

By: Paul Carter, Leader of the Council
Alex King, Deputy Leader
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To: County Council – 25 October 2012

Subject: New Governance Arrangements for Kent County Council – Review

Summary: This report reviews the new governance arrangements approved by the Council on 29 March 2012 and recommends some changes to the County Council's Constitution to reflect the new governance arrangements.

1. Introduction

(1) In approving the new governance arrangements that came into operation on 1 April 2012, the County Council agreed at its meeting on 29 March 2012 to review the operation of the arrangements at its meeting on 25 October 2012.

(2) The report which follows reflects the views of the members of the Selection and Member Services Committee, which met on 5 and 16 October 2012.

2. Design of the new governance arrangements

Members are reminded that the new governance arrangements were designed to:

- (a) streamline the committee infrastructure;
- (b) make the decision making process more transparent and inclusive;
- (c) support Cabinet Members in making more effective and informed decisions;
- (d) provide non executive Members with a greater opportunity to shape the Council's policies and major decisions; and
- (e) have a cost neutral impact on the Members Allowances Scheme.

3. New Governance Arrangements

General

(1) Following three cycles of the new Cabinet Committees, the early potential of the new structure is beginning to be realised and the intended outcomes achieved. Agendas for Cabinet Committees are in the main focussing on big strategic issues, both in terms of policy development, forthcoming decisions and performance management of services.

(2) However, keeping Members informed of all the developments in what are broad and complex portfolios continues to present a challenge. As a consequence, there is a danger that Cabinet Committees will become overburdened with information, which whilst important for all Members to assist them in discharging their role, nevertheless may impinge the Committee in concentrating on the strategic and significant issues.

(3) There are many ways that the information gap can be bridged, including separate briefings, news bulletins, video blogs, etc. It is suggested that at the next agenda setting meetings for the Cabinet Committees, consideration should be given as to how to keep the members of that Committee fully informed.

(4) Whilst the new governance arrangements will take time to become fully embedded, significant steps have already been taken to ensure that the transition to the arrangements is operating smoothly. The Democratic Services Transition Manager meets regularly with directorate co-ordinators (who work with report authors to prepare reports for Cabinet Members and Corporate Directors). As issues have arisen these have been discussed and learning shared, which has helped in planning the business of the Council and ensuring that the Cabinet Committees have been fully involved.

(5) Raising awareness of the new governance arrangements continues to be a priority. For example, a Decision Making Guide is being prepared and the new arrangements will feature in one of the modules which form part of the Kent Manager programme. Democratic Services staff continue to attend Directorate Management Team meetings to brief staff on the new arrangements.

(6) Since 1 April 2012, a new Executive Scheme of Officer Delegation has been operational. This ensures that officers are able to give effect to and implement decisions already authorised by Members, which reduces delay and bureaucracy, as well as reducing the risks of acting ultra vires. The following principles apply when operating the new scheme:

- (a) Once a Cabinet Member level decision has been taken (including where it is part of the approved revenue or capital budget or approved business plan) the implementation of that decision should be delegated to officers, so that further member decisions are not required in respect of the same matter;
- (b) Cabinet members will continue to be able to require officers to refer any matters that would otherwise be taken under this scheme of delegation to either themselves or Cabinet for decision;
- (c) Senior managers exercising delegated powers will continue to be able to sub-delegate those functions to more junior officers, or escalate the making of those decisions to the relevant Corporate Director, who can then (if appropriate) refer the matter to the Cabinet Member or Cabinet, as now;
- (d) Existing safeguards and rules relating to the appointment of consultants and interim senior managers, the reporting of single source tenders, or where a tender other than the most economically advantageous one is recommended for acceptance, should remain; and
- (e) Local member involvement in matters affecting specific electoral divisions should also remain.

(7) There have also been a number of other legislative and regulatory changes imposed on local authorities which have had an impact on the new governance

arrangements and the County Council have/are responding to in consultation with the Leader. For example, the new Kent Member Code of Conduct introduced with effect from 1 July 2012, and, most recently, the Local Authorities (Executive Arrangements) (Meetings and Access to Information) England Regulations 2012 which impact on the decision making process.

(8) The County Council has hosted a number of Member and officer visits from other local authorities keen to hear first hand about the new governance arrangements, e.g. London Borough of Barnet, Bracknell Forest and Hampshire County Council. There has also been a telephone conference call with colleagues at Cornwall Council.

