# SCRUTINY COMMITTEE

**Friday, 31st March, 2017**

**10.00 am**

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

Kent County Council
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# AGENDA

# SCRUTINY COMMITTEE

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| **Friday, 31st March, 2017, at 10.00 am** | Ask for: | **Joel Cook/Anna Taylor** |
| **Darent Room, Sessions House, County Hall, Maidstone** | Telephone: | **03000 416892/416478** |

**Membership**

| | |
|---|---|
| Conservative (6): | Mr R J Parry (Chairman), Mr J E Scholes (Vice-Chairman), Mr E E C Hotson, Mr A J King, MBE, Mr L B Ridings, MBE and Mrs P A V Stockell |
| UKIP (2) | Mr H Birkby and Mr R A Latchford, OBE |
| Labour (2) | Mr G Cowan and Mr R Truelove |
| Liberal Democrat (1): | Mrs T Dean, MBE |
| Church Representatives (3): | Mr D Brunning, Mr Q Roper and Mr A Tear |
| Parent Governor (2): | Mr P Garten and Mr G Lawrie |

*Tea/coffee will be available 15 minutes before the start of the meeting*

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

**Webcasting Notice**

Please note: this meeting may be filmed for the live or subsequent broadcast via the Council's internet site or by any member of the public or press present. The Chairman will confirm if all or part of the meeting is to be filmed by the Council

By entering into this room you are consenting to being filmed. If you do not wish to have your image captured please let the Clerk know immediately.
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## UNRESTRICTED ITEMS

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

**A - Committee Business**

A1 Introduction/Webcast Announcement

A2 Substitutes

A3 Declarations of Interests by Members in items on the Agenda for this Meeting

A4 Minutes of the meeting held on 17 January 2017 (Pages 5 - 10)

A5 To receive the Minutes of the Corporate Parenting Select Committee (Pages 11 - 14)

A6 To receive the minutes of the Kent Utilities Engagement Sub-Committee (27 July 2016 & 27 January 2017) (Pages 15 - 28)

**B - Any items called-in**

**C - Any items placed on the agenda by any Member of the Council for discussion**

C1 Regional Growth Fund / Kent & Medway Business Fund update (Pages 29 - 60)

C2 Scrutiny Overview - 2013 to 2017 (Pages 61 - 84)

## EXEMPT ITEMS

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

John Lynch
Head of Democratic Services
03000 410466

**Thursday, 23 March 2017**

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

**KENT COUNTY COUNCIL**

# SCRUTINY COMMITTEE

MINUTES of a meeting of the Scrutiny Committee held in the Darent Room, Sessions House, County Hall, Maidstone on Tuesday, 17 January 2017.

PRESENT: Mr R J Parry (Chairman), Mr H Birkby, Mr G Cowan, Mr J A Davies (Substitute for Mrs P A V Stockell), Mrs T Dean, MBE, Mr E E C Hotson, Mr A J King, MBE, Mr L B Ridings, MBE, Mr A Terry (Substitute for Mr R A Latchford, OBE) and Mr R Truelove

ALSO PRESENT: Mr J D Simmonds, MBE and Mrs M E Crabtree

IN ATTENDANCE: Mr A Wood (Corporate Director of Finance and Procurement), Mr D Shipton (Head of Financial Strategy), Mr J Lynch (Head of Democratic Services) and Mrs A Taylor (Scrutiny Research Officer)

**UNRESTRICTED ITEMS**

**121. Minutes of the meeting held on 15 December 2016**
*(Item A4)*

RESOLVED that the minutes of the meeting held on 15 December were an accurate record and that they be signed by the Chairman.

**122. Draft 2017/18 Budget and the Medium Term Financial Plan - to be circulated on 11 January 2017. Please can Members bring their copy of the Budget Book and MTFP to the meeting**
*(Item A5)*

1. Mr Wood gave a short presentation on the key facts and figures.

2. In January 2016, when the Council was looking forward to 2017/18, there was £52million of unidentified savings out of a total of £80million savings required to balance the books. In January 2017 the pressures on the budget had increased by £8million and Government Grant cuts are £2m higher, which meant an extra £10million of savings or income was needed. The increase in Council tax had raised an additional £13million which means the savings needed had fallen very slightly, from £80m to £78m.

3. Of the pressures faced by the services within KCC £51million were unavoidable. Of those which were categorised as ‘might be avoidable’ within the social care budget there were market sustainability problems in finding the right type and cost of care, particularly domiciliary. There was an expectation that the Local Authority would ensure a sustainable market and £6.8million had been earmarked to ensure that care was delivered as necessary.

4. Referring to the loss of the Revenue Support Grant this was £45million and there had been an unexpected loss of £9million from the Education Services Grant.

The Council had, however, received £6million in the form of a Social Care Support Grant and an extra £6m of business rates.

5. The tax base had increased and with a proposed increase of 1.99% together with the 2% social care levy £34million would be collected through council tax and business rates. Referring to the social care levy the golden rule in the 4 year settlement was that local authorities could increase council tax by 6% over the next three years, but not increase it by more than 3% in any one year. KCC's proposal was to increase by 2%. The increase in business rates was in line with expected inflation.

6. The Council was facing £66million pressures on the budget, combined with £46million in grant reductions and £34million from council tax and business rates. This resulted in £78million savings to balance the books for 2017/18. At the time of this meeting, £47million of the savings were RAG rated as 'green' and £31million 'amber'. There was more risk attached to the 17/18 savings than in 16/17.

7. The Chairman then opened the session up for questions.

8. In response to a question about the savings made by the Education Directorate Mr Shipton explained that the Dedicated Schools Grant (DSG) was introduced in 2013 as a mechanism for compensating academies for central functions. The Government consulted on their proposals to remove the Education Services Grant but this was linked to changes to statutory functions of the Local Authority as they had a lessening role in schools. However, when the element about the local authority's role in schools got deferred, and those changes were not made, the Government still removed the Education Services Grant used to fund the statutory services in schools. It was not possible to make savings from the Education budget as the statutory duties on the service still remained. Therefore the Council had not asked the Education Directorate to make any savings because everything they did was a statutory duty.

9. A Member asked how much had been drawn from reserves since 2010 and what would be the further pressure on reserves? Mr Wood believed that in comparison to 2010 reserves had gone up slightly. It was still going to be difficult in 2018/19, it was hoped that the improved better care fund would ease problems. However, there were concerns, despite promises from the Department of Communities and Local Government, that there would be conditions attached to the Improved Better Care Grant.

10. It was considered that the level of reserves was adequate in the medium term. Putting money into reserves when trying to find savings was difficult and there was a need to find the right balance between savings and reserves. It was essential to keep looking at transformation, particularly when big areas of spend, such as adult and children's social care, were increasing.

11. Referring to page 55 para 4.33 of the MTFP a Member asked how close the council had got to the 15% maximum level of net debt costs. Mr Wood confirmed that the level was currently at 13.67% and it was useful to have some headroom in case there was an urgent need to borrow. This was a self imposed limit of 15%.

12. The Cabinet Member was asked for his thoughts on looking at future of capital spend if it was not possible to find further savings? The Cabinet Member explained that, in his opinion, capital spend was crucial to development, schools had benefited from investment and the Council had tried to keep capital programmes going. It was frustrating when the Government changed the rules with regards to supported borrowing, in 15/16 KCC was £12million worse off than it would have been had the rules not changed. The Cabinet Member confirmed that the Leader had always felt the need to continue with an active capital programme whilst watching that associated funding did materialise.

13. Following a question about funding for asylum and when the council was likely to receive further funding Mr Simmonds explained that around £2million was still expected.

14. One Member asked whether KCC was in a position to take advantage, in the short term, of the falling value of the pound and the likelihood of interest rates increasing. The Cabinet Member confirmed that the Treasury Strategy would keep watch and with regards to borrowing it was cheaper to fund borrowing needs from cash. Treasury operations had moved into a new range of bonds and other investments, and the Council had also taken on part of a PFI contract.

15. A Member asked what discussions KCC had had with the Government to discuss proposals such as the Social Care Levy (which was at 2%) and the increase in national living wage. Would the Council have to use the Social Care Levy to fund the increase in living wage? Mr Simmonds explained that the Council got a balancing grant following discussions with the Government. £6.2million had been received from the Government as a result of lobbying. KCC was also highlighting the need to ensure that funding was fair. London authorities received different levels of funding; it was not a level playing field. There was also hope for some sensible decisions with regards to levels of business rates. County Authorities were at a considerable disadvantage, especially where they bordered London. Where there were anomalies in funding lobbying was extremely intense. The Cabinet Member highlighted two occasions where lobbying had produced positive results. Mr Shipton added to the Cabinet Member's response and confirmed that KCC always made a response to the Government's provisional settlement and responded to budget settlements, KCC consistently informed the Government that flat cash was not acceptable and that it did not provide funding to cover the increasing need.

16. A Member commented on business rates and the future of commerce and industry in general. Was it sensible to focus on property when developing technology was such a driver of economy? Was KCC having such conversations with the Government? Mr Wood stated that he shared the frustration, there were thoughts that the Government was moving from one broken system to another. It was essential that the method of funding had to have a link to the spending it was intended for; otherwise there would be periods where councils would go from boom to bust. It was thought that the physical occupation of buildings in localities was decreasing but there was an increasing demand for services. KCC was doing everything possible and the officers and Cabinet Member shared the Member's concerns.

17. It was thought that there was a contradiction between the Council's reported positive collection rates and press reports of high levels of personal debt. Mr Shipton explained that it was necessary to put an estimate for the fund balance as at January 2017 the council would get the actual balance at the end of March 2017. £11million had been estimated, the final balance on 15/16 collection was £16million. In terms of personal debt, collection fund balances depended on various bad debt provisions to allow for irrecoverable debts. Bad debt provisions were currently very low. The Districts were still predicting collection of a large amount of outstanding debt. Officers and the Cabinet Member were reasonably confident that the budgeted figure was ok and may well increase.

18. A Member referred to a meeting to discuss 0-25, was there any possibility that any savings would be identified as a result of that meeting? Mr Wood confirmed that there was a possibility of some savings being found through staff efficiencies or bringing together services, but these savings were not in the budget.

19. A Member asked what the risks would be in the forthcoming year. Mr Wood explained that the risks were higher than last year. The Council had so far delivered savings of over £500million. The situation would be a lot worse without transformation. Not all transformation worked, totally as expected but the best estimate of savings delivered was £70million through transformation (these savings were not all cashable). Other authorities were now trying to find quick fixes which sometimes produced further problems. Next year savings might be less but they would still be difficult to deliver.

20. Mr Wood also highlighted the uncontrollable risks such as severe cold weather which impact upon the budget, whilst continued warm weather could increase waste volumes so there was always an impact, whatever the weather. Referring to the unexpected pressures the Cabinet Member confirmed that the books would balance but it had been very difficult with an unexpected £5million for children's services and £2million for SEN transport, increasing fuel prices and the resulting pressure on taxis etc.

21. A Member commented on the underlying awful dilemma. There was a major shortfall in social care funding and the whole system needed to change. What support was the Council getting from elected MPs? Members were aware that the council tax increase would be unpopular and won't solve the problem. There were a lot of people suffering from a lack of care that they should be getting and it was considered by some Members that there was little support from MPs. Mr Simmonds stated that the MPs having been briefed by government were difficult to convince and initially support was not forthcoming. It was recognised that if something like a library closure was proposed, you would have the relevant MP's immediate attention. Having won the argument the MPs understood the full effect of government budgets, so the support had been more forthcoming. Hard lobbying by the Leader to Ministers and MPs did produce the much needed £6.2m adult social grant. This was not new money but from the new homes grant. The net benefit to KCC was £4.6m. MPs' support in difficult times was crucial.

22. Referring to the Risk Register, risks 22 and 28 were very likely to happen, how could KCC lessen the impact they would make? Mr Wood explained that risk 22 was not only about funding, there was a need to ensure enough foster carers were available for example, that contracts were in place and that it was possible

to recruit and retain social workers. It was not always possible to mitigate everything. If KCC had a repeat over the long term of autumn 2015 there would be difficulties. There was now a national dispersal scheme which was helping with new arrivals, (which were quite low at the moment). Was the Council doing everything possible? The situation was constantly monitored and it was not always feasible to eliminate all risk.

23. The Cabinet Member confirmed that in relation to risk 22 staff had done a good job of taking care of young asylum seeking children, he paid credit to staff and how well the situation was dealt with last Autumn. In relation to risk 28 – this related to the use of accommodation required by London boroughs to solve the housing problem. There was the ability for London authorities to bid for central places and take advantage of planning laws and turn businesses into residential accommodation for families.

24. The Chairman thanked the witnesses for attending the meeting and for answering Members' questions.

RESOLVED that the Scrutiny Committee thank the witnesses for attending the meeting and for answering Members' questions.

**123. Motion to exclude the press and public**
*(Item A6)*

RESOLVED that under Section 100A of the Local Government Act 1972 the press and public be excluded from the meeting for the following business on grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 of part 1 of schedule 12A of the Act.

EXEMPT ITEM

**124. Exempt minute from the meeting of the Committee held on 15 December 2016 - to follow**
*(Item A7)*

1. A Member asked for confirmation of when the RGF would be submitted to the Scrutiny Committee. The Scrutiny Research Officer confirmed that this report was being prepared for the March 2017 meeting of the Scrutiny Committee.

RESOLVED that the exempt minute of the meeting held on 15 December was an accurate record and that it be signed by the Chairman.

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**KENT COUNTY COUNCIL**

# SELECT COMMITTEE - CORPORATE PARENTING

MINUTES of a meeting of the Select Committee - Corporate Parenting held in the Medway Room, Sessions House, County Hall, Maidstone on Thursday, 23 February 2017.

PRESENT: Mrs Z Wiltshire (Chairman), Mr S J G Koowaree, Mr B Neaves, Mr M J Northey, Mr R J Parry, Mrs P A V Stockell and Mrs J Whittle

ALSO PRESENT: Mr P J Oakford

IN ATTENDANCE: Ms D Fitch (Democratic Services Manager (Council)), Mr P Segurola (Director of Specialist Children's Services) and Ms N Khosla (Assistant Director, Corporate Parenting)

**UNRESTRICTED ITEMS**

**1. Corporate Parenting Select Committee Report - Update February 2017**
*(Item 2)*

(1) The Chairman, on behalf of the Committee, paid tribute to the contribution made to the work of the Select Committee by the late Ms Cribbon and Mr Brookbank.

(2) The Committee noted the update on each of the recommendations circulated with the agenda and asked questions of the Cabinet Member and officers. Particular points were highlighted on some of the recommendations which included the following:

*Recommendation 1*

- Members clarified that the Corporate Parenting Guide should be based on the Local Government Associations handbook, adapted for KCC, and including officer contact details. This would be particularly useful for new Members following the election.
- It was suggested that Ms Khosla liaise with Mr Wickenden to include Frequently Asked Questions regarding Children in Care in the information he was producing for new Members. It was intended that this would be made available via the Member Portal.

*Recommendations 2 & 3*

- The Committee noted the work that had been undertaken to complete these recommendations.

*Recommendation 4*

- Mr Oakford assured the Committee that every effort was being made to raise in all appropriate forums the issue of ensuring that responsible authorities were held to account in maintaining the welfare of children in their care.

- Mr Segurola informed the Committee that Mr Ireland would be attending the Education Select Committee on Fostering at the House of Commons and intended to raise Members concerns regarding out of area placements.

*Recommendation 5 and 6*

- The Committee noted that these recommendations had been completed.

*Recommendation 7*

- The excellent work of Virtual Schools Kent (VSK) apprentices to support other young people was highlighted
- Ms Khosla mentioned that the new MOMO app. to encourage greater participation by children in care and in particular to enable them to voice their concerns etc. This had been successfully trialled and would be rolled out to children in care during 2017/18.

*Recommendation 8*

- Mr Segurola stated that although officers were in dialogue with social housing providers there was not enough provision available. This had been exacerbated by the increase in the number of young people leaving care.

*Recommendation 9*

- Officers explained the work that had been undertaken with young people to redesign pathway planning, concentrating more on life skills, for example how to use a washing machine and an explanation of the different types of tenancy. This would be rolled out over the coming months.
- Members were informed of the work being carried out with foster carer representatives and the Corporate Parenting Panel to establish a clear transition pathway for young people post 16.

