it agrees that the principles of the Commission's framework would be the right foundation for any new funding model including raising the means test threshold. According to the Government, protecting people against very high care costs would provide peace of mind and enable them to plan and prepare for their future care needs.

(2) Although the Government has confirmed that it supports the principles put forward by the Commission, it considers that there remain a number of important questions and trade-offs to be considered about how those principles could be applied to any funding reformed system.

(3) In the progress report on funding reform issued by the Department of Health, it is stated that 'given the size of the structural deficit and the economic situation the country is faced with, it is unable to commit to introducing the new system at this stage'. The Government intends working with stakeholders and the Official Opposition to consider the various options for what shape a reformed system, based on the principles of the Commission's model, could take before coming to a final view in the next Spending Review. Taking a decision in the Spending Review will allow the Government to take a broad view of all priorities and spending pressures.

(4) Mindful of the stress and anxiety that people face when they move into residential care and have to sell their homes, the Government has announced it will take definitive steps to move forward on a number of important recommendations made by the Commission. To address this, the Government is committed to introduce a universal system of deferred payments for residential care. The Draft Care and Support Bill, includes the necessary powers to implement this policy in England. Universal deferred payments will be introduced from April 2015. The Local Government Association reported that a survey of local authorities found that councils have already made deferred payments to around 8,500 people to a value of £197 million. KCC currently helps 94 residents under the deferred payments scheme to the tune of £2.8m per year.

(5) The Government will also introduce a national eligibility threshold for adult care and support in England. The Draft Care and Support Bill includes the necessary powers to set a national eligibility threshold. The national threshold will be introduced in April 2015. A national eligibility criteria at 'substantial level' will cause the issue highlighted in paragraph 4.5 above to be urgently addressed.

(6) Furthermore, the Government is committed to providing, a clear, universal and authoritative source of national information about the health and care and support system. This will include information on how the care and support system works, who might be eligible for financial support from the state, and how much care costs.

Conclusion

7. (1) This report has described the key proposals of the Dilnot Commission on Funding of Care and Support. In many ways, the Commission's recommendations would require fundamental changes as outlined in the Draft Care and Support Bill.

The changes will need to be underpinned by a new settlement for the funding of adult social care.

(2) KCC has prepared a draft response to the pre-legislative scrutiny consultation of the Draft Care and Support Bill, and it is attached to this report as appendix 3.

(3) Officially, the decision on the overall funding of a reformed care and support system will be taken alongside other funding decisions at next Spending Reviews whenever this takes place.

Recommendations

8. (1) The County Council note the contents of this report.
(2) The County Council is invited to debate the following motion:

At the heart of the County Council's Adult Social Care Transformation Programme is the aim of supporting more people to live independently in their own homes for as long as possible.

The County Council urges the Government to allocate the funding necessary to implement the Dilnot Commission's recommendations by 2015, to alleviate the stress and anxiety that the funding of care and support is causing to many of Kent's older residents and their families.

Appendices

Appendix 1: Dilnot Commission: other recommendations.

Appendix 2: Case studies - what the Dilnot recommendations mean to people with care and support needs

Appendix 3: KCC response to the Draft Care and Support Bill Consultation.

Background Documents

Fairer Care Funding: The Report of the Commission on Funding of Care and Support, Department of Health, 4 July 2011.

Caring for our future: progress report on funding reform, Department of Health, 11 July 2012.

Caring for our future: reforming care and support White Paper, Department of Health, 11 July 2012.

Draft Care and Support Bill, Department of Health, 11 July 2012.

Contact details

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Business Strategy

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Dilnot Commission: other recommendations

Universal Deferred payments

(1) There should be universal access to deferred payments for people in residential care. The Government has announced that subject to a legal change this would come into force in 2015. The Local Government Association has reported survey of local authorities found that councils have already made deferred payments to around 8,500 people to a value of £197 million. KCC currently supports 94 residents under the deferred payments scheme to the tune of £2.8m.

No contribution from those who develop care and support needs under the age of 40

(2) People born with a care and support need or who develop one in early life (suggested as under 40) should be eligible for free state support to meet their care needs, rather than being subjected to a means test. They will still be expected to contribute towards their general living costs, including in residential care.

Disability Benefits should continue

(3) Universal disability benefits for people of all ages should continue as now. The Government should consider how better to align benefits with the reformed social care funding system and the Attendance Allowance should be re-branded to clarify its purpose. A similar exercise is currently underway to replacement of Disability Living Allowance with Personal Independence Payments.

Accommodation costs in residential care

(4) People should contribute a standard amount to cover their general living costs, such as food heating and accommodation, in residential care. A figure in the range of £7,000 to £10,000 a year is recommended.

Eligibility criteria should be standardised and portable

(5) Eligibility criteria for service entitlement should be set on a standardised national basis to improve consistency and fairness across England, and there should be portability of assessments. In the short term, it is recommended that a minimum eligibility threshold should be set nationally at 'substantial' under the current system. The Government should also urgently develop a more objective eligibility and assessment framework.

Government awareness campaign

(6) To encourage people to plan ahead for their later life, the Government should invest in an awareness campaign to inform people of the new system and the importance of planning ahead. This campaign could be linked into the wider work to encourage pension savings.

Information and advice strategy

(7) The Government should develop a major new information and advice strategy to help when care needs arise. This strategy should be produced in partnership with charities, local government and the financial services sector. As proposed by the Law Commission, a statutory duty should be placed on local authorities to provide information, advice and assistance services in their areas. These should be available to all people, irrespective of how their care is funded or provided.

Carers support should be improved

(8) Carers should be supported by improved assessments which take place alongside the assessment of the person being cared for and which aim to ensure that the impact on the carer is manageable and sustainable. Proposals set out by the Law Commission to give carers new legal rights to services and improve carers' assessments are supported. In implementing recommendations on information and advice, the Government should ensure that carers have better information and advice about support and available services.

Integration with other services, especially the health service

(9) In reforming the funding of social care, the Government should review the scope for improving the integration of adult social care with other services in the wider care and support system. In particular, it is important that there is improved integration of health and social care in order to deliver better outcomes for individuals and value for money from the state.

Funding the recommendations

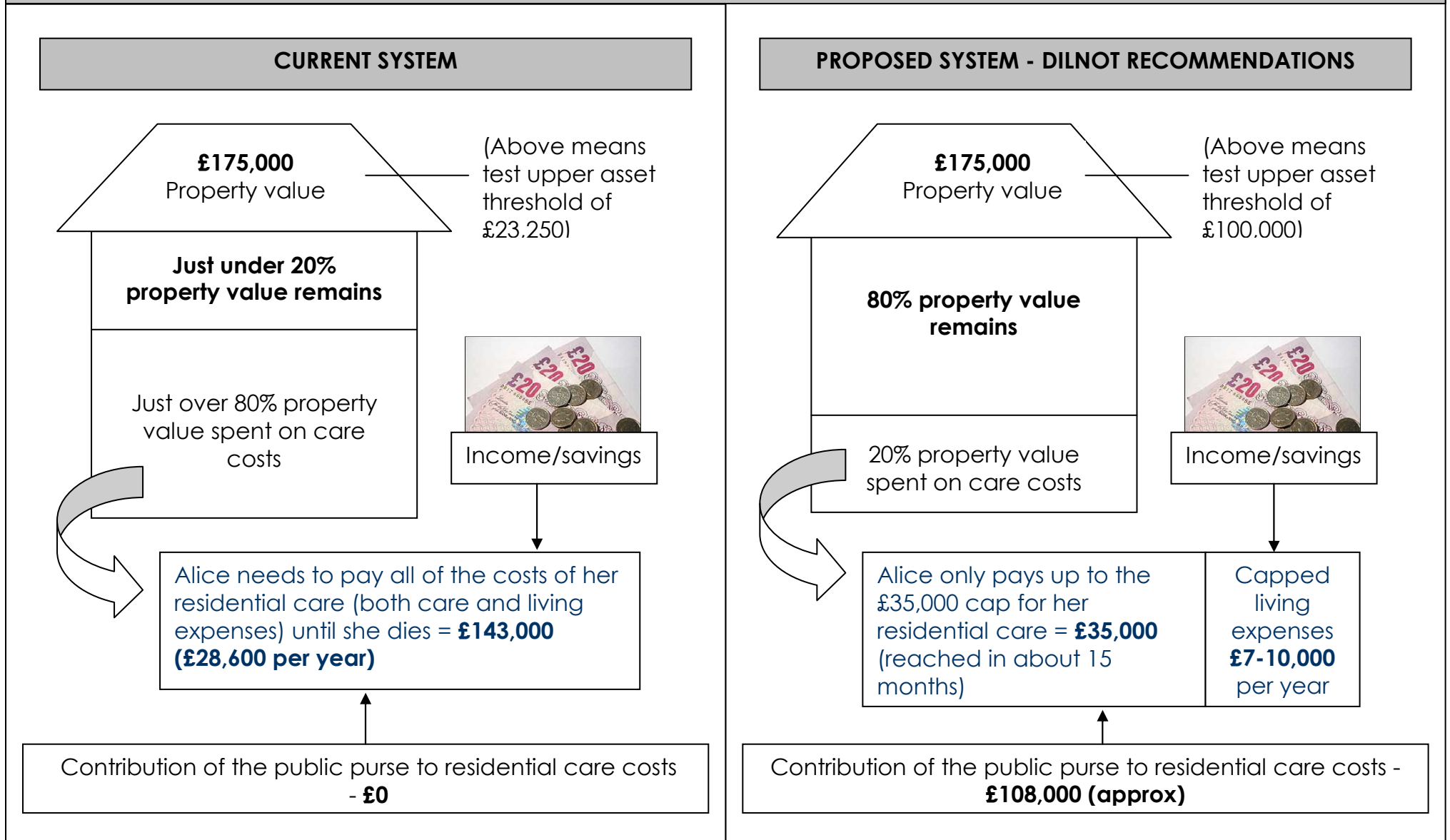
(10) The Commission believes that greater government resources should be devoted to adult social care and the resources made available to local authorities should be transparent. They estimate that, at current costs, the recommended changes would cost from around £1.3 billion for a cap of £50,000 to £2.2 billion for a cap of £25,000.

(11) The Commission has identified three possible ways to pay for the recommendations. Raising additional revenue through general taxation. This is the way in which the current system is funded. Reprioritising existing expenditure. Introducing a specific tax increase and, if it did so, making this to be paid at least in part by those who are benefitting directly from the reforms, i.e. those over state pension age. The recommendation is that rather than creating a new tax, it would be preferable to use an existing tax.

Case study 1: Alice

An 83 year old person with a property and savings, needing to go into a residential care home for the last 5 years of her life

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Case study 2: Emma

An 80 year old person with a property and low income, needing care at home for 2 years then going into a residential care home for the last 3 years of her life

CURRENT SYSTEM

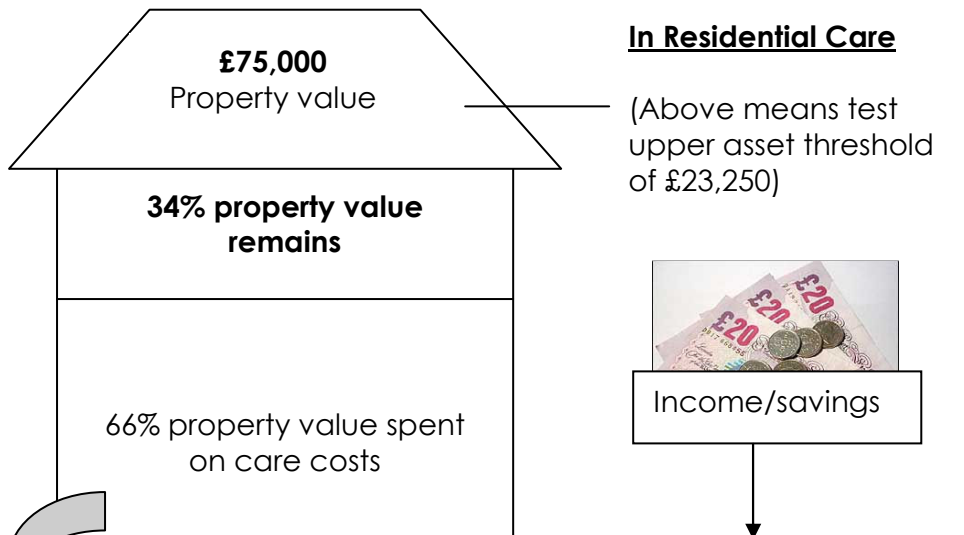


PROPOSED SYSTEM - DILNOT RECOMMENDATIONS



In Residential Care

(Above means test upper asset threshold of £23,250)

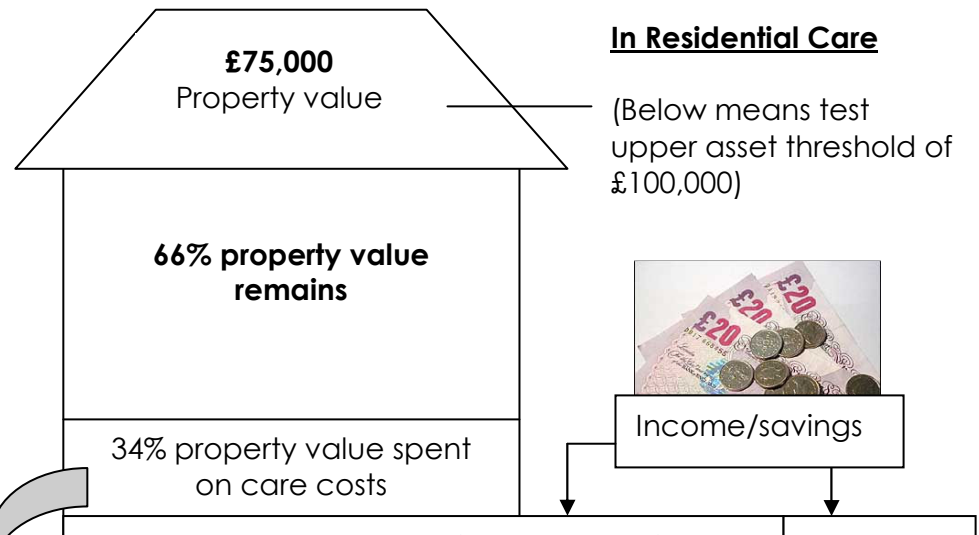


Emma needs to pay the full costs of her residential care (both care and living expenses) until she reaches the upper threshold (£23,250). This will take about 90 weeks = **£50,000** (approx.) After this, she only contributes a total of £8000 (approx) until her death

Contribution of the public purse to residential care costs - **£28,000 (approx)**

In Residential Care

(Below means test upper asset threshold of £100,000)



Emma only needs to contribute **£25,000** in total towards her residential care (care costs only) before she dies. If she had continued in residential care, she would only pay up to £28,760 before reaching the cap (including the £6,240 she already paid for care at home)

Capped living expenses **£7-10,000** per year

Contribution of the public purse to residential care costs - **£67,000 (approx)**

KENT COUNTY COUNCIL'S RESPONSE TO THE PRE-LEGISLATIVE SCRUTINY CONSULTATION ON THE DRAFT CARE AND SUPPORT BILL

1. Introduction

Kent County Council (KCC) welcomes the opportunity to comment on the draft Care and Support Bill. We fully endorse the view that the current system of social care is not 'fit for purpose' and is in need of urgent reform. We recognise this as a once in a generation opportunity to introduce a new legislative basis for adult care and support, to make the much needed reform a reality. KCC's approach to adult social care is built around the principles of integration, prevention and early intervention, and we are pleased to see that these principles are at the heart of the draft Bill.

KCC is the largest Council with Adult Social Services Responsibilities (CASSR) in England. It comprises of some of the most deprived areas in the South East and includes large coastal areas, which contributes to it having above average care home market capacity. This, combined with our proximity to London, leads to many individuals being placed in Kent from out of the area making Kent a 'net importer' of care and support. KCC can end up becoming responsible for funding of individuals who place themselves in Kent under Ordinary Residence rules.

Despite high demand for care and support in the county, KCC continues to support individuals down to the 'Moderate' eligibility criteria for adult social care. This decision has local cross-party support, and we believe it results in better outcomes for the individual and better value for money in the long-term.

KCC has a strong track-record in pioneering the transformation of adult social care and has a national reputation for innovation. To ensure that we continue to respond to the needs of those who use our services and their carers in a challenging financial context, we have launched a three-year programme of transformation of adult social care. To support the transformation, we have developed a new Vision Statement for adult social care in Kent, as shown in Figure 1.

Our transformation will have a determined focus on prevention and targeted intervention, ensuring that services respond rapidly and are more effective. We will encourage and empower individuals to do more for themselves and ensure greater support is available to carers. We will also develop a new deal with both voluntary and independent providers; one that is based upon trust and incentivisation. Clearly this is consistent with the reforms set out in the White Paper and underpinned by the draft Bill, and KCC welcomes many of Government's proposals which will help support our own commitments.

Vision Statement

People are at the heart of all adult social care activities, receiving integrated services that are easy to access, of good quality and that maximise their ability to live independently and safely in their community.

