

## EAST KENT (JOINT ARRANGEMENTS) COMMITTEE

19 May 2010

- Subject:** **Appointment of Host Authority, Delegation of Powers for the Proposed Thanet, Dover and Canterbury Shared Services and Location of Staff**
- Director/Head of Service:** Head of Legal and Democratic Services (Canterbury)
- Decision Issues:** These matters are within the authority of the Committee
- Decision type:** Not applicable
- Classification:** This report is open to the public.
- Summary:** *This report concerns the delegation of powers to an officer of Thanet District Council, which council it is recommended acts as the host authority for the wider shared services project between Thanet and Dover District Councils and Canterbury City Council. It makes a distinction between the employment and location of this officer and his or her team and suggest that they be located in Canterbury.*
- To Recommend:**
- 1. That Thanet District Council as the host employer of the director of Shared Services be approved.**
  - 2. That the Director of Shared Services when employed by Thanet District Council be delegated the powers of the Committee as set out in schedule 2 attached to this report.**
  - 3. That the Director of Shared Services and associated staff be located at Canterbury City Council offices.**
- Next stage in process** The Director of Shared Services will begin work on developing the service business cases with the team which is presently being gathered together.

### SUPPORTING INFORMATION

#### 1. Background

As Members will recall, the potential for different types of organisation by which shared services could be provided have been examined. Each have advantages and disadvantages but two particular models have been favoured. The first is the creation of a company owned by the local authorities and performing services on their behalf. The second is the local government model of the delegation by this

Committee of certain of its functions to an officer, who then develops or controls a joint service on its behalf and under its direction.

Following the uncertainty generated by a recent court case involving London Authorities Mutual Limited (commonly called “the LAML case”) and the doubt that the wellbeing powers could be used to create such a company, the second alternative has been explored. As a result a proposal for sharing services based on it has been put to the East Kent Authorities.

Following the approval by the councils of Thanet and Dover Districts and Canterbury City of the strategic case for the wider shared services project, work is now beginning on developing the shared services described as tranche 1 in the strategic case. The first appointment that needs to be made is of the Director of Shared Services and then the small team who will surround him or her, including the transformation managers, who will be leading on developing the separate shared services. Following a selection and interview process the Director designate is in place. It is Mrs Donna Reed, presently Director of Customer Services and Business Transformation at Thanet District Council. Her appointment is subject to her formal appointment by Thanet District Council and to her being delegated the necessary powers to act by this committee.

## 2. **Detail**

The East Kent (Joint Arrangements) Committee operating arrangements provide as follows:

10.1 The EKJAC may arrange for the discharge of any of its functions by a sub-committee of the EKJAC or an officer of one of the parties. Any such sub-committee may, subject to the terms of these arrangements, and unless the EKJAC or any voting Member directs otherwise, arrange for the discharge of any of its functions by such an officer.

The EKJAC is not itself a legal entity and therefore what is described as a host authority must employ the relevant officers. It will be noted that the host authority has very little, if any control in the direction of these officers in relation to shared services. They come under the direction of the EKJAC and are answerable to it. In practice the East Kent Chief Executives Forum will carry out this role on a regular basis. The host authority is responsible for payment of salaries and to provide general line management of the Director, but they cannot instruct the Director in terms of his or her work being carried out under the EKJAC. However in respect of certain administrative matters, Thanet’s constitutional arrangements will need to be followed by the Director.

The project group of officers acting on the wider shared services project have developed some criteria to identify the host and carried out an analysis against them as a basis for the EKJAC’s decision to whom it should delegate its powers and for whom the Director of Shared Services should work. Those criteria and the scores given by the project group appear at Schedule 1. It must be said that there is a substantial subjective element in the selection. All of the parties are capable of being the host but despite the clear limitations on the powers and responsibilities associated with it, it may be perceived as a role carrying some significance.

