



## EAST KENT (JOINT SCRUTINY) COMMITTEE

White Cliffs Business Park Dover Kent CT16 3PJ  
Telephone: (01304) 821199 Facsimile: (01304) 872300

---

Tuesday, 3 July 2012

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **EAST KENT (JOINT SCRUTINY) COMMITTEE** will be held in the **White Cliffs Business Park, Dover, Kent CT16 3PJ** **Wednesday, 11th July, 2012, at 10.00 am** when the following business will be transacted.

Members of the public who require further information are asked to contact **Rebecca Brough (01304) 872304/rebecca.brough@dover.gov.uk..**

Yours sincerely

Chief Executive

### East Kent (Joint Scrutiny) Committee:

Councillor I Gregory	(Chairman)	(Thanet District Council)
Councillor B Copping	(Vice-Chairman)	(Shepway District Council)
Councillor P Campbell		(Thanet District Council)
Mr M Dance		(Kent County Council)
Councillor C Goddard		(Shepway District Council)
Councillor D Hannent		(Dover District Council)
Councillor J Holben		(Shepway District Council)
Councillor I Linfield		(Canterbury City Council)
Councillor G Lymer		(Dover District Council)
Mr R Manning		(Kent County Council)
Councillor K Mills		(Dover District Council)
Councillor W Scobie		(Thanet District Council)
Councillor A Taylor		(Canterbury City Council)
Mr M Vye		(Kent County Council)
Councillor T Westgate		(Canterbury City Council)



# AGENDA

## EAST KENT (JOINT SCRUTINY) COMMITTEE

**Wednesday, 11th July, 2012, at 10.00 am**

Ask for: **Rebecca Brough**

**White Cliffs Business Park, Dover, Kent CT16  
3PJ**

Telephone **(01304)  
872304/rebecca.brough@do  
ver.gov.uk**

1. APOLOGIES
2. APPOINTMENT OF SUBSTITUTE MEMBERS  
To note appointment of Substitute Members in accordance with the agreed procedure.
3. DECLARATIONS OF INTEREST  
To receive any declarations of interest from Members.
4. MINUTES (Pages 1 - 2)  
To confirm the attached Minutes of the meeting of the Committee held on 25 April 2012
5. OPERATING ARRANGEMENTS (Pages 3 - 12)  
The Operating Arrangements for the East Kent (Joint Scrutiny) Committee are attached for information.
6. ISSUES REFERRED TO THE COMMITTEE BY THE EAST KENT (JOINT ARRANGEMENTS) COMMITTEE OR BY A DISTRICT COUNCIL SCRUTINY MEMBER  
None
7. ITEMS PLACE ON THE AGENDA BY A MEMBER OF THE COMMITTEE  
In accordance with Paragraph 7.1 of the Operating Arrangements any Member of the Committee may require that an item be placed for consideration on the agenda of the next available meeting.  
  
There are no items for consideration.
8. REVIEW OF EAST KENT ARRANGEMENTS (Pages 13 - 26)  
To consider the report of the Head of Legal and Democratic Services (Canterbury City Council) and the Solicitor to the Council (Dover District Council).

## **Access to Meetings and Information**

- Members of the public are welcome to attend meetings of the Council, its Committees and Sub-Committees. You may remain present throughout them except during the consideration of exempt or confidential information.
- All meetings are held at the Council Offices, Whitfield unless otherwise indicated on the front page of the agenda. There is disabled access via the Council Chamber entrance and a disabled toilet is available in the foyer. In addition, there is a PA system and hearing loop within the Council Chamber.
- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website [www.dover.gov.uk](http://www.dover.gov.uk). Minutes are normally published within five working days of each meeting. All agenda papers and minutes are available for public inspection for a period of six years from the date of the meeting. Basic translations of specific reports and the Minutes are available on request in 12 different languages.
- If you require any further information about the contents of this agenda or your right to gain access to information held by the Council please contact Rebecca Brough, Democratic Support Officer, telephone: (01304) 872304 or email: [rebecca.brough@dover.gov.uk](mailto:rebecca.brough@dover.gov.uk) for details.

Large print copies of this agenda can be supplied on request.

Minutes of the meeting of the **EAST KENT (JOINT SCRUTINY) COMMITTEE** held at the Council Offices, Whitfield on Wednesday 25 April 2012 at 9.30 am.

Present:

Chairman: Councillor K Mills (Dover District Council)

Councillors: B Copping (Shepway District Council)  
G Glover (Canterbury City Council)  
I Gregory (Thanet District Council)  
D Hannent (Dover District Council)  
G Lymer (Dover District Council)  
Z Wiltshire (Thanet District Council)

Also Present: Director of Shared Services (EK Services)

Officers: Chief Executive (Dover District Council)  
Solicitor to the Council (Dover District Council)  
Democratic Support Officer (Dover District Council)

Apologies for absence were received from Councillors H Cragg, M Dance, C Goddard, D Green, J Holben, I Linfield, R Manning and M Vye.

13 ELECTION OF A CHAIRMAN

It was proposed by Councillor G Lymer, duly seconded and

RESOLVED: That Councillor K Mills be appointed Chairman for the duration of the meeting.

14 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

15 MINUTES

The Minutes of the meetings of the Committee held on 25 January 2012 were approved as a correct record and signed by the Chairman.

16 OPERATING ARRANGEMENTS

The Committee considered the operating arrangements.

RESOLVED: That the operating arrangements be noted.

