

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

Date of publication: 18 March 2011

EAST KENT (JOINT ARRANGEMENTS) COMMITTEE

**Minutes of a meeting held on Wednesday, 16th March, 2011
at 10.00 am in The Guildhall, Westgate, Canterbury**

Present: Councillor R Bliss (Chairman) – Shepway District Council
Councillor B Bayford - Thanet District Council
Councillor J Gilbey - Canterbury City Council
Councillor A King - Kent County Council
Councillor J Law - Canterbury City Council
Councillor R Love - Shepway District Council
Councillor P Watkins – Dover District Council

Officers: Matthew Archer - Assistant Head of Democratic Services,
Canterbury City Council
Nadeem Aziz - Chief Executive, Dover District Council
Colin Carmichael - Chief Executive, Canterbury City Council
Mark Ellender - Head of Legal and Democratic Services,
Canterbury City Council
David Godfrey - Policy, Kent County Council
Richard Samuel - Chief Executive, Thanet District Council
Alistair Stewart - Chief Executive, Shepway District Council

1 APOLOGIES FOR ABSENCE

Apologies received from Councillors Carter (Kent) and Scales (Dover) and Wise (Thanet).

2 DECLARATIONS OF INTEREST

No declarations of interests were received.

3 SUBSTITUTE MEMBERS

There were no substitute Members present at the meeting.

4 MINUTES

The minutes of the meeting held on 26 January 2011 were agreed as a correct record.

5 **PROVISION OF HR SERVICES BY THE EAST KENT HR PARTNERSHIP TO EAST KENT HOUSING LIMITED**

The Head of Legal and Democratic Services (Canterbury) introduced the report. The report detailed the need for a unanimous decision by the East Kent (Joint Arrangements) Committee to allow the East Kent HR Partnership to provide HR services to East Kent Housing Limited.

He indicated that the total value of the services described in the Service Level Agreement was £324,000 over two years. A term had not been specified in the report but the underlying intention was that the agreement would be for two years. The contribution made from the HRA of each council to the General Fund will remain the same for the first two years, which had been agreed throughout the negotiations and was now enshrined in the agreement appended to the report.

It was explained in the course of preparing the report questions had been raised about how the EU procurement regime should be applied to both this and the report which followed. The east Kent lawyers had concluded that there were two reasons why the arrangement was not subject to public procurement regulations:

- (i) By an exemption in the public contracts regulations 2006, under which the provider is a contracting authority within the meaning of the regulations (a public service itself) and delivering services to the parties under an exclusive right in accordance with a legal or other provision compatible with the EU Treaty.
- (ii) Where the EU Court of Justice had considered such matters before they had found that, irrespective of the nature of the delivery vehicle, so long as there was a collaborative arrangement between public service parties then an arrangement between those authorities would not be subject to the public procurement regime.

Under the terms of the collaboration agreement relating to the East Kent HR Partnership he said all parties represented on the Joint Arrangements Committee must give their consent irrespective of whether they are a party to the agreement or not.

A Member sought clarification that the 2 year term would be specified within the recommendation. It was agreed that the term be incorporated into the minute to clarify the point.

A Member asked a question about the relationship between the council and East Kent Housing Limited and whether the Committee was able to make such decisions on behalf of East Kent Housing Limited. The Head of Legal and Democratic Services explained that it was in accordance with the management agreement, the principles of which all councils had already agreed, and the lawyers were currently in the process of finalising that agreement. He said therefore whilst it was not technically possible to decide on their behalf, in the event of a legal challenge the arrangement between the councils and the arms length management organisation was such that there had always been an understanding that a two-year transitional arrangement would apply. It was accepted that one could not rule out the ability for a third party to challenge a decision if it so wished to.

A Member asked whether the value quoted of £324,000 was for the two year period or per annum and whether or not it included both HR and payroll or just HR. The

Chief Executive (Shepway) indicated that the figure was for the two year period and included both HR and Payroll, although the Payroll element would be paid directly to KCC. The figure reflected the combined payment made by the four districts to their Housing Revenue Account. It was agreed that a more detailed breakdown of the figures would be circulated to Members of the Committee after the meeting when they became available.