Informal Member Groups

(9) Members will recall that, in streamlining the committee infrastructure and in the interests of transparency, Informal Member Groups (IMGs) were not to be part of the new infrastructure. However, elected Members cross-party and officers have expressed the view that having a minimalist approach to the number and purpose of small task and finish groups, be they IMGs or Member working groups on a time limited basis, were invaluable. **Appendix 1** to this report sets out the IMG/working groups which have, therefore, been reconstituted.

(10) Any new proposals for the establishment of an IMG will need to be discussed and agreed with the Leader, the relevant Cabinet Member and Cabinet Committee Chairman and spokesmen.

Forthcoming Decisions List

(11) The introduction of the new governance arrangements and the new template for an entry into the Forthcoming Decisions List has resulted in a much larger and informative plan of decisions. This has added to the transparency of the decision making process and provided non-executive Members with the opportunity to involve themselves in the decision making process.

Cabinet Committees

(12) A key ingredient to the new governance arrangements, and the success of the new Cabinet Committees in particular, is ensuring the infrastructure beneath the formal decision making process is disciplined and appropriate so that the decisions taken are robust and effective.

(13) There has been discussion about the pressure on some of the Cabinet Committee agendas to manage the business effectively. For example, the first meeting of the Policy and Resources Committee resulted in a great deal of time being utilised by the Committee spending time pre-considering proposed minor property decisions. Greater work on agenda planning to make the best use of time and resources will be required.

(14) Bearing in mind that one of the outcomes of the introduction of the new Governance arrangements was to streamline the committee infrastructure, any proposal put forward by a Cabinet Committee to establish a Sub Committee would

need to be considered very carefully by the portfolio holder in consultation with the Leader.

Education Cabinet Committee

(15) The Committee does not include persons nominated by the Diocesan Boards of Education of the Canterbury and Rochester Dioceses of the Church of England and the Roman Catholic Bishop, nor persons elected as representatives of parent governors at schools maintained by the Council as the local education authority for Kent. It should be recalled that under the Local Government Act 2000 these persons have a right to serve on the Scrutiny Committee when that committee is exercising powers in relation to education functions. They do not have a right to sit on the Cabinet Committee, which is an executive committee and not a Scrutiny Committee, constituted under section 21 of the Local Government Act 2000. The County Council may nevertheless wish to consider inviting these persons to attend the Cabinet Committee as a co-opted Member for which they would not be entitled to a vote.

Scrutiny Committee 'call in' process

(16) Further consideration has been given to the call in process set out in Appendix 4 Part 7 Paragraph 7 (10) of the Constitution. The call in process approved by the County Council in March places a requirement on the Clerk to ensure that the relevant 'call in' criteria are met. It is proposed that a 'call in' form is completed by the Members to assist the Clerk in establishing the validity of the call in. The proposed form is attached as **Appendix 2**.

Select Committee –Topic Review Programme

(17) Select Committees are time limited, task specific sub-committees of the Scrutiny Committee, appointed to carry out reviews on behalf of the Scrutiny Committee with the same powers as the main committee.

(18) The general scope of each Select Committee review is agreed by the Scrutiny Committee and endorsed by Cabinet when it is included in the work programme. The detailed terms of reference of each Select Committee Review are developed by a cross party Member group (one from each group), for approval by the Select Committee and endorsement by the Scrutiny Committee.

(19) The current programme of Topic Reviews has now been concluded and the Select Committee Report on Domestic Abuse is currently being written.

(20) The County Council is invited to put forward suggestions for a new programme which can be developed following the County Council election in May 2013.

4. Proposed amendments to the Constitution

Personnel Management Rules and Property Management Protocol

(1) Attached as **Appendix 3** to this report for incorporation into the Constitution is a tracked change version of the:

- (a) Personnel Management Rules; and

(b) the Property Management Protocol

which the Selection and Member Services Committee recommends to the County Council for approval.

Article 11

(2) The Selection and Member Services Committee has also considered a small change to Article 11 Paragraph 11.5, which sets out a statutory requirement for the Council to provide sufficient resources to the Monitoring Officer and Section 151 Officer, so as to include the Head of Paid Service.