*Recommendation 10*

- Ms Khosla explained the excellent work being carried out by the Head of Fostering to develop the fostering service and referred to the new project “a sense of belonging”.
- Ms Khosla mentioned the innovative plan to have groups of four foster families supporting each other and acting as an extended family arrangement where placements were at risk of breakdown.
- Members congratulated officers on the fostering services marketing campaign.

*Recommendation 11*

- Mr Oakford referred to the arrangements under the new CAMHS contract to give priority to all Kent Children in Care. Children in Care placed in Kent would be able to access the priority service if this was paid for by the placing authority.

*Recommendation 12*

- Ms Khosla referred to the new work programme that had been developed with Ms Dunn (Head of Skills and Employability) focusing on young people who were NEET. This had led to a reduction in young people who were NEET over the past 12 months.
- Ms Khosla also referred to the additional quarter of a million pounds that was being invested in care leaver services.

*Recommendation 13*

- In relation to apprenticeship opportunities for care leavers Mr Oakford and Mr Segurola referred to the new County Council apprenticeship policy that was currently being developed.

*Recommendation 14*

- The Committee noted the work being undertaken to progress this recommendation.

*Recommendation 15*

- Mr Segurola confirmed that a Member Briefing had been arranged in June on Specialist Children's Services.
- Mr Segurola informed the Committee of the mixed response to a survey of Kent social workers carried out last summer. There were some concerns regarding caseloads in some areas but generally staff felt supported and that Kent was a great place to work. He also referred to the social worker recruitment and retention work.

(3) RESOLVED That the Cabinet Member and officers be thanked for the work undertaken to date to progress the recommendations of the Select Committee and the update be noted.

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**KENT COUNTY COUNCIL**

# KENT UTILITIES ENGAGEMENT SUB-COMMITTEE

MINUTES of a meeting of the Kent Utilities Engagement Sub-Committee held in the Darent Room, Sessions House, County Hall, Maidstone on Wednesday, 27 July 2016.

PRESENT: Mr R J Parry, Mr I S Chittenden, Mr J A Davies, Mr R L H Long, TD, Mr T A Maddison, Mr C Simkins, Mr M E Whybrow, Mr J E Scholes and Mr M Heale

ALSO PRESENT: Mr M A C Balfour

IN ATTENDANCE: Mrs K Stewart (Director of Environment Planning and Enforcement), Mr A Turner (Principal Regeneration & Projects Officer), Mr P Sass (Head of Democratic Services) and Mr J Cook (Scrutiny Research Officer)

## UNRESTRICTED ITEMS

### 1. Election of Chairman
*(Item 2)*

1. Mr Simkins nominated Mr Parry, seconded by Mr Long.

   RESOLVED that Mr Parry be elected unopposed.

### 2. Election of Vice-Chairman
*(Item 3)*

1. Mr Parry nominated Mr Long, seconded by Mr Simkins. Mr Maddison nominated Mr Whybrow, seconded by Mr Chittenden.

2. Put to the vote; 5 to 4 in favour of Mr Long.

RESOLVED that Mr Long be elected Vice-Chairman.

### 3. Terms of Reference of the Kent Utilities Engagement Sub-Committee
*(Item 6)*

1. The Chairman advised the Committee that the Terms of Reference had been amended in line with recommendations made at the Scrutiny Committee meeting on 9 June 2016; specifically to clarify that membership of the sub-committee would be drawn from the full council. The Chairman commented that he was pleased to see that this approach had led to a positive representation of useful knowledge, experience and expertise among the membership.

2. The Chairman provided a summary of the background to the development of the sub-committee, explaining that it had been in response to issues relating to growth across the county and how it may be improved or better facilitated through improved communication between the utility sector, the development industry and the public sector. It was envisaged that the role of the sub-committee would be to

facilitate the necessary discussions and to support co-ordination of any subsequent partnership work.

3. Members suggested various areas of the utility and development sectors that they felt should be considered as priorities. These included:
   - Long term or historic water system decline with limited maintenance or remedial work. It was suggested that existing issues should be tackled rather than built around as was reported to be the case.
   - Broadband and telecommunication provision across the county to ensure suitable digital access to all communities.
   - Ebbsfleet Development Project – suggested due to its significant scale and requirement for additional infrastructure with consequent utility connection needs.
   - Waste water – highlighted due to significant sewage overflows and flood risk concerns observed in previous years during times of increased rain.

4. Mr Balfour welcomed the enthusiasm of the sub-committee and noted the suggestions for consideration. He advised that it was critical to understand the underlying issues and to support improved communication between the other relevant stakeholders operating in the utility and development sectors. A critical role the sub-committee could play was engaging with the national regulators to consider how their processes impact on growth and utility provision, both positively and negatively. Additionally, Mr Balfour encouraged the sub-committee to consider how developers may need to adapt their processes and work flows to better contribute to growth within the existing regulatory framework. He suggested that this work would be enhanced through site visits that would improve Members' understanding of the practical issues involved in development and utility connections.

5. Regarding specific suggestions, Mr Balfour declared an interest for future reference, that he was a member of the Ebbsfleet Development Corporation Planning Committee.

6. Members commented that it was crucial to approach the issues with an open mind and without an initial negative bias against the utility sector or developers. The contribution of both industries was valuable to the County and necessary to support continuing growth. Members suggested that it was therefore important to consider the development priorities and how they fit within the regulations.

7. Members noted that it was important that the sub-committee maintain a reasonable focus and not over-extend itself. However further recommendations were made for areas of consideration including new models energy provision and waste management for new developments.

8. Mr Balfour agreed that it was important for the sub-committee to maintain a reasonable focus and prioritise its work effectively given the large scope of utility and development work in Kent. The Chairman advised Members that training packages were in development to assist the sub-committee in understanding the key issues and identifying relevant priorities.

9. In response to a question from Members regarding the level of engagement expected from the relevant stakeholders, Ms Stewart advised the sub-committee

that significant positive work had already been undertaken in relation to building links with the utility sector as well as the Kent Developers Group. Ms Stewart explained that it was hoped that the sub-committee could build on the existing good relationships already established, such as those in place with the water sector, while also helping to develop new liaison and engagement processes with the wider utility sector.

RESOLVED that the Terms of Reference set out be noted.

**4. Objectives of Kent Utilities Engagement Sub-Committee**
*(Item 7)*

1. Members commented on the report outlining the objectives of the sub-committee, requesting minor amendments - , para 1.4, line 2 being to be amended to state '…where companies have constructive relationships,'

2. Mr Balfour commented that the issues surrounding utility provision, development work and regulatory involvement were wide ranging and featured a broad spectrum of differing opinions and experiences. Most conflicts or difficulties appeared to arise due to breakdowns in communication.

3. Members were given assurances from Mr Balfour and the Chairman that the sub-committee would not solely focus on utility provision impact on development as it was felt that there were wide issues requiring consideration.

RESOLVED that, subject to the requested amendments, the Objectives of the Kent Utilities Engagement Sub-Committee be noted.

**5. Background Information**
*(Item 8)*

1. Ms Stewart explained that work in relation to improving links between developers and utility providers had been going on for some time. Identification of some the challenges to growth relating to connection issues for new development projects had been part of the instigation of the Growth Infrastructure Framework which currently sought to encourage closer engagement between the relevant stakeholders.

2. Mr Turner provided an overview of the positive work already undertaken with the water sector over recent years. He advised the committee that the three relevant companies were Southern Water, South East Water and Affinity Water. Some years ago, KCC worked with three of the main regulatory bodies to consider alternative and improved methods of monitoring water company performance. This led to the introduction of voluntary performance monitoring on a wider scale, which showed that Southern Water and Affinity Water were in the lowest performing group.

3. The identification of these issues led to an improvement in performance and assisted in securing support for ongoing liaison meetings with KCC. Additionally, other stakeholder group have since been involved in engagement work with the water companies with support of the regulators.

4. Members questioned how the sub-committee should consider any monitoring information, given that the regulators should already have relevant sanction authority to address any significant failures. Ms Stewart explained that the regulators were able to manage general performance through appropriate sanctions but stated that the sub-committee could play a role in examining some of the issues underlying any performance concerns or how they may impact on growth. In some cases, it had been suggested that there was a lack of flexibility in the regulatory framework which prevented utility providers from responding swiftly to changing demands or new developments. In response to a linked Member question, Ms Stewart explained that while lack of flexibility may be an issue, the legislation and guidance for the utility sector was kept up to date through reviews of statutory guidance.

5. Mr Turner also suggested that the sub-committee could support the engagement work through Member knowledge of the customer experience, acting as consumer champions. Although he commented that regulatory focus on protecting existing customers from excessive bills had a consequent limiting impact on the sector's capability to respond to change, specifically that regulators will not allow investment in developments until they have been legally finalised and confirmed, causing a delay in any necessary utility connections. This has created a situation where the utility company is able to support stable or established growth after the fact but not be involved in planned growth.

RESOLVED that the background information be noted.

**6. Proposals for the Kent Utilities Engagement Sub-Committee**
*(Item 9)*

1. The Chairman advised the sub-committee that a work programme would be developed over the summer, taking into account current utility and development activity and the views expressed by the Members regarding priorities and consideration of wider issues.

2. Members commented on the wording of the proposed scope of the sub-committee, requesting the following amendments:
   - Expanding consideration of barriers to growth beyond the utility sector by referencing 'other bodies'.
   - Broaden scope to include current and future growth.
   - Include consideration of maintenance of existing infrastructure.
   - Include consideration of how to address historic utility network issues.

RESOLVED that subject to the amendments being made, the proposed scope be noted.

The Chairman advised the sub-committee that Mr Sass would soon be leaving KCC to take up other employment in London. The Chairman and the sub-committee formally thanked Mr Sass for his hard work and excellent contribution to Democratic Services.

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# KENT UTILITIES ENGAGEMENT SUB-COMMITTEE

MINUTES of a meeting of the Kent Utilities Engagement Sub-Committee held in the Medway Room, Sessions House, County Hall, Maidstone on Friday, 27 January 2017.

PRESENT: Mr R J Parry (Chairman), Mr G Lymer, Mr M E Whybrow, Mr R H Bird and Mr A Terry

ALSO PRESENT: Mr M A C Balfour, Ms S Irgin and Mr P Kent

IN ATTENDANCE: Mrs K Stewart (Director of Environment Planning and Enforcement), Mr A Turner (Principal Regeneration & Projects Officer) and Mr J Cook (Scrutiny Research Officer)

## UNRESTRICTED ITEMS

### 7. Minutes of the meeting held on 27 July 2016
*(Item 4)*

RESOLVED that the minutes of the meeting held on 27 July 2016 were an accurate record and that they be signed by the Chairman.

### 8. Presentation from Ofwat - water sector regulator
*(Item 5)*

1. Sally Irgin attended to provide an update on the work of Ofwat. Ms Irgin is a Director of Ofwat's Casework Programme which is the organisation's front line service for customer complaints about water companies. It is also the part of the organisation responsible for determining disputes and taking formal enforcement action where Ofwat has powers to do so. Over the last three years Sally has led Ofwat's work on developer-related disputes and a specific project working with water companies to improve their delivery of services to their developer customers.

2. Ms Irgin outlined the background of Ofwat to the Committee, explaining that it served as the independent economic regulator of the water and sewerage sectors in England and Wales. They had defined duties and responsibilities set out in legislation requiring them to protect customers, enable efficient, well-run companies to finance their functions and to ensure long-term resilience. These functions were exercised within the framework of published Government police. Their vision for the water sector was one where customers and society had trust and confidence in the vital public water and wastewater services.

3. Outlining the scope of their work, Ms Irgin stated that Ofwat regulated ten regional monopoly companies, eight local water only monopoly companies, five new appointees and a growing number of retail licensees. Ms Irgin explained that they worked on an outcome focuses approach which was supported by a toolkit designed to address the various challenges within the sector. The focus was

always on finding a co-operative solution through liaison and engagement between customers and providers prior to the consideration of formal intervention.

4. In relation to water company engagement with developers, Ms Irgin explained that historically there had been limited and varied recognition by water companies of developers as customers and this hampered effective joint planning and co-operation. This was exacerbated by inconsistent levels of service and sometimes complicated where the competitive market has not been as effective as it could be. The complex charging regime has presented difficulties for the development sector and caused concerns in relation to housing growth. There was limited precedent in law for handling disputes which sometimes slowed the process and caused greater frustration for customers and water companies. However, Ms Irgin reassured the Committee that good progress had been made by all parties in responding better to issues and resolving disputes more quickly.

5. Ms Irgin highlighted the significant benefit brought about by the introduction of the voluntary standards for measured performance. She explained that 24 levels of service measures had been agreed by WaterUK in consultation with customers and water companies. This provided transparent comparison of performance for the first time and the resulting company league tables have produced a strong reputational incentive. This work had helped support the provision of more resources around development work as well as encouraging significant improvements in performance. Ofwat was also able to make more effective interventions earlier on by targeting particular areas of poor performance, getting assurance on numerous improvement plans from various companies.

6. Focusing on performance improvement, Ms Irgin explained that the improvement had been substantial following the introduction of voluntary performance measures, with rises from 42% up beyond 90% in some cases as well as a general shift up in performance across all water companies. She noted though, that the level of improvement had been less stark among sewerage companies.

7. Ms Irgin highlighted that the area of new connections was one of the few parts of the sector currently open to competition but noted that the effectiveness of this was variable across the country. She explained that developers could choose to have new infrastructure provided by local monopoly companies, accredited self-lay organisations or a new appointee, however it was explained that the monopoly water company would always have to provide some non-contestable services. Ms Irgin continued to outline the work undertaken in promoting market competition including the publication of general expectations under competition law in 2014, binding commitments arising from a new connection case linked to Bristol Water in 2015 and continued work on challenging companies on how much information they provide toe customers and competitors.

8. In a positive update, Ms Irgin explained that ongoing work with all parties on the new charging regime was hoped to bring greater stability and parity to the sector and improve the capacity for long term strategic planning for new developments. She also highlighted the good progress made across the board by water companies in being more engaged with Ofwat and their customers. Ms Irgin noted that housing growth was a key factor for long term planning and improvement in the sector but reiterated that progress on this had been good and

she reassured the Committee that larger scale development work was now a greater priority and considered more broadly by Ofwat.

9. Responding to questions from Members, Ms Irgin explained that they were still working on level of service metrics for development but that these were expected in the near future. She also explained that Ofwat's role included both advisory work in the sector as well as enforcement, with their approach focused on applying the principles of fair and appropriate practice, promoted through effective communication with and between companies and customers. She reassured the Committee that the continuing improvement in relationships between the key parties had allowed for quicker resolution of issues through informal communication rather than official enforcement activity. She explained that Ofwat should be the last resort for resolving disputes as it was hoped that good understanding of the expected standards and the emphasis on fairness within their principles meant that informal resolution would be more common in future.

10. Responding to a question, Ms Irgin explained that KCC could best assist in supporting development and relevant improvement in the water sector by engaging with both parties, facilitating communication and encouraging advance notice of plans through joint strategic planning. She highlighted examples where developers had shared sensitive information with water companies to ensure long term infrastructure planning was possible but she emphasised that this only happened where the was trust between the parties.

11. Responding to a Member question, Ms Irgin explained that resilience was a new statutory duty for Ofwat and that they were working assessing the issues. She advised that there were still complaints regarding planning for sewage due to the problems caused by over-connection and that disputes still arose when the relevant infrastructure was not organised in advance. Similar to the Ofwat's advice regarding water companies, Ms Irgin confirmed that better relationships were needed between sewage management and developers on forward planning. She explained that where insufficient provision or provision that lacked appropriate resilience was reported, Ofwat could examine it as an enforcement issue.

