

Subject: **East Kent Shared Services – delegation of functions to the Director of Shared Services**

Director/Head of Service: Report of the Head of Legal and Democratic Services (Canterbury)

Decision Issues: These matters are within the authority of the Committee

Decision type: Non-key

Classification: This report is open to the public.

Summary: *To request the Committee to formally approve arrangements for the discharge of executive functions associated with ICT, face to face and contact centre Customer Services and Revenues and Benefits by the Director of Shared Services.*

To resolve:

(1) That, following the decisions of Canterbury City Council, Dover District Council and Thanet District Council to delegate the powers and functions as follows pursuant to the powers contained in, or having effect under the Local Government Acts of 1972 and 2000 and that with effect from 1 February 2010, the executive powers and functions of the Councils set out in the Schedule 1 to this report be discharged by the Director of Shared Services employed by Thanet District Council.

(2) That the powers and functions hereby delegated to the Director of Shared Services be incorporated into the existing scheme of delegation of functions to officers approved by the Committee on 19 May 2010

Next stage in process

The Director of Shared Services may exercise these powers or they may be exercised by other officers whom the Director authorises to Act on her behalf provided that the delegation is recorded in writing

SUPPORTING INFORMATION

1. Introduction

The purpose of this report is to request the Committee to formally approve arrangements for the discharge of executive functions associated with three shared services by The Director of Shared Services.

2. In the early part of 2010 the Executives and councils of Canterbury City, and Dover and Thanet Districts approved the strategic business case for sharing services in East Kent. The Services were generally described as ICT, face to face and contact centre customer services, revenues and benefits, residual housing services and business control.

3. Those executive and council decisions established a process through delegation to each Chief Executive in consultation with his Leader the power to approve a business case in relation to each of those services based on certain criteria set out in the reports considered at that time.

4. Provision was made that if the Chief Executives were so satisfied then a delegation of the powers and duties comprised in the services would thereupon occur, such delegation to take effect on 1 April 2011 or such other dates or dates as the Chief Executives of the East Kent Authorities who had made similar delegations should mutually agree in respect of any particular services.

5. Business cases have been prepared and approved by or on behalf of Canterbury City Council, Dover District Council and Thanet District Council in respect of the following services:

- ICT
- Face to face and contact centre customer services
- Revenues and benefits

6. Information to be considered in taking the decision

Following approval of the Business Cases arrangements have been developed for the new shared service to operate with effect from 1 February 2011. It should be noted that the arrangements for the delivery of the shared services are not contractual but are administrative being entered into pursuant to specific statutory powers contained in, or having effect under, the Local Government Acts of 1972 and 2000. These provisions enable local authorities to jointly discharge their functions (both executive and non executive) through a joint committee. It should however be noted that the fact that such arrangements have been entered into does not divest the local authority or the local authority executive (as the case may be) of their primary

responsibility for discharging the functions in question. Neither, as a matter of law, does not fact that arrangements have been entered into preclude the local authority or the executive from discharging the functions themselves.

7. The term 'EK Services' has been used in various reports and business cases to describe the delivery model explained in paragraph 6 above. EK Services is not a separate legal body but rather, an administrative arrangement which seeks to style itself in the form of a 'brand'.
8. Notwithstanding the decisions taken by each Council earlier in the year, legal advice is that for the avoidance of doubt specific decisions should be taken by the Executives of each Council to delegate functions associated with these three services to the East Kent Joint Arrangements Committee. This has now been done by all Councils. This Committee now needs to authorise an officer of Thanet District Council (who are hosting the Joint Services) to discharge those functions. This officer has been identified as The Director of Shared Services. The Regulatory framework only permits a joint committee exercising functions to delegate to an officer of one of the parties and not to one of the parties themselves.
9. A collaboration agreement regulating the arrangements between the Councils is in the course of development and notwithstanding the complexity of the arrangements it will be in place prior to the shared service commencing on 1 February although these delegations having been made will be effective from 1 February in any event.
10. On 19 May 2010 the Committee approved a Scheme of Delegation of Functions to Officers. This is appended at Schedule 2. The delegations recommended to be made in this report will be incorporated into the existing Scheme.