(3) The Committee was of the opinion that this request was appropriate and sufficient given that the Head of Paid Service has to work with the Corporate Management Team, and in particular, the Monitoring Officer and Director of Finance and Procurement (Section 151 Officer) to ensure that the Council is not exposed to unnecessary risk both in terms of the law, financial risk and ensuring the Council has sufficient resources to discharge its statutory and approved discretionary services.

(4) The Executive Summary of the Constitution sets out that:

“The Council, advised by the Head of Paid Service and the Leader, determines the overall officer structure to deliver the Council’s responsibilities, under the management of the Corporate Management Team. The Council appoints the Head of Paid Service and designates appropriate senior officers as Monitoring Officer and Chief Finance Officer, who are responsible for resolving constitutional disputes and other matters laid down in the Constitution.”

and Article 11.1 includes:

(2) Structure. The overall management structure is determined by the Council on the advice of the Head of Paid Service and the Leader. The Head of Paid Service reports to the Cabinet and the Council on the manner in which the discharge of the Council’s functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

(5) To discharge this statutory function requires the Head of Paid Service to work across the whole Council with the support of all Corporate Directors. Other officers who have a statutory function in terms of discharging an element of the Council’s activity are able to look to the Head of Paid Services for any necessary resources. Therefore, it was the Committee’s view that these post-holders do not warrant the same specific provision of resources as part of Article 11.

(6) The Selection and Member Services Committee recommends the County amend Article 11 Paragraph 11.5 to read as follows:

“Provision of sufficient resources to the Head of Paid Service, Monitoring Officer and Chief Finance Officer.

The Council will provide the *Head of Paid Service, Monitoring Officer and Chief Finance Officer* with such officers’ accommodation and other

resources as are in their opinion sufficient to allow their duties to be performed.”

5. Recommendations

The Council is invited to:

(a) approve the reconstitution of the Informal Member Groups/working groups set out in Appendix 1;

(b) make suggestions as to the ways that Members could be kept better informed of issues within broad and complex portfolios;

(c) invite the persons nominated by the Diocesan Boards of Education of the Canterbury and Rochester Dioceses of the Church of England and the Roman Catholic Bishop whose diocese includes Kent as well as representatives of parent governors at schools maintained by the Council as the local education authority for Kent to be included as co-opted non-voting members of the Education Cabinet Committee;

(d) approve the ‘call in’ form to assist the Clerk in assessing the call in request against the call in criteria as set out in Appendix 2;

(e) propose topics for inclusion in a Select Committee Topic Review Programme following the County Council elections in May 2013; and

(f) approve the amendments to the Constitution as set out in Appendix 3 and paragraph 4 sub-paragraph (6)

“Provision of sufficient resources to the Head of Paid Service, Monitoring Officer and Chief Finance Officer.

The Council will provide the *Head of Paid Service, Monitoring Officer and Chief Finance Officer* with such officers’ accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.”

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INFORMAL MEMBER GROUPS (IMGs)

1. IMG Budgetary Issues

The former IMG on Budgetary Issues was considered to be extremely constructive, useful and informative cross-party. It is proposed that an IMG be reconstituted comprising the six Cabinet Committee Chairman, the Leader of the Opposition, the Leader of the Labour Group and the Independent member to meet every two months.

2. Budget IMGs for Cabinet Committees

Each Cabinet Committee has established its own Budget IMG. These IMGs will enable cross-party involvement in the budget from an early stage. This has proved to be a valuable part of the budget process over the past two years and Members are encouraged to continue with this approach.

3. Kent Minerals and Waste Development Framework IMG: Terms of Reference

This IMG will:

- steer the preparation of the MWDF in accordance with the Project Plan
- consider and advise on the aims, evidence and policy direction of the Kent Minerals and Waste Development Framework
- recommend the publication of evidence and consultation documents
- refer proposed policy documents for consideration by the Environment, Highway and Waste Cabinet Committee and for adoption by the full Council *

* The policy documents to be referred to the Cabinet Committee alone are proposed as:

- *Issues and Options* and *Policy Directions* documents for the Core Strategy

* The policy documents to be referred to the Cabinet Committee and full Council are proposed as the public consultation and submission versions of:

- Minerals and Waste Core Strategy
- Mineral Sites Development Plan Document
- Waste Management Sites Development Plan Document “

The Group has no executive or decision-making powers, but is advisory.