12. Mr Balfour, as Cabinet Member for Environment and Transport, commented that there remained a risk that lack of resilience could lead to further health risks and significant damage to property but the he believed the focus should be on improving management of these issues rather than examining the infrastructure elements. Clarifying the response capacity, Paul Kent of Southern Water, explained that assessments of all assets were undertaken on a criticality and risk basis and this analytical approach was used to consider and justify investment. He explained that in some cases of severe weather in recent years, back-ups or redundancies were in place but failed to work due to maintenance or technical issues and he confirmed that this was being addressed. To reassure the Committee, Mr Kent explained that the switch to back-up systems should be automatic and would therefore not require a maintenance crew to implement and that in addition to the core systems, around five or six mobile generator units were stationed at the Aylesford depot, ready for deployment in relevant situations. This response was also supported by the provision of tankers supplying fuel where the mobile generators could not provide the necessary resilience. He agreed with the Committee that the very severe weather in the winter of 2013/14 stretched their

response beyond capacity and advised them that this had been taken into account in future planning.

13. Ms Irgin advised the Committee that Ofwat was not prescriptive on operational matters but that they expected companies to meet their duties. She reiterated that KCC's support would be most beneficial if it was focuses on encouraging and facilitating early discussions between developers and water companies. Ms Irgin again commented that it was hoped that the new charging scheme would support better engagement and greater fairness as it would be more transparent and accessible as part of long term strategic planning which worked well for both developers and water companies.

14. Responding to questions from Director Katie Stewart, Ms Irgin explained that water companies had been working on a system of measuring effective communication through satisfaction and price control metrics and that Ofwat were keen to engage with this activity. Ms Irgin explained that the new charging model should improve communication and transparency; the old charging system was based on primary legislation and was very complicated while the new approach was to be based on principles of fairness, with an expectation that companies would work with customers, including developers, to set up a fair charging scheme. Linked with this was the issue that charging rates were not varied based on the scale of relevant projects, with costs not necessarily changing between small building work and large scale developments. Again Ms Irgin advised that this issue should be addressed in the new model.

RESOLVED that the Committee thank Ms Irgin for a very informative presentation and for her clear answers to questions from Members and KCC staff.

**9. Presentation from Southern Water**
*(Item 6)*

1. Paul Kent attended to an update from Southern Water. Mr Kent is the Environment and Wastewater Strategy Manager, accountable for identification of expenditure requirements of above and below ground wastewater assets, to maintain and improve performance. He is also responsible for agreeing environmental improvements required to meet legislative drivers. Developing an integrated catchment approach to delivering environmental improvements. Also responsible for identifying future investment requirements arising from development and growth in the southeast.

1. Mr Kent provided an overview of the activities of Southern Water, notable that Southern Water take nearly 70% of its water from underground sources, called aquifers, 23% from rivers and 7% from storage reservoirs. Each day, it treats and recycles 718 million litres of wastewater at 365 treatment works after it is pumped through a network of 2,375 pumping stations and 39,600km of sewers. Mr Kent also commented that Southern Water operated in a crowded market place and that it was unusual for so many companies to be active in the area covered by the south east.

2. Mr Kent explained that Southern Water had a statutory duty to provide service; regardless of the level of capacity and that this had led to issues where excess demand has had negative consequences for the water and sewage network. He

noted specific examples such as Headcorn developments where local factors had to be taken into account when planning and arranging large scale developments with water and sewage connection requirements.

3. Mr Kent clarified that Southern Water did not have a formal role with the planning process but he advised that effective planning of work and developments in terms of water needs was critical to allowing smooth and timely implementation when required. He noted that where capacity was already at maximum, new developments would necessitate new investment and that this could only be facilitated when reliable information was available through effective forward planning with developers and planning authorities, emphasising that planning certainty was vital for Southern Water to justify additional investment, lest money and time be wasted on works that go unused. He explained that information sharing and joint working with partners, local authorities and developers had improved but there remained room for improvement. He highlighted the Ebbsfleet Garden City project as an example where initial capacity and connection requests were received but not implemented at the time due to the investment required, which had been proved a correct decision given that the works were still not needed several years later.

4. To support better communication and effective planning, water companies had been trying to make connections to the system conditional on various factors within developments and planning applications. Mr Kent advised that raising the eventual utility needs and related work time and cost investment at an early stage had been beneficial in ensuring developers were able to plan their projects more effectively. Linked with this, Mr Kent explained that progress had been made on ensuring better communication over connection work and prices too place with developers at an earlier stage and this the planned progression to a flat rate system for connections was expected to make the process even better and more transparent in the future. He hoped that this would allow better long term work planning to avoid historic issues where it had been difficult for water companies to meet developer timetables due to short notice.

5. Mr Kent provided a summary of development work in Kent, with reference to Otterpool, Whitfield and Ebbsfleet. In the case of Otterpool, Mr Kent explained that a large strategic solution had been required as the treatment works in Shepway would not be able to support the development, so work was planned for Hythe. Regarding the Whitfield development, Mr Kent explained that Southern Water were currently updating the Drainage Area Plan, which then allow an appropriate solution to provide effective drainage and support a whole development approach rather than piecemeal reactive problem solving. Mr Kent noted that the scale of the Ebbsfleet Garden City project required a significant strategic solution to providing a sewerage system and wastewater treatment works and that this was being worked on in partnership with the Ebbsfleet Development Corporation.

6. In terms of securing water resources, Mr Kent advised the committee that effluent re-use would be permitted from 2022 and that this was expected to help support better use of resources and avoid unnecessary waste. Other improvements planned around securing resources were considered in terms of investment cost and their environmental impact.

7. Mr Kent outlined the consideration of Drainage Strategy in that it involved looking at longer term risks and relevant action plans. This work included consideration of partner activities to support strategic links with key partners on long term planning.

8. Members thanked Mr Kent for the detailed presentation and for providing a good overview of Southern Water activities. A Member raised a local issue for progression outside of the meeting.

9. Responding to questions from Members, Mr Kent explained that there was no national agreement between companies on sharing or managing water supplies given the significant infrastructure required to transport it around the country but he advised that positive co-operation on a regional basis did take place and was beneficial. Ms Irgin commented that historically there had been less water trading between companies than might have been expected but that this was expected to change in future. She confirmed that links between companies in the south east looked promising.

10. In answer to a Member question about local plans, Mr Kent explained that there were future plans being considered that would make water companies statutory consultees but clarified that at present the focus was on water companies being more responsive to customer need. He advised that Southern Water were working Arun Council on development areas to build draft solutions at the early planning stage. This work being highlighted as good evidence of the benefit of developers sharing proper forward plans early on.

11. Members discussed the benefits of metered water systems, noting the positive development that 92% of Southern Water's customers were metered. Mr Kent explained that the majority of those not yet converted to metering lived in properties where there were significant physical barriers to individual meter installation.

12. Responding to a Member question on water pollution the level of investment required to address this issue, Mr Kent explained that the Water Resources Management Plan was in place and it considered all possible options for minimising pollution issues. The plan refined the list of viable options down on realistic implementation prospects based on their cost and environmental impact framework.

13. In answer to a Member question about other best practice in engagement with utility companies, Mr Kent advised the Committee that Kent was leading the way at present and should be regarded as the source of best practice. He noted that the Kent Utilities Engagement Sub-Committee was a positive new development that could be beneficial in other areas. Mr Kent also highlighted the positive work of KCC Officers and the Cabinet Member for Environment and Transport in maintaining good ongoing engagement with the relevant partners and that this supported the drive towards better communication and improved understanding.

14. Responding to a question from a guest attendee from another local authority, Ms Irgin and Mr Kent explained that water companies are expected to work with planning authorities through early discussions and effective information sharing. It was noted that the legislation is not prescriptive regarding how this engagement

should take place or which parties should be responsible for all relevant payments. Ms Irgin explained that serious disputes in this area were caused by lack of communication, where conditions or charges had been imposed without prior discussion. It was noted that the lack of detailed process requirements within the legislation led to issues such as the requirement to continue providing additional sewage connections despite ongoing flooding activity. Mr Balfour commented that this issue was common across the utility sector due to the weak legislation but that better engagement was helping to identify solutions agreeable to all parties.

15. Members discussed the issue of long term sustainability in relation to water use. It was noted that Mr Turner was working on this issue for KCC and the committee was reassured by Ms Irgin and Mr Kent that Ofwat and water companies were working toward ensuring a more appropriate and efficient use of water based on the needs of the customer. This linked to consideration water purification practices, including the ongoing problem of micro-plastics which had been highlighted in a report on the impact of cosmetics waste which was due to be released later in 2017.

16. Mr Kent advised the committee that Southern Water was committed to improving communication and partnership work to allow for better service delivery, including development activity. He re-iterated that the KCC's work on engaging with utilities was positive and that it was useful to get more feedback relating to customer expectations and ways to improve communication with developers. Mr Turner raised the idea of arranging single points of contact from water companies, developers and planning authorities. Mr Kent referenced the Ebbsfleet development which had included good engagement activities with dedicated staff focused on making links with relevant partners. Ms Irgin noted that some water companies used account managers to support engagement and liaison activities.

17. Members and guests agreed that the meeting had been very positive and that KCC should continue its work to support improved engagement between utility companies, developers and local authorities.

RESOLVED that the Committee thank Mr Kent for his useful presentation on Southern Water's activities in Kent and for answering questions.

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**By:** Mark Dance, Cabinet Member for Economic Development

**To:** Scrutiny Committee – 31 March 2017

**Subject:** Recycled Regional Growth Fund (RGF) Scheme

**Classification:** Unrestricted

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**Summary**
This paper reports on how the lessons learned delivering the former Regional Growth Fund (RGF) Schemes – Expansion East Kent, Tiger and Escalate have been incorporated into the documentation for the successor scheme, the Kent and Medway Business Fund ("KMBF"):

(i) Guidance Notes provided to Applicants;
(ii) Loan Agreements ("Contracts") and subsequent contractual Monitoring requirements;
(iii) Procedure Notes.

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**Background**

1. This report responds to the recommendation from the Scrutiny Committee Meeting held on 15 December 2016.

    a. ***Guidance Notes:*** These explain the scheme, confirm the eligibility criteria; and highlight the following:
        i. Applicants' agree to KCC undertaking both company and individual director checks.
        ii. Loans over a certain value will require security,
        iii. Loans repayments will be made by monthly direct debit.

    b. ***Loan Agreements and Contractual Monitoring requirements:*** These ensure that the following becomes contractual and the action KCC could take should any term be breached:
        i. Security;
        ii. Monthly Repayment schedule;
        iii. Monitoring requirements, to include monitoring guidance; and
        iv. Actions in the event of default.

    c. ***Procedure Notes***: These internal process notes are primarily for use by all KCC staff involved in the managing and monitoring of the former RGF and the new KMBF schemes. They detail:
        i. The loan application and contractual monitoring process;
        ii. How to deal with issues as and when they arise; and
        iii. Moving forward there will be a redacted version shared with funding recipients.

2. An explanation on how this has been achieved can be found in Table 1 below.

| Table 1 | | | |
|---|---|---|---|
| **Source** | **Background** | **Actions** | **Status** |
| Scrutiny Committee Minutes 15/12/16 | More detailed checks on applicant companies and their directors | Applicants Guidance: An enhanced company credit check (current) and credit check on individual directors undertaken (new) | Achieved (Green) |
| Scrutiny Committee Minutes 15/12/16 | Review Management Accounts and financial health checks | Applicants Guidance: Management Accounts (for existing companies) required. For financial health checks (see above). In addition, most loans will be required to provide security equivalent to the value of the loan, therefore there will be additional checks at the full application stage on the value and suitability of the security offered. | Achieved (Green) |
| Scrutiny Committee Minutes 15/12/16 | More rigorous approach to monitoring relevant job contracts and ongoing adherence to contracts | Loan Agreements and Contractual Monitoring requirements, Procedure Notes: Applicants will be monitored against job outcomes and targets indicated at the application stage. | Achieved (Green) |
| Scrutiny Committee Minutes 15/12/16 | Monitoring against progress of the business plan targets indicated when funding was approved | Procedure Notes: See above | Achieved (Green) |
| Lessons Learned Log | Monitoring returns were received promptly were Green/ Amber and so did not raise undue concern. | Loan Agreements and Contractual Monitoring requirements, Procedure Notes: We are currently investigating the cost and value of an "early warning" system which would identify viability issues before these are identified by monitoring returns. | In-progress (Amber) Reviewing the cost of the various options. |
| Lessons Learned Log | The applicant made use of advisor provided by KCC. However, the applicant was encountering serious financial problems and remedial action at | Procedure Notes: Applicants who encounter monitoring and/or repayment issues will enter into a formal "loan action plan". This will include access to business support. But also offer other options such as regular face-to-face monitoring meetings. | Achieved (Green) |

| | | | |
|---|---|---|---|
| | that stage was not successful. | | |
| Lessons Learned Log | No funds to be released unless match funding is evidenced. | Loan Agreements and Contractual Monitoring requirements, Procedure Notes: This is an eligibility requirement and any changes to the match funding requirements can only be sanctioned by a recommendation of the Kent and Medway Investment Advisory Board (KMIAB) and these are assessed on a case-by-case basis. | Achieved (Green) |
| Lessons Learned Log | At the point that KCC is advised that the project may not be able to proceed, KCC needs to identify key actions before it can progress. | Loan Agreements and Contractual Monitoring requirements, Procedure Notes: Key actions: Validating the spend, request a face-to-face meeting to deal with the closure of the project and possible return of any the loan monies. | Achieved (Green) |
| Lessons Learned Log | Having a process map that details the steps that can be taken for loans under £10k and loans over £10k to ensure that all KCC staff are aware for the process for recovery of monies. | Procedure Notes: New clear guidance to staff on how to proceed and begin the process for recovery of monies. | Achieved (Green) |
| Lessons Learned Log | Ensure that during the face-to-face meetings all issues raised are properly answered and document the findings during the meeting. | Procedure Notes: Face-to-face meetings are properly documented and any questions raised are answered. | Achieved (Green) |
| Lessons Learned Log | The use of an Invoice Factoring Arrangement as evidence of match funding. | Loan Agreements and Contractual Monitoring requirements, Procedure Notes: New criterion around invoice factoring as match funding which allows consistent of approach i.e. as part of quarterly monitoring update on the current invoice factoring arrangements | Achieved (Green) |
| Lessons Learned Log | Additional clause within the contract that prohibits expressly that the selling or transferring of any assets the loan scheme has | Loan Agreements and Contractual Monitoring requirements: After further investigation both the offer letter and the contract indicates that under EU State Aid Law it is possible to recover all state support in the event of a project not being compliant | Achieved (Green). |

| | | | |
|---|---|---|---|
| | funded, without the prior consent of the Council. | with EU State Aid rules. This general provision provides KCC with wide ranging powers to withhold, delay, reduce or reclaim all or part of the assistance in certain circumstances e.g. the disposal of all or a significant part of the assets. | |
| Lessons Learned Log | Subsequent tranche loan payments should not take place if the monitoring process provides a RED rag rating with regard to expenditure. Second or subsequent tranches of funding should not be defrayed until the previous tranche payment has been expended in total and evidenced. | Loan Agreements and Contractual Monitoring requirements, Procedure Notes: Tranche payments are conditional of evidence of contracted levels of expenditure and any previous tranche payment has been fully expended. Any changes to the tranche payment arrangements can only be sanctioned by a recommendation from the KMIAB and these are assessed on a case-by-case basis. | Achieved (Green) |
| Lessons Learned Log | Monitoring Returns were not consistently received, completed or submitted | Loan Agreements and Contractual Monitoring requirements, Procedure Notes: Applicants who are consistently late with their monitoring and/or repayment will be called to a face-to-face meeting and expected to enter into a formal “loan action plan”. This will consist of a combination of regular on-going meetings, access to business support, more intensive monitoring and possible interest charges on their outstanding loan repayments. Revising the contractual agreements with the business on a continuous basis will provide the optimum level of protection for the investment and also ensure appropriate business support can be provided to meet the needs of the business. | Achieved (Green) |

3. The latest information on bad debt recovery is listed in Appendix 1.

4. A copy of the new Guidance Notes for the KMBF is contained within Appendix 2.

5. An overview of the new KMBF scheme which has replaced the former RGF schemes – Appendix 3.

**Recommendations**

6. Members of the Scrutiny Committee are asked to acknowledge the completed actions and stated approach to delivering the Scrutiny Committee recommendations set out in the Table 1.