17 ISSUES REFERRED TO THE COMMITTEE BY THE EAST KENT (JOINT ARRANGEMENTS) COMMITTEE

The Committee noted that at the meeting of the East Kent (Joint Arrangements) Committee (EKJAC) held on 14 March 2012 it had been resolved to undertake a review of the operating arrangements of the two East Kent committees, which would be reported to the next meeting.

RESOLVED: That the Minutes of the East Kent (Joint Arrangements) Committee be noted.

18 ITEMS PLACED ON THE AGENDA BY A MEMBER OF THE COMMITTEE

DDC Members ICT Update

Councillor D Hannent agreed to consider this item as part of the following agenda item due to the linked nature of the items.

RESOLVED: It was agreed to consider this item as part of the EKS ICT Update item.

19 EKS ICT UPDATE

The Director of Shared Services presented the update on the shared ICT service.

EKS employed 340 staff based across 3 sites providing ICT, Customer Service and Revenue and Benefits services to the three partner authorities. The shared ICT service supported 2,130 computers operating 140 different software systems.

A 'Sharing the Gain' strategy had been development that was based on the core business objectives of the three partner authorities and examined current and future opportunities for the use of technology to deliver business benefits. This included developing on-line, mobile and automated services for customers and more flexible 'anytime, anywhere' access for staff.

The Committee was advised that the budget for the shared ICT service was set locally by each authority and following the recent computer health check undertaken it would be for individual partner authorities to determine how to allocate funding in response to the findings.

The members of the Committee discussed the different approaches to Member ICT provision across the five authorities. In respect of EKS ICT provision, it was noted that each of the three authorities operated on a different email system, with Dover District Council using Outlook 2003, Canterbury City Council using Outlook 2010 and Thanet District Council in the process of moving from GroupWise to Outlook 2010.

RESOLVED: That the update be noted.

The meeting ended at 10.17 am by reason of falling inquorate.

**Agenda Item No 5**

**East Kent (Joint Scrutiny) Committee – Operating Arrangements**

**Canterbury City Council**

**Dover District Council**

**[Kent County Council]**

**Shepway District Council**

**Thanet District Council**

together referred to as 'the Parties'

**1. Key Principles for the Operation of the East Kent (Joint Scrutiny) Committee (EKJSC)**

- 1.1 The members of the EKJSC will work together to maximise the exchange of information and views, to minimize bureaucracy and make best use of the time of members and officers of local and other authorities.
- 1.2 The guiding principle for the work of EKJSC is that it should be consensual and positive. The emphasis of the work should be on making proactive contribution to the development of policy and the discharge of EKJAC's functions. This is best achieved by an inclusive process covering members, the parties' partners, service users and officers.
- 1.3 The process of joint scrutiny will be open and transparent, designed to engage the parties, their residents and other stakeholders.

**2. Objectives**

- 2.1 The EKJSC is established under section 101 and 102 Local Government Act 1972 and Section 2 Local Government Act 2000 with the objective of acting as the single Scrutiny Committee for the monitoring, review and scrutiny of the East Kent (Joint Arrangements) Committee (EKJAC).

**3. Terms of Reference**

- 3.1 The terms of reference of the EKJSC are as set out in Schedule 1.
- 3.2 These arrangements will be reviewed regularly. No proposed amendments to these arrangements will take effect until they have been agreed and endorsed by each of the parties.

**4. Call-In**

- 4.1 The arrangements for the operation of call-in by the EKJSC shall be as set out in Schedule 2. The EKJSC shall have power to call-in any decision made by EKJAC, a sub-committee of EKJAC, or any member or officer with delegated authority from

EKJAC. The EKJSC will not have the power to call-in any decision of the Executive of any of the Parties.

- 4.2 Where there is a call-in by a statutory scrutiny committee of any of the Parties of any decision of the EKJAC, each of the other Parties will be notified forthwith. The call-in shall be heard by the call-in Party's statutory scrutiny committee in accordance with the call-in Party's own arrangements. Where there is more than one call-in on the same subject the parties shall endeavour to ensure that they are heard together at the same time and place.
- 4.3 The call-in procedure set out in clauses 4.1 and 4.2 above shall not apply where the decision being taken by or on behalf EKJAC is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the interests of any of the Parties or the public interest. The record of the decision and notice by which it is made public shall state whether, in the opinion of the decision maker, the decision is an urgent one and therefore not subject to call-in. The Chairman and the members of each of the Parties affected by the decision must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the consent of the Vice-Chairman shall be required. In the absence of both the Chairman and Vice-Chairman, the consent of the Head of Paid Service of that Party (or his/her nominee) shall be required. Decisions taken as a matter of urgency must be reported to the next available full Council meetings of each of the Parties, together with the reasons for urgency.

## **5. Membership and Terms of Office**

- 5.1 The EKJSC will comprise three non-executive councillors from each of the Parties.
- 5.2 Each appointing Party shall appoint its three members on the basis of its overall political proportionality.
- 5.3 Members of the EKJSC shall be appointed by the Parties at their annual meetings of their respective Council and shall hold office until:
- (a) the next annual meeting of the Party that appointed them, save that the Party that appointed them may remove them from office, either individually or collectively, at an earlier date in the event of a change in political control of that Party; or
  - (b) they resign from office; or
  - (c) they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension)
- 5.4 Each Party may appoint substitutes to represent their authority in the absence of the appointed councillors. Nominated substitutes will be non-executive councillors and will be able to attend any meeting of EKJSC in order to familiarise themselves with the issues involved, but will not be able to participate in debate or vote unless they are formally acting as a substitute member.
- 5.5 Non-voting members may be co-opted onto the EKJSC from any or all of the Parties or from other public sector partner organisations as the EKJSC may unanimously decide. Co-optees may participate in the debate but may not vote.