11. **Options available with assessment of preferred option**

Whilst it is possible to develop a range of delivery models for the sharing of services, by approval of the strategic business case the Councils committed themselves to a model requiring the discharge of functions through the East Kent Joint Arrangements Committee and, in turn, through the Director of Shared Services. If this model is to be implemented the logic is that the Committee should proceed to make the decisions requested. If members wish to reconsider then they should not make the decisions requested.

12. **Implications**

- (a) Financial Implications
None arising from this decision
- (b) Legal Implications
See the report

13. **Conclusions**

This is a formal but important step in the creation of shared services. It is intended to ensure the shared services have the process they need via the East Kent Joint Arrangements Committee to work effectively from the outset.

Contact Officer: Mark Ellender Telephone: 01227 862 011

Filename:

Version: 2

Date: 04.01.11

Time: 12.24pm

Schedule 1

East Kent Shared Services

Delegation of Functions associated with the provision of ICT Services, face to face and contact centre customer services and revenues and benefits administration to The Director of Shared Services (Thanet District Council)

PART 1

General

1. The functions delegated in Part 2 of this Schedule are associated with the following services which are to be delivered by Canterbury City Council, Canterbury City Council and Thanet District Council through the East Kent Joint Arrangement Committee:
 - ICT
 - face to face and contact centre customer services
 - revenues and benefits
2. It is contemplated that the East Kent Joint Arrangements Committee will in turn delegate the discharge of these functions to the Director of Shared Services or other of her officers in accordance with the East Kent Joint Arrangements Committee Scheme of Delegation already approved by it on 19 May 2010
3. References to a 'Part' are reference to a Part of this Schedule

Part 2

Delegation of Functions

4. The East Kent Joint Arrangements Committee hereby delegates the discharge of the functions set out in this Part to the Director of Shared Services (Thanet District Council) pursuant to all powers contained in or having effect under the Local Government Acts of 1972 and 2000.
5. The exercise of the powers and functions set out in this Part shall without prejudice to any specific delegation or authorisation set out, and subject to any express conditions/exclusions/limitations/notes specified, be taken to include power to do anything incidental or conducive to the discharge of such functions including (by way of example and not by way of limitation) power to do any of the following:
 - (a) To appoint or designate any officer as an 'authorised officer', 'inspector', 'person duly authorised' or similar under any of the

legislation or functions specified for the purposes of enabling any such person to carry such legislation or functions into effect.

- (b) To authorise any officer for the purposes of any of the above mentioned legislation or functions.
 - (c) To exercise any power or function conferred by or in connection with the specified legislation or functions to:
 - (i) require any person to provide any information;
 - (ii) enter or inspect any land, premises, vehicle or vessel;
 - (iii) take samples of, seize, test, dispose of, destroy, or otherwise deal with and thing or substance in accordance with the applicable legislation;
 - (iv) make application for any warrant or order to a court of summary jurisdiction and to execute any such warrant or order taking with him or her any other person as may be authorised;
 - (v) to make or swear any information;
 - (vi) institute or defend any legal proceedings, and to take all proper steps in the furtherance or compromise of such proceedings (in each case) in consultation with the Solicitor to the relevant Council which may be undertaken in relation to specific cases or in relation to categories of work;
 - (vii) execute work;
 - (viii) sell or dispose of any goods, articles, samples materials or other property (other than land and buildings);
 - (ix) recover any sums of money due to the relevant Council;
 - (x) authorise any other person to do any of the things mentioned in (i) to (vii) above to the extent permitted by law.
6. The Director of Shared Services is hereby authorised to discharge on behalf of the East Kent Joint Arrangements Committee the function of preparing and approving, amending or repealing, any policy, statement, practice note, code of guidance, procedure or similar in connection with the functions hereby delegated and:
- (a) Until such time as they have done so any reference in this Part to any policy, procedure, process or similar administrative statement of practice 'of the council' shall be interpreted as a reference to the relevant policy, procedure process of similar

administrative statement of the relevant Council in force on 31 January 2011.