**Appendices**

- Appendix 1 – Update on Bad debt recovery
- Appendix 2 – Copy of the Guidance provided to Companies applying to the KMBF
- Appendix 3 – An overview of the new KMBF which has replaced the former RGF schemes.

Jacqui Ward
Strategic Programme Manager (Business Investment)
Growth Environment and Transport
Email: Jacqui.ward@kent.gov.uk
Tel: 03000 417191

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**Appendix 1: Update on Bad debt recovery**

The figures below are the same figures which are to be reported the Economic Development Cabinet Committee on 22 March 2017 and cover the period up to 31 December 2016.

The cumulative total of the companies who have defaulted on the loans is as follows:-

| Cumulative Bad Debts | No of Companies | Percentage of number of companies supported | Loan Value | Percentage of overall defrayed funds £56,383,859 |
|---|---|---|---|---|
| **Previous Bad Debt** | 21 | 8.7% | £3,453,143 | |
| **Current Quarter Bad Debt** | 1 | 0.4% | £90,000 | |
| **Total Bad Debt** | 21* | 8.7% | £3,528,143 | 6.26% |

* One company which had been previously classified as bad debt is now repaying the loan due to action taken by officers. Therefore, although there was one additional company which is now classified as bad debt, another company has been removed from the total with a total loan of £15,000.

Of the 21 companies which have gone into liquidation or in the process of going into administration, KCC Legal and Internal Audit have been advised if appropriate and are working with the RGF manager to recover the maximum amount of loan value.

Although the total outstanding debt is currently recorded as £3,528,143, equated to 6.28% of overall funds defrayed, it is important to note:

- £352,254 has been recovered/agreed with the administrators.
- £1,498,729 is confirmed as being non recoverable.
- The recovery of the remaining debt (£1,677,160) is being pursued.
- £15,000, which was previously reported as bad debt, is now being repaid due to action taken by officers in pursuing the debt.

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## Appendix 2: Copy of the guidance provided to companies applying to the Kent and Medway Business Fund (KMBF).

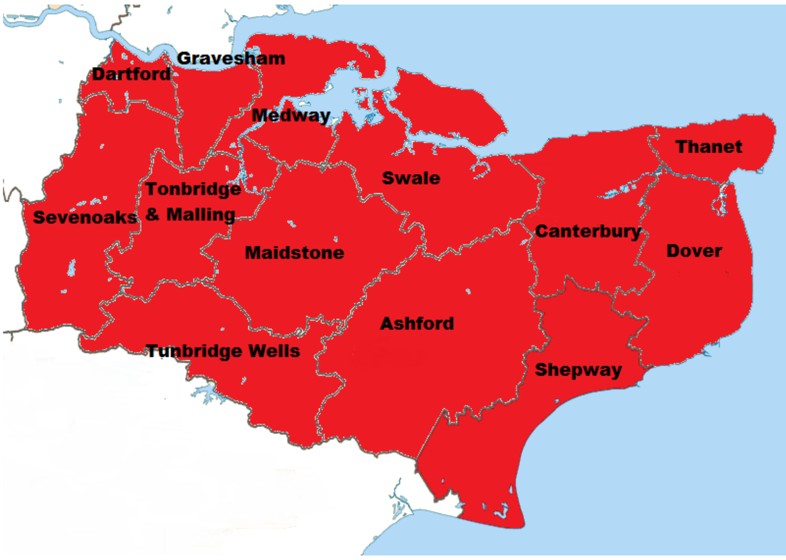
### 1. The Kent and Medway Business Fund (KMBF)

This scheme is funded by recycled loan repayments from the former Regional Growth Fund schemes (Expansion East Kent, Tiger and Escalate) and aims to deliver an initial £5m of investment to businesses across Kent and Medway in the first round of funding during 2017/18.

The scheme primarily offers 0% loans between £50,000 and £500,000 to small and medium sized businesses with the potential to create new jobs and growth within the Ashford, Canterbury, Dartford, Dover, Gravesham, Maidstone, Medway, Sevenoaks, Shepway, Swale, Thanet, Tonbridge & Malling and Tunbridge Wells local authority areas (see **Map 1** below).

Loans can be used to develop new or expand existing products, services, or processes, where these will lead to new jobs, deliver business growth and improve productivity. This scheme will initially be open to new pre-applications until 19th January 2017.

### 2. KMBF eligible area




**Kent and Medway Business Fund Eligible Area. The local authority areas of Ashford, Canterbury, Dartford, Dover, Gravesham, Maidstone, Medway, Sevenoaks, Shepway, Swale, Thanet, Tonbridge and Malling and Tunbridge Wells are highlighted in Red**
**Map 1** Contains Ordnance Survey data © Crown copyright and database right

### 3. Funding available through KMBF

This scheme provides financial support normally in the form of repayable business finance, sometimes referred to as interest free (0%) or soft loans (see **Glossary**). Security or personal guarantees will be taken on all loans of £100,000 and over. For loans below £100,000 security or personal guarantees may be requested on a discretionary basis.

Although interest is not charged, each loan will incur an administrative charge equivalent to 3% of the total value of the Loan.

In addition to loans the scheme can also offer equity investments i.e. provide money upfront in return for a stake in your business. This shareholding may then be sold at some stage in the future e.g. within three to five years, although these shares may be retained over a longer period. Equity investment could form part of an investment package working alongside KMBF loans.

## 4. Who can apply?

You can apply for investment support from KMBF if you meet the following criteria:

- **Type of business** - Are you a sole trader, partnership, limited company or a not-for-profit business (see **Glossary** for definition).
- **Providing employment** – Either creating or safeguarding jobs (see **Glossary** for definitions) in the KMBF eligible area i.e. the local authority areas of Ashford, Canterbury, Dartford, Dover, Gravesham, Maidstone, Medway, Sevenoaks, Shepway, Swale, Thanet, Tonbridge and Malling and Tunbridge Wells (see **Map page 1 eligible areas are indicated in Red**).
- **Size of business** – KMBF can provide funding to small and medium sized enterprises (SMEs) e.g. employing less than 250 people (see **Glossary** for definition).
- **Size of Loan** – Loans must be between £50,000 to £500,000 and must be matched pound for pound by other sources of investment.
- **Security** – For all loans between £50,000-£99,999, security or personal guarantees may be required on a discretionary basis. For all loans of £100,000 and over, security or personal guarantees will automatically be required. Please note that when security is provided it will be required for at least a value equal to the loan capital and administrative charges over the term of the loan (see **Appendix 8**).

Additional eligibility criteria can be found in **Appendix 2.**

## 5. What will KMBF pay for?

The minimum loan is £50,000. The maximum loan is £500,000. The scheme will normally contribute up to 50% of total eligible costs for businesses (see **Appendix 5**). Therefore in the case of a 50% loan with an eligible investment totalling £200,000, the maximum loan contribution would be potentially £100,000.

An eligible investment proposal must relate to setting up a new business, expanding an existing business or mobile investments e.g. diversifying into new additional products or a fundamental change in production process. Main types of eligible investments:

- **Tangible assets** - This includes assets relating to land, buildings, plant, machinery and equipment. These assets can be purchased outright or by using lease finance or hire purchase (see **Appendix 5**).
- **Intangible assets** - This includes assets acquired from third parties by the transfer of technology or knowledge.

Please note, an arrangement fee of 3% will be applied to your loan following its approval (your offer in principle letter). An annual monitoring fee of 1% will also be applied to the remaining balance of your loan, during the monitoring and repayment period. An administration fee of £300.00 will be applied to each loan repayment returned by a borrower's bank.

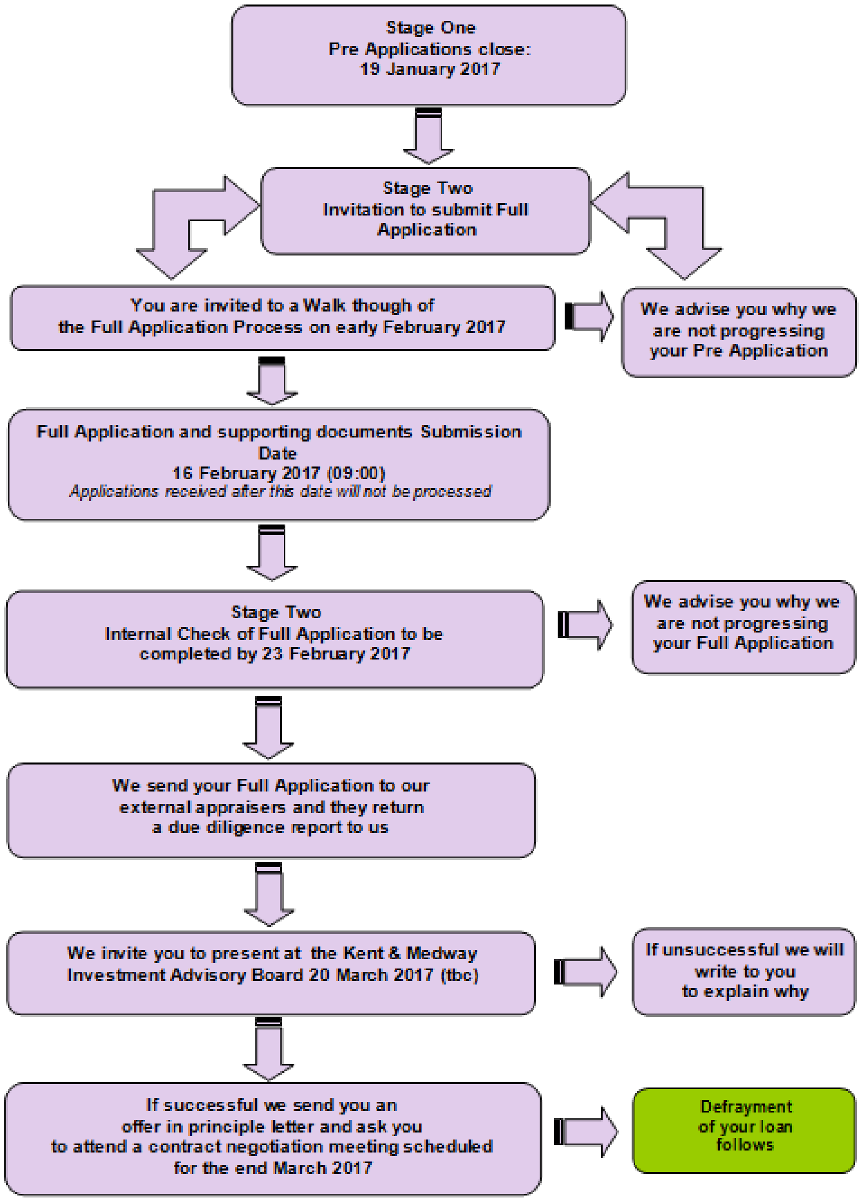
## 6. What KMBF cannot fund?

**Non-eligible sectors** – KMBF cannot accept applications from firms active in the following sectors, as they are ineligible and they cannot be considered for support:

- Fisheries and aquaculture
- Primary production of agricultural products
- Processing and marketing of agricultural products
- Coal
- Steel production
- Shipbuilding
- Synthetic fibres
- Organisations engaged in political activity or lobbying at any level or activity of an exclusively religious nature.
- Hospital, medical services and publicly and privately owned nursing homes, or care related hostel or residential activities
- Defence sector activities
- Schools (inc. State, Free Schools and Private)
- Professional services e.g. accountants, legal, financial, insurance
- Tourism and leisure activities (except in the designated Assisted Areas see **Appendix 6**)
- Road haulage, distribution and warehousing
- Energy generation
- Franchises

We also acknowledge that for some investment proposals it may be difficult to easily define which sector they fall within. Therefore please submit a pre-application form so that the KMBF Programme Management Team (for contact details see **Section 12**) can assess eligibility.

## 7. KMBF application process




## 8. How to apply

The KMBF pre-application is a key part of the application process and is undertaken to determine:

- Your pre-application must be submitted by the 19th January 2017.
- The eligibility of your organisation and your investment proposal.
- Whether your investment proposal meets the KMBF criteria.
- Whether there are funds available to support your investment proposal.
- Eligibility to proceed to a KMBF full application.

Receipt of a KMBF pre-application form will be acknowledged within three working days and a decision on a fully completed pre-application will be made by the 23rd January 2017 at the closure of the pre-application phase (see **Section 9**). Please note that once you have been approved to progress to full application, you will be expected to submit your full application by the date specified in your approval to progress letter. Unsuccessful applications will be provided with feedback and given the opportunity to re-apply if they are eligible.

## 9. Full application & appraisal

A link to the on-line KMBF full application form will only be provided once the pre-application has been approved and the investment proposal is deemed eligible to continue to the next stage.

**On-line Full Application Form** - Please complete, print out date and then sign. This document can then either be posted or emailed to the Programme Management Team.

**Supporting Documents** - These documents can be submitted electronically in a zipped folder to kmbf@kent.gov.uk. This folder should include:

- An up-to-date business plan;
- A completed copy of the My Business Profile (excel spreadsheet);
- Up to 3 years' statutory audited, unaudited or draft accounts (for existing businesses);
- Your last 3 months' management accounts and aged debtor/creditor list (for existing businesses);
- At least 2 years projected balance sheet, profit and loss and cash flow (in a monthly format, to include forecasted loan repayments);
- Your last 6 months bank statements;
- A completed De Minimis Declaration;
- Detailed CVs for the company directors, management team and, if applicable, key project staff;
- The name, address, email address and telephone number of 2 personal references from each partner or director;
- The name, address, email address and telephone number of 2 trade references for all businesses that have been trading for 12 months or more;
- Each owner, partner or Director must supply a full personal credit report. This can be obtained from Credit Expert, Noddle or Experian;
- Confirmation of offers of financial support e.g. match funding– see **Appendix 4.**

If relevant:

- A copy of any planning approval or licence;
- In the case of a not-for-profit business please enclose a copy of the relevant clauses from your memorandum and articles of association, rules or governing documents, which relate to how the organisation distributes profits.

On receipt of this documentation the KMBF Programme Management Team will undertake a key criteria check to ensure conformance.

Please note that by submitting a KMBF application your organisation is agreeing to KCC seeking necessary credit references or reports. All proposals and supporting documents must be the property of the applicant and must not infringe any existing patent or copyright and all applications will be deemed as commercial and in confidence.

All full applications will be appraised within the timeline indicated in **Section 7**. Please note we required a completed full on-line application and all the supporting documents requested to be provided before appraisal takes place. The process for undertaking an appraisal of an investment proposal is proportionate to the level of funding requested.

The independent appraisal team appointed by KCC may need to raise questions with applicants to clarify issues or request additional information. The independent appraisers will make recommendations to the Kent and Medway Investment Advisory Board (KMIAB). Applicants may be invited to attend a KMIAB meeting to make a presentation related to their application. Final decisions on awarding or withholding investment will be at the discretion of KCC.

If your application is successful, you will be sent an offer letter detailing the level of finance and the conditions associated with the funding. This will constitute part of the contract with KCC as the Accountable Body for the KMBF. If your investment proposal is unsuccessful, then your letter will provide information on the reasons for this decision.

Payment of funding is dependent upon agreed investment and/or employment milestones being achieved by the recipient (to be set out in the offer letter).

- Suitable milestones will be identified from the information contained in your business plan; these will then be monitored during the lifetime of the investment period and three years beyond the final payment to ensure that the conditions of the finance offer have been met.
- All details will be fully documented in the offer letter.
- Any award of finance under the KMBF may become repayable in its entirety if the investment should move outside the eligible area within three years of the award of funding.
- Please note if you do receive funding we will be monitoring your business against performance targets, for example jobs created, income and expenditure.

## 10. Guidance on the content of the business plan

**Please note that your business plan should not be submitted until after your pre-application form has been submitted and assessed. Your business plan should be prepared and submitted alongside a signed copy of the full application form and other supporting documents requested.**

Your business plan is an essential part of the application process and you must submit a **copy** of this document along with copies of your full application form and other supporting documentation (see **Section 9** above). Your business plan will remain "commercial in confidence". Feel free to "cut and paste" from the plan to the form, marking with a reference. Further information is contained in **Appendix 7** for applicants preparing a business plan, in addition a simple business plan template has also been prepared.