## **6. Frequency of Meetings**

- 6.1 The EKJSC will meet quarterly, but may change the frequency of meetings and call additional meetings as required.

## **7. Agenda Setting and Access to Meetings and Information**

- 7.1 The agenda for the EKJSC shall be agreed by the chairman following a briefing by relevant officers. Any member of the EKJSC may require that an item be placed for consideration on the agenda of the next available meeting.
- 7.2 There will be a standing item on the agenda of each meeting of the EKJSC for matters referred by the EKJAC.
- 7.3 Notice of meetings and access to agendas and reports will be in accordance with sections 100A-K and Schedule 12A of the Local Government Act 1972.

## **8. Sub-Committees**

- 8.1 The EKJSC may establish sub-committees as it may determine by unanimous agreement of the EKJSC.
- 8.2 When establishing a sub-committee the EKJSC will agree the:
- (a) terms of reference for the sub-committee
  - (b) size and membership of the sub-committee including co-optees
  - (c) period for which the sub-committee will remain constituted
  - (d) chairman of the sub-committee or will delegate this decision to the sub-committee
  - (e) mechanism for hosting the sub-committee and sharing the cost amongst the relevant Parties, as appropriate

## **9. Delegation to Sub-Committees**

- 9.1 The EKJSC may arrange for the discharge of any of its functions by a sub-committee of the EKJSC.

## **10. Meetings and Procedure**

- 10.1 The Chairman and Vice Chairman will be appointed by the EKJSC on the basis of the position being rotated annually, as follows, and repeated each five years:

	<b>Chairman and Scrutiny Host Authority</b>	<b>Vice-Chairman</b>
2008-9	Shepway	Dover
2009-10	Dover	Kent
2010-11	Kent	Canterbury
2011-12	Canterbury	Thanet
2012-13	Thanet	Shepway

- 10.2 The Chairman and Vice Chairman of EKJSC shall be drawn from any political group not forming part of the administration of the appointing Council.

- 10.3 In the absence of the chairman and the vice chairman at a meeting, the meeting will elect a chairman for that meeting.
- 10.4 The quorum of the EKJSC will be five with at least one member present from four of the five Parties.
- 10.5 The EKJSC may approve rules for meetings and procedure from time to time.
- 10.6 The EKJSC may ask organisations, individuals or groups to assist it from time to time and may ask independent professionals to advise it during the course of reviews. Such individuals or groups will not be able to vote.
- 10.7 The EKJSC may request the attendance of officers employed by the participating authorities to answer questions and give evidence to the committee. Such requests must be made via the Chief Executive of the relevant participating authority.
- 10.8 The EKJSC may invite any other person to attend its meetings to answer questions or give evidence; however, attendance by such persons cannot be mandatory.

## **11. Decision Making**

- 11.1 Decisions of the EKJSC will normally be made by consensus. A vote shall be taken where the chairman or any Voting Member requests that a vote be taken. The vote will be by way of a show of hands. A simple majority shall be required.
- 11.2 Where a minimum number of two members express an alternative to the majority view, they will be permitted to produce a minority report.

## **12. Scrutiny Host Authorities and Allocation of Roles**

- 12.1 In order to achieve the objectives of the EKJSC, the Parties will appoint a Scrutiny Host Authority which is for the time being the Authority shown as the Chairman and Scrutiny Host Authority in the table at clause 10.1.
- 12.2 Staff from the Scrutiny Host Authority who are commissioned to provide services, advice and support to the EKJSC will continue to be employees of the relevant Scrutiny Host Authority.
- 12.3 Responsibility for the following support services to the EKJSC will be allocated to the Scrutiny Host Authority:
- (a) the provision of legal advice and services
  - (b) the provision of financial advice and services
  - (c) secretariat support and services
  - (d) communications support and services
  - (e) data protection, freedom of information, information sharing and confidentiality issues in accordance with clause 17
  - (f) research
- 12.4 The cost of the services and advice set out in this section will be paid for by the Scrutiny Host Authority.

### **13. Amendments to these Arrangements**

- 13.1 These arrangements may be amended by the unanimous agreement of the EKJSC following a recommendation approved by the full Council of each of the Parties.

### **14. New Membership and Cessation of Membership**

- 14.1 New Parties may join the EKJSC provided that they are also a party to EKJAC and the full council of the joining Party(ies) and of all the Parties to these arrangements for the time being so resolve.
- 14.2 A Party ceases to be a member of these arrangements when it ceases to be a party to EKJAC.
- 14.3 Termination of these arrangements may occur by agreement of all the Parties.

### **15. Claims and Liabilities**

- 15.1 The purpose of these arrangements and any actions taken under them is to assist all of the Parties. The Parties therefore have agreed that:
- (a) where one of the Parties nominated by the EKJSC to act as Scrutiny Host Authority undertakes actions or incurs liabilities in that respect then it shall be entitled to be indemnified by the other Parties for the appropriate proportion of all its costs and liabilities incurred in good faith
  - (b) a Party carrying out actions in good faith on behalf of the EKJSC shall not (other than in the case of fraud and/or clear bad faith) be liable to claims from the other Parties (and there shall be no right of set-off against any claim for indemnity under (b) and/or (c) above) on the grounds that the actions that were taken were not the proper actions carried out properly or that the costs and liabilities incurred were not reasonably and properly incurred (as long as they were in fact incurred)
- 15.2 Each of the Parties shall at all times take all reasonable steps within its power to minimise and mitigate any loss for which it is seeking reimbursement from any of the other Parties.