We will achieve this by:

- Empowering citizens to build a support network of trusted people, places and services tailored to their needs and minimising their dependence on formal services
- Working with communities to ensure people can develop or retain a choice of social links and networks to maintain health and prevent social isolation
- Making every penny count in achieving service user outcomes and value for money services
- Providing the right assessment at the right time to support people to achieve or regain their ability to manage their lives
- Commissioning housing options that support people to thrive in their community
- Developing a vibrant market of services from which people can find the right support
- Agreeing clear and consistent standards across the county, but recognising distinctive local solutions for delivery
- Encouraging a positive culture that enables our workforce to develop and deliver a quality service

Figure 1: KCC Adult Social Care Transformation Vision Statement

Along with our colleagues in the sector, KCC is disappointed that the draft Bill has not been accompanied by more definitive proposals for the reform of long-term funding for care and support. KCC fully supports the recommendations of the Dilnot review and would welcome the opportunity to work with Government on the development of a long-term funding system that delivers these principles. We recognise and support Government's commitment to take forward some of the recommendations including the £35,000 lifetime cap. However we urge Government to deliver quicker agreement and implementation of the new funding arrangements, as the current five year timescale leaves a significant period of time during which Local Authorities, providers, people with care needs and their carers will continue to struggle with the current system which is no longer fit for purpose.

We are pleased to note the additional NHS funding transfer that Government has promised to promote integration with the NHS and cover the costs of the reforms. However, we believe that in order to truly promote integration and provide sustainable funding for care and support needs, this must go further, and secure the transfer of NHS money for adult social care for the longer term, if not on a permanent footing.

KCC recognises that the current system is not sustainable given the demographic pressures and their financial implications. In line with demographic changes across the country, Kent's population over 65 is set to increase year on year, increasing 55% by 2030, with incidence of long-term conditions expected to rise at a similar rate. There is little doubt that this leaves a significant funding gap for social care, and that cuts in government spending create an even tougher challenge for Local Authorities to deliver services in a sustainable way. The LGA have estimated that if the current trend continues, 70% of Council expenditure in 2019/20 will be on adult social care⁵.

⁵ LGA, 'Funding Outlook for Councils from 2010/11 to 2019/20: Preliminary modelling', June 2012

In the South East we are faced with particular funding challenges. South East England Councils' (SEEC) recent report 'Fixing a Broken System'⁶ highlighted the historical inequity in funding for the South East, with the region receiving significantly less per head than London and metropolitan areas, across both Local Government and Health funding. In his introduction to the report, former SEEC Chairman and KCC Leader, Paul Carter said "We welcome Government's commitment to updating public finances but we would like to move faster and further to change the current inequitable and unsustainable system." KCC would call for the new long-term adult social care funding approach to respond to the findings of the report and ensure that the South East is fairly funded to meet demand.

KCC is pleased to offer this detailed response to the draft Bill. We have structured our response by working through the sections of the Bill and for each section have made comments in the following categories:

- **Where we feel that an issue is missing;**
- **Where we feel there is a lack of clarity;**
- **Where we feel there is contradiction and;**
- **Comments on regulatory provisions.**

In preparing our response, we have identified a couple of areas of the draft Bill where we would urge the Government to make revisions in subsequent drafts. These are:

1. KCC would like to ask Government to confirm that the intention of the draft Bill is that deferred payments can be used to cover all care costs including non-residential.
2. We would call Government to revisit the entire impact analysis to properly acknowledge the additional financial burden on Local Authorities and how this can be funded.
3. It is essential for the regulations to provide clarity on the way in which Local Authorities should factor reasonable cost into assessment / planning of care.
4. The powers and responsibilities of Safeguarding Adult Boards must be specifically defined in statutory guidance on a similar footing to that for Children's Safeguarding Boards.

KCC would like to reiterate our offer to work with colleagues on national working groups or directly with Government to share our ideas and contribute to the development and testing of proposals set out in the White Paper and underpinned by the draft Bill. We would particularly welcome the opportunity to influence the development of:

- Long-term funding solutions for adult care and support
- National eligibility criteria
- National assessment framework
- Provider Quality Profiles

⁶ South East England Councils, 'Fixing a Broken System', June 2012

- Code of Conduct
- National information website

2. General responsibilities of local authorities

Wellbeing duty

KCC welcomes the consolidation of adult care and support legislation around the single defining purpose of promoting individual wellbeing.

(Lack of clarity) We are concerned however that the definition of ‘wellbeing’ is not precisely defined and is therefore open to interpretation, and the list of examples seems to give it a very wide scope. The term ‘promote’ is also open to interpretation. This could leave Local Authorities open to challenge, including Judicial Review, on the care and support services they provide and how they provide them - as acknowledged in the detailed notes for the Bill. KCC would like to see further clarity from Government on how the wellbeing principle is to be interpreted and translated into practice.

(Lack of clarity) We would also encourage Government to specify how this duty to promote individual wellbeing relates to broader wellbeing provisions, for example under the Local Government Act (2000).

(Contradiction) In the introduction to the draft Bill, the section ‘What will the Bill do?’ states that “the well-being of the individual is paramount.” However this is not evident from the wording of the draft Bill, and in fact subsection (3) (e) requires Local Authorities to have regard to “the importance of achieving a balance between the adult’s well-being and that of any friends and relatives who are involved in caring for the adult.” It will be difficult for Local Authorities to interpret the duty with this contradiction, and there is a recurring need throughout the draft Bill to understand the ‘hierarchy’ of responsibility between the person with care needs and their carer.

Prevention

(Comment) This section of the Bill places a requirement on Local Authorities to provide or arrange for the provision of services that will prevent or delay the development of needs for care and support by adults in its area. As is currently the requirement, the Bill also specifies that a Local Authority must provide an assessment and subsequently any eligible services *where it appears that an adult may have needs for care and support*. There is a balance to be struck here between the Local Authority’s responsibilities to those who are in need of care and support, and the wider population, the majority of whom will not have care and support needs. By stretching the scope of responsibility, Government needs to be clear about where they expect Local Authorities to focus their efforts and limited resources.

With increasing financial pressures, it is important that prevention and early intervention does not become overlooked, and further guidance and appropriate funding from Government can prevent this from happening. In Kent, prevention and early intervention are key components of our approach to adult social care, and we are working with colleagues in the health, housing and voluntary sectors on a range of early intervention and prevention initiatives. Government could greatly assist by focusing on the development of research evidence to back up the benefits in outcomes that early intervention and prevention brings, so that Local Authorities can use this as a tool to work with partners and push this important agenda forward.

Providing information and advice

(Comment) KCC welcomes the proposals in the draft Bill to provide information and advice both at national level and about the choices available at local level. Strengthening and improving the advice and information we provide about care and support in Kent is one of the objectives of our transformation programme. We are pleased to see that Provider Quality Profiles will make information on providers available to the public. We would like to encourage Government to supplement this with information from service users/carers on the quality of care given, bearing in mind the need to balance this with objective evidence such as the results of Local Authority contract compliance and safeguarding reviews

(Issue missing) We believe that better information and advice is essential to encouraging people to plan for their futures. However, with the significant wait until a long-term funding position is agreed and implemented, Government is missing an opportunity to incentivise saving for later life and is making it harder for people to make informed decisions about likely costs of care in the future.

Diversity and quality of services

KCC is pleased to see the duty for Local Authorities to promote a diverse market of providers. We believe that this is the most effective way to create a social care system that delivers a choice of high quality, personalised and affordable services. A diverse social care market is central to our transformation programme, and we are currently investing time and energy in gaining a thorough understanding of our local care and support market, as well as detailed analysis of local needs and potential solutions. This will enable us to develop clear and comprehensive Commissioning Plans for our adult care services.

(Issue missing) To promote the diversity of provision, Local Authorities should be supported to make it easier for small organisations from the Voluntary and Community Sector (VCS) to join the market. For example, KCC would welcome clear guidance from Government on how to apply the rules of Part B procurement to allow more flexible procurement that is accessible to smaller VCS providers. This would help us to make the principles of the Big Society a reality.

A more diverse and responsive care market in which people increasingly contract for their own care and support requires a well-defined and easy to implement definition of 'quality' and we are pleased to see that Government is intending to do this.

Co-operating

(Issue missing) Government may wish to consider adding 'other providers of health services commissioned either by the NHS Commissioning Board or by a clinical commissioning group' to the list of partners at clause 4, sub-section (5.) Alternatively, if it is intended that the power to co-operate is retained by the commissioner, this needs to be stated.

(Lack of clarity) In Clause 5, if an agency decides that it will not comply with a request for co-operation for the reasons given in subsection (1,) and the Local Authority believes that the reason given is not satisfactory, how can this be resolved?

Integration with health services

KCC fully supports Government's drive for integration between health and social care, essential if the drive for increased personalisation, prevention and quality are to

be achieved. However, better integration at all levels has been worked towards for several decades and progress has generally been slow. We think it is the integration of services that is most important and therefore most emphasis should be put on encouraging integrated commissioning.

(Comment) We think that the Government can greatly assist the integration agenda by helping to develop a system of incentives and disincentives, for example developing a framework that can be used to distribute any savings achieved through integration so that all parties can see the financial reward. We would encourage Government to act on the findings of the Social Care Institute for Excellence briefing *Factors that promote and hinder joint and integrated working between health and social care services*⁷. This identifies various factors that can become a barrier to integration, including information sharing, which Government could help to resolve. Also although we welcome the alignment of the Public Health and Adult Social Care Outcomes Frameworks, the NHS Outcome Framework is still separate and Government could promote integration by aligning the three Frameworks together.

(Lack of clarity) Does the requirement for a Local Authority to ensure the integration of care and support with health provision put an onus on Local Authorities to do this over the NHS, or are both parties equally responsible for ensuring that integration happens?

3. Meeting needs for care

(Comment) The draft Bill's central purpose is to promote independence and wellbeing. However the order of examples of how care needs can be met is not consistent with the policy intention of prevention and care closer to home. For example, residential care would be the option pursued if other options to meet the individual's care and support needs in their own home were not suitable, but residential care is first in the list of examples. We would recommend re-ordering the examples to emphasise prevention and early intervention.

4. Assessing needs

Setting a national eligibility criteria

(Lack of clarity) KCC believes that the Local Authority is best placed to decide the level of eligible need in their area and subsequently to allocate appropriate funding, and are pleased to see some acknowledgement in the Impact Assessment that Councils will retain control for overall budget setting and size of individual care and support packages. However, assessment will always be open to subjectivity, and it is not currently clear how the new national eligibility criteria will eliminate the current inconsistency in application of FACS as Local Authorities will continue to interpret the criteria in their own way. We have concerns that the introduction of a national eligibility criteria could give a false impression to service users that the actual services they receive will be universal, when in fact they will necessarily vary between areas as acknowledged by the Impact Assessment which was published alongside the White Paper.

⁷ Social Care Institute for Excellence, 'Factors that promote and hinder joint and integrated working between health and social care services', May 2012

(Comment) Experience from the National Framework for NHS Continuing Healthcare and NHS- Funded Nursing Care⁸ shows that there are still large disparities between PCTs. A new eligibility criteria will need to be properly monitored and accountability for ensuring that it is being followed will need to be clear in order for it to have the positive effect that Government intends.

Level of national eligibility criteria

(Contradiction) As prevention is to be at the heart of the social care system, KCC would expect to see the universal threshold set to at least the equivalent of 'Moderate' on the FACS scale to promote a consistent message about the importance of early intervention and prevention. This would require appropriate funding and we acknowledge the statement in the Impact Assessment that Government will need to consider funding implications in setting the criteria, but would encourage an emphasis on early intervention and prevention.

Despite concerns about the level of the national eligibility criteria, KCC welcomes the freedom for Local Authorities to offer a more generous eligibility criteria. As previously stated, we believe that maintaining our eligibility rating of Moderate delivers better outcomes and value for money.

(Lack of clarity) KCC would like to seek assurance that the introduction of a universal eligibility threshold at the equivalent of 'Substantial' will not financially disadvantage authorities like Kent who have always maintained eligibility at moderate, and that any funding streams to support the new eligibility threshold will be distributed fairly.

New assessment framework

(Comment) We note from the White Paper that the new assessment framework aims to include more self-assessment. Our experience is that, although self-assessment is a useful and powerful tool for some, many people with care and support needs will not be able to carry out a self-assessment, due to their capacity and/or the complexity of their situation and needs. The point when people access care is also often a crisis point in an individual's life, meaning that they may be less able to conduct a self-assessment. The new framework needs to reflect this. We also see that there could be a key role for VCS organisations to support people who could self-assess if they received this extra support, if Government can support VCS organisations to do so.

(Issue missing) and **(Comment)** We feel that in both the draft Bill and White Paper, the importance of ensuring the quality of assessment is missing. We feel that future regulations around the new assessment framework need to clearly set out how the quality of assessment is to be achieved and monitored. Training and organisational development implications will need to be carefully considered. This will be particularly important when Local Authorities start to delegate assessment functions to third parties.

Assessment of carers needs

(Comment) KCC firmly believes that carers should receive the support they need to carry out their caring responsibilities and balance this with their own wellbeing. The proposals may have a particular benefit of redressing gender inequalities by better

⁸ Department of Health, The national framework for NHS continuing healthcare and NHS-funded nursing care, July 2009 (revised)

supporting carers, the majority of whom are women. However, it will be important that the new framework follows best value in assessment by starting with an assessment of the strengths of a carer and what they are able to do, and avoids creating a dependency on the provision of care and support for carers.

Assessing adults with needs and assessing their carers

(Lack of clarity) and **(Comment)** The draft Bill introduces a parity of responsibility to assess and meet the eligible needs of the adult with care and support needs, and the carer. KCC fully supports the recognition of carers. However very clear and specific guidance in the regulations will be needed to explain how this should translate in practice. Current Department of Health guidance expects Local Authorities to first assess and meet the needs of the adult with care and support needs, which in turn supports their carer, and then to assess and meet any additional needs of the carer. For example, the DH Carer's Grant Guidance⁹ states:

11. It is recognised that the results of a carer's assessment will usually be the provision of community care services to the service user. Such community care services should be as flexible as possible and take the needs of both parties into account as far as possible.

Guidance is needed on whether this is still expected practice, as it seems to be a logical approach to assessing and meeting carer needs.

(Comment) As Local Authorities start to use their new power to delegate assessment, it will be important to ensure that providers understand the position with regards to parity of responsibility to assess needs of the adult and their carer.

(Contradiction) and **(Comment)** On a related point, Clause 12, subsection (1) (a) states that further regulations may require the Local Authority to have regard to the needs of the family. Is this still the case if the needs of the family are in conflict with the needs of the person with care needs? Regulations will need to give clear guidance on this.

Shared assessment

(Issue missing) and **(Comment)** The Bill does not specifically reference shared assessment between agencies, which is something that KCC would like to promote where possible to prevent duplication and cost for public agencies and inconvenience and uncertainty for service users and carers. We would like to suggest that regulations should allow and encourage this to happen where appropriate.

Care and support in prisons

(Lack of clarity) The White Paper states that the new assessment framework will make it clear where responsibility for support in prison lies, with responsibility for assessment of need resting with the Local Authority in the area where the prison is situated. Provision of care would rest with the Local Authority if above a threshold of need that can no longer be provided by prison officers. KCC would like to seek clarification on how this will be reflected in the funding formula.

⁹ Department of Health, Carer's Grant 2008-11 Guidance, January 2008

5. Imposing charges and assessing financial resources

Power to impose charges

(Comment) The draft Bill gives local authorities a general *power* to impose charges. This is a departure from the existing *duty* to charge for residential accommodation and power to charge for non-residential services. The draft Bill will remove this distinction. We suggest that it would be preferable to place the ability to impose charges under a 'duty' provision rather as presently stated in the draft Bill as a power. This will help give Local Authorities greater weight in pursuing payments, which is essential in delivering economically sustainable services.

Deferred payments

(Lack of clarity) KCC would like to ask Government to confirm that the intention of the draft Bill is that deferred payments can be used to cover all care costs, i.e. residential and non-residential. Although we assume that this is the intention, as it is in line with the general spirit of the draft Bill to remove distinctions between care settings, the draft Bill does not specifically clarify this point.

(Lack of clarity) and **(Comment)** Assuming that the draft Bill *does* intent to extend the use of deferred payments beyond residential care costs, we are supportive of this broader power. However we have concerns about how the up-front costs of deferred payments will be covered. An ADASS survey has found that Councils have already entered into deferred payment arrangements with around 8,500 people to a value of £197 million. It is not clear how Government intends that Local Authorities will cover the cost when more people start to use this option to cover a wider range of care costs. It is also likely that the costs of chasing payments will be high - a significant number of social care debts are currently signed off by Local Authorities because perusing the debt would become disproportionately costly.

(Lack of clarity) KCC would like Government to clarify the point from which interest can be charged on a deferred payment. Currently interest is only charged 54 days after the person has died. Under the new arrangements, is interest to be charged from the time that the agreement is signed? We also welcome Government's intention to set the interest rate that can be charged.