## 11. This guidance

Copies of this guidance are available in an alternative format on request.

## 12. Contact for further Information

**KMBF Programme Management Team**
Kent County Council
2nd Floor, Invicta House, County Hall
Maidstone
ME14 1XX

Email: kmbf@kent.gov.uk

## Glossary

| | |
|---|---|
| **Additionality** | Applicants must describe the additionality of their project and the ways in which this will be achieved. For example, demonstrate the reasons why KMBF funding is necessary to enable the proposal to succeed? Provide the reasons why the project would not go ahead without KMBF support. |
| **Equity** | Applicants who request the option of equity finance either at the pre-application or full application stage will be assessed for their suitability for equity investment as this form of finance is not suitable for every business. Should your business be identified as being suitable for equity investment this option will be discussed with you during the appraisal/decision-making process. |
| **Innovation** | Applicants must describe the innovation of their project and the ways in which this will be achieved. For example, explain how your application will be innovative to the KMBF eligible area? How the application will be innovative in terms of your business type or sector? |
| **Jobs created** | A job that must last for three years from the receipt of funding. |
| **Jobs safeguarded** | A job that would otherwise have ceased to exist within 15 months of receipt of funding. |
| **Loans** | KMBF loans are offered at 0% interest to eligible businesses. |
| **Not for profit business** | Either:<br>• Charities<br>• Community Interest Companies<br>• Companies limited by guarantee<br>• Industrial & Provident Societies |
| **Personal Guarantee** | This is a stand-alone guarantee required on a loan and is effectively an unsecured promise from an applicant to make loan payments when the business is not able to do so. |
| **SME** | The EU defines Small and Medium Sized Enterprises (SMEs) as:<br>• Employing less than 250 people<br>• Having a balance sheet that is less than €43 million<br>• Annual turnover less than €50 million pa. |

## Appendix 1 – Allocation of Funding

Please note the overall budget for KMBF is allocated between three areas: East Kent, North Kent & Medway and West Kent. The allocation for each of these three respective areas is based on the level of loan repayments from the investments of the former RGF schemes (Expansion East Kent, Escalate and Tiger). Therefore, for example, if you are located or seeking to locate in Canterbury, the funding available for your proposal will be sourced from the East Kent allocation.

- **East Kent** – Ashford, Canterbury, Dover, Shepway and Thanet.
- **North Kent & Medway** – Dartford, Gravesham, Medway and Swale
- **West Kent** – Maidstone, Sevenoaks, Tonbridge and Tunbridge Wells.

## Appendix 2 – Additional eligibility criteria

In addition to meeting the criteria in **Section 4** above, all investment proposals must fulfil the following conditions:

- **Employment** - All proposals must have a positive impact on employment in the KMBF eligible area and must, specifically, create or safeguard jobs within the business. These jobs can be either full-time or part-time. Only jobs directly employed by the business are eligible.
- **Demonstrate need** – The applicant must be able to demonstrate the need for financial support.
- **Viability** - The organisation undertaking the investment proposal must be viable, have good growth potential and be self-sustaining by the completion of the investment.
- **Private sector match funding** - The investment proposal requires support from other funding sources (see **Appendix 4** below for further details).
- **Impact** –The investment proposal is likely to have a positive impact on the economy of the KMBF eligible area.
- **Number of applications** - Applicants can only submit one application for the KMBF at any one time. The opportunity to submit further applications would be dependent on such a loan not breaching State Aid rules. Permission should be sought from the KMBF Programme Management Team (for contact details see **Section 12**) prior to any further additional submission.
- **Repayment** - We would normally expect all loans to be repaid within a period of five years with no repayment holiday. Repayment profiles involving "balloon payments" (i.e. an unusually large payment due at the end of the loan) and also seeking to repay over a period in excess of five years, will be excluded. Repayments will be by monthly Direct Debit.
- **Applicants in receipt of RGF funding** – Applicants who have received funding from the former RGF schemes (Expansion East Kent, Escalate and Tiger) will only be able to proceed with bids if: a) their applications remain within State Aid Rules; b) that they are up to date on their monitoring and loan repayments at the time of the submission of their pre-application.

## Appendix 3 – Additional ineligible activities

KMBF cannot fund what we consider ineligible expenditure such as:

- **Stock purchases**
- **Purchase of shares of another business**
- **Goodwill**
- **Funding for working capital**
- **Non-viable investment proposals and businesses** - Due to State Aid regulations.
- **Expenditure already incurred** - Expenditure incurred before a formal offer is made by KMBF is ineligible for support. A full application for assistance must be submitted and an offer made before expenditure on an investment proposal is commenced.
- **State Aid limits** - Any offer of finance assistance would lead to State Aid limits being exceeded.
- **Limited private sector investment** - KMBF will not provide 100% funding or cover all the costs of an investment and will seek an element of private sector investment (match funding). The types of eligible private sector investments are detailed in **Appendix 4**.
- **Reputation** - Investments which would result in potential damage to KCC and its partners' image and reputation.

| Appendix 4 - Match Funding | | |
|---|---|---|
| **Type of match funding** | **1b <u>Minimum requirement</u> to support funding at initial Full application stage** | **1c Finalised paperwork required at contract stage / <u>prior to release of any funds</u>.** |
| **Bank loan** | • Copy of Heads of terms **<u>or</u>** conditional offer letter provided by the Bank. N.B this should confirm offer of funds to your Company (£ value), and be provided on Bank letterhead paperwork or similar. | • Copy of Bank Loan contract document duly signed / in force, confirming funds (£ value) have been provided to your Company.<br>• N.B. if the loan contract is **<u>not</u>** new, then a copy of current business bank account statement showing that the loan provided remains available to the Company. (i.e. not already exhausted). |
| **Company own funds** | • Copy of current bank statement of Company confirming availability of funds. | • Refreshed copy of current business bank account statement showing that the funds (£ value) remain available to the Company. (i.e. not already exhausted) |
| **Overdraft facility** | • Copy of letter from Bank confirming overdraft facility available to Company. | • Copy of letter from Bank confirming overdraft facility available / together with;<br>• Copy of current business bank account statement showing that the overdraft remains available to the Company. (i.e. not already exhausted). |
| **Own funds inc. owner, partner's, director's, member's loan** | • Copy of a current bank statement showing where monies are held confirming availability of funds. | • Copy of current business bank account statement showing that the funds have been provided / transferred to the Company / are available. (i.e. not already exhausted). |
| **Pension funds from Company** | • Letter of commitment from trustees of pension fund. | • Trustee resolution confirming funding (£ value) available to the Company. |
| **Private investor/ New share capital/ New equity investors** | • Copy of Heads of terms **<u>or</u>** conditional offer letter provided by the investor. N.B this should confirm offer of funds to your Company (£ value), and be provided on the investors letterhead paperwork or similar. | • Copy of current business bank account statement showing that the funding has been provided / transferred to the Company / are available. (i.e. not already exhausted). |
| **Shareholder contributions** | • Heads of terms | • Shareholder agreement duly signed / in force confirming funds (£ value) have been provided to your Company, **<u>or</u>**<br>• Company bank statement showing credit values into the accounts identifying the shareholder contribution.<br>• N.B. if the shareholder agreement |

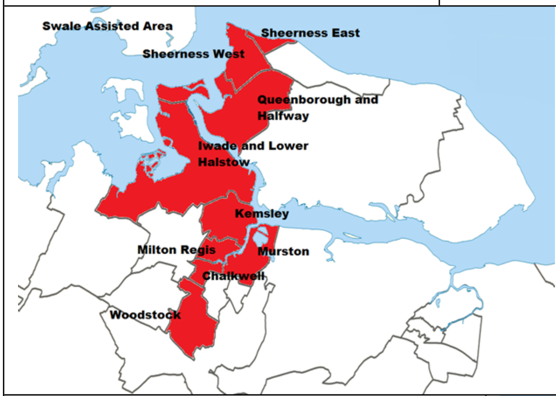
| | | |
|---|---|---|
| | | is <u>not</u> new, then a copy of a current business bank account statement must be provided identifying the shareholder contribution and showing that these funds remain available to the Company. (i.e. not already exhausted). |
| The potential use of other types of match funding can only be undertaken with the express approval of the KMBF Programme Management Team (for contact details see **Section 12**). | | |

| Appendix 5 - Eligible Expenditure | |
|---|---|
| **Tangible assets** - This includes assets relating to land, buildings, plant, machinery and equipment. These assets can be purchased outright or by using lease finance or hire purchase. | |
| **Land – Purchase & buildings – purchase** | These can be funded as part of a bigger investment proposal. As a rule KMBF can fund expenditure related to an area of land or building which does not constitute more than 50% of the eligible investment. Planning permission and building warrant costs are eligible. Acquiring land or buildings may not commence before funding has been approved. |
| **Land – Development/ works** | These can be funded as part of a bigger investment proposal. As a rule KMBF can fund expenditure related to an area of land or building which does not constitute more than 30% of the eligible investment. Development works may not commence before funding has been approved. |
| **Buildings – Construction/ Improvement** | A range of costs associated with construction of new premises and/or refurbishment of existing premises, including internal sub-division of existing premises. New provision and improvement of premises must relate to buildings which have an industrial, or business use. |
| **Certain professional fees** | KMBF is able to fund "certain professional fees" but these are specifically orientated around the development of capital projects. We can therefore support both pre-contract professional fees, e.g. design or technical advice relating to value for money/reasonableness of cost and post-contract professional fees e.g. project management can be included. As a rule, professional fees for architectural, landscape design and engineering services can only be funded up to a maximum level of 10% of the total building costs. Up to an additional 5% may be granted for projects with a particularly intensive planning element, e.g. work on protected buildings or technically complex projects. Legal fees would only be eligible in exceptional situations. |
| **Fixtures & fittings** | There is no definitive list of what is an eligible fixture or fitting. The rationale is that such items are deemed as those items essential to the delivery of the project e.g. the purchase of a PC to be used to deliver a training course. In such cases, the onus is on you as the Applicant to fully justify the need for the proposed items of equipment. Each project is treated on its own merits. Additionally in the case of moveable equipment there must be an assurance that the equipment is for the sole use of the project and the benefit is maintained in the eligible area. One further issue in cases where items of equipment have been purchased, an inventory must be retained for audit purposes. Equipment with an asset life of less than 1 year can be regarded as a revenue cost. |
| **Equipment & machinery** | Equipment and machinery must be relevant to the project. Costs related to the acquisition of equipment and machinery assets under lease are eligible provided the lease takes the form of financial leasing and contains an obligation to purchase the asset at the expiry of the term of the lease. |
| **Leases** | Under KMBF the cost of new leases on land or buildings can be capitalised as eligible assets. Normally we are therefore expecting to capitalise leasing costs for a maximum of 5 years; to be eligible the lease would need to have a duration of a minimum of 5 years. |
| **Wage costs for new permanent employees** | KMBF can contribute towards wage costs over a period of 2 years. Wage costs mean the total amount payable by the employer in respect of the employment concerned, comprising the gross wage, before tax, and includes compulsory social security contributions (Employer's NI, SSP and SMP). Please note that jobs must be maintained for at least 3 years. So while KMBF could fund them for 2 years the Applicant would need to |

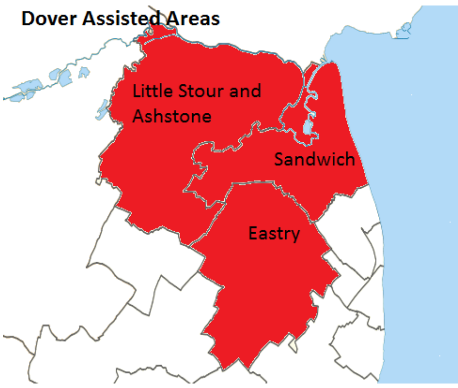
| | |
|---|---|
| | guarantee employment for a further 1 year. |
| **Intangible assets** - This includes assets acquired from third parties by the transfer of technology or knowledge. Patent rights; Licences; Know-how and Unpatented technical knowledge. | |
| Queries regarding the eligibility of various items of expenditure should be raised with the KMBF Programme Management Team (for contact details see **Section 12**) at the earliest opportunity. | |

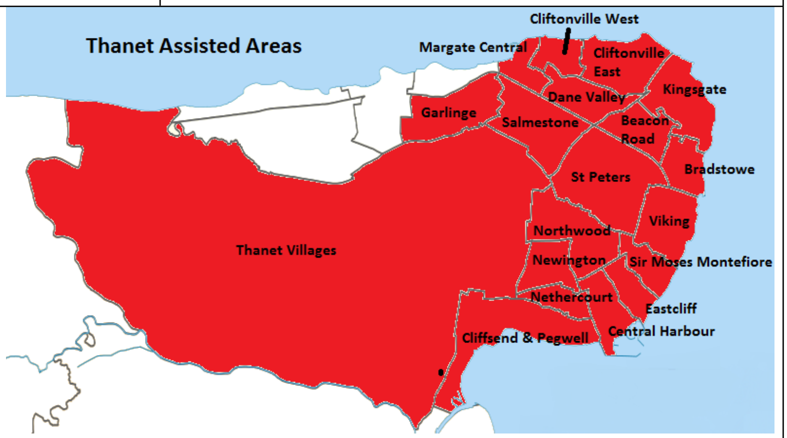
## Appendix 6 – List of Assisted Areas in the KMBF Eligible Area

| Local Authority | Wards |
|---|---|
| **Dover** | Eastry; Little Stour and Ashstone; Sandwich |
| **Thanet** | Beacon Road; Bradstowe; Central Harbour; Cliffsend and Pegwell; Cliftonville East; Cliftonville West; Dane Valley; Eastcliff; Garlinge; Kingsgate; Margate Central; Nethercourt; Newington; Northwood; Salmestone; Sir Moses Montefiore; St. Peters; Thanet Villages; Viking |
| **Swale** | Chalkwell Ward; Iwade and Lower Halstow Ward; Kemsley Ward; Milton Regis Ward; Murston Ward; Queenborough and Halfway Ward; Sheerness East Ward; Sheerness West Ward; Woodstock Ward |
| **Medway** | Chatham Central Ward; Gillingham North Ward; Peninsula Ward; Rainham Central Ward; River Ward; Rochester South and Horsted Ward; Twydall Ward; Watling Ward |








**Kent and Medway Business Fund scheme designated Assisted Areas. Assisted Areas are only located within the districts of Dover and Thanet. Assisted Areas are highlighted in Red**

**Maps** Contains Ordnance Survey data © Crown copyright and database right

## Appendix 7 – Business Plan Checklist

The business plan must be specific to your proposal but should also refer to how your proposal links to any other parts of your business already in place, if appropriate. We recommend that your business plan must (at least) contain details of:

- Your business name, status, address, and some details of your history.
- Your ownership and whether you are part of a group.
- If you are part of a group, details of the group, its hierarchy and its relationship with the investment proposal.
- Why you have chosen the KMBF eligible area to expand your business.
- What your business will deliver in terms of goods or services.
- What is the function of your product or service, how is it novel or innovative. Indicate sales levels in £s and as a % of turnover in the last three years (if available) and your next planned three years.
- Show which customers (if any) you expect to account for more than 10% of your sales.
- The location of the investment proposal, whether freehold/leasehold and whether improvements necessary?
- Are the premises a new-build and is new capital equipment needed?
- How you have established the demand for the goods or services.
- Who are your competitors and what proportion of the market do they command?
- How you plan to secure a significant and sustainable section of that market? Also show who your main competitors are and their share of the market?
- Details of your supply chain and which local businesses form part of that chain and indicate your dependence upon them.
- What is the time frame for delivering your proposal?
- Who will be running your business? How many people does it employ now and how many over the next five years – with a diagram of the staffing structure.
- How will the business be run? The competence of your staff will have an important influence on the success of your business therefore please remember to include copies of the full CVs for Directors, Management Team and if applicable key Project

Staff.

- Which other funders you have approached, what their response was and how you are providing the necessary funding for the proposal?
- What would you do if funding from KMBF is not available?
- Please state the key milestones of your Proposal and when you expect to achieve them (this establishes when you could receive tranches of your loan).
- Please state the main risks of your Proposal and how they can be mitigated i.e. Risk, Likelihood, Impact, Mitigation (Score 1 for the lowest likelihood of risk or impact and 5 for the highest).
- Financial tables of income, both from capital providers and through the sales of the goods and services developed through KMBF support with dates and values.
- Tables detailing capital costs incurred and cash flow.