### **16. Administration**

- 16.1 The decisions and recommendations of the EKJSC will be communicated to EKJAC and the participating councils as soon as possible after the resolution of the committee.
- 16.2 Where working on forthcoming decisions of the EKJAC, the EKJSC will endeavour to carry out its functions as part of the EKJAC's process in order to ensure that its findings and recommendations can influence the final decision.
- 16.3 When considering items before it, the EKJSC will take account of whether an issue could more appropriately be dealt with by one of the Parties or elsewhere.

**17. Data Protection, Freedom of Information, Information Sharing & Confidentiality**

- 17.1 Subject to the specific requirements of this clause, each of the Parties shall comply with its legal requirements under data protection legislation, freedom of information and associated legislation, and the law relating to confidentiality.
- 17.2 A Party will be appointed as a Host Authority for the purposes of ensuring compliance with any legislative or legal requirements relating to these issues should they arise directly in relation to the EKJAC (as compared to information held by the Parties to these arrangements).
- 17.3 Each of the each Parties shall:
- (a) treat as confidential all information relating to:
    - (i) the business and operations of the other Parties and/or
    - (ii) the business or affairs of any legal or natural person in relation to which or to whom confidential information is held by that Party("Confidential Information") and
  - (b) not disclose the Confidential Information of any other of the Parties without the owner's prior written consent
- 17.4 Clause 17.3 shall not apply to the extent that:
- (a) such information was in the possession of the party making the disclosure, without obligation of confidentiality, prior to its disclosure or
  - (b) such information was obtained from a third party without obligation of confidentiality or
  - (c) such information was already in the public domain at the time of disclosure otherwise than through a breach of these arrangements or
  - (d) disclosure is required by law (including under Data Protection Legislation, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004) or disclosure is permitted by the Human Rights Act 1998
- 17.5 The Parties may only disclose Confidential Information of another of the Parties to staff who need to know by reason of their work. Each of the Parties shall ensure that such staff are aware of, and comply with, these confidentiality obligations and that such information is not used other than for the purposes of the EKJSC.
- 17.6 If any of the Parties receives a request for information under the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004 then the other Parties shall (at their own expense) assist and co-operate to enable the request to be dealt with.
- 17.7 If a request for information is received then the Party receiving it shall copy it to the other Parties and consider when making its decisions any views of the other Parties.
- 17.8 Notwithstanding the provisions of 17.6 and 17.7 it shall be the Party receiving the request that is responsible for determining at its absolute discretion how to reply to the request.

**18. Exercise of Statutory Authority**

- 18.1 Without prejudice to these arrangements, nothing in these arrangements shall be construed as a fetter or restriction on the exercise by any of the parties of their statutory functions.

## Schedule 1

### **TERMS OF REFERENCE of the EAST KENT (JOINT SCRUTINY) COMMITTEE**

1. Monitor review and scrutinise the actions and decision of the EKJAC.
2. Make recommendations for reconsideration of any decisions made or actions taken and to make recommendations for improvement and/or changes in responsibilities and functions of the EKJAC.
3. Prepare reports and recommendations to the parties on the performance and delivery of the shared services provided by the EKJAC.
4. Propose an annual budget for the EKJSC in accordance with the requirements of the parties.
5. Prepare an annual report to the parties on the performance of these arrangements.
6. Facilitate the exchange of information about the work of the EKJSC and to share information and outcomes from reviews.

## Schedule 2

### ARRANGEMENTS FOR THE OPERATION OF CALL-IN by the EKJSC

1. When a decision is made by EKJAC, a sub-committee of EKJAC or an individual member with delegated authority from EKJAC, or a key decision is made by an officer with delegated authority from EKJAC, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of each of the Parties normally within two days of being made. The Chairman of the EKJSC (and all other members of each of the Parties) will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
2. That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented at 12.00 noon, on the fourth working day after the publication of the decision, unless it is called-in.
3. By 10.00 am on the fourth working day after publication of the decision, the proper officer of the Scrutiny Host Authority shall call-in a decision for scrutiny by the EKJSC if so requested by any member of the EKJSC, and shall then notify the decision maker of the call-in. A meeting of the EKJSC shall then be held within 15 working days of the decision to call-in. Reasons for calling-in a decision should be given and recorded in the agenda.
4. If, having considered the decision, the EKJSC is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to the full Council of all or any of the Parties. If referred to the decision maker they shall then reconsider within a further 10 working days, amending the decision or not, before adopting a final decision.
5. If, following an objection to the decision, the EKJSC does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the EKJSC meeting, or the expiry of that further 10 working day period, whichever is the earlier.
6. If the matter was referred to full Council of any of the Parties and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision maker, together with Council's views on the decision. That decision maker shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by EKJAC as a whole or a committee of it, a meeting will be convened to reconsider within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.
7. If the Council of any of the Parties to whom the matter has been referred does not meet, or if it does but does not refer the decision back to the decision maker, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