6. Who can have their needs met?

Power to meet needs

(Lack of clarity) Clarity is needed around Clause 18 which gives Local Authorities a power to meet care needs where the *duty* to do so does not apply and subsection (2) explains that this can happen where a person is not ordinarily resident in the Local Authority area. Our understanding is that this Clause intends to provide Local Authorities with power to arrange care to a person not ordinarily resident in the area in an urgent or emergency situation. This provision is currently set out in the National Assistance Act¹⁰. However, the wording of the Bill does not explain that this power is intended to be used in cases of urgent need, and we felt that this needs to be clarified to assist interpretation.

Self-funders

¹⁰ National Assistance Act (1948) Section 24(3)

(Comment) Clause 17(3) turns the power for Local Authorities to meet needs even where the individual's financial resources are over the financial limit, into a duty to do so. KCC notes the positive impact that this will have on self-funders, particularly in helping them to avoid avoidably excessive care costs and to help individuals plan for their long-term care needs where their financial resources are likely to run out. However, although not the policy intention, the market implications would need to be fully quantified in the light of the cost of care between people supported by public funds and those who meet the cost of care and support out of their own means will disappear. Self-funders represent a significant proportion of the market - a Lang and Buisson study in 2011¹¹ found that 44.9% of places in registered care homes in England are self-funded. There are significant implications for the social care market, and associated increases in care cost will fall on the Local Authority. We would call Government to revisit the impact analysis to properly acknowledge the additional financial burden on Local Authorities and how this can be funded.

In the South East, this proposal is likely to have a greater financial impact on Local Authorities as we have a higher number of self-funders. As an illustration, if all self-funders in the South East area were to ask Government to meet their needs as required in 17(3,) it is estimated that South East Local Authorities would be supporting three times the number of people we do now, without taking into account demographic changes.

Meeting needs of adults with care and support needs, and meeting needs of their carers

(Lack of clarity) and **(Comment)** In line with our comments on assessment above, we welcome the recognition of carers but feel that much greater clarity is needed on the parity of responsibility to meet needs. Clause 19 (b) and (c) talks about meeting the carer's through the provision of care and support to the adult needing care, and meeting the carer's needs by provision of support to the carer. Clarity is required on whether these two provisions are on an equal footing and how Government expects Local Authorities to put this into practice.

(Lack of clarity) We feel that Clause 19, subsections (7) and (8) around finding ways to meet carers' needs are vague and open to interpretation, which could lead to disputes between Local Authorities and individuals.

Boundary with health

We welcome the intention to define the boundary between adult social care and health.

(Lack of clarity) and **(Comment)** The present draft does not sufficiently deal with boundary issues between NHS continuing healthcare and Local Authority responsibility. The current difficulties in implementing the agreed boundary have not been acknowledged in the draft Bill, and it is important that the regulations on this matter properly address this point. In particular, clear definitions of 'incidental' and 'ancillary' are needed to guide Local Authorities. It may be beneficial to specify which elements of care are the responsibility of the Local Authority and which are the responsibility of the NHS so that the need to determine whether a need is 'ancillary' or not is removed.

¹¹ ADASS / LGA, People who pay for care: quantitative and qualitative analysis of self-funders in the social care market, January 2011

(Lack of clarity) Clause 21 (3) reflects the NAA 1948 s21 (8) and specifies that the Local Authority may not provide or arrange for the provision of health care. Clause 21 (4) further states that the Local Authority may arrange for the provision of accommodation with nursing care in certain circumstances. However the Clause does not clarify the position whereby the Local Authority is required to provide accommodation with nursing care for people from abroad with no recourse to public funds when they are assessed as having community care needs. The NAA means that many Local Authorities are caught in the position of having to provide care in a nursing home including the provision of care by a registered nurse, when NHS provisions do not actually allow them to support people with no recourse to public funds.

Boundary with education services

(Issue missing) We welcome the intention to define the boundary between adult social care and Immigration, health, and housing with reference to clauses 20, 21 and 22. We are of the view that a similar reference to the exception for the provision of education services as contained in section 46 of the Apprenticeships, Skills, Children and Learning Act 2009 is missing and should be corrected. Section 46 is merely permissive in that it allows local education authorities when securing suitable education and training provision for young people under 25 to also secure boarding accommodation where they consider this appropriate. There is no duty on the local education authority to do this as there previously was under section 13 of the learning and Skills Act 2000. The lack of a clear duty encourages conflicts between the Local Education Authority and the Local Authority with adult social services responsibility about who should fund the provision of boarding accommodation when this is necessary for the provision of education and training. The drafting of the new Care and Support Bill would seem to be an ideal opportunity to clearly delineate the duties of the respective authorities in this regard.

7. What happens after assessment?

(Issue missing) The draft Bill must have regard to the recent United Kingdom Supreme Court¹² decision about considering financial resources when planning to meet needs. The assessment section of the draft Bill adequately reflects the three 'tests' set out in section 47 of the NHS and Community Care Act (1990):

- i. **what are the needs** of the person;
- ii. in order to meet these needs **is it necessary for the authority** to make arrangements for the provision of any services;
- iii. if so, what are the **nature and extent of the services** for which it is necessary for the local authority to make arrangements?

However it does not reflect the additional 'fourth test' around reasonable cost:

- iv. **what is the reasonable cost** of securing provision of the services for which it is necessary for the authority to make arrangements?

The judges ruled it is lawful for councils to consider their own financial resources when deciding how they should meet a disabled person's needs. It is essential for

¹² R (on the application of KM) (by his mother and litigation friend JM) (FC) (Appellant) v Cambridgeshire County Council (Respondent) [2012] UKSC 23 *On appeal from* [2011] EWCA Civ 682

the regulations to provide clarity on the way in which Local Authorities should factor reasonable cost into assessment / planning of care.

Personal budgets

(Comment) Clause 25 (2) allows that a personal budget may also specify public money available for spending on matters relating to housing, health care or welfare. In Kent we are already working with health colleagues to bring together personal budgets for social care and for health. We feel that Regulations should provide more guidance to Local Authorities on aligning Personal Budgets and should encourage Local Authorities to work with partners to do so.

8. Who can receive direct payments?

Direct payments and Local Authority responsibility

KCC is fully supportive of the use of direct payments as an important tool to promote personalisation and choice. We have developed innovative ways of empowering people to use direct payments, including through our Kent Card (see below.)

(Comment) For direct payments to meet their full potential to give individuals choice and control, it is important that the process is as non-bureaucratic as possible, with a proportionate and light-touch approach to planning and overseeing how the money is spent, as suggested in the report *Improving Direct Payment Delivery*¹³ by the Think Local Act Personal consortium in 2011. KCC fully endorses this view, and this would be greatly aided if regulations could clarify the extent of the Local Authority's responsibility towards service users in the use of their direct payment. Uncertainty in this area can contribute to a risk averse approach by the workforce. It is not clear from Clause 30 (3), (4) and (5) the extent to which Local Authorities will still be required to ensure that money given is spent on meeting assessed need. We firmly believe that individuals should have as much freedom as possible to spend their direct payment to meet their care and support needs.

(Lack of clarity) We note in Clause 51 (2) that the provision of direct payments is exempt from the functions that Local Authorities can delegate to a third party. We would welcome clarity from Government on why this has been exempted. As stated above, we are opposed to any move that aims to restrict or control how individuals can use their direct payment unnecessarily.

(Lack of clarity) and **(Comment)** While direct payments are exempted from delegation, Local Authorities *are* able to delegate the functions of assessment, care planning and decision-making about the allocation of resources. We cannot see how Local Authorities could put this into practice, as assessment and care planning and the provision of direct payments cannot be easily separated. Is it the intention that a third party could make a recommendation on the suitability of a direct payment and the amount as part of assessment and care planning, which is then approved and monitored by the Local Authority? We would be supportive of this approach. It will be essential that the regulations are clear on this in order to support Local Authorities to work with third parties in practice.

(Issue missing) and **(Comment)** Although direct payments are a powerful solution for many individuals, we also believe that Government should do more to support the

¹³ Think Local Act Personal, 'Improving Direct Payment Delivery', 2011

development of alternatives to this method of delivering a personal budget. Providing a single choice between a direct payment and a council-managed arrangement does not offer the full range of options that are available. An example of another approach is the Individual Service Fund whereby the personal budget is managed by another organisation (private or voluntary.) We feel that Regulations should acknowledge the use of other methods of delivery where appropriate.

Combining personal budgets in direct payments

(Comment) As mentioned in our response to the section on personal budgets, we agree with Government that there is potential to build on the advantages of direct payments by bringing together other personal budgets and welfare payments. We have pioneered the use of the Kent Card, a chip and pin VISA card which does not require a bank account and offers a secure and convenient way of receiving and spending direct payments. We believe there is potential for personal budgets from a range of agencies to be loaded onto the Kent Card, allowing individuals choice and control over the total allocation of support funding allowed to them by local and national government. As referenced above, this would require individuals to have more control over how they spend direct payments, with less responsibility for Local Authorities to oversee how it is spent.

NHS Kent and Medway and Kent County Council Personal Health Budget Pilot

Working with NHS colleagues, we have jointly delivered a Personal Health Budget pilot in the areas of Maternity, Continuing Health Care, End of Life and Mental Health pathways, with the Kent Card at the heart of the pilot. Working together we developed systems and processes to effectively offer personal health budgets to 75 people. Building upon the success of Personal Health Budgets, KCC and NHS Kent and Medway tested Integrated Budgets (bringing together health and social care funding) with people who have long term conditions. People on the pilot have reported that Personal Health Budgets/Integrated Budgets has made a positive difference, stating that they feel in control and have been at the centre of the decision making process. Those receiving continuing health care funding have said they have experienced a seamless transition, moving from social care (where they had a Kent Card employing PAs) into health, where they could maintain this level of control. This was not possible prior to the pilot.

Direct payments in residential care

(Comment) Government are intending to pilot the use of direct payments in residential care. Although we support this as an option, we note the following potential problems with such an approach:

- A person using a direct payment to purchase residential care may find they are charged the private rate (usually significantly higher) and are not able to access the local authority rates. This could reduce rather than enhance choice.
- Residential care is often needed at a time of crisis - individuals/carers may not have the capacity to be entering into arrangements with care homes, therefore direct payments should never be mandatory, only ever an option for individuals, and the timeliness of the offer of a direct payment must be carefully considered.

- Using a direct payment to purchase residential care could in practice result in less protection for individuals. To avoid this they must be offered the same protection as other local authority funded residents – e.g. subject to regular reviews of their needs.

(Comment) We also believe that direct payments should not be seen as the only way to offer greater personalisation to people in residential care. Giving residents a greater say in care regimes, activities, staff rotas etc (co-production) and involving the outside community more can also achieve this objective.

9. Establishing where a person lives

Continuity of care

We welcome the concept of ‘portability’ subject to the following concerns.

(Lack of clarity) and **(Comment)** Clarification is needed on how the ‘receiving authority’ can be “satisfied that the adult’s intention is genuine.” How are issues of capacity and duress to be considered?

(Lack of clarity) and **(Comment)** Clarification is also needed in regulations on the dispute resolution process.

(Comment) We think regulations should stipulate clearly that the ‘sending authority’ must be required to notify the ‘receiving authority’ where the sending authority makes the arrangement for an individual to be placed in accommodation provided by the independent sector in the receiving authority’s area. This is stipulated in DH guidance on Ordinary Residence published in 2011¹⁴:

57. If a local authority places someone out of area in accommodation provided by the independent sector, **they should always inform the host authority of the placement**. This is to ensure the host authority is aware of the person in their area and to enable both authorities to agree on the suitability of the placement.

Experience shows that even though this should happen, it often does not happen and this can cause problems with continuity of care. The draft Bill should respond to this.

(Issue missing) and **(Comment)** It would also be helpful if timescales were provided within which the sending authority must notify the receiving authority. Regulations could specify this.

We would like to offer an alternative solution for continuity of care, for Government’s consideration:

- The sending authority could maintain responsibility for meeting care and support needs for a set time period after the person has moved
- During this set time period, the receiving authority must carry out its assessment, or if not completed by the end of the time period, maintain the level of service provision until it has

¹⁴ Department of Health, ‘Ordinary Residence: Guidance on the identification of the ordinary residence of people in need of community care services, England’, April 2011

- This would provide an incentive to the sending authority to give proper notice to the receiving authority
- It would also avoid the need for the receiving authority to attempt to reclaim its costs from the sending authority if the person actually remains ordinarily resident in the sending authority's area, as the OR dispute could be resolved within the time period when the sending authority retains responsibility for meeting the person's needs.

Ordinary residence

(Lack of clarity) and **(Comment)** The wording of Clause 32 appears to establish different interpretation according to the type of care and support being provided - specifically 'accommodation of a particular type.' It is not clear what this means and regulations will need to specify more clearly. This clause seems to contradict the unified approach of the draft proposals which apply irrespective of care setting or the type of care. Without the benefit of a clear and unambiguous definition in the regulations, this would potentially lead to new disputes between Local Authorities on the matter. It is not clear whether accommodation of a particular type will comprise of extra care housing, adult placement, de-registered care homes, specially adapted accommodation etc. It is extremely important that the regulations clarify this 'grey area'.

Please also see our comments on boarding accommodation for young people in Section 6.

10. Safeguarding adults at risk of abuse and neglect

KCC feels that the requirements set out in this section are positive and are in line with our current practice on Adult Safeguarding. We welcome the change to place Adult Safeguarding Boards on a statutory footing. However we have some concerns as below.

Enquiry by Local Authority

(Lack of clarity) Clause 34 on enquiry by Local Authority leaves significant scope for interpretation, for example it is particularly hard to establish risk of abuse or neglect, to determine whether an adult is unable to protect themselves as a result of their needs and to determine what kind of enquiry is necessary.

(Lack of clarity) All of the examples given in subsection (2) relate to financial abuse. Is it expected that Local Authorities will give particular attention to this area? Local Authorities are not well-placed to act as investigators into the private financial affairs of members of the public, and the Bill provides no investigative powers to back up this duty. Clarity is required on what is expected of Local Authorities in this situation, particularly as it is possible that families could claim compensation for losses if a Local Authority does not act appropriately in relation to financial abuse.

(Issue missing) The Law Commission considered that the statute should be worded to ensure that the Local Authority's duty can be discharged through a range of pathways or different routes through safeguarding. For example the Local Authority could undertake the enquiries themselves, refer to an appropriate agency or initiate a multi-agency investigation. Quite specifically, the Law Commission stated that "*The duty to investigate could be delegated to the NHS*". The Bill states only that the Local Authority "*must make (or cause to be made)*".

(Issue missing) The Law Commission also recommended that the statute should include an enhanced duty to co-operate in adult protection cases. Although the general duty to co-operate is provided in Clauses 4 and 5, the enhanced duty does not seem to be included in the draft Bill. Related to this, clarification is needed on how a Local Authority is to respond if another agency fails to respond to requests to co-operate in the Local Authority's enquiries.

(Comment) There is no mention of further regulations in this area, which we feel are essential to provide further guidance around this important issue which has wide-ranging implications for Local Authorities.

(Lack of clarity) We also note the abolition of Local Authority's power to remove persons in need of care (Clause 37.) Although not widely used, does Government intend that anything will replace this power, and is such a power needed to work alongside the new safeguarding duty?

Safeguarding Adults Boards

(Issue missing) The Law Commission review recommended that statute should set out a range of functions for SABs including to keep under review the procedures and practices of public bodies which relate to safeguarding adults and to give information and advice, or make proposals, to any public body on the exercise of functions which relate to safeguarding adults. The Bill appears only to say (at subsections 2 and 3) that an SAB must seek to achieve its objective of helping and protecting adults within the safeguarding category by "*co-ordinating and ensuring the effectiveness of what each of its members does*", and it "*may do anything which appears to it to be necessary or desirable for that purpose*". We note in the impact assessment that the provision of more specific functions for SABs was considered but rejected.

While we welcome the spirit of local flexibility, fundamentally SABs must have a clear mandate and be able to hold agencies to account. We do not believe that the draft Bill gives SABs sufficient weight to do so. We suggest that powers for SABs could usefully mirror those for (Local) Safeguarding Children Boards, as expressed in sections 13-16 of the Children Act 2004, the wording of which is similar to the more specified functions for SABs set out in the impact assessment. It would greatly assist Local Authorities to have the powers and responsibilities of Safeguarding Adult Boards specifically defined in statutory guidance on a similar footing to that for Children's Safeguarding Boards. This could be clarified in guidance for agencies who have a role in safeguarding adult as it for children's safeguarding in Working Together to Safeguard Children.

(Issue missing) The Law Commission also proposed that the CQC should be given a power to nominate an appropriate representative to attend meetings, but again this seems to be missing from the draft Bill.

(Lack of clarity) Government is asked to clarify how the activities of SABs are to be funded.

We endorse the government's stated aim to put Safeguarding Adults Boards on a statutory footing. This should ensure that all public bodies should be under the same duty and make sure that the work of the SAB adequately resourced.

Safeguarding adults reviews

(Lack of clarity) The trigger for a safeguarding adults review includes “concern about how the SAB, a member of it *or some other person involved in the adult’s case acted*”. Should this relate specifically to concerns about how a person has acted in their professional capacity? Otherwise this could be interpreted as concerns about the actions of any person, which would be the case for nearly every safeguarding case.

11. Transition for care from children’s to adults’ care and support

We welcome the clarification on young people in transition, as KCC currently experiences issues around this. However we feel much greater clarity is needed.