## Appendix 8 –Security

**Personal Guarantees**

This is a stand-alone guarantee required on a loan and is effectively an unsecured promise from an applicant to make loan payments when the business is not able to do so.

**Security**

Security will be required on a discretionary basis for loans between £50,000-£99,999. For loans of £100,000 and over, security will automatically be required.

There are a number of requirements for this security:

- It must have real value. We will require an independent valuation of the asset used as security.
- The value must be at least equal to the loan capital and administrative changes over the term of the loan.
- The security must be a first or a second legal charge over an asset held by the applicant. The legal charge will provide KCC with certain rights over the asset used as security where the terms of the loan are not met.
- The asset used as security may be replaced during the term of the loan provided the value of the replacement asset is at least equal to the lower of the market value of the asset it has replaced.
- Where the applicant carries out a transaction which in turn reduces the value of

the security, an unauthorised payments charge will apply. However, where the value of the security reduces for reasons beyond their control, this will not be deemed an unauthorised payment.

- The security does not have to be provided by the borrowing applicant, it can be provided by other parties such as family members or other companies.
- We do not permit a principal private residence to be used as security.
- We will also entertain personal guarantees.

Examples of security are:

- Commercial property.
- Intellectual property (copyright, trademarks, designs and patents).
- Certain business assets such as debtors or specific contracts.
- Personal investments such as land, cash deposits or investment portfolios.
- Plant and machinery (provided it does not depreciate in value faster than the loan is repaid).

Please note that the taking of security can be a complicated process, therefore there may be delays in the transfer of loan funds.

**Appendix 3: An overview of the new KMBF which has replaced the former RGF schemes**

## 1. Background

1.1 Since 2011, £55 million has been allocated to Kent County Council from the Regional Growth Fund (RGF). This enabled the delivery of three direct business finance schemes which offered loans, equity investment and in a small number of cases, grants:

- Expansion East Kent £35 million
- TIGER £14.5 million
- Escalate £5.5 million

1.2. The three schemes were similar, and were managed by the same KCC team. However, they operated to slightly different criteria, and each had a separate advisory board responsible for making recommendations to the Accountable Body (Kent County Council) for project approval or rejection.

1.3. All three schemes have now closed. KCC's contract with BEIS permits KCC to recycle the funds received from the RGF schemes. There is £39.6 million scheduled to be repaid by 2021, which will mean that subject to bad debt there will be up to £5-7 million per year to reinvest. Recycled RGF loan repayments have been received and pending the approval of governance and management arrangements, a new scheme will be launched to applicants on 12th January 2017.

## 2. Lessons Learned from EEK, Escalate and TIGER

2.1. Following an assessment of the three previous schemes, lessons have been taken on board and consideration has been given within the design of a new successor scheme in addressing the following:

a) *Sustainability*: The administration costs of the three previous schemes were covered by KCC (and the other participating local authorities in the case of TIGER). However, this will not be viable in the future, and a new scheme will need to recover costs.
b) *Capital availability*: While £5-7 million per year is a significant sum, it is less than the sums available over a short period of time in the earlier schemes. The design of a new scheme will need to reflect this lower amount of capital.
c) *Market demand and experience*: The original schemes were set up at a time of recession and significant credit constraints. A review of demand has been carried out to assess current need by Regeneris Consulting, who were engaged by KCC to carry out research into the supply and demand of finance to SMEs in Kent and Medway in July 2016. The Regeneris research utilised the 2015 & 2014 Small Business Survey as its basis and its analysis suggests:

- There are approximately 20,500 SMEs in Kent and Medway, of which over 10,000 were seeking finance on an annual basis. 83% of these SMEs are micro-sized businesses.
- Around 6,100 of the SMEs seeking finance encountered difficulties obtaining finance.
- Almost 2,000 SMEs were unable to obtain any of the finance they were seeking (19% of the total number of businesses seeking finance).
- 220 SMEs that sought finance obtained some, but not all the finance that they required. This includes SMEs that were unable to obtain any finance, businesses able to obtain some of the finance they requested but not the whole amount, and businesses that obtained the full amount requested but reported problems at some stage during the process.
- Approximately 4,500 SMEs in Kent and Medway did not apply for finance despite identifying a need for funding, with around 2,000 (44%) of these businesses not applying because they thought they would be rejected.

This analysis shows that total unmet demand across Kent and Medway could amount to £490m each year. If we assume that only 10% of these proposals would be viable, this would imply a finance gap of £49 million per annum. Suggesting the “funding gap” is much larger that the proposed budget of this scheme (£5-7 million per annum).

d) *Government funding conditions and regulations*: Recycled funds will continue to be subject to Government monitoring and regulation. This includes the state aid rules, with which any new Fund must comply.
e) *Applications*: There will be additional checks undertaken at the full application stage to assess the financial viability of those submitting applications.
f) *Appraisal*: Most loans will be required to provide security equivalent to the value of the loan, therefore there will be additional checks at the full application stage on the value and suitability of the security offered.
g) *Payment and Monitoring:* Applicants who are consistently late with their monitoring and/or repayment will be called to a face-to-face meeting and expected to enter into a formal “loan action plan”, which will involve a combination of regular on-going meetings, access to business support, more intensive monitoring and possible interest charges on their outstanding loan repayments. Revising the contractual agreements with the business on a continuous basis will provide the optimum level of protection for the investment and also ensure appropriate business support can be provided to meet the needs of the business.

## 3. The Kent and Medway Business Fund

3.1. Based on these considerations, it is proposed that a new **Kent and Medway Business Fund (KMBF)** will be created to provide loans for small and medium-sized enterprises to support new jobs and business growth and to stimulate innovation and improve productivity. As RGF loans are repaid, they will be recycled into the KMBF. The funds recycled from the original Expansion East Kent (East Kent), TIGER (North Kent) and ESCALATE (West Kent) Schemes will again be allocated for projects in those three areas.

3.2 The KMBF will operate as a single scheme, across Kent and Medway, using a single application form and decision-making process. Funding will be initially available to spend until 31st March 2021. There will be two types of funding directly available to individual businesses:-

- Repayable Loan Finance: This means loans to business offered (in most cases) on an interest free basis, with monies recycled to maintain the KMBF over a longer period. It is envisaged that the majority of the funding will be offered on this basis.

- Equity: This is funding provided in return for a stake in the applicants business. This shareholding may then be sold at some stage in the future e.g. within 3-5 years, although these shares may be retained over a longer period. KMBF equity investment could form a part of an investment package working alongside loans. Applicants who request the option of equity finance will be assessed for their suitability for equity investment as this form of finance is not suitable for every business. Should an applicant be identified as being suitable for equity investment this option will be discussed with them during the appraisal/approval process.

3.3 The terms and conditions of our existing contract with BEIS stipulate all funding applications awarded by KCC as the accountable body must:-

- Demonstrate job creation and good value, and all proposals will be assessed against clear criteria;
- Be made against specific investment proposals, which would be fully appraised before funding is issued;
- Secure private sector matching investment (KMBF will only pay for a portion – no more than 50% - of total eligible costs)
- Be fully compliant with state aid legislation.

## 4. Kent and Medway Business Fund (KMBF) Governance

4.1 As per the contract agreement with BEIS KCC will continue as the accountable body or KMBF. The scheme will be managed internally within KCC utilising the staff currently employed under the former RGF schemes (this core team is now in place). The following paragraphs set out how this role will be fulfilled and how transparent governance and management roles will be maintained.

The diagram below sets out the proposed operational structure. This aims to maintain a balance between independent, private sector advice and clear accountability.

Kent County Council

Accountable body for KMBF
Approved contracts and funding
Responsible for monitoring and evaluation

↓

**Independent Appraisal**
Contracted to KCC
Individual application appraisals
Makes recommendations to KMIAB

↓

**Kent and Medway Investment Advisory Board (KMIAB)**
Responsible for strategy and direction
Responsible for recommending on applications following the independent appraisal

Details of each element of the structure from application to funding approval are listed below:

4.2 *Initial application:* Businesses wishing to apply for KMBF support will be able to submit an initial expression of interest online. This will then be checked for eligibility by the KMBF programme management team employed directly by KCC. Eligible applicants will then be invited to submit a full application. This initial process will ensure that applicants will not waste time on ineligible projects.

4.3 *Full Application*: Those applicants requested to submit a full application with supporting documents.

4.4 *Appraisal*: All applications will be independently appraised. KCC is currently conducting a procurement exercise to appoint an external company to act as an independent appraiser. The role of the independent appraiser will be to assess applications and provide a report providing the following information:

a) *RAG Ratings*: Related to the following areas – Additionality; Value for Money; Funding; Financial Viability/Sustainability; Jobs created and safeguarded; State Aid Compliance.
b) *Client/Track record*: Focusing on the directors and/or management team, their experience, the role of investors/shareholders and previous trading or business history.
c) *Purpose*: Establishing the purpose of the investment is clear and in line with the full application and supporting documentation and that this is consistent with the objectives of the scheme.
d) *Funding Rationale*: That the level of funding requested is appropriate to the objectives contained in the full application and supporting documentation.
e) *Serviceability*: Current/future liabilities and are they serviceable. An assessment of their current/projected performance based on their business plan and cashflow projections.
f) *Risk/ Reward*: Potential jobs created/safeguarded. The potential impact of the investment on the applicants trading position and risks posed by this investment.

g) *Security*: What is being offered and an initial assessment of the value of that security.
h) *Credit Search*: A current business credit search undertaken on the applicant.

4.5 *Kent and Medway Investment Advisory Board (KMIAB):* Following appraisal, all applications will be considered by a public/ private Kent and Medway Investment Advisory Board (KMIAB). The responsibilities of the KMIAB will be to:-

a) Provide advice, monitor and review the KMBF whilst drawing on their business and commercial experience.
b) Make recommendations to KCC whether to endorse the report submitted by the independent appraiser to approve, reject or defer individual applications for funding.
c) Keep under review the performance of the programme against the outputs and leverage levels specified by BEIS.

4.6 *Membership of the Kent and Medway Investment Advisory Board*: The Accountable Body must be represented on the Board by elected representatives and Board Members from other local authorities must also be elected representatives. All elected representatives who are Board Members will be drawn from the membership of the advisory panels established for the former RGF schemes. The majority of Board Members shall be from the private sector.

A number of public and private sector representatives have been approached to join the Board, with the aim of achieving a balance of knowledge and expertise. It is anticipated that the KMIAB will be established over the next month.

The draft Terms of Reference (ToR) provide the detail on the management of the Board are contained in Appendix One.

4.7 *Approval*: KCC as the accountable body will approve the allocation of all funds, taking into account the recommendations of the KMIAB. The final decision to approve, approve with conditions, reject or defer loan applications are to be made by the Chair of the KMIAB or the Vice-Chair of the KMIAB in the absence of the Chair. The decisions will then be counter-signed by the KCC Delegated Officer (Director Economic Development - Growth, Environment and Transport).

4.8 *Payment and monitoring*: KCC shall be responsible for the payment of loans and their recovery where appropriate. KCC shall also be responsible for monitoring all allocations, ensuring that funds are used for the purposes intended, monitoring employment and other outputs and reporting spend and outputs achieved to BEIS as required.

4.9 *Strategy and oversight:* To ensure that the KMBF remains relevant to market demand for business investment and supports those businesses and sectors with the greatest potential for growth and job creation, KCC in consultation with the KMIAB will prepare an annual Investment Strategy.

In addition to its role in considering individual applications, the KMIAB shall perform an independent strategic oversight role. This shall involve (in addition to the Board's role in recommending determination of applications to the KMBF).

a) Providing advice, monitoring and reviewing the overall Investment Strategy for the use of the KMBF whilst drawing on the Board's business and commercial experience.
b) Keeping under review the performance of the programme against the outputs and leverage levels specified by BEIS.

## 5. Risks

5.1. The main risks are:

- *Insufficient number of high quality applications:* This will be mitigated through the a strong pipeline of bids, marketing and work with officers and members of local Districts and Boroughs and local partners and business support agencies using the experience gained in managing the three former RGF schemes:
- *Decreasing amounts of loan repayments from the three former RGF schemes*: Quarterly monitoring of loan repayments provides sufficient information to undertake action to adjust future budgets and agree the scale of further bidding rounds. In the longer term there may be possible opportunities to raise additional external funds from the government or the British Business Bank. The extent of these future opportunities will be better understood when the new government industrial strategy White Paper is published in 2017.
- *Fraud and mis-representations by those applying for funds*: All applications are subject to robust appraisal and monitoring, any suspected fraud and mis-representation are referred immediately to KCC Internal Audit. If evidence suggests that a criminal offence has been committed, then the matter will be referred quickly (and following KCC internal procedures) for possible legal action.
- *None–repayment of loans*: This will be mitigated by seeking security for loans, robust appraisal and an effective monitoring process, drawing on experience to date.
- *Unsustainable administrative costs to KCC:* Costs will be recovered through arrangement fees. At this stage, it is not anticipated that the scheme will need to charge interest to recover costs.

By: Richard Parry (Chairman – Scrutiny Committee)
John Lynch (Head of Democratic Services)

To: Scrutiny Committee – 31 March 2017

Subject: Scrutiny Committee overview

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Summary: This report outlines the key activities of KCC's Scrutiny Committee during the Council period of May 2013 to March 2017.

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## 1. Scrutiny Committee

1.1 Section 21 (2) of the Local Government Act 2000 requires the provisions in executive arrangements to ensure that a local authority's overview and scrutiny committee has power (or its overview and scrutiny committees have power between them) to:

- review or scrutinise decisions or action taken in respect of any functions which are the responsibility of the executive;
- make reports or recommendations to the local authority or the executive in respect of any functions which are the responsibility of the executive;
- review or scrutinise decisions or action taken in respect of any functions which are not the responsibility of the executive;
- make reports or recommendations to the local authority or the executive in respect of any functions which are not the responsibility of the executive; and
- make reports or recommendations to the local authority or the executive in respect of matters which affect the local authority's area or its inhabitants.

1.2 Under section 21 of the Local Government Act 2000, the Council has appointed the Scrutiny Committee from among the non-executive Members to perform the roles and functions set out in Part 2 of Appendix 2. Their terms of reference cover all the main services of the Council and also meets at least once a year as the Crime and Disorder Committee. In addition, the Scrutiny Committee co-ordinates the Select Committee work programme.

1.3 Section 21(13) (a) provides a power for an overview and scrutiny committee (or subcommittee) to require members of the executive and officers of the local authority to appear before it and answer questions. By virtue of sections 21(14) and (15) it is the duty of such persons to comply with this requirement except that she or he would not be obliged to answer any question which she or he would be entitled to refuse to answer in a court of law. An overview and scrutiny committee (or sub-committee) may also invite, by virtue of section 21(13) (b), any other persons to attend its meetings but cannot require them to do so.

1.4 The Scrutiny Committee has met formally on twenty-four occasions, in addition to agenda setting meetings and informal briefings with Cabinet Members and Corporate Directors. The Committee also facilitated the introduction of regular informal discussion sessions between relevant Members and senior officers on issues including budget planning.

1.5 Notes on the positive activities of the various sub-committees established by the Scrutiny Committee are provided in sections 2, 3 and 4. The Kent Utilities Engagement Sub-committee and the numerous successful Select Committees were established via careful consideration and discussion by the full Scrutiny Committee, with input from the Leader, Cabinet Members and senior officers, supported by research and evidence gathering provided by Democratic Services. The Scrutiny committee also receives annual reports from a further sub-committee; the Kent Flood Risk Management Committee.

1.6 Given the Scrutiny Committee's broad remit to scrutinise the Executive of the Council in relation to formal decision and the executions of any functions of the Council, the items considered by the Scrutiny Committee have been varied and numerous. Positive updates have been provided by the Executive on many occasions, facilitating broader consideration of how services may be improved and providing reassurance to Members and the public that governance arrangements, national guidance and legislation have been adhered to. The Committee has supported Leader and also several Cabinet Member initiated engagements with Central Government aimed at revising or challenging policy which may have a negative impact in Kent but also actively supported positive joint working with government on key issues such as Operation Stack.