- (b) After they have done so, any reference in this Part to any policy, procedure, process or similar administrative statement of practice 'of the council' shall be interpreted as a reference to the relevant policy, procedure process of similar administrative statement as approved by the East Kent Joint Arrangements Committee (or the relevant Council) after 1 February 2011

7. Any reference to any Act, Rule, Order or Regulation shall be taken as including a reference to that Act, Rule, Order or Regulation as re enacted replaced or modified from time to time.
8. References to any statutory provision shall include a reference to any subordinate or secondary legislation made under or taking effect under it from time to time

Column 1 Legislation/ Function	Column 2 Brief Description	Column 3 Conditions/Exclusions Limitations/Notes
1. Council Tax	<p>In connection with the administration of the council tax:</p> <p>(a) to determine occupation, to send invoices, grant reliefs, issue penalties, collect income and take all recovery and other administrative steps necessary to collect the council tax in accordance with any statute or statutory regulations and make determinations and exercise discretions as appropriate, except for matters specifically reserved to the relevant Council;</p> <p>(b) to grant council tax benefit in accordance with any statute or statutory regulations and make determinations and exercise discretion as appropriate, except for matters specifically reserved to the relevant Council;</p> <p>(c) to represent the Billing Authority in any proceedings before the Valuation Tribunal, the Council Tax Benefit and Housing Benefit Appeals Service, and in any</p>	

Column 1 Legislation/ Function	Column 2 Brief Description	Column 3 Conditions/Exclusions Limitations/Notes
	<p>proceedings relating to the recovery and enforcement of council tax and penalties before the Magistrates and County Court,;</p> <p>(d) to undertake interviews under caution, to issue cautions, administrative penalties and authorise prosecutions in accordance with legislation, and the relevant Council's prosecution policy and statement on fraud;</p> <p>(e) to administer discretionary housing payments in accordance with legislation and the relevant Council's policy;</p> <p>(f) to complete statutory returns in respect of council tax and council tax benefits and discretionary housing payments;</p> <p>(g) to serve or withdraw completion notices under Schedule 4a of the Local Government Finance Act 1988 as amended;</p> <p>(h) to determine liable persons, exemptions, discounts, transitional relief schemes, calculate instalments, appoint bailiffs, debt collection agents and process servers, request a statement of case for the opinion of the High Court, attach earnings and income support, impose a charge upon property, commence bankruptcy proceedings, attach allowances, levy distress, impose charges for levying distress, seek insolvency of the debtor or commitment to prison, to request and execute warrants of arrest and exercise any other administrative step for the collection</p>	<p>Statutory returns must be authorised by the Section 151 Officer of the relevant Council</p>

Column 1 Legislation/ Function	Column 2 Brief Description	Column 3 Conditions/Exclusions Limitations/Notes
	<p>of council tax;</p> <p>(i) to represent the relevant Council in the determination of proposals, alterations and appeals for council tax where appropriate;</p> <p>(j) to represent the Billing Authority in requests for administration orders under the County Courts Acts in respect of unpaid council tax;</p> <p>(k) to be responsible for the prevention, detection and prosecution of council tax fraud.</p>	
<p>2.</p> <p>Administration of the Housing Benefit Scheme</p>	<p>In connection with the administration of the Housing Benefit Scheme:</p> <p>(a) to be responsible for promoting take up of Housing and Council Tax Benefit take up schemes;</p> <p>(b) to grant Housing Benefit (rent allowances and rent rebates) in accordance with any statute or statutory regulations and make determinations and exercise discretion as appropriate, except for matters specifically reserved for the relevant Council and Committees/Executive;</p> <p>(c) to determine and recover overpayments of Housing Benefit including making decisions on the method of recovery;</p> <p>(d) to make determinations and payments in accordance with the relevant Council's Discretionary Housing Payments policy;</p> <p>(e) to undertake interviews under caution, to issue cautions, administrative penalties and authorise prosecutions in</p>	