(Lack of clarity) and **(Comment)** This section raises various issues that require further clarification, which the further regulations could provide. For example, clarification is need on which worker should form the view that the child is likely to have ongoing needs at 18 and who carries out the assessment. Will specially trained transition workers be required to understand both the adult and children’s social care systems?

(Lack of clarity) It is not clear why there is a distinction between the ‘power’ to assess a child and a young carer, the ‘duty’ to assess a child’s carer.

(Lack of clarity) Clause 44 provides a power to meet a child’s carer’s needs as the LA considers appropriate. Annex B (para 68) further states: “*there may be certain services available only through adult care and support, and a child’s carer should be able to request an assessment under this Part as the means of accessing any such services.*” This would suggest that the carer may be able to access adult services (rather than just assessment) before the child turns 18. This seems to be at odds with every other aspect of this part of the Bill, which provides for children’s services to continue post-18, not for adult services to be available pre-18. We would like to seek clarification on the intention here.

(Lack of clarity) and **(Comment)** It would be helpful if regulations could include requirement for both departments to keep in mind any leaving care duties that are owed to the individual post-18. Both departments must be clear on their own duties and work towards a joined-up approach in relation to leaving care services and services provided to meet community care needs.

12. Enforcement of debts

Recovery of charges and deferred payments

(Comment) Clause 45 (2) states that a sum due to an authority is not considered as a debt due if a deferred payment could be entered into (unless the individual has refused a deferred payment.) As previously stated, KCC would like clarification from Government on how Local Authorities are expected to cover the up-front care costs (which are already debts in this case,) when a deferred payment is entered into. This will have significant financial implications for Local Authorities, and this Clause will delay the pursuit of payment of debts while a deferred payment agreement is being offered and considered. KCC would be particularly interested in Government’s thinking on how the funding formula will be sensitive to this issue.

Transfer of assets to avoid charges

We are pleased to see that this section addresses some of the shortcomings of current legislation. We are particularly pleased that the draft Bill does not make a distinction between residential and non-residential care, and that the six months rule no longer seems to apply to the transfer of liability for costs to the transferee.

(Issue missing) However, there is nothing in this section which states that where deprivation has clearly occurred we can treat the person as if they still had the assets. Regulation 25 (1) of the Assessment of Resources Regulations (1992) currently provides that a resident may be treated as still possessing capital that he has deprived himself of for the purpose of decreasing the amount that he may be liable to pay for his accommodation. We feel that this provision is missing in the draft Bill and may weaken Local Authorities' powers.

13. Miscellaneous

Delegation of Local Authority functions

(Lack of clarity) and **(Comment)** We welcome the provision in the draft Bill for Local Authorities to delegate its functions in relation to care and support. We would welcome further clarification in regulations on situations under which functions can be delegated and clarity on the retained responsibilities of a Local Authority that has delegated functions.

(Lack of clarity) and **(Comment)** We would also like to encourage Government to provide clear guidance about any duties or powers that are being rescinded in order to allow for the new delegation power so that practitioners are clear about the legislative framework that they are working in.

Discharge from hospital

(Issue missing) We believe that a reference to NHS continuing healthcare responsibilities is an important missing aspect of the current draft in Schedule 2, specifically under section 2 (3) a. It is understood that the "relevant authority" responsibilities cannot come into force until and unless NHS continuing health care eligibility has been tested and ruled out. We would urge Government to correct the missing reference in subsequent revision of the draft Bill before it is laid before parliament.

(Lack of clarity) We observe that Schedule 2, as presently drafted makes no reference to the acute hospitals responsibility for the care and support of patients that require readmission within 28 days of being discharge. There is a need for an insertion into Schedule 2 to reflect the obligation of acute hospitals.

(Comment) We are concerned of the elasticity of what constitutes 'safe discharge', we therefore urge that this issue should be carefully considered in the regulation that will underpin discharge arrangements. Our concern is based on the fact that there is still unacceptable variation in practice in spite of policy guidance.

Section 117 Mental Health Act

(Lack of clarity) We note that Schedule 3 deals with 'After-Care Under The Mental Health Act 1983: Direct Payments'. Whilst the proposed changes make modifications to Mental Health Act 1983 in relation to the duty on local authorities to provide after-care services for qualifying persons, the draft Schedule does not refer to the fact that

'after-care' is a joint duty placed on the NHS and local authority. It is not clear if it is the intention of Government to change the current dual obligation on the NHS and councils. We believe that the Schedule would benefit from clarification to make clear that 'after-care' duty will continue to be a shared responsibility for both bodies. As a consequence we would ask that Government should consider making the necessary modifications to the National Health Service Act 2006.

14. General

Repeals

(Issue missing) Section 22 of the Health and Social Services and Social Security Adjudications Act 1983 has been repealed and does not appear to have been replaced. This is an extremely useful provision that enables Local Authorities to unilaterally charge land owned by care home residents as security for residential accommodation fees. It is a valuable extra-judicial security which is much used in practice and should not be lost to Local Authorities.

15. Concluding remarks

KCC welcomes this long-anticipated reform of the law, consolidating, updating and replacing the outdated legislation that has developed piecemeal since the 1940s. We believe that the draft Bill achieves Government's aim of introducing consolidated legislation and will be easier for practitioners to navigate and put into practice. However, we feel that there are areas where significant clarification is needed, issues are missing or more guidance will be required in regulation, as identified in our response. We would encourage Government to address the issues raised in the consultation and progress the draft Bill as soon as possible, as it underpins reform in the care and support system that is urgently needed. However, it will be difficult for Local Authorities to start planning to put the new duties and powers into practice without an agreed long-term funding approach, and so we would also urge Government to progress this as a matter of urgency.

Government has set a series of consultation questions that it is particularly seeking comments on. Our views are expressed throughout our response, but for clarity a summary of our response to the consultation questions is provided below:

Q1: Do the opening clauses (2-7) sufficiently reflect the LA's broader role and responsibilities towards the local community?

In these Clauses, and throughout the draft Bill, we feel that the Local Authority's broader role is made clear. We have expressed concern about how Local Authorities are expected to split their focus between meeting the specific needs of people who are in need of care and support and their carers, and the wider responsibility for prevention and provision of information to the entire population, within extremely limited budgets. However, as underpinned by our transformation programme, KCC believes that a significant part of our role is to take leadership of care and support in the local area - identifying needs and empowering people to take control of their own care using a range of care and support options. We would again encourage Government to urgently introduce long-term funding arrangements for social care and support that is fair, fit for purpose and supports a modern social care system to enable Local Authorities to fulfil their broader role.

Q2: Does the draft Bill (in clauses 17 and 19) clarify individual rights to care and support in a way that is helpful?

Generally we feel that the draft Bill does clarify individual rights to care and support more clearly than existing legislation. As a result, it will be far easier for individuals to understand their rights and for professionals to implement the law. However we do have concerns that areas of the draft Bill that are very open to interpretation, particularly around the new well-being principle, could lead to more cases where Local Authorities are challenged by individuals, and would like to urge Government to provide as much clarity as possible to support Local Authorities.

Q3: The law for carers has always been separate to that for the people they care for. Is it helpful to include carers in all the main provisions (clauses 9-33) of the draft Bill, alongside the people they care for, rather than place them in a separate group?

We welcome the greater recognition of carers, which is a central tenant of our Transformation Programme and approach to social care. As there is by definition a close link and overlap between assessment and service provision for individuals and their carers, it would seem to be necessary to include carers in all the main provisions as set out in the draft Bill. To do otherwise would require considerable cross-referencing between different sections, which would make the provisions less accessible and harder to follow. However, we have raised concerns about the parity of responsibility to those with care and support needs and their carers, and the practical way in which needs can be met for both.

Q4: Does the new well-being principle, and the approach to needs and outcomes through care and support planning, create the right focus on the person in the law?

Yes we believe that the focus is broadly right and is in line with our enabling, person-centred approach to care and support. Again, we have expressed concerns about the interpretation of the well-being principle which we believe could cause difficulties for Local Authorities.

Q5: Do the “portability” provisions (clauses 31-33) balance correctly the intention to empower the citizen to move between areas with the processes which are necessary to make the system fair and workable?

Although we support measures to promote continuity of care, we believe that the processes require a good deal more detail, particularly around issues including timescales and dispute resolution, to make the system fair and workable. It is essential that the system avoids detrimental impact on the receiving authority (which, as a net importer of care, KCC is often likely to be) as a result of bad practice on the part of the sending authority. We have suggested an alternative solution for Government’s consideration.

We would like to reiterate our interest in working with Government and colleagues in the sector on the development of some of the new initiatives outlined in the White Paper and underpinned by the draft Bill, and would be happy to clarify or provide further information on any area of our response.

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By: Jenny Whittle, Cabinet Member for Specialist Children's Services
 Andrew Ireland, Corporate Director for Families and Social Care

To: County Council – 25 October 2012

Subject: Peer Review of Children's Services

Classification: Unrestricted

Summary: This report presents the initial findings of the recent Peer Review of Children's Services. The Peer Review was conducted under arrangements sponsored by the national Children's Improvement Board.

FOR INFORMATION

Introduction

1. (1) This paper informs Kent County Council Members of the outcome of the Peer Review of Children's Services. The review exercise took place between Monday 24 September 2012 and Friday 28 September 2012.

(2) The Peer Review process is endorsed by the Association of Directors of Children's Services (ADCS), Society of Local Authority Chief Executives (SOLACE) and Local Government Association (LGA) and it forms part of the nationally established sector-led improvement programme by local authorities.

(3) Kent County Council invited the Peer Review Team to examine Children's services for two principal reasons, (a) to undertake an independent assessment of our progress to date and, (b) test our understanding of opportunities for growth/challenge; corroborate our knowledge, and highlight any further areas for consideration.

(4) The Peer Review identified a number of key strengths. The review findings noted that significant improvements have been made since Kent started the journey of improving the quality of services following the Ofsted Inspection of 2010. The review team also identified a number of areas which need additional development in going forward.

(5) The written report by the Peer Review Team was not available at the time of publishing council papers. However, the initial presentation material that was provided by the Review Team has been reproduced and is attached as Appendix 1 to this report. A copy of the written report will be made available to Members at the earliest opportunity.

The Peer Review Process

2. (1) The process started with the completion of a self-evaluation questionnaire by KCC before the visit of the Review Team. The Review Team then had the opportunity to study information provided by the Kent including policy and performance information as well as the self-evaluation questionnaire.

(2) The Review Team spent five days in the Kent during the onsite phase of their review. The process begun with a meeting with senior managers, elected members, a cross-section of service managers, frontline staff and partner agencies. The process, in a nutshell, is as follows:

- Self-evaluation questionnaire
- Close scrutiny of casework
- Analysis of documents and data review
- Initial thoughts presentation
- Interviews and locality visits
- Feedback and prioritisation conference.

(3) The Peer Review Team consisted of the following members:

- Marion Davis – Independent Associate (Formerly Director of Children’s Services, Warwickshire County Council)
- Cath McEvoy – Safeguarding Operations Manager, North Tyneside Council
- Nicola Curley – Head of Safeguarding Locality and Family Support East, Hertfordshire County Council
- Councillor David Simmonds – Deputy Leader and Cabinet Member for Education & Children’s Services, LB of Hillingdon
- Nicki Walker-Hall – Independent Health Consultant
- Kevin Maidment – Independent Consultant (Formerly Superintendent, Wiltshire Constabulary)
- Kathryn Houghton – Independent Consultant
- Peter Rentell - Review Manager, Local Government Association
- Cassandra Harrison – Senior Adviser (Policy & Development), LGA Shadow

Conclusion

3. (1) The Peer Review process is a key aspect of the sector –led improvement programme approved by the Children’s Improvement Board. KCC’s Children’s Services was subject to the peer challenge which was undertaken on the invitation of the Count Council.

(2) The authority has yet to receive the formal report by the Peer Review team. In the mean time, the presentation material produced by Review Team is presented as Appendix 1 to this covering report for Members. As stated above, the formal report will be made available to Members in due course.

Recommendation

4. (1) The County Council note that contents of this report

Appendix

Appendix 1: LGA Safeguarding Children Peer Review: Presentation of Findings

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Background documents: None

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LGA Safeguarding Children Peer Review: Kent County Council Findings

1. Remit

Kent asked the Local Government Association (LGA) Peer Review Team to:

- Undertake an independent assessment of our progress to date; and
- Test our understanding of opportunities for growth/challenge; corroborate our knowledge, and highlight any further areas for consideration

2. Summary

A summary of their findings is that the Peer Review:

- Identified number key strengths; significant improvements made since started journey; and
- Identified number areas for in need of additional development as we move forwards

3. Peer Review Team members

- **Marion Davis** – Independent Associate (Formerly DCS, Warwickshire County Council)
- **Cath McEvoy** – Safeguarding Operations Manager, North Tyneside Council
- **Nicola Curley** – Head of Safeguarding Locality and Family Support East, Hertfordshire County Council
- **Councillor David Simmonds** – Deputy Leader and Cabinet Member for Education & Children's Services, LB of Hillingdon
- **Nicki Walker-Hall** – Independent Health Consultant
- **Kevin Maidment** – Independent Consultant (Formerly Superintendent, Wiltshire Constabulary)
- **Kathryn Houghton** – Independent Consultant
- **Peter Rentell** - Review Manager, Local Government Association
- **Cassandra Harrison** – Senior Adviser (Policy & Development), LGA Shadow

4. Process

(1) The process the Peer Team used included:

- A self-evaluation questionnaire
- Close scrutiny of casework
- Analysis of documents and data review
- Initial thoughts presentation
- Interviews and locality visits
- Feedback and prioritisation conference

- (2) The themes the Peer Team reviewed included:
1. Effective practice, service delivery and the voice of the child
 2. Outcomes, impact and performance management
 3. Working together (including Health and Wellbeing Board)
 4. Capacity and managing resources
 5. Vision, strategy and leadership

5. Theme 1: Effective practice, service delivery and the voice of the child

(1) Strengths

- New structure bringing together Early Intervention and Safeguarding teams
- Caseloads are much more manageable and allocation of cases to qualified social workers is extremely high
- Improvements in the recording of work undertaken
- Some areas where children and young people's participation is very good
- Staff and other professionals report Kent is a 'safer place' to work
- Significant improvement in the number of Children in Care having health assessments
- The Virtual School is well regarded
- Quality assurance processes are good e.g. Practice Improvement Programme

(2) Areas for Consideration

- Case recording
- Consistent quality of practice e.g. application of thresholds
- Central Referral Unit needs to be further developed to function fully effectively
- Data says too few children being seen during assessments
- Common Assessment Framework is not understood or applied consistently
- Serious Case Review actions and embedding of lessons learned
- Transitional arrangements for 16-19 year olds
- Development of Child Protection chairs and Independent Reviewing Officers
- Munro implementation

6. Theme 2: Outcomes, impact and performance management

(1) Strengths

- Robust collection and presentation of performance data
- Extensive evidence of audit activity
- Some evidence of outcomes-based specifications (commissioning)
- Demonstrable outcomes in early intervention in certain locations
- Good progress against targets in Phases 1 & 2
- Lead member provides effective challenge

(2) Areas for Consideration

- Focus and pace to improve outcomes for children and young people
- Make more use of audit information
- Greater co-ordination of area priorities and targets
- KSCB to drive a consistent and coherent approach to achieving outcomes

- Need to ensure new Child and Adolescent Mental Health Services provision leads to improved outcomes for service users

7. Theme 3: Working together (including Health and Wellbeing Board)

(1) Strengths

- Frontline staff work well together across partner agencies
- Multi-agency training is positively regarded
- The Kent Safeguarding Children's Board (KSCB) is extremely well resourced
- The KSCB creates networking opportunities for partners
- Significant investment of Health time and resource
- Some good examples of schools' contribution to services for children

(2) Areas for Consideration

- Efficiencies to be made in the KSCB support structures
- The KSCB needs to provide evidence of effective challenge, increase pace and impact
- The KSCB also needs to ensure that the views of children and young people influence all it does and that the focus is on improving outcomes for them
- Engagement with health and police is not consistent at all levels
- Interface and governance arrangements between statutory boards, including Health and Wellbeing Board, need establishing
- Quality and Effectiveness framework and Section 11 audits should be undertaken immediately by KSCB

8. Theme 4: Capacity and managing resources

(1) Strengths

- Significant investment in children's services – financial, staff and ICT
- Successful examples of securing external funding to increase range of services
- Developing a mixed economy of service provision
- Partner commitment of resources to Central Referral Unit
- Increased engagement of voluntary and community sector in commissioning process
- High morale and 'can-do' attitude of frontline staff

(2) Areas for Consideration

- Central functions including HR, IT, Policy, Finance and Communications to be more proactive in providing effective support to safeguarding
- Recruitment and retention of key staff and succession planning
- A stronger awareness of costs and value for money to inform commissioning and de-commissioning
- Budget holders need to be accountable for financial forecasting
- Articulate a coherent joint commissioning strategy as a priority
- Ineffective consultation with stakeholders around commissioning arrangements
- Ensure new ICT system meets service user requirements and is implemented promptly

9. Theme 5: Vision, strategy and leadership

(1) Strengths

- Lead member provides consistent, effective and visible leadership
- Visible leadership provided by Director and senior managers
- Increased confidence in management following recent re-structure
- Improvement of frontline management is a priority
- Strategic decision to devote substantial resources to the safeguarding agenda
- Growing recognition of just how much change and culture shift is required to realise aspirations
- Improvement Board has overseen good progress against the Improvement Notice

(2) Areas for Consideration

- Need for a longer term vision of high quality children's services across Kent
- Systematic exploration and adaptation of best practice from the sector
- Culture of only telling members the good news is taking time to disperse
- Parts of the children's agenda are located across three directorates which need to ensure consistent delivery of the shared objectives
- Governance is unusually complex which creates risks and imposes barriers to efficient service delivery
- Is there too much activity driven by initiatives that is doing valuable work but outside of a coherent strategic plan?
- Low level of consensus and understanding of Early Intervention and Prevention Strategy with limited vision for potential of new ways of commissioning

10. Summary

(1) Strengths:

- Managerial and political commitment
- Substantial recent progress
- Positive improvement in performance
- Improving partnership working
- Committed and passionate staff

(2) Areas for Consideration:

- Outcome focus
- *Quality of practice and thresholds*
- Challenge from KSCB and governance
- Recruitment and succession planning
- Coherent approach to Early Intervention and Prevention

(3) Key messages of the Peer Review

- Urgency
- Concentrate on the child's journey
- Vision for post-intervention
- Making quality systematic

By: Paul Carter, Leader of the Council
Alex King, Deputy Leader
Geoff Wild, Director of Governance and Law

To: County Council – 25 October 2012

Subject: New Governance Arrangements for Kent County Council – Review

Summary: This report reviews the new governance arrangements approved by the Council on 29 March 2012 and recommends some changes to the County Council's Constitution to reflect the new governance arrangements.