This page is intentionally left blank

- Subject:** **Review of the East Kent Arrangements**
- Director/Head of Service:** Head of Legal and Democratic Services (Canterbury) and Solicitor to the Council (Dover)
- Decision Issues:** These matters are within the authority of the Committee to recommend to the respective Councils.
- Decision type:** Non-key
- Classification:** This report is open to the public.
- Summary:** *This review examines options for the East Kent Committee Arrangements in the future and suggests a way in which they might be adjusted to align with the services being delivered.*
- To Recommend/ Resolve/Consider:** **To recommend to the executives and councils of Canterbury City Council, Dover District Council, Kent County Council, Shepway District Council and Thanet District Council ('the Participating Councils') that the amendments to the East Kent Arrangements set out in this report be adopted and therefore:-**
- (a) **The East Kent Joint Arrangements Committee and the East Kent Joint Scrutiny Committee be dissolved with effect from 1 October 2012.**
  - (b) **That operating arrangements for a Committee relating to functions shared by Canterbury City Council, Dover District Council and Thanet District Council ('the Continuing Councils') be drafted by the respective heads of legal and be submitted to the Continuing Councils for approval with scrutiny being undertaken by the scrutiny committees of the Continuing Councils.**
  - (c) **That any existing delegations to the Director of Shared Services, the Head of the East Kent Human Resources Partnership and the Payroll Officer for Kent County Council relating to the functions of the Continuing Councils continue.**
  - (d) **That the delegation to the Payroll officer for Kent County Council by Shepway**

**District Council continue.**

- (e) All agreements or arrangements which may need to remain in effect after 1 October 2012 be reviewed by the Heads of Legal of all the Participating councils and they be delegated the power by their respective councils that if relevant to them they agree the continuation of those matters in such form as they think appropriate.**

**Next stage in process      Reports to be submitted to the councils and executives of all participating councils.**

## **SUPPORTING INFORMATION**

### **1. Introduction**

At the last meeting of the East Kent Joint Arrangements Committee (EKJAC) on 14 March 2012 the Committee received a report from us with a proposed protocol refining the administrative arrangements for the East Kent Joint Scrutiny Committee (EKJSC) and governing its relationship with the Scrutiny Committees of individual authorities.

From that debate it was clear the EKJAC wished to get on with exercising its oversight of shared services but also that scrutiny should primarily be exercised at the local level. Problems which arose at a strategic level should be for the EKJAC to address.

This led in turn to a wish to review the Committee arrangements in the light of how they have functioned and where shared services now are both in terms of reporting to the EKJAC and which services are shared or in prospect of being shared. It was envisaged such review might entail having some other form of management arrangements.

#### **Background**

EKJAC and EKJSC were formed in June 2008 as part of a plan to develop shared working across East Kent with the participation of the four district councils and the county council. The arrangements envisaged that the EKJAC would have a strategic role in overseeing the development of ideas and then a management and monitoring role as services became shared. The EKJAC oversaw proposals for sharing revenues and benefits, information technology, customer contact centres, housing management, human resources and waste. It has been a very significant programme of projects.

A review of the arrangements was carried out by former district council Chief Executive Mr Douglas Bradbury. His report was approved by the EKJAC on 19 May 2010. The difficulty in implementing it proved to be something which has particularly concerned the EKJSC. This is the participation of authorities in debates who are not participants in a particular shared service. Legally if a Member is appointed to a Committee they have a right to fully participate in its business and only by convention could they be excluded. For whatever reason there does appear to be a reluctance

for authorities which are not engaged in a particular shared service to have an involvement in its governance.

## The Services

It may be helpful to review in relation to each service where it now stands in relation to the joint committees and the individual authorities.

### **East Kent Services**

This is a joint service hosted by Thanet with, in effect, a brand name. It provides revenues and benefits, information technology and customer contact services to Canterbury City and Dover and Thanet District Councils. It reports directly to EKJAC and the EKJAC has delegated the relevant powers to the Director of Shared Services who heads the organisation.

### East Kent Human Resources

This is a separate shared service which up to 31 March 2012 provided shared services to Canterbury City, Dover, Shepway and Thanet District Councils. Shepway withdrew with effect from 31 March. The Head of the East Kent Human Resources Partnership is also delegated powers through the EKJAC although on the basis of a different form of agreement.

### East Kent Housing

This is an arms length management organisation providing housing management services to Canterbury City, Dover, Shepway and Thanet District Councils. Having been developed under the auspices of the Joint Committee Arrangements it now has its own management arrangements. East Kent Housing is a separate company with its own employees. The four authorities are represented on an Owner's Committee which is charged with making the key management decisions. The East Kent Joint Arrangements Committee having overseen its establishment now has no role in relation to it.

### Waste

The EKJAC has overseen the development of arrangements across east Kent. All the participants in the East Kent arrangements have signed a five way waste agreement intended to set the strategic direction for waste across east Kent and in particular committed us all to the method of collections known as the "NOM". Whilst the aspiration is to move towards a single contract our respective contractual timetables meant that Shepway, Dover and Kent have tendered and secured a contract, Canterbury is in the process of doing so and Thanet has its in-house operation. In relation to the existing and proposed contractual arrangements the EKJAC has no management role. It remains the place where strategic matters, should they arise, can be debated.

### **The role of EKJAC**

The EKJAC's Terms of Reference are attached as Appendix 1 to this report. It clearly has a role in relation to those services where delegations have been made to it and where it in turn has delegated to an officer acting on its behalf. However that now concerns three of the five authorities.

As noted above it could have a strategic role in relation to waste but given the decisions that have been made and the contracts which have been entered into or will be entered into that strategic role will probably not revive until perhaps 2017 when decisions will need to be made on an east Kent contract.

Ashford Borough Council is also an east Kent authority. It was for some time associated with the housing project but withdrew. It has expressed an interest in exploring some form of formal connection with the other east Kent districts which if it arises is likely to mean an alignment of certain of policies and perhaps the sharing of services associated with them.

Drawing these threads together then the questions which arise are:

- should the east Kent arrangements be refashioned to facilitate a wider grouping?
- alternatively using the precedent of East Kent Housing should it be refashioned to become a management body for East Kent Services consisting solely of the three participating districts, or
- should the arrangements be abolished altogether and the authorities simply have an agency arrangement with Thanet.