On the indicative assessment by the project group, it appears that Thanet narrowly can best perform the role of host, and therefore Thanet will provide the Director and make him or her available to the EKJAC. However, the assessment also indicates

that Canterbury City Council is best placed to provide the resources for support roles and (although this is not one of the criteria) is, for the time being, the administrative host authority for the EKJAC arrangements. Therefore, it is suggested that Canterbury provides the location for the Director of Shared Services and her staff.

It is to be noted as a general point with shared services that location of staff does not follow the host authority.

As the wider shared services project develops, these matters will be kept under review. This is particularly the case if, sometime after May 2011, as mentioned in the strategic case, other organisational vehicles for delivering shared services are re-examined.

In Schedule 2 to the report is a scheme of delegation to the Director of Shared Services, which contemplates the Director in turn, may delegate those powers down to her staff. It is inevitable that this scheme will be revised from time to time but is intended to form the basis upon which the Director can start work to develop the individual service business cases. The team will be peripatetic and will need space to work within each authority as well as the base in Canterbury.

**3. Relevant Committee and Council Policy Documents**

The strategic business case and relevant minutes from the three councils.

**4. Consultation planned or undertaken**

None in relation to this matter.

**5. Options available with reasons for suitability**

Members can decline to make these decisions but in doing so will require the participating councils to reconsider their approach to joint working.

**6. Reasons for supporting option recommended, with risk assessment**

This report follows logically from the approval by the participating councils of the Strategic Business case. The Director is a key appointment and she needs the necessary powers to act.

**7. Implications**

(a) Financial Implications

The participating councils are making funding available for the Director and team.

(b) Legal Implications

Both Executive and non-Executive functions have been delegated to the EKJAC and the EKJAC is making a further delegation as it is permitted to do. The Executive of each council still carries responsibility for the Executive functions carried out on its behalf.

## **8. Conclusions**

The indicative assessment shows that Thanet District Council is likely to be preferred as the host authority, whilst Canterbury should be the actual location for staff. The delegated powers recommended to be delegated to the Director once formally appointed should be sufficient to develop the wider shared service organisation up to the point that two more of the parties agree the business cases and the authorities concerned pass the necessary delegations to the EKJAC.

## **9. Background Papers**

None

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## Schedule 1

### Application of hosting criteria based on an indicative assessment by the Project Group

Criteria	Canterbury	Dover	Thanet	Score	Comment
1. Embedded and robust current job evaluation scheme	1	2	3		Both Thanet and Dover have current schemes. Thanet's is the most established
2. Capacity of each council to accommodate staffing numbers associated with the DSS team	2	2	2		At the moment all three sites are more or less the same
3. Resource levels available at each council for relevant services needed to support the host role (legal, finance, ICT, policy, comms)	3	1	2		Canterbury employs more staff in the relevant areas than either Dover or Thanet
4. Ease for staff to access each of the three main council sites with reference to:					
a) average levels of traffic congestion	1	3	2		Given Dover's geographical position, it is the easiest site to access by car
b) public transport links	3	1	2		Canterbury is the public transport hub for East Kent
c) staff and visitor car parking capacity	3	3	3		There is adequate capacity at all three sites
<b>Score</b>	<b>13</b>	<b>12</b>	<b>14</b>		

Key:

3	Strongly able to fulfil the hosting role based on this criteria
2	Moderately able to fulfil the hosting role based on this criteria
1	Potential to fulfil hosting role, but not sufficiently highly developed at this time

\* It should be noted that Dover already host the East Kent Audit Service and the East Kent Payroll and HR Service

## **The East Kent Joint Arrangements Committee Scheme of delegation of functions to officers**

### **Introduction**

This scheme has been adopted by the East Kent Joint Arrangements Committee and is the list of delegations to officers under section 101 of the Local Government Act 1972 (as amended), section 20 of the Local Government Act 2000 Regulation 11(4) of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 and all other powers enabling delegations to officers. It is adopted with the intention of giving a clear transparent and accountable decision-making process.