1. Introduction

(1) In approving the new governance arrangements that came into operation on 1 April 2012, the County Council agreed at its meeting on 29 March 2012 to review the operation of the arrangements at its meeting on 25 October 2012.

(2) The report which follows reflects the views of the members of the Selection and Member Services Committee, which met on 5 and 16 October 2012.

2. Design of the new governance arrangements

Members are reminded that the new governance arrangements were designed to:

- (a) streamline the committee infrastructure;
- (b) make the decision making process more transparent and inclusive;
- (c) support Cabinet Members in making more effective and informed decisions;
- (d) provide non executive Members with a greater opportunity to shape the Council's policies and major decisions; and
- (e) have a cost neutral impact on the Members Allowances Scheme.

3. New Governance Arrangements

General

(1) Following three cycles of the new Cabinet Committees, the early potential of the new structure is beginning to be realised and the intended outcomes achieved. Agendas for Cabinet Committees are in the main focussing on big strategic issues, both in terms of policy development, forthcoming decisions and performance management of services.

(2) However, keeping Members informed of all the developments in what are broad and complex portfolios continues to present a challenge. As a consequence, there is a danger that Cabinet Committees will become overburdened with information, which whilst important for all Members to assist them in discharging their role, nevertheless may impinge the Committee in concentrating on the strategic and significant issues.

(3) There are many ways that the information gap can be bridged, including separate briefings, news bulletins, video blogs, etc. It is suggested that at the next agenda setting meetings for the Cabinet Committees, consideration should be given as to how to keep the members of that Committee fully informed.

(4) Whilst the new governance arrangements will take time to become fully embedded, significant steps have already been taken to ensure that the transition to the arrangements is operating smoothly. The Democratic Services Transition Manager meets regularly with directorate co-ordinators (who work with report authors to prepare reports for Cabinet Members and Corporate Directors). As issues have arisen these have been discussed and learning shared, which has helped in planning the business of the Council and ensuring that the Cabinet Committees have been fully involved.

(5) Raising awareness of the new governance arrangements continues to be a priority. For example, a Decision Making Guide is being prepared and the new arrangements will feature in one of the modules which form part of the Kent Manager programme. Democratic Services staff continue to attend Directorate Management Team meetings to brief staff on the new arrangements.

(6) Since 1 April 2012, a new Executive Scheme of Officer Delegation has been operational. This ensures that officers are able to give effect to and implement decisions already authorised by Members, which reduces delay and bureaucracy, as well as reducing the risks of acting ultra vires. The following principles apply when operating the new scheme:

- (a) Once a Cabinet Member level decision has been taken (including where it is part of the approved revenue or capital budget or approved business plan) the implementation of that decision should be delegated to officers, so that further member decisions are not required in respect of the same matter;
- (b) Cabinet members will continue to be able to require officers to refer any matters that would otherwise be taken under this scheme of delegation to either themselves or Cabinet for decision;
- (c) Senior managers exercising delegated powers will continue to be able to sub-delegate those functions to more junior officers, or escalate the making of those decisions to the relevant Corporate Director, who can then (if appropriate) refer the matter to the Cabinet Member or Cabinet, as now;
- (d) Existing safeguards and rules relating to the appointment of consultants and interim senior managers, the reporting of single source tenders, or where a tender other than the most economically advantageous one is recommended for acceptance, should remain; and
- (e) Local member involvement in matters affecting specific electoral divisions should also remain.

(7) There have also been a number of other legislative and regulatory changes imposed on local authorities which have had an impact on the new governance

arrangements and the County Council have/are responding to in consultation with the Leader. For example, the new Kent Member Code of Conduct introduced with effect from 1 July 2012, and, most recently, the Local Authorities (Executive Arrangements) (Meetings and Access to Information) England Regulations 2012 which impact on the decision making process.

(8) The County Council has hosted a number of Member and officer visits from other local authorities keen to hear first hand about the new governance arrangements, e.g. London Borough of Barnet, Bracknell Forest and Hampshire County Council. There has also been a telephone conference call with colleagues at Cornwall Council.

Informal Member Groups

(9) Members will recall that, in streamlining the committee infrastructure and in the interests of transparency, Informal Member Groups (IMGs) were not to be part of the new infrastructure. However, elected Members cross-party and officers have expressed the view that having a minimalist approach to the number and purpose of small task and finish groups, be they IMGs or Member working groups on a time limited basis, were invaluable. **Appendix 1** to this report sets out the IMG/working groups which have, therefore, been reconstituted.

(10) Any new proposals for the establishment of an IMG will need to be discussed and agreed with the Leader, the relevant Cabinet Member and Cabinet Committee Chairman and spokesmen.

Forthcoming Decisions List

(11) The introduction of the new governance arrangements and the new template for an entry into the Forthcoming Decisions List has resulted in a much larger and informative plan of decisions. This has added to the transparency of the decision making process and provided non-executive Members with the opportunity to involve themselves in the decision making process.

Cabinet Committees

(12) A key ingredient to the new governance arrangements, and the success of the new Cabinet Committees in particular, is ensuring the infrastructure beneath the formal decision making process is disciplined and appropriate so that the decisions taken are robust and effective.

(13) There has been discussion about the pressure on some of the Cabinet Committee agendas to manage the business effectively. For example, the first meeting of the Policy and Resources Committee resulted in a great deal of time being utilised by the Committee spending time pre-considering proposed minor property decisions. Greater work on agenda planning to make the best use of time and resources will be required.

(14) Bearing in mind that one of the outcomes of the introduction of the new Governance arrangements was to streamline the committee infrastructure, any proposal put forward by a Cabinet Committee to establish a Sub Committee would

need to be considered very carefully by the portfolio holder in consultation with the Leader.

Education Cabinet Committee

(15) The Committee does not include persons nominated by the Diocesan Boards of Education of the Canterbury and Rochester Dioceses of the Church of England and the Roman Catholic Bishop, nor persons elected as representatives of parent governors at schools maintained by the Council as the local education authority for Kent. It should be recalled that under the Local Government Act 2000 these persons have a right to serve on the Scrutiny Committee when that committee is exercising powers in relation to education functions. They do not have a right to sit on the Cabinet Committee, which is an executive committee and not a Scrutiny Committee, constituted under section 21 of the Local Government Act 2000. The County Council may nevertheless wish to consider inviting these persons to attend the Cabinet Committee as a co-opted Member for which they would not be entitled to a vote.

Scrutiny Committee 'call in' process

(16) Further consideration has been given to the call in process set out in Appendix 4 Part 7 Paragraph 7 (10) of the Constitution. The call in process approved by the County Council in March places a requirement on the Clerk to ensure that the relevant 'call in' criteria are met. It is proposed that a 'call in' form is completed by the Members to assist the Clerk in establishing the validity of the call in. The proposed form is attached as **Appendix 2**.

Select Committee – Topic Review Programme

(17) Select Committees are time limited, task specific sub-committees of the Scrutiny Committee, appointed to carry out reviews on behalf of the Scrutiny Committee with the same powers as the main committee.

(18) The general scope of each Select Committee review is agreed by the Scrutiny Committee and endorsed by Cabinet when it is included in the work programme. The detailed terms of reference of each Select Committee Review are developed by a cross party Member group (one from each group), for approval by the Select Committee and endorsement by the Scrutiny Committee.

(19) The current programme of Topic Reviews has now been concluded and the Select Committee Report on Domestic Abuse is currently being written.

(20) The County Council is invited to put forward suggestions for a new programme which can be developed following the County Council election in May 2013.

4. Proposed amendments to the Constitution

Personnel Management Rules and Property Management Protocol

(1) Attached as **Appendix 3** to this report for incorporation into the Constitution is a tracked change version of the:

- (a) Personnel Management Rules; and

(b) the Property Management Protocol

which the Selection and Member Services Committee recommends to the County Council for approval.

Article 11

(2) The Selection and Member Services Committee has also considered a small change to Article 11 Paragraph 11.5, which sets out a statutory requirement for the Council to provide sufficient resources to the Monitoring Officer and Section 151 Officer, so as to include the Head of Paid Service.

(3) The Committee was of the opinion that this request was appropriate and sufficient given that the Head of Paid Service has to work with the Corporate Management Team, and in particular, the Monitoring Officer and Director of Finance and Procurement (Section 151 Officer) to ensure that the Council is not exposed to unnecessary risk both in terms of the law, financial risk and ensuring the Council has sufficient resources to discharge its statutory and approved discretionary services.

(4) The Executive Summary of the Constitution sets out that:

“The Council, advised by the Head of Paid Service and the Leader, determines the overall officer structure to deliver the Council’s responsibilities, under the management of the Corporate Management Team. The Council appoints the Head of Paid Service and designates appropriate senior officers as Monitoring Officer and Chief Finance Officer, who are responsible for resolving constitutional disputes and other matters laid down in the Constitution.”

and Article 11.1 includes:

(2) Structure. The overall management structure is determined by the Council on the advice of the Head of Paid Service and the Leader. The Head of Paid Service reports to the Cabinet and the Council on the manner in which the discharge of the Council’s functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

(5) To discharge this statutory function requires the Head of Paid Service to work across the whole Council with the support of all Corporate Directors. Other officers who have a statutory function in terms of discharging an element of the Council’s activity are able to look to the Head of Paid Services for any necessary resources. Therefore, it was the Committee’s view that these post-holders do not warrant the same specific provision of resources as part of Article 11.

(6) The Selection and Member Services Committee recommends the County amend Article 11 Paragraph 11.5 to read as follows:

“Provision of sufficient resources to the Head of Paid Service, Monitoring Officer and Chief Finance Officer.

The Council will provide the *Head of Paid Service, Monitoring Officer and Chief Finance Officer* with such officers’ accommodation and other

resources as are in their opinion sufficient to allow their duties to be performed.”

5. Recommendations

The Council is invited to:

(a) approve the reconstitution of the Informal Member Groups/working groups set out in Appendix 1;

(b) make suggestions as to the ways that Members could be kept better informed of issues within broad and complex portfolios;

(c) invite the persons nominated by the Diocesan Boards of Education of the Canterbury and Rochester Dioceses of the Church of England and the Roman Catholic Bishop whose diocese includes Kent as well as representatives of parent governors at schools maintained by the Council as the local education authority for Kent to be included as co-opted non-voting members of the Education Cabinet Committee;

(d) approve the ‘call in’ form to assist the Clerk in assessing the call in request against the call in criteria as set out in Appendix 2;

(e) propose topics for inclusion in a Select Committee Topic Review Programme following the County Council elections in May 2013; and

(f) approve the amendments to the Constitution as set out in Appendix 3 and paragraph 4 sub-paragraph (6)

“Provision of sufficient resources to the Head of Paid Service, Monitoring Officer and Chief Finance Officer.

The Council will provide the *Head of Paid Service, Monitoring Officer and Chief Finance Officer* with such officers’ accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.”

Paul Wickenden
Democratic Services Transition Manager
01622 694486
paul.wickenden@kent.gov.uk

INFORMAL MEMBER GROUPS (IMGs)

1. IMG Budgetary Issues

The former IMG on Budgetary Issues was considered to be extremely constructive, useful and informative cross-party. It is proposed that an IMG be reconstituted comprising the six Cabinet Committee Chairman, the Leader of the Opposition, the Leader of the Labour Group and the Independent member to meet every two months.

2. Budget IMGs for Cabinet Committees

Each Cabinet Committee has established its own Budget IMG. These IMGs will enable cross-party involvement in the budget from an early stage. This has proved to be a valuable part of the budget process over the past two years and Members are encouraged to continue with this approach.

3. Kent Minerals and Waste Development Framework IMG: Terms of Reference

This IMG will:

- steer the preparation of the MWDF in accordance with the Project Plan
- consider and advise on the aims, evidence and policy direction of the Kent Minerals and Waste Development Framework
- recommend the publication of evidence and consultation documents
- refer proposed policy documents for consideration by the Environment, Highway and Waste Cabinet Committee and for adoption by the full Council *

* The policy documents to be referred to the Cabinet Committee alone are proposed as:

- *Issues and Options* and *Policy Directions* documents for the Core Strategy

* The policy documents to be referred to the Cabinet Committee and full Council are proposed as the public consultation and submission versions of:

- Minerals and Waste Core Strategy
- Mineral Sites Development Plan Document
- Waste Management Sites Development Plan Document “

The Group has no executive or decision-making powers, but is advisory.

4. Education Standards Monitoring Group – Draft Terms of Reference July 2012

1. The ELS Standards Monitoring Group will ensure effective, cross-party oversight of the improvement priorities identified all Kent Schools (including Academies).

2. Develop expertise that enables Members to act as the champions for all Kent pupils.
3. Review the progress of the Kent schools; consider relevant statistical information.
4. Consider reports regarding the quality of delivery and management of risk associated with the OFSTED reports and School improvement
5. Work on behalf of the Education Cabinet Committee to ensure that they are able to conduct their targeted monitoring of Kent Schools.

5 Member Development Steering Group

Oversees the County Council Member Development Programme and the retention and development of the award of the Member Development Charter Plus. The Steering Group will also oversee the work of the former Member Information Member Officer Group

Scrutiny Call-In Form



To: Head of Democratic Services

I would like to call-in the decision as detailed below:

Decision made by Cabinet or Cabinet Member:

Date decision made:

Reasons for the call-in:

Have you discussed your concerns over this decision with the Cabinet Member or the Leader of the Council?

What is the proposed recommendation for the Cabinet/Cabinet Member to consider? E.g. what action would you like to see the Cabinet/Cabinet Member take to address the concerns outlined in the call-in, or what needs to be done to alter their decision?

Member(s) calling in the decision

Name Signature (or email confirmation) Date

This completed form must be delivered to the Head of Democratic Services within the time-scale notified on the appropriate record of decision or decision notices (where appropriate)

Email: scrutiny@kent.gov.uk

Extract from the Constitution

**Appendix 4 Part 7:
Decision Making Procedure Rules**

Scrutiny Committee process

Call-in criteria

7.10 Any Member of the Council may give notice to the Clerk within five working days from the publication of a decision taken by the Cabinet or a Cabinet Member of their wish to call-in the decision.

7.11 A decision may only be called in once during the decision making process.

7.12 The call-in procedure shall not apply where the decision being taken is urgent in accordance with the rules for Urgent Decisions (at 7.18, below).

7.13 The reasons justifying the call-in of a decision shall be clearly set out. Reasons must be legitimate and not designed to impede the proper transaction of business for vexatious, repetitive or other improper reasons.

7.14 If the Clerk is satisfied that the procedures set out above have been met, the decision taker will be notified of the call-in.

7.15 The Scrutiny Committee will consider the call-in at a meeting that will take place within ten working days of the decision to call the matter in.

7.16 A Member who called-in a decision may participate in the debate of that call-in by the Scrutiny Committee, irrespective of whether they are a Member of the Scrutiny Committee.

Appendix 2 Part 6:
Personnel Management Rules

Staff Terms and Conditions

1. The Council, on the recommendation of the Leader, determines changes to the pay scales of Kent Scheme Salaries. All other matters of staff terms and conditions (other than those imposed by national agreements) are delegated to the Personnel Committee.

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Senior Managers

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2. “Senior Manager” means Corporate Directors and Directors at grade KR16 or above.