#### Discussion

The fundamental question is whether the original vision held in 2008 still holds true.

In our view Shepway's decision not to participate in East Kent Services and then to withdraw from East Kent HR is significant. Further the strategic oversight of waste does not appear to be a live issue at least in relation to decision making and East Kent Housing has its own separate arrangements. If there are to be future shared arrangements it appears this may on a broader east Kent scale including Ashford or alternatively the three participating authorities in East Kent Services may add further to the functions performed by that organisation.

Therefore there are quite persuasive arguments for suggesting that the joint arrangements in their current form might usefully be changed.

This suggests one of two alternatives as things presently stand. First that the arrangements are refashioned simply to cover those participating authorities in East Kent Services or alternatively the Committee is abolished altogether and there is simply an agency arrangement with Thanet.

#### The pros and cons

The difficulty with an agency arrangement is one of accountability. The agent at any time (subject to the details of the agency) may divest themselves of the responsibility. In times of stability what is a relatively short term arrangement may extend over several years. However in times of economic uncertainty ultimately the interests of the agent must always come first unless there is some positive incentive to carry on the agency the authorities delegating the function must appreciate they have little real control in how it is performed although they always have the option of withdrawing the delegation.

A joint committee addresses the question of accountability. The respective authorities delegate functions to the joint committee which in turn delegates them to a single officer of one of the participating authorities. That officer is answerable to the joint

committee for those functions and not to the authority by whom they are employed. This means that every participating authority has a say in the management of the functions and whilst they may be outvoted in the joint committee they have the right to influence the management and performance of the service.

Thus whilst for a simple or straight forward service or, as in the case of waste, where it bears a direct relationship to an external contract into which all the parties are bound, an agency arrangement has its place, it is not to be recommended for a range of services involving a substantial number of staff.

### **Wider east Kent collaboration**

It's important to emphasize that what is being discussed solely relates to the formal Committee arrangements. The discussions between all east Kent Chief Executives and county representatives at the East Kent Forum, the East Kent Leaders and Chief Executives meetings, the East Kent Regeneration Board and discussions on some possible east Kent district arrangement would be entirely undisturbed. This solely relates to the formal Committee structure.

### **The need for EKJSC**

As described in the report to the Committee concerning the proposed protocol the East Kent Joint Scrutiny Committee has been considering its future role and indeed behind that question was whether it does have a future role. In the context of refashioning the Committee simply to exercise oversight of the existing east Kent arrangements or the putting of additional services into them by the three participating authorities there seems rather less need for a Joint Scrutiny Committee.

It is worth remembering that at the time the joint committees were established there was no statutory foundation for establishing a joint scrutiny committee across different authorities and different local government tiers. However, consultants engaged at the time recommended that a committee be established exercising a scrutiny role. Accordingly, EKJSC was established as a joint committee under the Local Government Act 1972. It is not a statutory scrutiny committee within the meaning of the Local Government Act 2000 but exercises functions which may broadly be described as scrutiny like functions and, were it exercises powers (e.g. call-in) it does so by convention rather than as a matter of law.

Importantly, there has been primary legislation (most recently) the Local Democracy, Economic Development and Construction Act 2009 to enable joint scrutiny committees between tiers of local government but the necessary regulations to give effect to that legislation have not been made.

The Joint Scrutiny Committee was created and has done its most valuable work when the proposals for shared services were being fashioned. With three remaining participants actively pursuing shared arrangements scrutiny can be performed at the point where services are delivered by the individual authorities and management issues can be referred to the Joint Committee for consideration. East Kent Housing is a precedent. Further, without effective statutory underpinning the question may reasonable be asked whether a scrutiny committee operating by convention is satisfactory.

If by contrast the 2008 vision still holds good then, with the addition of the protocol put to the EKJAC at its last meeting the EKJSC may have a future role providing

strategic scrutiny in the future but it is clear that scrutiny of services should primarily be the function of the individual recipient authorities.

### **Consequences of dissolution**

For the three participating councils in East Kent Services they will clearly need to form a new committee to oversee and to be held to account for the continuing shared service. Payroll is shared separately from Human Resources and includes Shepway but that is a service which is readily addressed by means of adjustment in the delegation documents to be approved and drafted by the Heads of Legal. To ensure a smooth transition a date has been recommended sufficiently in advance for the necessary decisions to be taken, scrutiny comments received and any reservations dealt with to avoid disruption. As we have existing arrangements in place they will need to be dissolved on a mutually acceptable basis and timescale.

From a practical point of view it is suggested that the meeting of EKJAC on 14 June and the EKJSC that follows it be the last meetings of these committees and that any subsequent scheduled meetings be cancelled.

#### **2. Relevant Documents**

The East Kent Joint arrangements.

#### **3. Consultation planned or undertaken**

None, save as indicated below under legal implications.

#### **4. Options available with reasons for suitability**

Refashioning the Committee arrangements to reflect the services which are actively being shared whilst retaining the other bodies to facilitate collaboration in other areas appears the best way of deploying resources effectively.

#### **5. Reasons for supporting option recommended, with risk assessment**

The reasons for the proposal are set out in the report. There is little risk in rejecting them and maintaining the status quo if that is required.

#### **6. Implications**

##### **(a) Financial Implications**

None.

##### **(b) Legal Implications**

See the body of the report. All heads of legal of all the participating councils have been consulted upon it.

#### **7. Conclusions**

We argue that the participating authorities should revisit the 2008 vision for the East Kent arrangements and decide whether they still hold good. In our view the informal arrangements certainly do and are gaining in importance. So far as the formal Committee arrangements are concerned they could be more usefully confined to

those authorities who are actively participating in shared services through the mechanism of a refashioned EKJAC with the participating authorities of Canterbury, Dover and Thanet. There would be no need for a joint scrutiny committee with scrutiny being carried out the district level.