4. Education Standards Monitoring Group – Draft Terms of Reference July 2012

1. The ELS Standards Monitoring Group will ensure effective, cross-party oversight of the improvement priorities identified all Kent Schools (including Academies).

2. Develop expertise that enables Members to act as the champions for all Kent pupils.
3. Review the progress of the Kent schools; consider relevant statistical information.
4. Consider reports regarding the quality of delivery and management of risk associated with the OFSTED reports and School improvement
5. Work on behalf of the Education Cabinet Committee to ensure that they are able to conduct their targeted monitoring of Kent Schools.

5 Member Development Steering Group

Oversees the County Council Member Development Programme and the retention and development of the award of the Member Development Charter Plus. The Steering Group will also oversee the work of the former Member Information Member Officer Group

Scrutiny Call-In Form



To: Head of Democratic Services

I would like to call-in the decision as detailed below:

Decision made by Cabinet or Cabinet Member:

Date decision made:

Reasons for the call-in:

Have you discussed your concerns over this decision with the Cabinet Member or the Leader of the Council?

What is the proposed recommendation for the Cabinet/Cabinet Member to consider? E.g. what action would you like to see the Cabinet/Cabinet Member take to address the concerns outlined in the call-in, or what needs to be done to alter their decision?

Member(s) calling in the decision

Name

Signature (or email confirmation) Date

This completed form must be delivered to the Head of Democratic Services within the time-scale notified on the appropriate record of decision or decision notices (where appropriate)

Email: scrutiny@kent.gov.uk

Extract from the Constitution

Appendix 4 Part 7: Decision Making Procedure Rules

Scrutiny Committee process

Call-in criteria

7.10 Any Member of the Council may give notice to the Clerk within five working days from the publication of a decision taken by the Cabinet or a Cabinet Member of their wish to call-in the decision.

7.11 A decision may only be called in once during the decision making process.

7.12 The call-in procedure shall not apply where the decision being taken is urgent in accordance with the rules for Urgent Decisions (at 7.18, below).

7.13 The reasons justifying the call-in of a decision shall be clearly set out. Reasons must be legitimate and not designed to impede the proper transaction of business for vexatious, repetitive or other improper reasons.

7.14 If the Clerk is satisfied that the procedures set out above have been met, the decision taker will be notified of the call-in.

7.15 The Scrutiny Committee will consider the call-in at a meeting that will take place within ten working days of the decision to call the matter in.

7.16 A Member who called-in a decision may participate in the debate of that call-in by the Scrutiny Committee, irrespective of whether they are a Member of the Scrutiny Committee.

**Appendix 2 Part 6:
Personnel Management Rules**

Staff Terms and Conditions

1. The Council, on the recommendation of the Leader, determines changes to the pay scales of Kent Scheme Salaries. All other matters of staff terms and conditions (other than those imposed by national agreements) are delegated to the Personnel Committee.

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Senior Managers

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2. "Senior Manager" means Corporate Directors and Directors at grade KR16 or above.

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3. The quorum of the Personnel Committee, or any sub-committee of that Committee, when considering any appointment or disciplinary action under rules 4-14, below, must include a member of the Cabinet as a voting member.

Deleted: Chief Officers, i.e. the Head of Paid Service, statutory chief officers (Director of Children's Services, Director of Adult Services, Chief Education Officer and Chief Finance Officer), non-statutory chief officers (officers who report directly to the Head of Paid Service); and Deputy Chief Officers, i.e. officers on

Appointment of Senior Managers

4. Rules 4-9 apply to the appointment of Senior Managers.

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5. For all such appointments the Corporate Director of Human Resources, or their nominee shall:

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- (a) draw up a statement specifying:
 - (i) the duties of the post; and
 - (ii) any qualifications or qualities required;
- (b) make suitable arrangements for the post to be externally advertised to bring it to the attention of suitably qualified persons (unless applicants are to be sought only from among the Council's existing staff); and
- (c) make arrangements for the statement in paragraph (a) above to be sent to any person on request.

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6. In all cases either all qualified applicants or a selected short-list will be interviewed by the Personnel Committee or Member Panel (sub-committee) acting as the Appointing Body, with the Corporate Director of Human Resources (or other Senior Manager as determined by the Committee or Panel) acting as adviser to the Appointing Body. When appointing the Head of Paid Service, which is an appointment made by the County Council, the Appointing Body will report to the Council with a recommendation.