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Deleted: Chief Officers, i.e. the Head of Paid Service, statutory chief officers (Director of Children’s Services, Director of Adult Services, Chief Education Officer and Chief Finance Officer), non-statutory chief officers (officers who report directly to the Head of Paid Service); and Deputy Chief Officers, i.e. officers on

3. The quorum of the Personnel Committee, or any sub-committee of that Committee, when considering any appointment or disciplinary action under rules 4-14, below, must include a member of the Cabinet as a voting member.

Appointment of Senior Managers

4. Rules 4-9 apply to the appointment of Senior Managers.

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5. For all such appointments the Corporate Director of Human Resources, or their nominee shall:

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- (a) draw up a statement specifying:
 - (i) the duties of the post; and
 - (ii) any qualifications or qualities required;
- (b) make suitable arrangements for the post to be externally advertised to bring it to the attention of suitably qualified persons (unless applicants are to be sought only from among the Council’s existing staff); and
- (c) make arrangements for the statement in paragraph (a) above to be sent to any person on request.

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6. In all cases either all qualified applicants or a selected short-list will be interviewed by the Personnel Committee or Member Panel (sub-committee) acting as the Appointing Body, with the Corporate Director of Human Resources (or other Senior Manager as determined by the Committee or Panel) acting as adviser to the Appointing Body. When appointing the Head of Paid Service, which is an appointment made by the County Council, the Appointing Body will report to the Council with a recommendation.

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7. Where no suitably qualified person has applied, the post shall be re-advertised.

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8. When a Senior Manager ceases to hold that post or is likely to be absent for any length of time, the Head of Paid Service, after consultation with the political group leaders, may appoint someone to act temporarily in that capacity and determine the salary to be paid. The temporary appointment shall not extend beyond six months without the approval of the Personnel Committee. Similarly, the Head of Paid Service may, after consultation with the political group leaders, appoint an interim senior manager to undertake a specific role that does not currently exist in the Establishment and determine the rate of remuneration. These appointments shall not extend beyond six months without the approval of the Personnel Committee.

9. No offer of an appointment to a Senior Manager may be made until:

(1) the Monitoring Officer has recorded the name of the person to be offered the appointment and any other particulars the Committee (or other appointing body or person) considers relevant to the appointment

(2) that information has been sent by the Monitoring Officer to the Leader and all members of the Cabinet with a date and time by which any objection to the making of the offer can be made by the Leader

(3) the Monitoring Officer has confirmed that the date and time for objection by the Leader has elapsed and either:

(i) in the case of the Head of Paid Service, the Council has confirmed the appointment after consideration of any such objection and resolving that it is not material or not well-founded; or

(ii) in all other cases, no such objection has been made or the appointing body has considered any such objection and has resolved or decided that the objection is not material or not well-founded.

10. The Chairman of the Standards Committee shall be consulted before a new or existing officer is appointed or designated as Monitoring Officer; and their views shall be presented to the Committee (or other appointing body or person).

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Disciplinary Action

11. Disciplinary action or suspension during investigation of allegations of misconduct in relation to the Head of Paid Service and other Senior Managers may only be taken as provided in the table below:

	Suspension	Investigation	Disciplinary Action/ Dismissal/Appeal
Head of Paid Service	Personnel Committee on advice from the <u>Corporate</u> Director of <u>Human Resources</u> and Monitoring Officer or	Designated independent person appointed by Personnel Committee Report to Personnel Committee or Council	Council

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	the <u>Corporate Director of Human Resources</u> , if Committee cannot be convened		
Chief Finance Officer and Monitoring Officer	Personnel Committee on advice from the Head of Paid Service <u>and/or Corporate Director of Human Resources</u> or Head of Paid Service <u>and/or Corporate Director of Human Resources</u> , if Committee cannot be convened	Designated independent person appointed by Personnel Committee Report to Personnel Committee	Personnel Committee Appeal to a panel of Members appointed by the Selection & Member Services Committee
Other Senior Managers (Corporate and other Directors)	Personnel Committee on advice from the Head of Paid Service <u>and/or Corporate Director of Human Resources</u> or Head of Paid Service <u>and/or Corporate Director of Human Resources</u> , if Committee cannot be convened	Other officer or independent person appointed by the Personnel Committee or Head of Paid Service <u>and/or Corporate Director of Human Resources</u> Report to Personnel Committee or Head of Paid Service <u>and/or Corporate Director of Human Resources</u>	Personnel Committee or Head of Paid Service <u>and/or Corporate Director of Human Resources</u> Appeal to a panel of Members appointed by the Selection & Member Services Committee

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12. No disciplinary action, other than suspension as provided for above, may be taken in respect of the Head of Paid Service, Chief Finance Officer or Monitoring Officer other than in accordance with a recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001.

13. All suspended officers shall be on full pay during the investigation of the alleged misconduct, which must be completed no later than two months after the suspension takes effect (subject to any direction by the designated independent person in the case of the Head of Paid Service, Chief Finance Officer or Monitoring Officer).

14. The Chairman of the Standards Committee shall be consulted after any investigation of an allegation of misconduct by the Monitoring Officer; and his advice shall be presented to the Personnel Committee.

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Dismissal of a Chief or Senior Officer

15. No decision to dismiss the Head of Paid Service or other Senior Manager shall take effect until:

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(1) the Monitoring Officer has recorded the name of the person to be dismissed and any other particulars the Personnel Committee (or other responsible body or person) considers relevant to the dismissal

(2) that information has been sent by the Monitoring Officer to the Leader and all members of the Cabinet with a date and time by which any objection to the dismissal can be made by the Leader

(3) the Monitoring Officer has confirmed that the date and time for objection by the Leader has elapsed and either the Council (in the case of the Head of Paid Service) or the responsible body (in all other cases) has considered any such objection and has resolved or decided that the objection is not material or not well-founded.

Appeals

16. Any appeal must be lodged with the Monitoring Officer (or the Head of Paid Service in the case of an appeal by the Monitoring Officer) within 10 working days of written confirmation to the officer of the disciplinary action and must include a written statement of the grounds on which the appeal is made.

17. Subject to these rules, all disciplinary procedures, including hearings and appeals, shall be conducted as far as possible in accordance with the provisions of the Kent Scheme of Conditions of Service.

18. Appeal hearings shall not include Members involved in the decision to take disciplinary action.

Appeals against dismissal arising from redundancy, assimilation, transfer and downgrading

19. Any appeal against a decision not to 'slot' a senior manager to a post graded KR 16 or above, a redundancy, transfer or downgrading must be lodged with the Corporate Director of Human Resources, within 10 working days of written confirmation to the officer of the decision and must include a written statement of the grounds on which the appeal is made.

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20. Appeals will be heard by the Personnel Committee, or a sub committee (Panel) of that Committee. As far as is practical, such hearings will be arranged within 10 working days of an appeal being lodged. If the Appeal is heard by a Panel of members then the quorum of such meeting shall include a Cabinet Member.

Other Officers

21. Members may not take part in the appointment of any other officers (except assistants for political groups) nor in any disciplinary or dismissal action, except as provided for above.

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Delegations to Officers

22. Officers at the level stated and above are empowered to take the decisions about staff set out in the Kent Scheme of Conditions of Service.

Deleted: (2) Managers are also authorised to make other day to day operational decisions on the management of their staff in accordance with the relevant procedures and conditions of employment. A list of these authorisations is held by the Director of Personnel & Development, and may be altered by the Head of Paid Service.¶

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Topic ... [2]

Property Management Protocol

INTRODUCTION

1. This Protocol provides a framework of principles, minimum requirements, levels of authority and delegations to ensure that KCC property is managed effectively.

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OVERARCHING PRINCIPLES

2. A set of overarching principles govern the operation of this Protocol. These are:

(1) All property owned, leased, hired or occupied by KCC and its service partners is held corporately (including KCC-owned schools, but not including Voluntary Aided, Foundation, Trust and Academy Schools).

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(2) The Director of Property and Infrastructure Support (in consultation with the Cabinet Member for Business Strategy, Performance and Health Reform) is responsible for ensuring that the occupation of all KCC property is in accordance with best management practice, in the interests of the Council as a whole, with the authority to direct the use, disposal or acquisition of any Council land or property.

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(3) Where there are exceptional circumstances, and subject to the prior agreement of the Director of Property and Infrastructure Support, properties may continue to be managed at the discretion of Directorates. However, this discretion is subject to the corporate responsibilities of the Director of Property and Infrastructure Support, who (in consultation with the Cabinet Member for Business Strategy, Performance and Health Reform) has the authority to intervene in any property matters to protect KCC's overall interests.

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(4) Any key or significant decision (as defined in the Constitution) affecting property will be added to the forthcoming decision list and discussed as the Cabinet Committee for Policy and Resources before going to the Cabinet Member for Business Strategy, Performance and Health Reform or the Director of Property and Infrastructure Support for formal decision.

(5) Resolution of disputes on property matters is through the Cabinet Member for Business Strategy, Performance and Health Reform and then, if necessary, the Leader.

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(6) Under the Executive Scheme of Officer Delegations the Director of Property and Infrastructure Support has a number of specific delegations as set out in paragraph 31 below.

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(7) All property transactions, or decisions which have an impact on property matters, should be referred to the Director of Property and

Infrastructure Support who will consult with the Cabinet Member for Business Strategy, Performance and Health Reform above the thresholds set out in paragraph 31 below and seek the comments of all interested parties, including other relevant Cabinet Members, Directorates and Local Members, before the decision is taken to proceed. All decisions must be taken in accordance with the delegations set out in this Protocol and the decision making procedures set out in the Constitution.

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(8) This Protocol is organised in sections to reflect the lifecycle of property (acquisition – management in use – disposal) with additional requirements to support specific initiatives and exceptional circumstances.

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ACQUISITIONS

3. Objective: To ensure that land and property requirements are appropriately identified and appraised; and that all the acquisitions have the necessary authority and funding, including an assessment of the impact on revenue of funding from borrowing and approved capital funding. All acquisitions should be outlined in the Medium Term Financial Plan as part of service transformation programme and capital programme.

4. All acquisitions (freehold and leasehold) must be authorised by the Director of Property and Infrastructure Support (following consultation with the Cabinet Member for Business Strategy, Performance and Health Reform) either in accordance with the delegations set out in this Protocol, or the decision making procedures set out in the Constitution.

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Non-Highways Acquisitions

5. For all non-highways acquisitions, the relevant Directorate will provide the Director of Property and Infrastructure Support with:

- (1) A definition of the service requirement giving rise to the proposed acquisition
- (2) A full financial appraisal of options for meeting service delivery requirements (developed as appropriate with support from the Property and Infrastructure Support Group) and Bold Steps for Kent ambitions
- (3) An evaluation of the other public sectors service needs to promote efficient asset collaboration across public agencies.

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6. The Cabinet Member for Business Strategy, Performance and Health Reform:

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(1) will be consulted on all proposed acquisitions

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(2) will be kept informed of their progress.

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(3) will determine if they or an officer will give approval for the acquisition.

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(4) may at any stage direct that a decision be referred to them.

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7. Where the Cabinet Member for Business Strategy, Performance and Health Reform has determined that they will take the decision on a proposed acquisition, the matter will be dealt with in accordance with the appropriate provisions of this Protocol and decision making procedures set out in the Constitution, which will include consultation with Local Members.

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8. Subject to paragraph 12 below, the use of compulsory powers for acquisitions must be agreed by both the Cabinet Member for Business Strategy, Performance and Health Reform, and any other relevant Cabinet Members.

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Highways Acquisitions

9. The Corporate Director for Environment & Enterprise will, in the case of all highway acquisitions, seek Local Member views as part of the consultation process for highways and traffic schemes.

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10. Highways scheme design and cost (including land acquisition) shall be approved by the Cabinet Member of Environment, Highways & Waste (or officer authorised by him) in accordance with the relevant KCC financial regulations.

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11. Highways acquisitions may be made by the Director of Property and Infrastructure Support in consultation with the Cabinet Member for Business Strategy, Performance and Health Reform, provided the scheme is in an approved programme with allocated funding for construction, including all compulsory purchase compensation and disturbance payments, or falls within blight policies.

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12. All other highways acquisitions (i.e. land not incorporated in the highway) will be referred by the Director of Property and Infrastructure Support to the Cabinet Member for Business Strategy, Performance and Health Reform, who will determine if they or an officer will give approval for the acquisition. Once the principle of acquisition of land is agreed, any decision whether or not to use compulsory powers will be decided by the Cabinet Member for Environment, Highways & Waste (in consultation with the Cabinet Member for Business Strategy, Performance and Health Reform) in accordance with the terms of this Protocol and the decision making procedures set out in the Constitution.

MANAGEMENT & USE

13. Objective: To ensure that property is used efficiently, effectively and economically with due regard to legislative requirements, Regular asset reviews of property assets will be made in accordance with the Chartered Institute for Public Finance and Accountancy (CIPFA) and Royal Institute of Chartered Surveyors (RICS) guidelines based on asset management best practice. Assets will be identified for disposal or re-development on a regular basis.

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14. The occupation and use of property by a Directorate is subject to the authority of the Director of Property and Infrastructure Support (in consultation with the Cabinet Member for Business Strategy, Performance and Health Reform) to approve

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all material changes to property, including change of use, the granting or taking of interests, reversion to operational use, alterations, additions, use by partners etc. Such changes must be reported to the Corporate Director of Finance and Procurement for correct accounting treatment and apportionment of charges for CIPFA asset valuations.

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Premises Management

15. The Director of Property and Infrastructure Support has the authority to recommend reviews of all or part of the Council's property portfolio, to determine if it is optimised in terms of its utilisation, cost and value and, within this, to challenge the retention or use of existing properties occupied by services or partners.

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Building works

16. Major capital works for properties should be subject to a formal project appraisal and should be consistent with existing financial approval and procurement processes. Procurement of any building works will need to be subject to Spending the Council's Money and delegations that have been set up. The Director of Property and Infrastructure Support is authorised to enter into property contracts up to a value of £1million where the necessary approvals are in place.

Health & Safety

17. Staff and services are required to ensure that in respect of all property matters all obligations under health and safety legislation and KCC health and safety policies are followed.

DISPOSALS

18. Objective: To ensure that land and property surplus to operational need is either reallocated to meet alternative needs or sold in line with statutory requirements.

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19. Directorates will notify the Director of Property and Infrastructure Support of:

- (1) Any property (or part) that is:
 - (a) Vacant
 - (b) Held against a future operational need
 - (c) Not used for the principal purpose for which it is held
 - (d) Likely to be surplus to requirements (with estimated time-scale)
- (2) Any operational issues associated with such property (e.g. longer term requirements)

- (3) Any statutory/process issues relevant to its disposal (e.g. established consultation processes, reference to the Secretary of State, etc)
- (4) The recipient of the capital receipt and its intended use, as agreed with the Cabinet Member for Finance and Business Support, and the Corporate Director of Finance and Procurement
- (5) Any other issues which need to be considered prior to disposal

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20. The Director of Property and Infrastructure Support may identify any property (or part) that is, or could be made, surplus to operational requirements.

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21. The Director of Property and Infrastructure Support will consult with the Cabinet Member for Business Strategy, Performance and Health Reform, on all disposals and inform them of the comments of Local Members. The Cabinet Member for Business Strategy, Performance and Health Reform, will determine whether they or an officer will give approval for disposal in accordance with this Protocol and the decision making procedures set out in the Constitution.

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Treatment of Capital Receipts (Rules and Processes)

22. Capital receipts from disposals are deemed to be 'Earmarked Capital Receipts' or 'General Receipts'.

- (1) Earmarked Capital Receipts – are proceeds from the sale of an identified (named) site (or number of sites) to be used for the funding of a specific scheme (or number of schemes, where the schemes are intrinsically linked) and contained within previous Medium Term Financial Plans
- (2) General Receipts are where receipts are not intrinsically linked (generally non-operational and surplus land and property), and they are applied to the overall capital programme, including reducing the impact of revenue and reinvestment.
- (3) Treatment of all receipts must conform with the Financial Regulations and the Capital Procedures set out in the Constitution.
- (4) The decision as to whether receipts are earmarked or general shall be taken by the Cabinet Member for Finance and Business Support.

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SPECIAL PROVISIONS¶

Deleted: All decisions relating to the acquisition, management and disposal of land or property in the sole ownership of KCC or occupied by KCC at Kings Hill shall be dealt with in accordance with this Protocol and the decision making procedures set out in the Council's Constitution by the Cabinet Member for Corporate Services and Performance Management with the advice of the Director of Property in consultation with the Cabinet Member for Regeneration and Economic Development.¶
24. All decisions and duties, including attending the Partnership Board and other such meetings, relating to the joint venture partnership under the Kings Hill development agreement (and subsequent variations) shall be dealt with by the Cabinet Member for Regeneration and Economic Development in consultation with Cabinet Member for Environment, Highways and Waste with the advice of the Executive Director for Regeneration and Economic Development.¶

Kings Hill and East Kent Opportunities

23. Any property matters (acquisition/disposals/leases) in relation to Kings Hill and East Kent Opportunities will be made in accordance with the provisions of this protocol. The Director of Property and Infrastructure Support and the Cabinet Member for Business Strategy, Performance and Health Reform will consult with the Cabinet Member for Regeneration and Economic Development and Executive Director of Regeneration and the Corporate Director for Business Strategy and Support.

