

By: Paul Carter, Leader

To: Extraordinary County Council Meeting – 23<sup>rd</sup> January 2007

Subject: **LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH BILL**

Classification: Unrestricted

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Summary: Since the publication of the Local Government White Paper, Kent Leaders have worked in a spirit of openness, honesty and trust to develop radical proposals for Enhanced Two Tier working in the County. Council Leaders have agreed to publish a “Kent Commitment” on 25 January to demonstrate their approach to improving services, efficiency and responsiveness for the benefit of the people of Kent. This statement will be submitted to the Department for Communities and Local Government.

The County Council is asked to debate the fundamental challenges and considerable opportunities to public services and local governance in Kent presented by the White Paper and to delegate to the Leader of the Council the authority to sign a “Kent Commitment” which best reflects the interests of the people of Kent.

## **FOR DECISION**

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### **1. Context**

- 1.1 This paper is presented to the Council to update Members on the development of a Kent Commitment to Enhanced Two Tier working. It begins by highlighting the more relevant points for the County Council of the White Paper and subsequent Bill and then detailing the approach of the Kent Leaders and progress towards an agreed “Kent Commitment”.

- 1.2 Across the family of Local Government services in Kent, the interests of our customers and residents will continue to drive all that we do. Our services have undergone massive transformation in recent years reflecting our drive to embrace new technologies and techniques that offer the very best services to the people of Kent.
- 1.3 Kent already has some excellent public services. Kent County Council is a 4 star authority; 6 Districts are rated Excellent or Good with Tonbridge & Malling rated the top nationally; the Kent Fire and Rescue Service is formally acknowledged as the best in the Country; and the impressive strategic and local performance of Kent Police secured its future as a stand-alone force. It is essential that Enhanced Two Tier working builds upon this firm foundation and draws upon continuing efforts to improve services and responsiveness to Kent people progressively across the whole spectrum of the public service.
- 1.4 KCC has maintained high performing services, while making significant efficiency savings and achieving higher levels of public satisfaction. The majority of KCC's £1.5billion of public service expenditure is targeted at personal services such as social care, giving people choice and support to lead independent lives. This is delivered through a mature and mixed economy of providers, with the scale of provision already placed with the private and voluntary sectors totalling some £850m. On any one day, personalised services are being delivered to hundreds of thousands of people across the county.
- 1.5 The LGA's report on Devolution 'Closer to People and Places' has a consistent theme about the central control exerted over public services and Local Government and strongly demands enhanced local accountability through local councils.

*"Many public services are delivered not by Local Government, but locally by national agencies. It is therefore the ability to join services locally across the whole of the public sector that can produce a step change in redesigning services for and with the user.*

*Perhaps the greatest potential for public service improvement comes from this ability of local councils to lead and work with those who head up public services within their area to co-ordinate and join government locally.*

*In England, with the exception of London, comparable powers are held centrally or fragmented among a set of non-elected bodies which includes regional development agencies, regional housing and planning boards, learning and skills councils, all of whom are discharging the Secretaries of State's powers i.e. central rather than local powers."*

- 1.6 Set against this background, Kent Leaders and Chief Executives have considered the challenges of the Local Government White Paper and Bill and the opportunity to further improve the efficiency of all public services in Kent totalling some £8billion, and their responsiveness for the benefit of the people of Kent.

## **2. Introduction to the Local Government Bill**

- 2.1 This Council paper begins by outlining the major changes proposed in the Local Government Bill and White Paper and the implications for Kent.
- 2.2 Government published the Local Government White Paper in October 2006 and the subsequent Local Government and Public Health Bill on 13 December. The critical points for the County Council are listed below. Those areas of change heralded in the White Paper, but not requiring legislative change, will be subject to an 'Implementation Plan' due to be published sometime in January.
- 2.3 The White Paper and subsequent Bill quite rightly do not impose unwelcome and unnecessary structural change on Local Government. That said, the Bill contains provisions for the Secretary of State to have reserve powers to both invite and direct Principal Authorities in two tier areas to make proposals for a single tier of Local Government in the area.
- 2.4 The overall future and functioning of local government will also be fundamentally shaped by the Comprehensive Spending Review (CSR07) and to a lesser extent the outcome of the Lyons Inquiry into the function and financing of Local Government. Neither of these two pieces of work has yet been published.