“The arrangements” means the operating arrangements, Terms of Reference, Committee Procedure Rules and any other minutes or documents for the time being in force by which the East Kent Joint Arrangements Committee and the East Kent Joint Scrutiny Committee are constituted and their powers defined.

“The Committee” means the East Kent (Joint Arrangements) Committee.

“The council” means Thanet District Council as host authority by whom the officers will be employed.

“The Department” means the East Kent Shared Services department under the Directorship of the Director of Shared Services.

“The Director of Shared Services” means the chief officer appointed by the council and primarily responsible for the development and delivery of such shared services as the parties decide.

“The Parties” means as the context requires any two, three or all of Canterbury City Council, Dover District Council, the District Council of Shepway and Thanet District Council.

1. Officers may only exercise the delegated powers in this scheme in accordance with
  - 1.1 Statutory or other legal requirements, including the principles of public law, the Human Rights Act 1998 (as amended), statutory guidance and statutory codes of practice.
  - 1.2 The Constitution of the council where relevant including standing orders, contract standing orders and financial regulations.
  - 1.3 The revenue and capital budgets of the Committee, subject to any variation thereof which is permitted by the council’s Financial Regulations.
  - 1.4 Consideration of any relevant policy adopted by the Committee.
2. Officers may not exercise delegated powers where –
  - 2.1 The matter is reserved to the Committee by the arrangements.
  - 2.2 The matter is a function which cannot by law be discharged by an officer.

2.3 The Committee or a sub-committee has determined that the matter should be discharged otherwise than by an officer.

Where an officer has delegated powers the committee or a sub-committee (as appropriate) can still exercise that power if it considers it is appropriate to do so.

3. Officers may not exercise delegated powers in a way which is contrary to the policies and plans approved by or on behalf of the Committee.
4. If for any reason it is not practical to consult a person required to be consulted in the exercise of a delegation then the person with the delegated powers must consult someone else they reasonably consider to be an appropriate substitute consultee.
5. Delegations to the Director of shared services or other identified officers may be exercised by other officers whom they authorise to act on their behalf; provided that the delegation is recorded in writing.
6. The delegated powers held by an officer may be exercised by the line manager of that officer (or by the line manager's line manager) if:
  - That post is vacant.
  - The post holder is not at work for any reason.
  - The decision is urgent and the reasons are recorded in writing.
7. The delegations in this Scheme of Delegation include the discharge of both executive and non-executive functions.
8. Any reference in this Scheme of Delegation to any enactment shall include a reference to any amendment to or re-enactment of the same.
9. Where an officer has delegated authority to discharge functions
  - by virtue of any other decision by the parties or
  - through a specific decision the committee, or a sub-committee, either before or after the adoption of this Scheme,

the absence of the delegation from this Scheme shall not prevent the exercise of the delegation.

## **Powers delegated to the Director of Shared Services**

### **Business cases and delivery of services**

1. To develop shared service business cases work programmes and projects in relation to the functions which all or not less than two of any of the parties are minded to delegate to the EKJAC.
2. With the assistance if necessary of the appropriate Chief Executive of any of the parties to obtain from his or her council any information required in preparing a shared service business case.
3. Once two or more of the parties have resolved a service is to be shared to implement the business case and deliver the service as defined therein. [E/C]

4. To take any action which is required as a matter of urgency in the interests of the committee, in consultation with the Chair, if time permits. [E/C]
5. To manage the Department. [E/C]