Enterprise Fund

24. All transactions (acquisitions and disposals) undertaken through the Property Group 'Enterprise Funds' will be supported by a business case containing as a minimum:

- (1) Details of the proposal
- (2) The rationale for making the investment (against the agreed investment criteria for the Enterprise Fund, which may be varied from time to time)
- (3) Specific objectives to be met
- (4) The cost or income to KCC (revenue and capital)
- (5) The opportunities to be gained
- (6) Any return on investment including estimated revenue costs

25. All transactions coming within the Enterprise Fund balancing limit of £10m may be authorised jointly by the Director of Property and Infrastructure Support and Corporate Director of Finance and Procurement in consultation with the Cabinet Member for Business Strategy, Performance and Health Reform and the Leader (subject to the delegations contained in paragraph 31).

26. All transactions which cause the PEF1 Enterprise Fund to exceed its balancing limit of £10m will, following consultation with the relevant Senior Manager and the Leader, be recommended by the Director of Property and Infrastructure Support and Corporate Director of Finance and Procurement for decision by the Cabinet Member for Business Strategy, Performance and Health Reform.

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Urgent Decisions

27. In exceptional circumstances, where an urgent decision is required on property matters, this will be taken by the Director of Property and Infrastructure Support in accordance with the provisions of this Protocol and only after consultation with the Cabinet Member for Business Strategy, Performance and Health Reform, the Corporate Director of Finance and Procurement and the Director of Governance and Law. If the matter is outside the delegations set out in paragraph 31, below, then the matter can only be authorised by the Cabinet Member for Business Strategy, Performance and Health Reform in accordance with the procedures for the taking of urgent decisions set out in the Constitution.

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28. Any decisions made under the 'Urgent Decision' arrangements will be reported to the relevant Senior Manager, Members of the Policy and Resources Cabinet Committee, the relevant Cabinet Member, and Local Members.

Financial Regulations

29. All of the protocols set out in Financial Regulations and Schemes of Delegation must be adhered to, except where this Property Management Protocol specifically provides for alternative levels of authorisation. No transaction should be approved unless specific budgetary provision is identified, except where the purchase is approved under the authority given in Paragraph 27 above.

Reporting

30. The Director of Property and Infrastructure Support will prepare each month a schedule of acquisitions, letting and disposals and send this to Democratic Services for publication via the Information Point. This information will also be recorded at the Policy and Resources Cabinet Committee.

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Delegation to Officers

31. Subject to the consultation provisions set out in this Protocol, the Director of Property and Infrastructure Support is authorised to:

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(1) determine and settle the acquisition or disposal of any land or property, or an interest in land or property, where the consideration (including any associated works) does not exceed £1m in any single transaction.

(2) determine and settle the terms of a lease (taken or granted) for any land or property, not exceeding a period of 20 years and/or where the consideration does not exceed £1m per annum in any single transaction.

(3) determine any wayleaves or easements

(4) determine any leases/transfers required in relation to the Academies Act 2010 and subsequent changes.

32. The Director of Property and Infrastructure Support may delegate in writing to more junior officers any of their powers delegated under this protocol.

Supporting Mechanisms

33. Whilst having no Constitutional or decision-making status, the management of the Council's property will be exercised through a variety of mechanisms which amplify and support this protocol. These forums or groups have no Constitutional rights but allow different parts of the Council to provide feedback and advice on emerging property policy, key workstreams and informal updates on the capital programme. The key mechanisms and their purpose are summarised below:

- 1) Strategic Property Asset Forum chaired by the Cabinet Member for Business Strategy, Performance and Health Reform provides a forum to discuss and agree the strategic direction for property management and key property related initiatives. It provides a mechanism to assess whether this protocol is working in practice and to identify and resolve issues with regard to corporate and service responsibilities.
- 2) Project Advisory Group (PAG) considers capital projects and significant changes to capital projects and ensures that proper planning and processes have been followed and risk assessments undertaken in line with the Constitution, the project appraisal handbook and associated financial procedures. It makes recommendations to the Leader for schemes to be included in KCC's capital programme.
- 3) Property Business Plan identifies the main priorities of the Property and Infrastructure Support division and other formal advisory groups.

Deleted: Property Board chaired by the Director of Property provides a forum to

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Deleted: prepared in accordance with KCC's planning guidelines

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Deleted: includes as an annex a schedule of properties for disposal. This provides delegated authority to proceed with disposals in line with the provisions of this protocol.

4) **Medium Term Financial Plan** sets out KCC's spending priorities and financial allocations over the medium term. All capital schemes are subject to the appraisal and decision making processes around the Capital Programme and the Medium Term Financial Plan.

Deleted: /or

Information to the Council and Scrutiny

34. Transactions proposed to be authorised by the Cabinet Member for Business Strategy, Performance and Health Reform, are subject to the normal processes of publication to the Policy and Resources Cabinet Committee prior to the Cabinet or Cabinet Portfolio Holder taking a decision. The matter may also be called in by the Scrutiny Committee.

Deleted: The Director of Property will prepare each month a schedule of property transactions dealt with by the Cabinet Member for Corporate Support Services and Performance Management or him/herself, and send this to Head of Democratic Services for publication.¶
35.

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Post	Appointing Body	Adviser
Head of Paid Service	Personnel Committee to interview and report to Council with recommendation	As determined by the Committee
Senior Manager	Personnel Committee or Member Panel (Sub-Committee)	Head of Paid Service and/or Senior Manager

The Personnel Committee may vary these arrangements, except those relating to the Head of Paid Service.

(2) Managers are also authorised to make other day to day operational decisions on the management of their staff in accordance with the relevant procedures and conditions of employment. A list of these authorisations is held by the Director of Personnel & Development, and may be altered by the Head of Paid Service.

Topic	Decision	Minimum Level of Decision
Recruitment and Appointment	Agree the recruitment and appointment of staff graded on Kent Scale 10 and above who are not covered by either the Personnel Committee or the County Council.	Head of Service/Support Unit
Assistance with Employee Relocation Costs	Application of the internal relocation scheme. Application of the enhanced relocation management scheme. Updating of the relocation allowances.	Head of Service/Support Unit Director of Personnel & Development Director of Personnel & Development
Application of Mortgage and Rent Subsidy Schemes	Application of Mortgage Subsidy and Rent Subsidy Schemes.	Head of Service/Support Unit
Acting-up Arrangements	Agree acting up arrangement and determine appropriate payment where an employee is required to undertake the duties of a higher graded post on a temporary basis.	Head of Service/Support Unit to agree and review annually or earlier should the need arise
Extending service beyond the age of 65 years, and the	Approval to extend the service of an employee beyond the normal	Senior Manager

employment of pensioners	retirement age of 65 and the employment of pensioners, subject the guidelines set out in the Procedures and Conditions of Employment manual, the LGPS regulations and insurance provisions.	
Termination of Employment	Termination of employment on redundancy, early retirement, incapability and disciplinary grounds in accordance with KCC's Employment Stability and Early Retirement Policies, and the Incapability and Disciplinary Procedures.	Decisions on redundancies and early retirements for Senior Managers to be taken by the Head of Paid Service following consultation with the political group leaders and the Chief Finance Officer All other redundancies and early retirements (other than ill health) to be jointly agreed by the Director of Personnel & Development and Senior Manager. Plus details of all early retirements to be published on a six monthly basis for Members All other terminations of employment to be agreed by Senior Manager
Use of Ex-Employees as Consultants	Approval to use ex-employees as consultants on a "contract for service" basis with reference to the Code of Practice on Tendering and Contracts.	Senior Manager
Withholding of Redundancy Payment	Agreement to the withholding of a redundancy payment to an employee who unreasonably refuses suitable alternative employment.	Jointly agreed by Senior Manager and Director of Personnel & Development
Early Retirements on Efficiency, Redundancy and Voluntary Grounds	Awarding of augmented service for early retirement under the LGPS Regulations 1997 in accordance with KCC's Early Retirement Policy. In wholly exceptional	Jointly agreed by Senior Manager, Director of Personnel & Development

	<p>circumstances, varying KCC's Early Retirement Policy in respect of awarding augmented service within the LGPS regulations.</p> <p>Waiving of an actuarial reduction for voluntary early retirements agreed on compassionate grounds where the 85-year rule is not met.</p>	and the Pensions Manager, following consultation with the relevant Cabinet Member and Chief Finance Officer
Payment of Gratuities	Agree to the payment of a gratuity on the retirement of an employee who has a minimum of 5 years continuous service and who was not eligible to join the Pension Scheme for part of that service.	Senior Manager
Employer Discretions under the Local Government Pension Scheme Regulations 1997	Exercise of employer discretions under the Local Government Pension Scheme Regulations 1997 in accordance with KCC's policy statement.	Jointly agreed by Senior Manager, Director of Personnel & Development, Pensions Manager, following consultation with the relevant Cabinet Member and Chief Finance Officer
Changes to NJC Pay and Conditions	Agree the implementation of NJC pay awards and changes to conditions of service in accordance with NJC agreements.	Director of Personnel & Development
Advances of Salary	Agree payment of an advance of salary.	Senior Manager
Dealing with salaries and pay progression outside of the normal procedures	In exceptional circumstances agree to pay an employee on a spot salary or on a salary above the evaluated grade for the post.	Senior Manager
Payment of outstanding salary to a named individual in the event of death in service of an employee	Payment of the outstanding salary of an employee who has died in service to an individual where the next of kin is not immediately obvious.	Head of Service/Support Unit
Extension of Sick Pay	Agree conversion of any period of sick pay entitlement from half to full pay.	Senior Manager

	Agree extension of sick pay beyond the aggregate of full and half pay.	Director of Personnel & Development, on recommendation of Senior Manager
Recovery of Sick Pay	Agree recovery of sick pay where employees have been off sick due to their own misconduct.	Director of Personnel & Development, in conjunction with Chief Finance Officer
Payment of Merit Awards to Kent Scheme Staff	Approval to pay merit awards to Kent Scheme staff which do not total more than 10% of an employee's gross annual salary in any one financial year.	Head of Service/Support Unit
Payment of Honoraria to NJC Staff	Approval to pay honoraria to NJC staff to maximum of £500 or 10% of salary, whichever is the greater, in any one financial year.	Head of Service/Support Unit
Payment of enhanced overtime during emergency procedures	Approve enhanced overtime payments to staff on grades F to I where "emergency procedures" have been invoked.	Senior Manager
Payment of overtime outside of the normal arrangements	Exceptionally approve overtime rates which are different to those set out in the Procedures and Conditions of Employment manual.	Senior Manager
Payment of and Revisions to Plus or Excess Rates	Approve the payment of and revisions to plus rates or excess rates to staff employed on NJC conditions.	Senior Manager
Standby Allowances	Approve updating of Standby allowance rates under the NJC and Kent Schemes.	Director of Personnel & Development
Sleeping-in Duty, Special Needs (for Nursery Staff) and Laboratory Technicians Allowances, Homeworking allowances and Food Charges	Approve updating of Sleeping –in Duty Allowances, Special Needs Allowances for Nursery Staff, Laboratory Technicians Allowances and Food Charges.	Director of Personnel & Development
Annual Leave Buy-out	Agree, for exceptional reasons, to buy-out an	Head of Service/Support Unit

	employee's annual leave to a maximum of 5 days in any one leave year.	
Leave for Extraneous Duties, e.g. JPs, Local Authority Members, School Governors	Grant an employee up to 18 days paid leave per year for undertaking extraneous duties.	Head of Service/Support Unit
Special Leave for Trade Union Conferences	Approval for representatives nominated by a recognised Trade Union to be granted up to 5 days paid leave to attend annual/biennial conferences	Head of Service/Support Unit
Special Leave for Retained Fire Fighters	Approval for retained fire fighters to be granted up to 2 weeks additional paid leave to attend recognised courses concerning their fire service duties.	Head of Service/Support Unit
Special Leave for Election Duties	Grant paid leave to employees acting as Presiding Officers and Poll Clerks at Parliamentary, European Parliament, County Council or County District Council elections.	Head of Service/Support Unit
Special Leave for Service in Non-Regular Forces	Grant volunteer members of the non-regular forces up to two weeks additional paid leave per year to attend camp.	Head of Service/Support Unit
Participation in the Reserve Armed Forces	Where appropriate grant approval for an employee to enter an agreement to become a reservist in the regular reserve forces or the volunteer reserves as appropriate.	Head of Service/Support Unit
Special Leave for Parliamentary Candidates	Grant special leave – 3 weeks with pay, 1 week without – to employees holding non-politically restricted posts who are adopted as candidates at a Parliamentary or European Parliament election.	Senior Manager
Paid time off to pursue personal legal action against another	Exceptionally grant paid time off to an employee to pursue personal legal action against	Senior Manager

individual or organisation	another individual or organisation.	
Compassionate Leave beyond normal provisions	In exceptional circumstances grant paid compassionate leave beyond the normal provisions of 10 days in any one leave year.	Senior Manager
Unpaid Leave	Approval for employees to be granted up to and including 10 days unpaid leave. Approvals for employees to be granted between 11 days and 6 months unpaid leave.	Head of Service/Support Unit Senior Manager
Concessionary Leave	Approval in exceptional circumstances of an additional paid concessionary day's leave.	Head of Paid Service (in consultation with Chairman of Personnel Committee)
Reimbursement for Meals	Exceptionally agree the reimbursement of reasonable and actual expenditure on a meal.	Head of Service/Support Unit
Reimbursement of Hotel Expenses	Exceptionally agree the reimbursement of reasonable and actual hotel expenses incurred.	Head of Service/Support Unit
Travelling Allowances	Allocation of car user status (casual, essential, lease) in accordance with established procedures to posts where use of a motor vehicle is required in order to perform the duties. Exceptionally grant essential car user status on criteria other than that set out in the Procedures and Conditions of Employment manual. Updating of travelling allowances and charges for county owned cars.	Head of Service/Support Unit Head of Service/Support Unit Director of Personnel & Development
Travel to and from Joint Consultative Committees by employee representatives	Approval for an employee representative to use his own car and be paid a travelling allowance when travelling to and from Joint	Head of Service/Support Unit

	Consultative Committees.	
Use of First Class Travel	In exceptional circumstances approve the use of first class travel.	Head of Service/Support Unit
Payment of Travelling Expenses at work	In exception circumstances agree the payment of travelling expenses to and from work.	Head of Service/Support Unit
Career Breaks	Agree applications for career breaks.	Head of Service/Support Unit
Car Loans	Setting the maximum amount that can be granted for a car loan. Setting the rate of interest for car loans.	Chief Finance Officer
Benchmark Lease Car	Setting the benchmark car for the lease car scheme.	Director of Personnel & Development
Secondments	Agree secondments outside of KCC. Agree secondments within KCC.	Head of Paid Service or Senior Managers Head of Service/Support Unit
Changes to the delegations and authorisations to Line Managers	Agree changes to the Officer delegations. Agree changes to the authorisations to Line Managers.	Head of Paid Service Director of Personnel & Development

By: Mr Paul Carter – Leader of the Council
Mr Peter Sass – Head of Democratic Services

To: County Council – 25 October 2012

Subject: Quarterly Report on Urgent Key Decision: Contractual Arrangements for Academies post Building Schools for the Future

Summary: To report an urgent Key Decisions taken in the last quarter.

1. The Constitution requires the Leader to provide a quarterly report to the County Council of any Key Decisions which were taken as urgent matters during the previous three months.
2. The urgent Key Decision on 10 October 2012 was taken in the last quarter as set out below. This was an exempt matter.

Contractual Arrangements for Academies post Building Schools for the Future (12/01973)

An urgent exempt key decision was taken on 10 October 2012 by Mr P Carter, Leader of the Council. The decisions made related to KCC's position with regard to enabling necessary changes as a result of the stopping of the Building Schools for the Future Programme.

This matter was deemed urgent under the terms of the Council's Constitution because of the stage of the negotiations and the legal advice in relation to the Council's position.

Consultations

In accordance with the requirements in the Constitution, the Chairman and Spokespersons of the Scrutiny Committee were consulted and agreed that the decision should be taken as a matter of urgency.

Recommendation

3. The County Council is requested to note this report.

P B Carter
Leader of the Council

Enquiries:
Peter Sass
Head of Democratic Services
(01622) 694002
peter.sass@kent.gov.uk

Background documents: Records of Decision 12/01973

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KENT COUNTY COUNCIL**GOVERNANCE AND AUDIT COMMITTEE**

MINUTES of a meeting of the Governance and Audit Committee held in the Darent Room, Sessions House, County Hall, Maidstone on Tuesday, 25 September 2012.

PRESENT: Mr R L H Long, TD (Chairman), Mr A R Chell, Mr B R Cope, Mr K A Ferrin, MBE, Mr D A Hirst, Mr S J G Koowaree (Substitute for Mr T Prater), Mr R A Marsh and Mr R Tolputt

ALSO PRESENT: Mr A H T Bowles, Ms S J Carey, Mr R W Gough, Mr J D Simmonds

OFFICERS: Mr A Wood (Corporate Director of Finance and Procurement), Ms A Mings (Treasury & Investments Manager), Mr G Wild (Director of Governance and Law), Ms N Major (Interim Head of Internal Audit), Mr R Hallett (Head of Finance and Resources - EHW), Mr M Scrivener (Corporate Risk Manager), Ms P Blackburn-Clarke (Quality Assurance Manager), Mrs C Dodge (Team Leader Information, Resilience and Transparency Team) and Mr A Tait (Democratic Services Officer)

ALSO IN ATTENDANCE: Ms E Olive from the Audit Commission.