### **Structural Change**

- 2.5 In the White Paper the Government invited proposals for either unitary Government or so called pathfinder two-tier bids from Local Authorities. Key elements of each are set out below:-

#### **Unitary Status**

All councils (except London Boroughs and Metropolitan Districts) are invited to submit proposals to create unitary councils by 25 January 2007. Proposals must:

- command a broad cross-section of support
- enhance strategic leadership, neighbourhood empowerment, value for money and equity;
- meet the costs of change from councils' existing resources.

## **Enhancing two-tier working**

Councils in shire areas are invited to submit proposals to become pathfinders for enhanced two-tier working by 25 January 2007. Proposals must:

- be submitted jointly by all the districts and the county council
- demonstrate enhanced leadership, efficiency and outcomes equivalent to a unitary council
- commit to explore how to remove barriers to innovative and more effective governance.

Pathfinders will be subject to long term evaluation with reports after 2, 4 and 6 years to inform future government policy.

- 2.6 The White Paper supports the extension of the Parish level of governance with an extension of the power of well-being to all Parish and Town Councils capable of meeting the criteria of the Quality Parish Scheme. The White Paper also makes provision for district and unitary councils to create parish councils in areas where they do not exist at present. It also suggests the development of local charters for neighbourhoods. These are voluntary agreements between a Local Authority and a local community providing details of service, standards, targets and priority actions for service providers that the community can expect to receive.
- 2.7 In order to strengthen political leadership, the Bill requires all councils to adopt one of three political management arrangements:
- A directly elected Mayor, appointing a Cabinet
  - A directly elected Executive Group, elected as a slate which specifies who will be the Leader
  - A Leader and Cabinet (as is currently the case for KCC)
- 2.8 Under this new framework all executive powers will be invested in a Leader (or Mayor) who serves a 4 year term. Council Leaders will also have power of appointment over the Chairman of the Local Strategic Partnership.

## **Customer Engagement**

- 2.9 The White Paper is explicit on the need to give local people a greater say over local public services. Local Authorities will have a revised Best Value duty to ensure participation as part of the four steps of inform, consult,

involve and devolve - all underpinned by the requirement for authorities to provide citizens and service users with prompt information on the quality and performance of services. The new Comprehensive Area Assessment (the future replacement of the existing Comprehensive Performance Assessment) will place far greater emphasis on customer insight which will include a number of citizen satisfaction and perception measures.

### **Stronger Leadership**

- 2.10 The Bill includes provisions to create stronger and more visible leadership. Councils will be expected to be even more proactive in leading their communities and working to bring all local public services together. Several measures within the White Paper will help Local Authorities to assume the so-called *place shaping* role.

### **Strengthened Role for Elected Members**

- 2.11 Under the new legislation all Members will have a stronger role to play in championing the interests of citizens at a local level. This will include powers to respond to 'Community Calls for Action' on local issues with a new system of 'petitions' being introduced. Local Members will also enjoy greater freedom to speak up on planning and licensing issues affecting their divisions.
- 2.12 The Bill makes provisions for a wider and more enhanced role for scrutiny. Under new 'Scrutiny Plus' arrangements, Councils will be given the power to require evidence from all local public service providers, with a duty for these providers to have regard to any subsequent scrutiny recommendations. This is a significant new power for Members of Kent County Council, as for the first time, many public sector providers at a regional level will also now be accountable to local politicians. All public service providers - apart from the Police and the NHS - will be subject to the new duty. There are already equivalent scrutiny arrangements for the NHS and Police Authorities.
- 2.13 The new duty to co-operate is only broadly defined and how it will work in practice when different public sector agencies have divergent aims will be a good test of partnership working.