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7. Where no suitably qualified person has applied, the post shall be re-advertised.

8. When a Senior Manager ceases to hold that post or is likely to be absent for any length of time, the Head of Paid Service, after consultation with the political group leaders, may appoint someone to act temporarily in that capacity and determine the salary to be paid. The temporary appointment shall not extend beyond six months without the approval of the Personnel Committee. Similarly, the Head of Paid Service may, after consultation with the political group leaders, appoint an interim senior manager to undertake a specific role that does not currently exist in the Establishment and determine the rate of remuneration. These appointments shall not extend beyond six months without the approval of the Personnel Committee.

9. No offer of an appointment to a Senior Manager may be made until:

(1) the Monitoring Officer has recorded the name of the person to be offered the appointment and any other particulars the Committee (or other appointing body or person) considers relevant to the appointment

(2) that information has been sent by the Monitoring Officer to the Leader and all members of the Cabinet with a date and time by which any objection to the making of the offer can be made by the Leader

(3) the Monitoring Officer has confirmed that the date and time for objection by the Leader has elapsed and either:

(i) in the case of the Head of Paid Service, the Council has confirmed the appointment after consideration of any such objection and resolving that it is not material or not well-founded; or

(ii) in all other cases, no such objection has been made or the appointing body has considered any such objection and has resolved or decided that the objection is not material or not well-founded.

10. The Chairman of the Standards Committee shall be consulted before a new or existing officer is appointed or designated as Monitoring Officer; and their views shall be presented to the Committee (or other appointing body or person).

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Disciplinary Action

11. Disciplinary action or suspension during investigation of allegations of misconduct in relation to the Head of Paid Service and other Senior Managers may only be taken as provided in the table below:

	Suspension	Investigation	Disciplinary Action/ Dismissal/Appeal
Head of Paid Service	Personnel Committee on advice from the <u>Corporate</u> Director of <u>Human Resources</u> and Monitoring Officer or	Designated independent person appointed by Personnel Committee Report to Personnel Committee or Council	Council

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	the <u>Corporate Director of Human Resources</u> , if Committee cannot be convened		
Chief Finance Officer and Monitoring Officer	Personnel Committee on advice from the Head of Paid Service <u>and/or Corporate Director of Human Resources</u> or Head of Paid Service <u>and/or Corporate Director of Human Resources</u> , if Committee cannot be convened	Designated independent person appointed by Personnel Committee Report to Personnel Committee	Personnel Committee Appeal to a panel of Members appointed by the Selection & Member Services Committee
Other Senior Managers (Corporate and other Directors)	Personnel Committee on advice from the Head of Paid Service <u>and/or Corporate Director of Human Resources</u> or Head of Paid Service <u>and/or Corporate Director of Human Resources</u> , if Committee cannot be convened	Other officer or independent person appointed by the Personnel Committee or Head of Paid Service <u>and/or Corporate Director of Human Resources</u> Report to Personnel Committee or Head of Paid Service <u>and/or Corporate Director of Human Resources</u>	Personnel Committee or Head of Paid Service <u>and/or Corporate Director of Human Resources</u> Appeal to a panel of Members appointed by the Selection & Member Services Committee

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12. No disciplinary action, other than suspension as provided for above, may be taken in respect of the Head of Paid Service, Chief Finance Officer or Monitoring Officer other than in accordance with a recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001.

13. All suspended officers shall be on full pay during the investigation of the alleged misconduct, which must be completed no later than two months after the suspension takes effect (subject to any direction by the designated independent person in the case of the Head of Paid Service, Chief Finance Officer or Monitoring Officer).

14. The Chairman of the Standards Committee shall be consulted after any investigation of an allegation of misconduct by the Monitoring Officer; and his advice shall be presented to the Personnel Committee.

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Dismissal of a Chief or Senior Officer

15. No decision to dismiss the Head of Paid Service or other Senior Manager shall take effect until:

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(1) the Monitoring Officer has recorded the name of the person to be dismissed and any other particulars the Personnel Committee (or other responsible body or person) considers relevant to the dismissal

(2) that information has been sent by the Monitoring Officer to the Leader and all members of the Cabinet with a date and time by which any objection to the dismissal can be made by the Leader

(3) the Monitoring Officer has confirmed that the date and time for objection by the Leader has elapsed and either the Council (in the case of the Head of Paid Service) or the responsible body (in all other cases) has considered any such objection and has resolved or decided that the objection is not material or not well-founded.