1.7 Key issues considered by the Scrutiny Committee include:

- Ongoing Social care pressures due to a combination of funding issues and rising demand. The Committee supported further lobbying of central government to review funding plans and develop improved NHS and social care integration strategies and the development of a national dispersal scheme for unaccompanied asylum seeking children.
- Infrastructure project governance: The Committee review a small number of significant projects such as the Safe and Sensible Street Lighting policy and the St Dunstan's Regeneration Scheme. In both cases, the Committee conducted detailed investigations and resolved that no inappropriate actions had been taken but provided advice and recommendations to the directorate on improving their policies to minimise negative public reaction in the future, with a particular focus on improved communication strategies and transparency.
- Extensive review of the Regional Growth Fund, which facilitates the distribution of central government funded loans and investments to local businesses as part of the economic growth agenda. The Committee considered specific funding decisions as well as the investment and loan assessment processes, in support of standard internal audit activity undertaken as a matter of course. The Committee made various

recommendations about improved transparency where this could be achieved without impacting on commercial sensitivity as well as supporting a clearer governance route for all relevant decisions, including those devolved to local funding boards.
The Committee's work in this area has made a significant positive contribution to the revised Regional Growth Fund scheme that was introduced in 2017, with the recommendations of the Committee reflected in the new guidance and protocols.

- Education reform and review: The Committee considered the academisation scheme proposed by central government as well as ongoing school funding formulae review. In both cases, the Committee strongly supported actions taken by the Cabinet Member to raise concerns with the Secretary of State for Education and provided supporting statements via the Chairman.
- Budget Scrutiny: The Committee has considered the draft budget and medium term financial plan each year during the Council term, providing feedback and comments for consideration by the Cabinet Member for Finance.

## 2. Kent Utilities Engagement Sub-Committee

2.1 The Kent Utilities Engagement Sub-Committee was established by the Scrutiny Committee at its meeting on 9 June 2016 and it first met on 27 July 2016. This was an inaugural meeting to allow discussion with Members and Environment, Planning and Enforcement (EPE) department officers regarding the practical remit of the sub-committee and outline plans for working with the key partners in the sector. The sub-committee agreed to attend sector specific training prior to external engagement.

The sub-committee agreed its scope as follows:

(a) Gathering and scrutinising evidence as to the performance of utilities and other relevant bodies to support current and future growth, gathering information and data from all stakeholders – utility companies, developers, and districts;

(b) Identifying the key barriers presented by utilities and other relevant bodies to growth ;

(c) Identifying and testing recommendations for overcoming these barriers; and

(d) Engaging with national regulators as appropriate to promote these recommendations.

(e) Promoting the maintenance and improvement of current infrastructure in the Kent and Medway Growth and Infrastructure Framework.

2.2 The Sub-Committee met informally in November 2016 to receive detailed training on the water sector from EPE staff (Lead Officer – Alan Turner).

2.3 Sub-Committee met on 27 January to receive presentations from Ofwat (Water regulator) and Southern Water. Members had a positive discussion with the external guests, taking reassurance from the improvement in service levels noted by Ofwat and Southern Water's in engaging in better partnerships with developers and local authorities. Key recommendations from the session relate to KCC promoting and supporting improvement in early strategic collaboration and information sharing between local authorities, developers and the utility sector (supported by Ofwat experience that lack of communication between parties had been the key cause of most disputes).

2.4 The Sub-Committee met on 27 February to receive presentation from Technical & Development Services (TDS - a private development consultancy firm) and South East Water. TDS provided an overview of some of the challenges facing developers, with consideration of some of the good work being done in partnership with some utility companies, including South East Water. South East Water provided an overview of their activities in Kent and highlighted the positive progress in the industry with the recognition of developers and customers. South East Water also noted the expectation the new charging scheme, when implemented would help simplify the development system and allow for better long term planning and information sharing. The Committee resolved that engagement with Central Government on encouraging appropriate authorities to work together on the range of issues with a co-ordinated approach to improve consistency around the country.

## 3. Crime and Disorder Committee Activity

3.1 The Scrutiny Committee is required to meet in the form of the Crime and Disorder Committee to review and scrutinise work undertaken by relevant partner agencies and authorities responsible for managing crime and disorder in the County. This duty arises from the Police and Justice Act 2006 which introduced Crime and Disorder Committees to fulfil this scrutiny function.

3.2 The Committee exists as a 'critical friend' of the Community Safety Partnership, considering the strategic level approach on crime and disorder and should not seek to challenge operation level actions. Reviewing, considering and commenting on the Community Safety Agreement (CSA) and its associated action plan has served as a constructive approach for the Committee to fulfil its statutory requirement to scrutinise the strategic activity in the arena of crime and disorder. Consequently, consideration of the CSA has been the primary feature of Crime and Disorder Committee meetings since 2013.

3.3 For information, Community Safety Agreements (CSAs) are mandatory for two tier authorities and are used by the Community Safety Partnerships (CSPs) to meet their statutory duty under Section 17 of the Crime and Disorder Act 1998 (as amended by the Police and Justice Act 2006). Additionally, the 2006 Act required CSPs to include anti-social behaviour (ASB) and substance abuse within their strategies. The Police and Crime Act 2009 added reducing reoffending to the areas to be addressed by CSPs.

**4. Flood Risk Management Committee**

4.1 The Flood Risk Management Committee is responsible (under the Localism Act 2011) for reviewing and scrutinising the exercise by risk management authorities of flood risk management functions or coastal erosion risk management functions which may affect the local authority's area.

4.2 This work involves the preparation, monitoring and review of a strategic action plan for flood risk management in Kent, taking into account any Select Committee recommendations, Pitt Review and relevant requirements of the Flood and Water Management Act 2010.

4.3 The Committee has developed positive and informative annual reports which have been presented to and discussed by the Scrutiny Committee each Summer. This has facilitated broader consideration of the key flood risk issues affecting Kent. Dates of the annual reports may be found in the Scrutiny Committee agenda summary list at Appendix 2.

**5. Select Committees**

5.1 The Scrutiny Committee facilitates the identification and selection of subjects for Select Committees, via its Topic Review agenda items. Select Committees are sub-committees of the Scrutiny Committee, with equivalent powers to require attendance of relevant Members of the Council and senior officers. These Committees operate on an apolitical basis and while they are operated under proportionality rules, the reports developed by the Committees represent excellent examples of cross-party working and Member engagement in challenging areas of work for the County Council.

5.2 The Scrutiny Committee established the following Select Committees during the 2013 – 2017 Council period:

- Kent's European Relations
- Commissioning
- Corporate Parenting
- Energy Security
- Grammar Schools and Social Mobility
- Bus Transport and Public Subsidy

5.3 An overview of the outcomes of the Select Committees was presented to County Council on 16 March 2017 and the report is included as an appendix to this item.

## 6. Summary

6.1 The Scrutiny Committee, alongside the important activities of its various sub-committees, has delivered an active ongoing programme of thoughtful consideration of key issues affecting Kent. Appropriate critical Scrutiny has been brought to bear on Executive decisions and activities, as well as collaborative engagement with Executive action to facilitate service and policy review. The vast majority of resolutions have represented cross-party unanimous agreement on recommendations and comments to the relevant Cabinet Members and Officers and even where discussions have involved disagreement, relevant comments and concerns have been flagged with the appropriate Directorates for consideration.

6.2 It should also be noted that the call-in system has been employed to delay and consider a small number of decisions, permitting further review and assessment of relevant governance and decision making practices. The use of such formal powers on occasion by the Committee helps demonstrate its commitment to transparency and meeting its responsibility to hold the Executive to account.

6.3 Despite the rare use of call-in powers, the Committee has continued to maintain a busy work programme that captured important information across the range of KCC services, providing useful comment to the Executive and to the Authority as a whole. Agenda setting processes always recognised right of any Member to request items be placed on future agendas and this is reflected in the regularity of meetings and the range of subjects considered as discussion items.

6.4 Appendix 2 provides an overview of all issues considered at formal Scrutiny Committee meetings since 2013 with summaries of the key resolutions which give an good indication of the positive work undertaken by the Committee.

## 7. Recommendation

7.1 The Committee is invited to the note the report on the positive work it and its sub-committees have achieved in the 2013 – 17 Council period.

**Background Documents:**
Kent County Council – Constitution

Local Government Act 1972 - amended

**Appendices:**
Appendix 1 - Scrutiny Committee terms of reference (KCC Constitution excerpt)
Appendix 2 - Agenda & item consideration summary – 2013 to 2017
Appendix 3 - Select Committee Overview report (March County Council 2017 report)

**Report Author(s):**
Joel Cook, Scrutiny Research Officer
**Joel.cook@kent.gov.uk**
03000 416892

Anna Taylor, Scrutiny Research Officer
**Anna.taylor@kent.gov.uk**
03000 416478

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Kent County Council - Scrutiny Committee Suite

## 1. Scrutiny Committee

*11 Members*
*Conservative: 6; UKIP: 2; Labour: 2; Liberal Democrat: 1; and (for relevant education items only): Churches: 3; Parent Governors: 2.*

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

(a) review or scrutinise decisions made, or other action taken, in connection with the discharge of any executive or non-executive functions.

(b) make reports or recommendations to the County Council or the executive, requiring them to consider and respond, indicating what (if any) action they propose to take, within 2 months.

(c) in the case of executive decisions made but not implemented, recommend the decision be reconsidered or refer the review of the decision to the County Council.

(d) request, but not require, that implementation of a decision be postponed when considering any decision taken by an officer or by a Committee exercising functions delegated by the Council.

(e) to make reports or recommendations to the County Council or the executive on matters which affect the authority's area or the inhabitants of the area.

(f) require the Leader, Cabinet Members and Senior Managers to attend before it and answer questions. It is the duty of any Member or officer to comply with such a requirement.

(g) require any other Member to attend before it to answer questions relating to any function which is exercisable by the Member by virtue of **section 236** of the **Local Government and Public Involvement in Health Act 2007** (exercise of functions by local councillors in England).

(h) invite other persons to attend meetings of the Committee to answer questions and gather evidence with their consent.

(i) appoint one or more sub-committees to discharge any of its functions.

(j) co-ordinate the programme of Select Committee reviews during the year.

1.2 When exercising the powers in relation to education functions, this Committee will 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 whose diocese includes Kent (paragraph 7 of Schedule 1 to the 2000 Act), as well as persons elected as representatives of parent governors at schools maintained by the Council as the local education authority for Kent (paragraph 9 Schedule 1 to the 2000 Act.

**2. Crime and Disorder Committee**

*11 Members*
*Conservative: 6; UKIP: 2; Labour: 2; Liberal Democrat: 1*

2.1 This committee is responsible for the scrutiny of authorities responsible for Crime and Disorder strategies in accordance with section 19 of the Police and Justice Act 2006 and the Protocol at Appendix 4 Part 4 Annex C.

**3. Flood Risk Management Committee**

*7 Members*
*Conservative: 4; UKIP: 1; Labour: 1; Liberal Democrat: 1*

3.1 In accordance with the Localism Act 2011 (Schedule 2), this committee is responsible for reviewing and scrutinising the exercise by risk management authorities of flood risk management functions or coastal erosion risk management functions which may affect the local authority's area.

3.2 This committee is responsible for:

(a) the preparation monitoring and review (in conjunction with the Flood Risk Management Officer) of a strategic action plan for flood risk management in Kent, taking into account any Select Committee recommendations, the Pitt Review and relevant requirements of the Flood and Water Management Act 2010

(b) reporting annually (and more often if necessary) to the Scrutiny Committee and to the Cabinet Member for Environment & Transport

(c) reviewing and responding to any consultation on the implementation of the Pitt Review and the future development of the Flood and Water Management Act 2010

(d) receiving reports from the Southern Regional Flood and Coastal Committee and responding as appropriate

(e) the investigation of water resource management issues in Kent

3.3 A risk management authority must comply with a request from this committee for information and a response to a report.

3.4 The committee may include (non-voting) persons who are not members of the authority, including representatives of District Councils, the Environment Agency and Internal Drainage Boards.

## 4. Select Committees

*9 Members*
*Conservative: 5; UKIP: 2; Labour: 1; Liberal Democrat: 1*

4.1 These 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.

4.2 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.

## 5. Kent Utilities Engagement Sub-Committee

*9 Members*
*Conservative – 5; UKIP – 1; Labour – 1; Liberal Democrat – 1; Independent – 1.*

The Scrutiny Committee established the Sub-Committee with the following terms of reference:

1. The sub-committee is responsible for engaging with utility providers and regulators operating in the Kent area.

2. The goal of the sub-committee is to achieve better alignment of utilities planning and connections to developments across Kent and to improve the quality of life of Kent citizens.

3. The sub-committee will highlight examples of good and bad practice and work with utility providers to devise and promote effective utility and development strategies, making suggestions for improvement and engaging with national regulators where appropriate.

4. The sub-committee will use regular engagement with key partners in the utility and development sectors to improve communication, avoid unnecessary duplication and increase transparency.

5. The sub-committee is a sub-committee of the Scrutiny Committee with membership drawn from all members of the council.

6. The sub-committee provides a report to the Scrutiny Committee on an annual basis, or more regularly if required.

7. The sub-committee will meet three times a year, with additional meetings arranged as required.

8. As a partnership meeting, attendance of all external parties is encouraged in the spirit of joint-working but will be on a voluntary basis.

9. A work programme will be maintained by the Growth, Environment & Transport directorate, developed in consultation with Members, partner agencies, utility providers and regulators.

Scrutiny Committee – Item Consideration

| Agenda items | Scrutiny Committee date | Outcome |
|---|---|---|
| • Election of Chairman | 23 May 2013 | The Scrutiny Committee;<br>• Resolved to elect Richard Parry as the Chairman. |
| • Select Committee Topic Review (Core function) | 12 November 2013 Scrutiny Committee | The Scrutiny Committee;<br>• Approved two Select Committees approved: Commissioning and Kent's European Relationship |
| • Draft Budget Consideration | 20 January 2014 | The Scrutiny Committee;<br>• Noted the draft budget, with comments provided to the Cabinet Member for Finance. |
| • Call-in – Decision to revise the New Combined Member Grant Scheme | 12 Feb 2014 | The Scrutiny Committee;<br>• Engaged in extensive debate regarding the revised scheme and the relevant formal decisions. Vote taken which resulted in no formal comments of the Committee being recorded for consideration by the Decision-makers. |
| • Update reports on two Select Committee reports endorsed under the previous Council:<br>Domestic Abuse<br>Apprenticeships | 3 April 2014 | The Scrutiny Committee;<br>• Noted the updates and supported regular updates being provided to the relevant Cabinet Members. |
| • Flood Risk Management Committee – Annual Report<br>• 3 month update on Kent's European Relationships Select Committee<br>• Input into Commissioning Select Committee plan<br>• Role of Scrutiny Report | 12 June 2014 | The Scrutiny Committee;<br>• Noted the Flood Risk Management Annual Report<br>• Noted the update on the Kent's European Relationship Select Committee<br>• Consideration of Commissioning Select Committee deferred due to wider Commissioning work announced by the Leader.<br>• Noted the Role of Scrutiny Report and requested a further report on development of the role. |
| • St Dunstan's Regeneration Scheme<br>• Capacity of Highways Drainage System | 15 July 2014 | Scrutiny Committee;<br>• Noted the report outlining the decision making process and justification for the scheme. Recommended that the Directorate improve its communication in future to better manage stakeholders.<br>• Noted the information update provided from Highways and the detailed and useful report. |