## Partnership and Performance

- 2.14 The Bill includes a series of key provisions to strengthen partnership working, and compel local agencies to work in a joined up way to improve services. This includes a new duty for upper tier councils to prepare Local Area Agreements (LAA's) in consultation with other partners, forming part of a new statutory framework and will dramatically increase the amount of pooled money. This will be combined with a statutory "duty to cooperate" placed on a listed range of public sector organisations, thereby increasing the number of partners active in drawing up and delivering the LAA. This strengthens the Local Strategic Partnerships and for KCC this is the Kent Partnership.
- 2.15 The key role for the Kent Partnership is to oversee and drive the delivery of the ***Vision for Kent*** and the Kent Agreement. This means that the next Kent Agreement will be wider in scope and will be placed on a statutory footing for the first time when it comes on stream in April 2008.
- 2.16 Overall the Government's intention is to streamline and simplify funding and consultation and to allow greater local flexibility in the scope and structure of LAA's including the potential to extend the geographic scope of the LAA and apply the principles to sub regional areas through what are being called Multi Area Agreements (MAA's).
- 2.17 One of the key strengths of the current LAA process has been the incentive of financial reward if stretched targets are met. At this moment it is not clear whether Government will take the same approach to the new LAA process.
- 2.18 The new approach to performance assessment (the Comprehensive Area Assessment) was announced in the White Paper and LAAs, based on a limited number of improvement targets, will be central to this new process.
- 2.19 A major feature of the new framework is a reduction in the number of national performance indicators (targets) to approximately 200, although the Bill omits to set an explicit upper limit. The new indicators and targets will be outcome measures reflecting the national priority outcomes set for local authorities following the CSR 07. This new approach is designed to create greater space for local flexibility and responsiveness than under the current system. Government will be reducing the number of targets it sets for Local Government to 35 (chosen from the national set of 200 targets plus 18 targets from the Department for Education and Skills).

## **Public Involvement in Health**

- 2.20 Reflecting increasing concerns over health care services and public health, Central Government is determined that Councils will take a greater share of responsibility for the consultative elements of primary care commissioning. By 31 December 2007 the Patient and Public Involvement Forums and the Commission for Patient and Public Involvement in Health are to be abolished and replaced by Local Involvement Networks (LINKs). The substantive detail about the establishment of LINKs is expected to be published in regulations.
- 2.21 LINKs are to be established by those local authorities with Social Services responsibilities for which funding will be provided. The intention is that the administration of LINKs is to be outsourced. Discussion has already taken place with the two Primary Care Trusts for the administrative County about piloting a model. Colleagues at Dover District Council have indicated a willingness to be a pilot.
- 2.22 The prime function of a LINK is to gather information and make the views of the public known about local health and social care services. Their powers will include making reports and recommendations to health and social care bodies, inspection and assessment rights for certain health and social care premises. LINKs will be able to refer issues to Health Overview and Scrutiny Committees which the Committee will have to respond within a set but as yet undetermined timescale.
- 2.23 A Community Call for Action regarding a health matter can be referred an individual elected Member to the relevant Health and Social Care Overview and Scrutiny Committee.
- 2.24 The Bill strengthens the requirement for NHS bodies to involve and consult the public. This includes a duty on Primary Care Trusts to consult on commissioning decisions. Social care is expected to do the same but this is being promoted through good practice guidance, backed up by performance assessment, rather than imposed through legislation.

## **3. Enhanced Two-Tier Work in Kent**

- 3.1 Debate on the nature of two-tier government sparked by the White Paper can easily obscure the fact that the County and District Councils already work exceptionally well together as a matter of course in delivering services and providing community leadership.

3.2 However, recognising that there was a key opportunity to engineer significant improvements and innovation within the existing structure, Kent Leaders and Chief Executives have been working together formally on the enhanced two-tier agenda over the last year, building on earlier joint working. The Kent Leaders have commissioned detailed work streams to inform their response to the White Paper and to help to develop the detail of how enhanced two tier working can be radically improved and how Local Authorities in Kent can together:

- deliver and procure efficient, integrated and co-ordinated high quality and easy to access public services;
- deliver visible, strong and accountable leadership;
- engage citizens and communities by strengthening local political choices
- deliver substantial savings;

### **Statement of Intent**

3.3 The deadline for the submission of bids for either unitary or pathfinder two-tier bids is 25 January 2007. Although in some ways this is an arbitrary deadline, the Kent Local Authorities decided to submit a 'Statement of Intent' or "Kent Commitment". This will be a partnership statement to Government affirming the key principles and drivers underpinning the approach to further development of two-tier working in Kent. It will be motivational and radical, establishing a clear direction of travel for service innovation and change, delivering enhanced governance and improved value for money for Kent residents.