RECOMMENDED -

1. That the report be received and noted.
2. To authorise East Kent HR Partnership to provide HR services to East Kent Housing Limited with effect from 1 April 2011 for a two year period ending on 31 March 2013, subject to the completion of any necessary contract to the satisfaction of the principle legal officers in the four east Kent district councils.

6 PROVISION OF SERVICES BY EAST KENT SERVICES TO EAST KENT HOUSING LIMITED

The Head of Legal and Democratic Services (Canterbury) asked the Committee, as the body responsible for East Kent Services, for its approval to East Kent Services (acting by Thanet District Council) entering into a contract with East Kent Housing to perform those functions which previously it performed for the in-house housing landlord service.

RECOMMENDED -

1. To receive and note this report
2. To authorise East Kent Services acting by Thanet District Council to provide ICT and Customer Contact Services to East Kent Housing Limited with effect from 1 April 2011, for a period of two years expiring 31 March 2013, subject to the completion of any necessary agreement to the satisfaction of the principal Legal Officers in the four East Kent District Councils.
3. To authorise the Director of Shared Services to perform such of her delegated functions in relation to East Kent Housing Limited as may be necessary from time to time.

7 ANY OTHER URGENT BUSINESS TO BE DEALT WITH IN PUBLIC

East Kent HR Partnership performance data

The Chairman of the Committee, Councillor Bliss (Shepway) made a statement [appendix 1 to the minutes] from the Chair about an item requested for the agenda that had not been included. The item requested information about how the East Kent HR Partnership was performing against the approved service level agreements and delegations, along with up to the minute financial analysis of costs by authority. He said he looked forward to seeing the report on the agenda for the next scheduled East Kent (Joint Arrangements) Committee on 8 June.

A discussion of the statement followed.

Timetable for the remainder of Phase 1 of the shared services project

The Head of Legal and Democratic Services (Canterbury), speaking on behalf of the Chief Executives, reminded the committee that Phase 1 of shared services performed by EK Services consisted of five service areas. The business cases for the first three: ICT, Customer Services and Revenues and Benefits had been approved and the functions now delegated. He said the other two functions identified within Phase 1: Residual Housing and Building Control had not reached the same stage for various logistical reasons, but the Chief Executives felt it would be useful to indicate that they have set a target, and that they be asked by the Committee to sign off the business cases by 1 July.

In the course of discussions, services closely associated to those that had already transferred such as print, post and facilities management had been identified that could usefully be added to Phase 1. It was indicated that the decision on whether those services would be included or excluded, dependant on consideration of a business case would be recommended to the councils that it be taken by 1 July.

There being no other business the meeting closed at 10.34am

EKJAC 16 March 2011

I would like to make a statement from the chair about an item requested for the agenda; that has not been included.

It is good practice for services to be the subject of a robust performance management regime. I requested that a report be brought forward to this meeting about how the East Kent HR Partnership is performing against the approved service level agreements & delegations, along with up to the minute financial analysis of costs by authority. In addition, Shepway asked (on the 18 November 2010) for some indicative costs relating to the possible withdrawal from the EKHRP. These costs shouldn't be too difficult to calculate, as the report approved by EKJAC in April 2009 included a financial protocol relating to potential costs of withdrawal.

I am disappointed that my council's requests seem to get ignored & that my Chief Executive agreed to a delay in bringing forward the East Kent HR Partnership performance report, such that we don't have it at this meeting.

I am sure that everyone would agree that we need to fulfil our responsibilities for sound performance management & I look forward to seeing the performance report on the agenda on the 8 June.

I raise these matters now, because I am sure that as we open out services into contract arrangements we are more likely to need to ensure that there are robust performance monitoring & management arrangements.

Councillor Robert Bliss
Leader, Shepway District Council