Column 1 Legislation/ Function	Column 2 Brief Description	Column 3 Conditions/Exclusions Limitations/Notes
	<p>accordance with legislation, and the relevant Council's prosecution policy in respect of Housing Benefits</p> <p>(f) to complete statutory subsidy calculations and returns , and all other statistical returns;</p> <p>(g) to undertake all other administrative processes in connection with the Housing Benefit scheme.</p>	<p>Statutory subsidy calculations and returns must be authorised by the Section 151 Officer of the relevant Council</p>
<p>3. National Non-Domestic Rate</p>	<p>In connection with the administration of the national non domestic rate:</p> <p>(a) to determine occupation, to send invoices, grant reliefs, collect income and take all recovery and other administrative steps necessary to collect the national non domestic rate in accordance with any statute or statutory regulations and make determinations and exercise discretions as appropriate, except for matters specifically reserved to the relevant Council;</p> <p>(b) to represent the Billing Authority in any proceedings before the Valuation Tribunal, and in any proceedings relating to the recovery and enforcement of national non domestic rate before the Magistrates and County Court.;</p> <p>(c) to complete statutory returns in respect of national non domestic rate;</p> <p>(d) to serve or withdraw completion notices under Schedule 4a of the Local Government Finance Act 1988 as amended;</p>	<p>This includes and recovering money from Business Improvement Districts.</p> <p>Statutory returns must be approved by the Section 151 Officer of the relevant Council</p>

Column 1 Legislation/ Function	Column 2 Brief Description	Column 3 Conditions/Exclusions Limitations/Notes
	<p>(e) to determine liable persons, exemptions, transitional relief schemes, calculate instalments, appoint bailiffs, request a statement of case for the opinion of the High Court, impose a charge upon property, levy distress, impose charges for levying distress, seek insolvency of the debtor or commitment to prison or liquidation of companies, to request and execute warrants of arrest and exercise any other administrative step for the collection of national non domestic rate;</p> <p>(f) to represent the relevant Council in the determination of proposals, alterations and appeals for national non domestic rate where appropriate;</p> <p>(g) to represent the Billing Authority in requests for administration orders under the County Courts Acts in respect of unpaid national non domestic rate;</p> <p>(h) to calculate and pay interest on overpayments of national non domestic rate in accordance with the NDR (Payment of Interest) Regulations 1990;</p> <p>(i) to determine applications under Section 44A of the Local Government Finance Act 1988;</p> <p>(j) to be responsible for the prevention, detection and prosecution of national non domestic rate fraud.</p>	
4. ICT	<p>To provide ICT technical support services to the councils including:</p> <p>network infrastructure both LAN and WAN solutions, hardware infrastructure,</p>	

Column 1 Legislation/ Function	Column 2 Brief Description	Column 3 Conditions/Exclusions Limitations/Notes
	<p>internet access and web infrastructure solutions.</p> <p>To provide technical and business advice on ICT solutions and use of technology.</p> <p>To provide ICT business support services to the councils including:</p> <p>service application system support services including third party supplier liaison, management of corporate data bases, including GIS, quality assurance of data and integration with other business systems.</p> <p>To provide associated procurement administration including all quotations, ordering, invoicing and contract management.</p>	<p>Note: The nature and extent of the activities to be undertaken in connection with the discharge of these functions will be as detailed from time to time in a Service Level Agreement</p>
<p>5. Customer Services</p>	<p>To provide 'front of house' contact with the public wishing to make enquiries of the councils or to access services in relation to any of its functions whether that contact is made in person, by telephone, by mail or e-mail or the websites of any of the councils, including but not limited to</p> <p>(i) issuing application forms for access to services.</p> <p>(ii) receiving payments due to the councils and issuing receipts</p> <p>(iii) providing facilities for the public inspection of documents and the taking of copies thereof</p> <p>(iv) responding to 'low level' customer complaints</p> <p>(v) selling or distributing or issuing any item or thing arising out of the</p>	<p>Note:</p> <p>The activities identified in this paragraph 5 are intended to be either incidental or conducive to the discharge of the functions set out in paragraphs 1 to 4 above or intended to be either incidental or conducive to the discharge of all of the other functions of the councils.</p> <p>Limitation:</p> <p>Except as is expressly provided in paragraphs 1 to 4, paragraph 5 does not operate as to confer any power to exercise any substantive functions</p>

Column 1 Legislation/ Function	Column 2 Brief Description	Column 3 Conditions/Exclusions Limitations/Notes
	<p style="text-align: center;">conduct of any undertaking or function of the councils</p> <p>Such other activities in connection with the offering of services to the public as may be detailed from time to time in the Service Level Agreements.</p>	<p style="text-align: center;">of the councils</p>

Schedule 2

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 of their 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 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 services is to be shared to implement the business case and deliver the service as defined therein. [E/C]
4. To take 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 specialised 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 of 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

that 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 to the Committee.

W90RPEKSSDELEGATIONTOEKJAC.DOCX