### **Financial Implications**

3.4 One of the prime drivers for reviewing two-tier Local Government is the necessity to deliver value for money for Kent residents. Unlike the previous Local Government Reorganisation, it is unlikely that Central Government will provide any funding for transitional costs or even help organisations "smooth" costs and savings between years.

3.5 Clearly this debate comes at a time of tightening public spending. CSR07 will see spending considerably tighter than over recent years. According to analysis by the Institute for Fiscal Studies, total public sector spending will rise by 1.9% a year after economy-wide inflation which compares to average growth of 3.3% a year seen over the ten years from 1997/98 to 2006/07. Within this context it is estimated there will be no real term growth available for the majority of spending of Local Government in England.



- 3.6 To provide some context, the latest forecasts of the uplifted Gershon 3% cashable savings could be in the region of £27m to £49m per annum across Kent Local Authorities, depending on how the schools share is dealt with by government. Dealing with this level of challenge will require radical thinking, within constrained financial resource,
- 3.7 To further this thinking, in 2006, Kent Chief Executives estimated that the transitional costs of a traditional restructure would be as much as £117M across Kent.
- 3.8 The estimated savings from an enhanced two-tier structure are between £20m to £35m.
- 3.9 Any change must be must be dependent upon a ruthless commercial business case demonstrating real value for money for Kent taxpayers
- 3.10 But the bigger prize may be achieved working strategically across the whole public sector, including central government services delivered in Kent. Estimates suggest that there could be back office savings, pan public sector, in the order of £40m to £60m. This will require commitment and pressure from all to deliver with substantial organisational barriers to be overcome before savings of this magnitude could be realised.
- 3.11 Further opportunities exist to explore with other county authorities in the South East the aim of rationalising transaction and procurement costs. The potential savings here could be significant for the County Council.

#### **The Future of Local Area Agreements (LAA)**

- 3.12 The strengthening of the LAA process and the significant increase of resources that will be pooled should provide the opportunity for the second Kent Agreement to be bold and exciting. As one of the first new-style agreements the principles of the Statement of Intent can be enshrined firmly in this agreement. Thus, it will be important to be vigorous with Central Government to ensure there is clear flexibility in incorporating local priorities and targets.

#### **4. Kent Leaders Group**

- 4.1 Kent Leaders recognised the opportunities and challenges the Local Government White Paper could bring for Kent. As a Group, they met to discuss the implications and key actions required to ensure the best possible results for the people of Kent. This culminated in the endorsement of a number of outcomes at the Leaders and Chief Executives meeting on 28 November which included:
  - 4.2 The agreed way forward encompassed:

- A decision not to submit a pathfinder bid, but to submit an enhanced two tier direction of travel statement (the “Kent Commitment”)
- A decision to progress an enhanced two-tier process
- Strong political leadership - Kent Leaders and elected Members to drive the Enhanced Two Tier process
- Strong agreement to work together to develop a radical Enhanced Two Tier model for Kent
- Development of a clear “Kent Commitment” to be submitted to DCLG on 25 January, showing the direction for change in Kent
- Clear understanding of expected outcomes over a 2-5 year horizon
- New service delivery models to be developed and piloted (particularly Back Office functions and the need for quick wins)
- Greater Member empowerment required by all elected Members over the family of local public services within their areas strengthening the role of the elected Member
- Democratisation required of quangos operating locally, subject to Government being prepared to devolve
- Governance arrangements to be transformed
- Acceptance that from time to time there will rightly be tensions in two tier relationships but that this provides healthy checks and balances within in the system of democratic control

4.3 In addition, it was agreed:

- To work to a challenging and aggressive but pragmatic timetable
- That fundamental to achieving these aims was the need to work with openness, honesty and transparency between all Kent Authorities
- To establish a Leaders Sub Group consisting of four Kent Leaders (including the Leader of Kent County Council) to prepare and agree the brief for the work of the consultants to assist in the preparation of the Kent Commitment and to act as broker/facilitator between councils

4.4 Leaders seek a real devolution of power and influence from Central Government, while agreeing that a “one size fits all” approach to the way services are procured and delivered is not practical in Kent. This would recognise the different needs and priorities across the county (as currently in KCC’s relationships with Health and Police), offering coherence but not consistency - it must be accepted that devolved services cannot be the same by definition.