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| • Lorry Park Network | 21 October 2014 | Scrutiny Committee considered the concerns of members regarding the proposals to develop a network of Lorry parks. The Committee's comments were noted by the Directorate. |
| • Tiger Fund – Call-in<br>- Decision over £1m bringing it under direct KCC governance<br><br>• Select Committee Topic Review – Work Programme<br><br>• Social Care Demand Management risk | 5 & 12 December 2014 | • Scrutiny Committee call-in consideration: Referred to external auditors by agreement of the Committee. 2nd meeting received audit report – Committee agreed to support the auditors recommendations to the Cabinet Member – RGF scheme governance process to be reviewed and improved but that no inappropriate activity was identified. Scrutiny Committee removed requirement to delay implementation of the decision.<br><br>• The Scrutiny Committee resolved that the Select Committee on the Role of Elected Members as Corporate Parents be established and that the following Select Committee be on Energy Security.<br><br>• Scrutiny Committee noted the verbal update from the Cabinet Member and Corporate Director which outlined the ongoing pressures relating to continually increasing demand for social care services. |
| • Draft Budget consideration | 21 January 2015 | The Scrutiny Committee noted the draft budget and provided comments to the Cabinet Member for Finance. |
| • Crime and Disorder Committee: Community Safety Agreement consideration | 4 February 2015 | The Scrutiny Committee, meeting as the Crime and Disorder Committee;<br>• Noted the update on the Community Safety Agreement. |
| • Street lighting – decision making and governance review | 19 May 2015 | The Scrutiny Committee;<br>• Considered a detailed report on the decision making process relating the KCC's Street lighting policies, strategies and practical implementation. Recommendations noted in relation to improved recording of decision making and justifications – linked to ongoing standard governance review to improve Council performance. (No legal or governance breaches identified) Directorate advised to improve communication and engagement on similar large scale projects in the future. |
| • Flood Risk Management Committee Annual Report | 11 June 2015 | • The Committee noted the Flood Risk Management Committee's annual report (requesting a more detailed activity summary at future meetings) |

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| • Commissioning update<br>• Select Committee Work Programme | | • Committee noted report from Chairman of Commissioning Advisory Board outlining KCC's shift toward becoming a Strategic Commissioning Authority and how Members were involved in the commissioning cycle. |
| • Key Performance Indicator update on Adult Social Care<br>• Update on Select Committees (Corporate Parenting and Energy Security)<br>• Procurement decision review | 20 October 2015 | • The Committee noted the update on Adult Social Care performance and sent a letter to the Chief Secretary of Treasury in support of the Cabinet Member's engagement with Central Government and drive to ensure focus on safeguarding.<br>• The Committee noted updates on the select committees in progress.<br>• The committee noted a verbal update on a significant procurement decision taken by Cabinet – no issues were flagged for formal action. |
| • Select Committee update<br>• Unaccompanied Asylum Seeking Children update | 11 December 2015 | The Scrutiny Committee;<br>• Resolved that Select Committee on Corporate Parenting be congratulated on their report and that the launch of the Select Committee on Grammar Schools and Social Mobility be noted.<br>• Noted the update from the deputy Cabinet Member, particularly in terms of clarifying ongoing efforts to secure better long term funding arrangements to manage the pressure on social care arising from UASC. The Committee offered to writing additional supporting letters to central government and Kent MPs if required. |
| • Draft Budget consideration | 19 January 2016 | The Scrutiny Committee;<br>• Noted the draft budget and gave comments to the Cabinet Member for Finance. |
| • Implementation Plan for Corporate Parenting Select Committee<br>• Progress report – Grammar Schools and Social Mobility Select Committee<br>• Progress report – Energy Security Select Committee<br>• Call-in: Proposal to close Pent Valley Technology College | 8 March 2016 | The Scrutiny Committee:<br>• Noted the implementation plan for the Corporate Parenting Select Committee.<br>• Noted the progress reports of the Grammar Schools & Social Mobility and Energy Security Select Committees<br>• Noted the reports from the Education directorate and the comments of the Cabinet Member for education and resolved to provide no formal comments on the decision. In addition, it was resolved that a letter would be sent to the Education Secretary from both the Cabinet Member and the Scrutiny Committee expressing concerns relating to school funding, incorporating the views of the Scrutiny Committee. |

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| • Academies update<br>• Denominational school places update | 19 April 2016 | The Scrutiny Committee:<br>• Noted update on academies and unanimously resolved to support the actions of the Cabinet Member and the Leader in requesting that the Government withdraw its proposed academisation programme. In addition, it was resolved that letter be sent to the Secretary of State for Education expressing the committees concerns.<br>• Noted the discussion relating to the provision of denominational school places in Kent. |
| • Select Committee Work Programme (Topic review schedule)<br>• Flood Risk Management Annual Report.<br>• Proposed establishment of a Kent utilities Engagement Sub-Committee | 9 June 2016 | The Scrutiny Committee;<br>• Resolved to establish the Bus Transport and Public Subsidy Select Committee.<br>• Noted the Flood Risk Management sub-committee annual report.<br>• Resolved to establish the Kent Utilities Engagement Sub-Committee (membership to be drawn from all 84 Members of the Council) |
| • KCC's Consultation Protocol (Responses to external Consultations on behalf of the Authority)<br>• Regional Growth Fund update | 21 September 2016 | The Scrutiny Committee;<br>• Noted the update, welcomed the ongoing review of KCC's consultation protocol.<br>• Noted the update on the RGF and requested a further update on high risk investments and 'phoenix' companies. |
| • Implementation plan for Grammar Schools and Social Mobility Select Committee<br>• Implementation plan for Energy Security Select Committee.<br>• Progress report on the Growth & Infrastructure Framework (GIF) | 9 November 2016 | The Scrutiny Committee;<br>• Noted the implementation plans of the Grammar Schools and Social Mobility and Energy Security Select Committees.<br>• Noted the progress of the GIF and made comments highlighting key issues. |
| • RGF update<br>• Community Safety Agreement | 15 December 2016 | The Scrutiny Committee;<br>• Noted the review and assessment processes within the RGF and the efforts to manage the limited bad debt within the programmes. The Committee recommended that the revised RGF scheme, due to be launched in 2017, take account of comments and recommendations made by the committee and requested that an update report be provided in 2017. |

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| | | The Scrutiny Committee, meeting as the Crime and Disorder Committee;<br>• Noted the Community Safety Agreement update. |
| • Draft Budget consideration | 17 January 2017 | The Scrutiny Committee;<br>• Noted the draft budget and update provided by Officers and gave comments to the Cabinet Member for Finance. |

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By: Gary Cooke – Cabinet Member for Corporate and Democratic Services
John Lynch – Head of Democratic Services

To: County Council – 16 March 2017

Subject: Select Committee Topic Review Update – May 2013 – March 2017

Classification: Unrestricted

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**Introduction**

1. (1) The Select Committees are widely recognised as one of the successes of the Overview and Scrutiny function.

(2) Both Executive and non-Executive Members have recognised the benefits of the Select Committee process. From a non-Executive point of view it provides the opportunity to look at a topic in depth and the majority of Members have found this process very rewarding as it has enabled them to influence Kent County Council policy. From an Executive Member point of view, Select Committee reports have added strength to portfolios and provided outcome focused recommendations on key issues.

(3) Select Committees are sub-committees of the Scrutiny Committee, comprising non-executive Members who have had a major influence on national and local policy. The quality of Select Committee reports has been recognised within Kent and beyond.

**Topic Reviews 2013-2016**

2. (1) There have been five Select Committee topic reviews completed during this period. These are:

(a) Select Committee on Kent's European Relations, which was chaired by Mr A J King, MBE and submitted its report to County Council on 27 March 2014.

(b) Select Committee on Commissioning, under the Chairmanship of Mr M Angell, which submitted its report to County Council on 15 May 2014.

(c) Select Committee on Corporate Parenting, which was chaired by Mrs Z Wiltshire, submitted its report to County Council on 10 December 2015.

(d) Select Committee on Energy Security, under the Chairmanship of Mr J Wedgbury, which submitted its report to County Council in 19 May 2016.

(e) Select Committee on Grammar Schools and Social Mobility, chaired by Mrs J Whittle, which submitted its report to County Council on 14 July 2016.

## Monitoring of Select Committee recommendations

3. (1) Set out in the Constitution is an agreed process for monitoring Select Committee recommendations, which has been developed over the past 13 years with the aim of ensuring that the outcomes from the Select Committee are embedded within the work of the Directorates and Portfolios.

(2) In accordance with the agreed process, each of these Select Committees is due to meet or has met to consider in detail the progress made on their recommendations, approximately one year after each report was considered by County Council.

(3) Attached as **Appendix 1** is the updated overview of progress made at the Kent's European Relations Select Committee's one-year-on review.

(4) Attached at **Appendix 2** progress made on the recommendations made by the Select Committee on Commissioning.

(5) **Appendix 3** shows the progress made on each of the recommendations from the Corporate Parenting Select Committee; this was considered by the Scrutiny Committee in March 2016 and the Corporate Parenting Select Committee met on 23 February 2017 to consider progress one year on from the final report being submitted to County Council.

(6) **Appendix 4** shows the implementation plan following the Energy Security Select Committee which was submitted to the Scrutiny Committee on 9 November 2016.

(7) **Appendix 5** sets out the response to the Select Committee on Grammar Schools and Social Mobility three month update from Fair Access and Improvement.

(8) In all cases it is recommended that consideration is given to ongoing monitoring of these recommendations by the Select Committees, under the oversight of the Scrutiny Committee, on a six monthly or annual basis.

## Highlights

4. (1) The County Council should celebrate achievements made through the Select Committee process. Set out below are some highlights from the reviews, which demonstrate their importance and the impact they have had on the policy of the County Council and its partner organisations.

<u>Kent's European Relationship Select Committee</u>

Successful implementation of the Select Committee's recommendations includes the securing to date of some £85 million in EU grant funding for over 25 projects across KCC and Kent (Recommendation 1). Recent project successes include 'CASCADE' (£3.7 million in EU grant) to address dementia care issues in Kent and Medway, and 'Triple A' (KCC grant of £320,000) which is financing domestic energy efficiency measures. A new 'LEADER' rural development programme worth £1.6 million has also been secured for East Kent.

Other achievements include the successful ongoing implementation of three KCC projects worth £800,000 in EU grant to help the county's SMEs with exporting (Recommendation 9), and making KCC's Hardelot Centre financially self-sufficient by reducing expenditure and increasing income (Recommendation 4). European funding for new signalling works at Ashford (Recommendation10) was secured from the EU's 'Connecting Europe Facility' although this is now to be fully funded through the South East LEP. The project is on schedule to be completed in the 2017-18 financial year.

For full details of progress on the recommendations, see Appendix 1.

## Commissioning Select Committee

The recommendations of the Commissioning Select Committee have made an important contribution in the development of the Councils approach to becoming a Strategic Commissioning authority. All of the recommendations have been delivered against however, since the Committee there have been a number of important steps taken to embed a strategic commissioning approach across the Council and progress against the recommendations should be viewed in the context of these.

The Select Committee made particular reference to the contribution of voluntary and community sector (VCS) providers in the delivery of KCC services and potential barriers small and medium sized organisations face when entering the market. Since the Committee, KCC has strengthened its policy framework around the VCS, agreeing the first VCS policy in September 2015. This recognised the evolving relationship with the sector within the context of a commissioning authority, providing clarity in terms of KCC's approach to grant funding and our support to the sector in the future.

In December 2015, the County Council considered and approved a number of proposals in the report *Embedding Strategic Commissioning.* This made a number of recommendations to drive forward strategic commissioning as the new business as usual and in so doing helped to deliver against many of the recommendations of the Select Committee.

More recently, in January 2017 the County Council agreed the proposal to create a single integrated commissioning function and a new post of Strategic Commissioner. The creation of this function will help to further embed much of the progress which has been made over the past few years since the Select Committee report in 2015 and will support the next phase of transition in becoming a Strategic Commissioning Authority.

For full details of progress on the recommendations, see Appendix 2.

## Corporate Parenting Select Committee

The Corporate Parenting Select Committee set out 15 recommendations with the overall aim of achieving the following:

- Providing Members with a framework to ensure that they have a comprehensive understanding of their statutory responsibilities to the children within KCC's care.
- Ensuring Members are aware of what they need to do and what questions they need to ask of officers in order to ensure KCC is doing the right things as an organisation to support and provide for its children and young people.
- To make sure KCC has the right systems and structures in place to fulfil its corporate parenting duties in the best and most effective way.
- Making certain that feedback from young people informs everything Kent does, from casework to organisational design and delivery.
- Strengthening the work KCC does with its partner agencies to ensure that the needs of Children in Care and care leavers are prioritised.

Since the completion of the Select Committee report, excellent progress has been made in implementing the recommendations. Some of the highlights include the merging of the Corporate Parenting Panel and Corporate Parenting Group to ensure better partnership communication. This work is now further supported through the provision of quarterly Children in Care performance data. As a result, the updated Panel is now better placed to effectively respond to some of the key recommendations of the Select Committee. In response to the issues identified in relation to housing needs for children in care, the 16+ Accommodations Strategy has been developed alongside a detailed commissioning which seeks to ensure suitable accommodation options for young people that would maintain ongoing flexible support at a sustainable cost to the Council.

Additionally, a letter has been sent to the Children's Minister in relation to ensuring responsible authorities are held to account in maintaining the welfare of children in their care. Similarly, there has been co-ordinated lobbying of Central Government in relation to implementing dispersal schemes for Unaccompanied Asylum Seeking Children (UASC) and a Corporate Parenting Handbook is in development. Importantly, Member Training has been updated to reflect the developing Corporate Parenting landscape, with additional briefings organised, the development of E-Learning packages and a planned emphasis for future Member induction after the 2017 County elections.

Further work remains ongoing in relation to the recommendations and full details of progress may be viewed in Appendix 3 - Corporate Parenting Select Committee: Progress to Date. This Appendix was discussed and noted at the Select Committee reconvened meeting on 23 February 2017.

Grammar Schools and Social Mobility Select Committee

Since the publication of the Select Committee report in July 2016, good progress has been made in respect of the focus of the report, which was to redress the under-representation of children from disadvantaged backgrounds within Kent's grammar schools. The recommendations of the Select Committee seek to change this under-representation and improve social mobility by enabling more children from low income families to access grammar schools across the county.

The report was well received and secured significant media coverage. What the Committee found was cited in Parliamentary debates and elements of the key recommendations were rehearsed in the DfE's recent Schools that Work for Everyone Green Paper.

All Grammar and Primary schools received a copy of the Select Committee report and were encouraged to implement the recommendations. Sound progress in the nine months since the publication of the report has been made and more will be made in the forthcoming year.

In terms of increasing fair access to Grammar schools, a significant proportion (more than 50%) of Grammars in the County have now introduced some form of prioritisation within their admission arrangements for disadvantaged pupils in receipt of the Pupil Premium. The Local Authority has drafted a letter which will be sent to the remaining Grammars early in the autumn term, encouraging the remaining schools to follow suit.

In terms of encouraging disadvantaged pupils and parents to apply for a Grammar school place, School Improvement Advisors (SIAs) are monitoring and promoting the engagement of Primary schools to prepare the most academically able children in receipt of the Pupil Premium to take the Kent Test. SIAs are also championing stronger cross-phase links between Primary and Secondary Grammar schools to address any misconceptions they may have and promote the offer Grammar schools can make to disadvantaged children and their parents.

Current and scheduled future progress in respect of the Select Committee's recommendations can be viewed in full at Appendix 5 of this report.

**Current Select Committee work programme**

5. (1) In June 2016 the Scrutiny Committee agreed its Select Committee work programme. Currently, the Select Committee on Bus Transport and its public subsidy is in its final stages. This Select Committee will present its report to County Council in March 2017.

**RECOMMENDATION**

6. The County Council is asked to note the report, celebrate the impact and added value that the outcomes of the Select Committee reports provide for Kent residents and agree that further monitoring of the recommendations from these Select Committees be carried out either on a six monthly or annual basis, as considered appropriate by the County Council.

**Report Author:**
Joel Cook / Anna Taylor
Scrutiny Research Officer
Joel.cook@kent.gov.uk

**Relevant Director:**
Ben Watts
General Counsel
Ben.watts@kent.gov.uk

**Appendices:**

Appendix 1 – Kent's European Relationship Select Committee progress report
Appendix 2 – Commissioning Select Committee progress report
Appendix 3 – Corporate Parenting Select Committee progress report
Appendix 4 – Implementation Plan following Energy Security Select Committee
Appendix 5 – Response to the Select Committee on Grammar Schools and Social Mobility three month update.

**Background Documents**

KCC Select Committee reports