UNRESTRICTED ITEMS**34. Minutes - 26 July 2012**
(Item 4)

RESOLVED that the Minutes of the meeting held on 26 July 2012 are correctly recorded and that they be signed by the Chairman.

35. Committee Work and Member Development Programme
(Item 5)

(1) The Interim Head of Internal Audit proposed an updated forward committee work and Member development programme.

(2) RESOLVED that approval be given to the forward work programme to September 2013 to meet the Committee's Terms of Reference.

36. Presentation on Risk Management
(Item 6)

(1) The Head of Business Intelligence, Performance and Risk and the Corporate Risk Manager gave a presentation on Risk Management. The slides of this presentation can be found on [Link to Presentation Slides](#)

(2) RESOLVED that the report be noted and the Officers thanked for their presentation.

37. Update on Savings Programme

(Item 7)

(1) The Cabinet Member for Finance and Business Support and the Corporate Director of Finance and Procurement reported on the delivery of savings in 2012/13 including a forecast underspend of £4m.

(2) RESOLVED that the report be noted for assurance.

38. Review of KCC's Risk Management Policy and Programme

(Item 8)

(1) The Cabinet Member for Business Strategy and the Head of Business Intelligence, Performance and Risk reported on the annual review of the County Council's Risk Management Policy and programme of work. As the Policy did not apply to Schools, the Committee asked for information on the risk management arrangements that applied to them.

(2) RESOLVED that:

(a) approval be given to the Risk Management Policy for 2012/13; and

(b) the progress of the Risk Management programme presented in the report be noted for assurance.

39. Treasury Management Update

(Item 9)

(1) The Cabinet Member for Finance and the Corporate Director of Finance and Procurement gave a summary of Treasury Management activities for the period from April to August 2012.

(2) RESOLVED that the report be noted for assurance.

40. KCC Annual Complaints, Comments and Compliments Report

(Item 10)

(1) The Quality Assurance Manager and the Team Leader of the Information Resilience & Transparency Team reported on the Local Government Ombudsman letter and Annual Review 2011/12 and summarised the complaints, comments and compliments received by the County Council. They also set out improvements for 2012/13 in the form of changes to procedures or processes as well as improvements in communications and to the quality of service.

(2) The Committee noted that the percentage figure for acknowledged complaints for Education in 2011/12 should read 63% rather than 55%.

(3) RESOLVED that the report be noted for assurance.

41. Internal Audit Progress Report

(Item 11)

(1) The Interim Head of Internal Audit summarised the outcomes of Internal Audit activity since the July 2012 meeting of the Committee.

(2) RESOLVED to note:

- (a) progress against the 2012/13 Audit Plan, together with the proposed additions; and
- (b) the assurance provided in relation to the County Council's control environment as a result of the outcome of Internal Audit work completed to date.

42. Internal Audit Benchmarking Results

(Item 12)

(1) The Interim Head of Internal Audit summarised the 2011/12 Internal Audit Benchmarking results.

(2) The Committee agreed that CIPFA should be asked to re-examine the rules in respect of identifying the Comparator Councils in each of the graphs set out in the report. It was considered that this would make the benchmarking exercise more transparent and useful.

(3) RESOLVED that:-

- (a) the content of the report be noted;
- (b) approval be given to participation in the CIPFA/IPF Audit Benchmarking Club in 2012/13, and that the results be presented to the Committee in September 2013;
- (c) the County Council's ongoing participation in the benchmarking club be reviewed in September 2012; and
- (d) CIPFA be asked to re-examine the rules in respect of identifying the Comparator Councils in each of the graphs set out in the report, as the Committee considers that this would make the benchmarking exercise more transparent and useful.

43. Anti Fraud and Corruption Progress Report

(Item 13)

(1) The Interim Head of Internal Audit provided a summary of progress of anti-fraud and corruption activity since the previous meeting of the Committee in July 2012.

(2) RESOLVED that the progress of anti-fraud and corruption activity be noted together with the assurance provided in relation to anti-fraud culture and fraud prevention/investigation activity.

44. Review of the Committee Terms of Reference

(Item 14)

- (1) The Interim Head of Internal Audit reported her review of the Committee's Terms of Reference (description of methodology) and recommended minor amendments to them. As there were no amendments to the Terms of Reference themselves, there was no need for submission to the County Council for approval.
- (2) RESOLVED that approval be given to the proposed amendments to the description of methodology for the Committee's Terms of Reference as set out in Annex 1 to the report, for review in September 2013.

45. Local Audit Bill

(Item 15)

- (1) The Interim Head of Internal Audit gave an update on the Local Audit Bill consultation. She agreed to inform the Committee Members at a later stage on the proposed arrangements for appointment of the Independent Audit Appointment Panel Members.
- (2) RESOLVED that the update provided in the report be noted.

EXEMPT ITEMS

(Open access to Minutes)

The Committee resolved under Section 100A of the Local Government Act 1972 to exclude the public from the meeting for the following business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act.

46. Update on Kent Cultural Trading (oral report)

(Item 16)

Prior to declaring this item to be Exempt, the Chairman ruled that this item was Urgent as there had been a significant update in events at Kent Cultural Trading since the agenda papers had been published. He considered it essential that Members of the Committee were made aware of these events at the earliest opportunity.

(1) The Interim Head of Internal Audit gave an update report on Kent Cultural Trading Ltd. She explained that the Investigation was now complete and the actions which had been identified as necessary were in the process of being put in place.

(2) The Committee agreed that a report on the safeguards to prevent a repetition of the events described would be presented to a future meeting of the Committee, once they had been installed.

(3) RESOLVED that;

(a) the report be noted; and

(b) a further report be presented to a future meeting of the Committee once the safeguards have been installed.

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KENT COUNTY COUNCIL

PLANNING APPLICATIONS COMMITTEE

MINUTES of a meeting of the Planning Applications Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Tuesday, 9 October 2012.

PRESENT: Mr J A Davies (Chairman), Mr C P Smith (Vice-Chairman), Mr R E Brookbank, Mr A R Chell, Mr I S Chittenden, Mr T Gates, Mr W A Hayton, Mr C Hibberd, Mrs S V Hohler (Substitute for Mr P J Homewood), Mr J D Kirby, Mr R J Lees, Mr J F London, Mr S C Manion, Mr R F Manning, Mrs P A V Stockell, Mrs E M Tweed and Mr A T Willicombe

ALSO PRESENT: Mr N J D Chard

IN ATTENDANCE: Mrs S Thompson (Head of Planning Applications Group), Mr J Crossley (Team Leader - County Council Development), Mr R White (Development Planning Manager), Mrs L McCutcheon (Senior Solicitor) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS

53. Minutes - 24 July 2012

(Item 4)

RESOLVED that the Minutes of the meeting held on 24 July 2012 are correctly recorded and that they be signed by the Chairman.

54. Site Meetings and Other Meetings

(Item A4)

(1) The Committee agreed to visit the site of the proposed Anaerobic Digestion Plant at Blaise Farm, West Malling on Thursday, 1 November 2012. This visit would be followed by a visit to see a similar site in operation at Cassington in Oxfordshire.

(2) The Committee was also asked to set aside the afternoon of Tuesday, 6 November 2012 for a possible visit to the proposed facility for the storage of End of Life Vehicles at Glebe Farm in Shadoxhurst. This would be subject to there being sufficient time after the close of business of that morning's Committee meeting.

55. Probity in Planning

(Item B1)

RESOLVED that the draft Corollary to Advice Note 4 (set out at Appendix 3 to the report) be recommended to Selection and Member Services Committee for onward submission to the County Council.

56. Proposal SE/12/1577 (KCC/SE/0140/2012) - Redevelopment of existing school site at Knole Academy, Bradbourne Vale Road, Sevenoaks; KCC Property and Infrastructure Group

(Item D1)

(1) Mr N J D Chard was present for this item subject to Committee procedure Rule 2.21 and spoke.

(2) Mr R E Brookbank informed the Committee that he was acquainted with Cllr Matthew Dickens who had corresponded on the application. This acquaintanceship was not a close personal association and he was, therefore able to approach the determination of the application with a fresh mind.

(3) Mrs S V Hohler informed the Committee that she had previously been involved with the School in her role as Cabinet Member for Education, Learning and Skills. She had not been involved in this particular application up to this point and was, therefore able to approach the determination of the application with a fresh mind.

(4) Mr R J Lees informed the Committee that his niece attended the Knole Academy. This was neither a disclosable pecuniary interest, nor an other significant interest which would lead him to pre-determine the application. He was therefore able to approach determination of the application with a fresh mind.

(5) The Head of Planning Applications Group informed the Committee of correspondence from Sport England withdrawing its objection subject to the inclusion of three additional conditions. She therefore presented a revised recommendation, including the three conditions requested.

(6) In agreeing the revised recommendations, the Committee also agreed to the strengthening of the landscaping condition by the addition of the words: "with particular emphasis on integrating the development into its sensitive setting."

(7) RESOLVED that:-

- (a) the application BE REFERRED to the Secretary of State as a departure from the Development Plan on Green Belt grounds, and that subject to his decision permission be granted to the application subject to conditions, including conditions covering the submission and implementation of a Community Use Agreement; details of the design and layout of the playing pitches and artificial grass pitch; the submission of a playing field restoration scheme, and the restoration of the playing field; the standard time limit (5 years in this instance); the development being carried out in accordance with the permitted details; removal of the modular classroom building and completion of the south eastern car park within one month of completion and decant into the new build; the submission of details of all materials to be used externally; details of all external lighting, including hours of operation; a scheme of landscaping, including hard surfacing, its implementation and maintenance with particular emphasis on integrating the development into its sensitive setting; the provision of trees to the boundary with number 4 Oast Cottages; measures to protect those trees to be retained; a habitat management plan/biodiversity enhancement strategy, including monitoring and management; no tree removal taking place during the bird breeding season; the development according with the recommendations of the ecological survey; reptile mitigation and fencing; a programme of archaeological works; "*Secured*

by Design" principles being adopted; a BREEAM rating of 'Very Good' being achieved; details of community use relating to use of the indoor and outdoor facilities, including hours of use; the submission of an updated Travel Plan within six months of occupation, and ongoing monitoring and review thereafter; the provision and retention of car parking, coach parking/waiting, cycle parking, access, circulatory routes and turning areas; further works with regard to contaminated land; details of surface water drainage; details of piling and other penetrative foundation designs; control of surface water drainage; hours of working during construction and demolition being restricted to between 0800 and 1800 Monday to Friday and between the hours of 0900 and 1300 on Saturdays, with no operations on Sundays and Bank Holidays; a construction management strategy, including access, lorry routing, parking and circulation within the site for contractors' and other vehicles related to construction and demolition operations; and measures to prevent mud and debris being taken onto the public highway; and

- (b) the applicant be advised by Informative that account should be taken of the Environment Agency's advice relating to drainage and soakaways, contamination, watercourses and fuel/chemical storage.

57. Proposal SW/12/884 (KCC/SW/0180/2012) - Three single storey extensions to main school building and provision of new ramp to front entrance at Ethelbert Road Primary School, Ethelbert Road, Faversham; KCC Education, Learning and Skills

(Item D2)

(1) Mr T Gates informed the Committee that he was a Member of Faversham Town Council. He had neither spoken nor voted on this matter and was therefore able to approach the determination of the application with a fresh mind.

(2) The Head of Applications Group reported the receipt of correspondence from the neighbouring property at 3 Ethelbert Road in support of the application.

(3) Mr W A Hayton moved, seconded by Mr R F Manning that permission be refused on the grounds set out in the Head of Planning Applications Group's recommendations.

(4) The Chairman moved as an amendment that consideration of the application be deferred to enable further discussion between the applicants and the Planners of the aspects of the application which have led to the recommendation for refusal. This amendment was accepted by the proposer and seconder of the original motion and by the Committee, which then agreed the motion as amended.

(4) RESOLVED that consideration of the application be deferred to enable further discussion between the applicants and the Planners of the aspects of the application which have led to the recommendation for refusal.

58. Matters dealt with under delegated powers

(Item E1)

RESOLVED to note matters dealt with under delegated powers since the last meeting relating to:-

- (a) County matter applications;
- (b) consultations on applications submitted by District Councils or Government Departments (None);
- (c) County Council developments;
- (d) Screening opinions under The Town and Country Planning (Environmental Impact Assessment) Regulations 2011; and
- (e) Scoping opinions under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (None).

KENT COUNTY COUNCIL

REGULATION COMMITTEE

MINUTES of a meeting of the Regulation Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Wednesday, 5 September 2012.

PRESENT: Mr M J Harrison (Chairman) Mr A D Crowther (Vice-Chairman)
Mr M J Angell (Substitute for Mr R E Brookbank), Mr A H T Bowles,
Mr C J Capon, MBE, Mr I S Chittenden, Mr J A Davies, Mr T Gates, Mr W A Hayton,
Mr R J Lees, Mr S C Manion, Mr R F Manning, Mr J M Ozog and Mr R A Pascoe

IN ATTENDANCE: Mr S Bagshaw (Head of Fair Access), Mrs A Hayward (Manager for Primary Admissions & Transport), Miss M McNeir (Public Rights Of Way and Commons Registration Officer), Mrs S Thompson (Head of Planning Applications Group), Mr R Gregory (Principal Planning Officer - Enforcement) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS

16. Chairman's Announcement

(Item 3)

The Chairman advised the Committee Members of an invitation from the Chairman of the Council for the Committee Members to have Lunch with him following its next meeting on 22 January 2013.

17. Minutes

(Item 4)

RESOLVED that the Minutes of the Committee meeting held on 22 January 2012 and of the Member Panels on 18 June 2012 and 17 July 2012 are correctly recorded and that they be signed by the Chairman.

18. Dates of meetings in 2013

(Item 5)

The Committee noted the following meeting dates in 2013:-

Tuesday, 22 January 2013;
Tuesday, 18 June 2013; and
Tuesday, 3 September 2013.

19. Amendments to Regulation Committee Member Panel procedures

(Item 6)

(1) The Democratic Services Officer reported the views of Mr T Simms, a member of the public that elected Members of other Local Authorities apart from Kent County Council should be permitted to address the Member Panels by right.

(2) The Chairman moved that in addition to the recommended amendments to the procedures. Paragraph 3 of each of the Member Panel procedures be amended by the deletion of the last sentence and replacement by:-

“They may ask for a solicitor or other professional agent to speak on their behalf.”
Carried unanimously.

(3) RESOLVED that:-

- (a) agreement be given to the amendments to the procedures set out in paragraph 3.1 of the report; and
- (b) paragraph 3 of each of the Member Panel procedures be amended by the deletion of the last sentence and replacement by:-

“They may ask for a solicitor or other professional agent to speak on their behalf.”

20. Home to school Transport: to include a presentation on transport policy for 16 Plus Pupils, Free Schools, Denominational Schools and Grammar Schools
(Item 7)

(1) The Head of Fair Access updated the Committee on the Kent Freedom Pass and the Kent 16+ Travel Card.

(2) The Head of Fair Access was asked to consider arrangements for the Vacant Seat Payment Scheme in the light of Members’ concerns that a seat could be withdrawn without notice.

(3) RESOLVED that:-

- (a) the report be noted; and
- (b) the Head of Fair Access be asked to consider arrangements for the Vacant Seat Payment Scheme in the light of Members’ concerns that a seat could be withdrawn without notice.

21. Update from the Commons Registration Team
(Item 8)

(1) The Schedule of Village Green Applications was tabled as Appendix A to the report.

(2) RESOLVED that the report be noted.

22. Republication of Common Land and Village Green Register Maps
(Item 9)

(1) In agreeing the recommendations of the Head of Regulatory Services, the Committee specified that once the fresh editions of the Register had been finalised

and published, the current Registers should be relocated to the new County Archives building or a similarly secure location.

(2) RESOLVED to:-

- (a) proceed with the proposal to publish fresh editions of the Registers of Common Land and Town or Village Greens; and
- (b) relocate the current Registers to the new County Archives building or to a similarly secure location once the new versions have been finalised and published.

23. Update on Planning Enforcement Issues

(Item 10)

(1) The Committee agreed to visit Shaw Grange, Charing as soon as practicable.

(2) The Head of Planning Applications Group tabled a letter from Lee Evans Consultants on behalf of LanceBox Ltd concerning their site at Manor Way Business Park, Swanscombe. This letter confirmed their intended adherence to the required 4 point compliance plan. Also tabled were photographs of various sites and a draft engineering plan for Woodger's Wharf.

(3) The Head of Planning Applications Group informed the Committee of the very recent receipt of a letter from Johnsons Recycling Ltd confirming that a revised scheme would be submitted by Monday, 10 September 2012.

(4) RESOLVED to endorse the actions taken or contemplated in the respective cases set out in paragraphs 5 to 27 of the report together within Schedules /Appendices 1, 2 and 3 of the report.

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