4.5 Leaders continue to support a mixed economy of service provision and real local influence over the family of public services and expenditure totalling some £8billion.

4.6 For Kent leaders, the important message is that we are an innovating county with new structures and processes, and will continue to pursue

- “Enhanced Two Tier” working – building on a broad cross-section of support. We have already established joint arrangements with local public services through the Public Service Board which draws together strategically the key public agencies within the County, aligning priorities and pooling some budgets. From the firm partnership arrangements of the Public Service Board, the Kent Partnership and its sub-groups, there is the potential to provide greater clarity and streamlining of the existing and growing plethora of partnerships across the county.
- 4.7 Kent Leaders held a further meeting on 18 December and agreed to appoint Paul Kirby from KPMG to facilitate this work for the Kent Commitment.
- 4.8 It was agreed that the Kent Commitment must encompass:
- Improved Customer Services to Residents
  - Streamlined Member governance arrangements
  - The fact that centralising or decentralising any public service must be dependent upon a ruthless commercial business case demonstrating real value for money for the taxpayer of Kent
  - Subsidiarity to the lowest appropriate level
- 4.9 Kent Leaders have met weekly in 2007 (5 January and 12 January), with a further meeting planned for 22 January.

#### **The Scope of the Brief for KPMG**

- 4.10 In defining KPMG’s work programme, several key areas of work were identified, reflecting the tiers of governance, the maturity of public service partnership within the county and the mixed economy of public service providers:
- i) Supporting Leaders in designing a 5 year vision for Kent public services and timetable for delivery**
- Unique Kent approach required with the intellectual property remaining with the Kent local authorities
  - Vision must embrace differences within Kent, ensuring any solution is not a “one size fits all” and will depend on a different set of relationships and the different needs and priorities across the county
  - Clear and succinct statement required to take to all elected Members to seek their support, capturing excitement and potential of vision and to provide strengthened Member empowerment and community engagement.

- ii) In delivering the above, consultation to obtain views and ideas from all Councils**
  - Must recognise where Districts and County are already truly high performing (whether delivering or procuring), jointly or separately
- iii) Identification and advice in relation to legislative arrangements and powers that are likely to either impact on the work programme and/or would be desirable in terms of improving local governance.**
  - Must consider what amendments to the Bill may be required
- iv) Development of a number of options for shared service delivery models (by building scale and critical mass) to deliver increased levels of efficiency, but enabling innovation and local delivery according to local need and political priority. These should include an exploration of and recommendations for ownership (governance) models and company structures.**
  - This should include the ability to explore joint ventures to deliver services
- v) Advice on which services could appropriately be placed into each model and how these may operate**
  - This must take a business case approach to change, considering the key elements: cost reduction, capabilities, customer experience ie is there a better model for delivery which will give better efficiency and better customer service?
  - Centralising or decentralising any public service must be dependent upon a ruthless commercial business case demonstrating real value for money for the taxpayer of Kent
- vi) Development of a credible plan for the delivery of savings and efficiencies in local services comparable to the best practice and standards in the best Unitary Councils nationally.**
  - Clarity and honesty required from all in gathering efficiency data with the aim within Kent to benchmark its services against the best services in the UK and internationally
- vii) Development of sensible, clear empowering and robust governance arrangements for areas, localities and communities – the objective must be to support local empowerment and decision-making and to streamline the confused and complex existing partnership arrangements, with the aim of delivering improved public services.**
  - Essential to consider what is appropriate for shared delivery models

Greater Member empowerment is fundamental to achieving these outcomes and must build still further the relationships between County, Districts and public services within the county. A reinvigorated and effective new model for local governance must be considered.