We suggest the arrangements are refashioned along those lines.

**Contact Officer: Mark Ellender Telephone: 01227 862 011**

EKJAC300312  
Version 5  
Date 08/06/2012  
Time 3pm

## The Schedule

### TERMS OF REFERENCE of the EAST KENT (JOINT ARRANGEMENTS) COMMITTEE

1. To exercise the executive and non-executive functions of the parties in order to commission, co-ordinate, provide, procure and/or manage any shared services as are agreed from time to time by two or more of the Parties
2. To provide strategic direction to the officers advising the EKJAC
3. To exercise any of the functions or services that are determined to be a shared service in accordance with these arrangements
4. To develop work programmes and projects in relation to the functions which the parties are minded to be delegated to the EKJAC by the Parties
5. To regularly report to each of the Parties on its activities
6. To respond to reports and recommendations made by the East Kent Joint Scrutiny Committee
7. To monitor the operation of the EKJAC and of any shared service
8. To propose a budget for a shared service to the Parties and to monitor and manage any such budget once approved by them
9. To review these arrangements from time to time and make recommendations to the Parties for improvement and change and to propose (as appropriate) the creation of special purpose vehicles for the achievement of the Objectives, including companies, formal partnerships or consortia, the expansion of these arrangements to include other local authorities, the conclusion of contracts with other persons and the provision of services, supplies and works to other persons

The decisions set out in these minutes will come into force, and may then be implemented at 12 noon on the fourth working day after the publication of the decision, unless the decision is subject to call-in.

Date of publication: 25 July 2012

**CANTERBURY CITY COUNCIL**

**EAST KENT (JOINT ARRANGEMENTS) COMMITTEE**

**Minutes of a meeting held on Wednesday, 20th June, 2012  
at 10.00am in The Guildhall, Westgate, Canterbury**

**Present:** Councillor C Hart (Chairman), Thanet DC  
Councillor J Law, Canterbury CC  
Councillor P Watkins, Dover DC  
Councillor S Chandler, Dover DC  
Councillor A King, Kent CC  
Councillor R Bliss, Shepway DC  
Councillor R Love, Shepway DC  
Councillor A Poole, Thanet DC

**Officers:** Matthew Archer - Assistant Head of Democratic Services, Canterbury CC  
Nadeem Aziz - Chief Executive, Dover DC  
Colin Carmichael - Chief Executive, Canterbury CC  
Mark Ellender - Head of Legal and Democratic Services, Canterbury CC  
Juli Oliver-Smith - Head of East Kent Human Resources  
Donna Reed - Director, EK Services

**1 APOLOGIES FOR ABSENCE**

Apologies received from Councillor Paul Carter (Kent) and Councillor John Gilbey (Canterbury).

**2 DECLARATIONS OF INTEREST**

No declarations of interest were received.

**3 SUBSTITUTE MEMBERS**

There were no substitute members present at the meeting.

**4 MINUTES OF THE MEETING HELD ON 14 MARCH 2012**

The minutes of the meeting held on 14 March 2012 were agreed as a correct record.

## 5 ACTIONS ARISING FROM THE PREVIOUS MEETING

None.

## 6 EK SERVICES PERFORMANCE REPORT 2011/12

The Director of EK Services summarised the performance report of EK Services for the period February 2011 to March 2012. She said its purpose was to provide an update against identified performance indicators within the Service Level Agreements and progress against budget and savings targets. She noted that the majority of performance had met Service Level Agreement targets. A budgeted savings target of £1.27 million had been set including the containment of redundancy costs and the final outturn had seen these savings realised plus extra savings of £500,000 through a combination of vacancy management and initial efficiencies, which had been returned to the participating councils. A service plan was also included for noting. She said the National Audit Office (NAO) had recently carried out a health check on EK Services and whilst the report had yet to be published the preliminary findings were that EK Services represented a very good example of what could be achieved quickly and with minimal investment.

Members of the committee asked a number of questions as follows:

- (i) How detailed had the NAO audit been and had they identified any areas of improvement? It was confirmed the audit had been undertaken over a two week period by a team of six. It had included meetings with client authority representatives, the Management Team and a detailed scrutiny of the budget. They had highlighted concerns around the future investment plan, particularly for new technology. It was pointed out that an audit of ICT equipment had been undertaken and EK Services would be working closely with clients to support any equipment that was in need of replacement. The NAO had also noted that there was a reliance on trust between the clients and the shared service.
- (ii) A member questioned whether the SLA performance targets had been hard enough given that the majority had been met. In response it was pointed out that the target was to deliver the same level of service with 10% less resource which could be reasonably considered to be a stretching target. The financial saving had been exceeded to the benefit of the participating council's. Furthermore there was a requirement for additional savings in future years so the targets would continue to be stretched.
- (iii) A member congratulated EK Services on what had been achieved and said the additional savings over and above target had been very welcome in the current climate.
- (iv) A member questioned whether a single bailiff contract was necessarily the most appropriate course of action if councils wished to adopt a different approach to debt collection? In response the Director said it was hoped efficiencies would be gained through a single joint arrangement but it was recognised that all authorities would wish to support local residents where it was appropriate to do so.

The Chairman thanked the Director for her report.

## **7 EAST KENT HUMAN RESOURCES' PARTNERSHIP PERFORMANCE 2011/12**

The Head of the East Kent HR Partnership summarised the performance report of EK Human Resources during the year 2011/12. The report included the end of year service plan report, operational highlights, progress against budget and savings targets and reporting of partner agreed service performance indicators.