### **Financial**

6. Acceptance of the lowest tender or bid for the carrying out of works for the committee, the purchase, leasing or hiring of goods, materials and equipment by the committee, or the supply of services to the committee, provided that budget provision is available. [E]
7. Entry into contract documentation following tender/bid acceptance (subject to the provisions of Financial Regulations and Contract Standing Orders of the council relating to the execution of contracts under seal). [E/C]
8. Authority to negotiate and agree price increases where a contract provides for price increases to be negotiated and agreed by the parties, subject to Contract Standing Orders of the council and ensuring sufficient budgetary provision exists. [E/C]
9. The assignment or novation of a contract. [E/C]
10. The approval of the appointment of or the acceptance of the tender of a sub-contractor or supplier for specialist work or material provided that this does not result in the budget provision for the works as a whole being exceeded. [E/C]
11. Virement between heads of expenditure of up to the limit specified in the council's Financial Regulations for a Director provided that such virement is in accordance with the conditions for virements in such Financial Regulations. [E/C]
12. Provision of reasonable hospitality to representatives of other authorities, visiting a department or premises under the Director's control subject to agreement by the Chief Executives of each of the parties for expenditure in excess of £500. [E]
13. To negotiate and agree variations in contracts arising out of statutory requirements subject to adequate budgetary provision being available. [E/C]

### **Human resources**

14. To appoint all staff subject to the council's recruitment procedures. [E/C]
15. Dealing with all staffing matters which can be contained within budget. [C]
16. Granting acceleration of increments for any staff within their substantive grade for merit and ability. [C]
17. Determination of requests or recommendations for honoraria, gratuities and responsibility allowances. [C]
18. The determination of applications for paid and unpaid leave:
  - 18.1 for trade union training with special regard to the council's policies on equalities and to courses directed towards equalities issues;

- 18.2 for health and safety training;
- 18.3 for paid leave for an employee to discharge her/his duties of the office of President of a Trade Union;
- 18.4 for an employee to attend meetings etc with pay as a member of another local authority, or similar public body on condition that the employee only receives the difference between pay and any amount receivable under local government regulations etc. This does not include an employee attending such a body in her/his official capacity which would be as part of their official duties;
- 18.5 for personal or domestic reasons in accordance with conditions of service;
- 18.6 for maternity, parental and dependant's support leave;
- 18.7 for compassionate leave where there are urgent personal or domestic reasons for needing additional paid leave in accordance with conditions of service. [C]
19. Determination of extensions of sickness allowance in consultation with the Head of East Kent Shared Human Resources Service. [C]
20. Determination of requests for extensions of service except that of first and second tier officers. [C]
21. Determination of casual or essential car users allowance or leased car or cash in lieu to officers subject to compliance with the provisions agreed by the council. [C]
22. Determination of planned overtime for officers above Scale 6. [C]
23. Determination of claims for payment of subsistence allowances on the basis that only claims in respect of expenditure incurred within six months of the date of the application will be met. [C]
24. Determination of proposals to attend service training courses. [C]
25. Determination of staff grievances and referral to the Chief Executives of the parties where resolution is not possible at departmental level. [C]
26. Discipline, suspension and/or dismissal of employees up to third tier level. [C]
27. Authority to assimilate staff on appointment, promotion or regrading where appropriate within the approved grade having regard to all the circumstances. [C]
28. Compliance with the provisions of the Health and Safety Policy of the council. [C/E]
29. To work out appropriate managerial and operational consequences and to refine as necessary the structure of the Department in order to deliver the aims, objectives and changing priorities of the Committee. [C/E]

30. To deal with redundancies and approve applications from employees for early retirement (including ill health retirements) in accordance with council policies and following referral to the council's doctor as necessary and reporting all approvals to the Committee. (C)
31. To be the Proper Officer responsible for the list of politically restricted posts within the Department. [C]

### **General**

32. Where the Director considers that legal proceedings are needed in connection with the effective management of any service for which he or she is responsible they may, subject to consultation with the chief legal officer of the council instruct that officer to take those proceedings subject to reporting the outcome to the next committee meeting as appropriate. [C/E]
33. To take any action which the committee has the power to take in order to manage any of their service areas.
34. To publicise the services they provide. [E/C]
35. To deal with issues relating to the Commission for Local Administration relevant to the Committee.