- viii) **Agreed direction/approach on what services and activities could be better devolved to Authorities in Kent from national and regional government quangos as well as delegated from County to Districts and vice-versa from Districts to Towns, Parishes and neighbourhoods based on a sound financial business case and improvements to the people of Kent**
  
- ix) **Proposals need to be developed for addressing the issues in relation to wider partnership working across the public sector in Kent. Kent has a strong basis for partnership working built around the Kent Partnership and 'Vision for Kent' and has a well-established Public Service Board Chaired by the Leader of the County Council.**
  - Pan-Kent LAA arrangements acknowledged; need to consider its operation to enable it to be cascaded to more local levels through the development of new arrangements such as Multi-Area Agreements to achieve local targets and to streamline the growing number of partnerships across the county
  - Important to register partnerships and bodies which do work well and already delivery high quality outcomes
  - Important to encompass all public services within Kent, including the Third Sector
  
- x) **Proposals for increasing the level of local democratic engagement in public services in Kent with greater involvement in and scrutiny of services delivered by Government and its agencies across the County.**

Renewed role of "front-line elected Member" in Kent must be strengthened; the empowered local Member role is critical to the achievement of Enhanced Two Tier working.

- xi) **Identification of "quick wins" to demonstrate strong direction of travel**
  - Must draw on initiatives within the County already underway to give tangible examples of direction of travel and potential

## **5 Towards a Kent Commitment**

- 5.1 Papers will be circulated prior to County Council to all Members detailing the proposed Kent Commitment. The Kent Commitment paper will be distributed to all Members prior to the County Council meeting. Paul Kirby of KPMG will present his findings to Council at the beginning of the Council Meeting, followed by the Leader and Chief Executive
- 5.2 It will also be essential to demonstrate community support for proposed improvements. A public opinion survey will be commissioned within the county at the appropriate time.
- 5.3 Key elements of for the Kent Commitment are likely to include:
- A request for a significant transfer of powers and responsibilities from a whole range of quangos to democratically elected local government.
  - Shaping a commitment to Kent Local Government working constructively with existing Parish Councils and other community groups in relation to shaping and scrutinising of appropriate services at a local level
  - The crafting of a new style Kent Local Area Agreement which would incorporate high level county-wide targets but include separate “chapters” for different Districts (or groupings of Districts). The aim would be that specific subsidiary targets set within those areas could be varied to match their particular requirements
  - New relationships within with and between the family of Local Government and public services within Kent, strategically managing public expenditure in a more coherent way across the county through the LAA and MAA processes
  - Development of sensible, clear empowering and robust governance arrangements for areas, districts and neighbourhoods. The objective is to streamline the confused and complex existing partnership/governance arrangements, with the aim of delivering clarity of purpose to Members and the general public.
  - New relationship with Government based on the principles of mutuality and with less regulation and excessive performance reporting
  - Strategic governance arrangements across the public services in Kent covering expenditure of some £8billion, establishing dynamic relationships with the public, private and voluntary sectors

- In addition to a significant devolution from Government/Region to County and beyond, a delegation of responsibility for local 'community' services to the lowest appropriate level
- Structures that provide clear local leadership and accountability
- A substantial growth in shared services through Special Purpose Vehicles as appropriate, that will combine District and County services, as well as those of the broader public sector in Kent
- The benchmarking of service quality, sharing best practice, driving business process improvements and tackling of under-performance with the aim within Kent to benchmark services against the best in the UK and internationally
- Further development and roll out of a consistently branded network of public access Gateways across Kent for the family of public services, bringing greater coherence to the public and which could potentially be backed by effectively integrated IT systems which could also service an integrated network of Call Centres and Internet portals
- A commitment to joint working on Public Health. However, the detail on how this will be shaped await further details from central government.

## **6. Next Steps**

- 6.1 The submission will provide a firm foundation for delivery over the next 12-18 months. It will also include a timetable detailing key milestone dates – yet to be discussed by the Kent Leaders Group which meets on 22<sup>nd</sup> January.
- 6.2 A full and updated report will be brought to County Council later in the year.

**Recommendation:**

**Council is asked to consider this paper and the Kent Commitment in response to the challenges posed by the Local Government White Paper and subsequent Local Government and Public Involvement in Health Bill and to support proposals for enhanced Two Tier Working in Kent.**

**In their debate Council Members are asked to consider:**

- **Proposals for future local governance arrangements and the role of the local Member**
- **Constitutional implications of the Bill such as the election of Leader and four-year election cycles**
- **Views on the scrutiny and promotion of health arising from the implications of the Bill**