She said it had been a challenging year with a number of major restructures including staff from four authorities transferring into a new company to form East Kent Housing.

A single intranet had been created for all clients which meant that all the key information was now available in one place and managed under one system. The team had also supported Thanet District Council in looking at a new pay and reward system which also included EK Services staff. The first stage had been completed with the removal of incremental payments and the next phase was now underway. She concluded by summarising some of the operational activity and performance outturns.

A member asked whether East Kent Housing had retained the services of the HR Partnership. It was confirmed that they would continue to support the new company until April 2013, at which point there would be a discussion about future provision.

## **8 STATEMENT TO SUPPORT THE ANNUAL GOVERNANCE ASSURANCE REPORT 2011/12**

The Head of Legal and Democratic Services (Canterbury) explained that the supporting statement had been submitted by Kent County Council in relation to the payroll service. It had been submitted as a requirement of KCC's Annual Governance Report and under the collaboration agreement it had been produced for the EKJAC for information. He drew attention to the last section of the statement headed 'Suggested planned improvements for the next 12 months' and the note from the Heads of Paid Service which had requested that the section be removed pending further discussion about its content. KCC had indicated that they would wish to retain the section and would include it should a request be made for the statement in the future.

A Member asked if EKJAC ceased to exist what would be the future governance arrangements for Payroll? - The Head of Legal and Democratic Services explained that this was addressed in recommendation (e) of the next report on the agenda headed 'A review of the East Kent arrangements', where it stated that any agreements or arrangements which may need to remain in effect would be reviewed by relevant the Heads of Legal. He said it was envisaged that in the future the statement would be sent directly to the Heads of Paid Service and it would be a matter for each authority as to how it was considered. It was suggested that this could be dealt with as part of the Annual Performance Report and then signed off individually by each council as part of its own Annual Governance Statement.

## **9 REVIEW OF THE EAST KENT ARRANGEMENTS**

The Head of Legal and Democratic Services (Canterbury) introduced the report which examined options for the East Kent committee arrangements in the future and suggested a way in which they might be adjusted to align with the services being delivered. He noted that when the arrangements were first formed back in 2008, there was an active programme of shared services envisaged and in the subsequent

period the committee had overseen a significant number of projects including Housing and Waste Management, both of which had since adopted different management and monitoring arrangements. Housing now had its own parent company and waste was the subject of a separate arrangement between the participating authorities. He said what remained was overseeing the activity of EK Services and HR for the three participating authorities: Canterbury City Council, Dover District Council and Thanet District Councils, referred to as the 'continuing councils'.

It was recommended that the East Kent (Joint Arrangements) Committee be dissolved with effect from 1 October 2012, to allow a lead in time for future arrangements to be put in place. The committee could decide to have one more meeting to resolve any residual matters if required and in the meantime the operating arrangements would carry on. He recommended a minor amendment to recommendation (d) such that the word 'by' be removed and replaced with 'through EKJAC for the benefit of' as the intention was clear that the arrangement regarding Payroll was to continue. He said any outstanding matters would be delegated to the Heads of Legal to address any legacy issues in subsidiary documents.

Members of the committee considered the report and made a number of points including the following -

- (i) A member felt the committee had served its time based on the original aspirations and the proposed changes reflected the changing nature of shared services. He noted that a number of functions were now proposed to be dealt with via Locality Boards, which was not relevant to the current East Kent arrangements and consequently it was appropriate to remove one or two groupings whilst continuing to work together using alternative governance arrangements. Scrutiny could be dealt with by the individual authorities under their existing client arrangements.
- (ii) A member requested that a message be sent to the Thanet County Councillors that there was a need for a Locality Board to be set up in the area. The Deputy Leader of KCC said he had noted the request.
- (iii) A member pointed out that Canterbury published its Locality Board minutes on the next available Scrutiny Committee for consideration.
- (iv) It was logical for those involved in EK Services to have their own monitoring arrangements but alternative arrangements had been equally effective elsewhere. He cited the waste collection contract as a good example of joint working and close co-operation between three councils and in terms of the waste management across the five councils.

RESOLVED –

To recommend to the Executives and Councils of Canterbury City Council, Dover District Council, Kent County Council, Shepway District Council and Thanet District Council ('the Participating Councils') that the amendments to the East Kent Arrangements set out in this report be adopted and therefore:

- (a) The East Kent Joint Arrangements Committee and the East Kent Joint Scrutiny Committee be dissolved with effect from 1 October 2012.

- (b) That operating arrangements for a Committee relating to functions shared by Canterbury City Council, Dover District Council and Thanet District Council ('the Continuing Councils') be drafted by the respective heads of legal and be submitted to the Continuing Councils for approval with scrutiny being undertaken by the scrutiny committees of the Continuing Councils.
- (c) That any existing delegations to the Director of Shared Services, the Head of the East Kent Human Resources Partnership and the Payroll Officer for Kent County Council relating to the functions of the Continuing Councils continue.
- (d) That the delegation to the Payroll Officer for Kent County Council through EKJAC for the benefit of Shepway District Council continue.
- (e) All agreements or arrangements which may need to remain in effect after 1 October 2012 be reviewed by the Heads of Legal of all the Participating councils and they be delegated the power by their respective councils that if relevant to them they agree the continuation of those matters in such form as they think appropriate.
- (f) That a further meeting of EKJAC be convened if necessary to deal with any residual issues.

There being no other business the meeting closed at 10.45pm

This page is intentionally left blank