Appeals

16. Any appeal must be lodged with the Monitoring Officer (or the Head of Paid Service in the case of an appeal by the Monitoring Officer) within 10 working days of written confirmation to the officer of the disciplinary action and must include a written statement of the grounds on which the appeal is made.

17. Subject to these rules, all disciplinary procedures, including hearings and appeals, shall be conducted as far as possible in accordance with the provisions of the Kent Scheme of Conditions of Service.

18. Appeal hearings shall not include Members involved in the decision to take disciplinary action.

Appeals against dismissal arising from redundancy, assimilation, transfer and downgrading

19. Any appeal against a decision not to 'slot' a senior manager to a post graded KR 16 or above, a redundancy, transfer or downgrading must be lodged with the Corporate Director of Human Resources, within 10 working days of written confirmation to the officer of the decision and must include a written statement of the grounds on which the appeal is made.

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20. Appeals will be heard by the Personnel Committee, or a sub committee (Panel) of that Committee. As far as is practical, such hearings will be arranged within 10 working days of an appeal being lodged. If the Appeal is heard by a Panel of members then the quorum of such meeting shall include a Cabinet Member.

Other Officers

21. Members may not take part in the appointment of any other officers (except assistants for political groups) nor in any disciplinary or dismissal action, except as provided for above.

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Delegations to Officers

22. Officers at the level stated and above are empowered to take the decisions about staff set out in the Kent Scheme of Conditions of Service.

Deleted: (2) Managers are also authorised to make other day to day operational decisions on the management of their staff in accordance with the relevant procedures and conditions of employment. A list of these authorisations is held by the Director of Personnel & Development, and may be altered by the Head of Paid Service.¶

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Topic [... [2]

Property Management Protocol

INTRODUCTION

1. This Protocol provides a framework of principles, minimum requirements, levels of authority and delegations to ensure that KCC property is managed effectively.

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OVERARCHING PRINCIPLES

2. A set of overarching principles govern the operation of this Protocol. These are:

(1) All property owned, leased, hired or occupied by KCC and its service partners is held corporately (including KCC-owned schools, but not including Voluntary Aided, Foundation, Trust and Academy Schools).

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(2) The Director of Property and Infrastructure Support (in consultation with the Cabinet Member for Business Strategy, Performance and Health Reform) is responsible for ensuring that the occupation of all KCC property is in accordance with best management practice, in the interests of the Council as a whole, with the authority to direct the use, disposal or acquisition of any Council land or property.

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(3) Where there are exceptional circumstances, and subject to the prior agreement of the Director of Property and Infrastructure Support, properties may continue to be managed at the discretion of Directorates. However, this discretion is subject to the corporate responsibilities of the Director of Property and Infrastructure Support, who (in consultation with the Cabinet Member for Business Strategy, Performance and Health Reform) has the authority to intervene in any property matters to protect KCC's overall interests.

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(4) Any key or significant decision (as defined in the Constitution) affecting property will be added to the forthcoming decision list and discussed as the Cabinet Committee for Policy and Resources before going to the Cabinet Member for Business Strategy, Performance and Health Reform or the Director of Property and Infrastructure Support for formal decision.

(5) Resolution of disputes on property matters is through the Cabinet Member for Business Strategy, Performance and Health Reform and then, if necessary, the Leader.

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(6) Under the Executive Scheme of Officer Delegations the Director of Property and Infrastructure Support has a number of specific delegations as set out in paragraph 31 below.

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(7) All property transactions, or decisions which have an impact on property matters, should be referred to the Director of Property and

Infrastructure Support who will consult with the Cabinet Member for Business Strategy, Performance and Health Reform above the thresholds set out in paragraph 31 below, and seek the comments of all interested parties, including other relevant Cabinet Members, Directorates and Local Members, before the decision is taken to proceed. All decisions must be taken in accordance with the delegations set out in this Protocol and the decision making procedures set out in the Constitution.

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(8) This Protocol is organised in sections to reflect the lifecycle of property (acquisition – management in use – disposal) with additional requirements to support specific initiatives and exceptional circumstances.

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ACQUISITIONS

3. Objective: To ensure that land and property requirements are appropriately identified and appraised; and that all the acquisitions have the necessary authority and funding, including an assessment of the impact on revenue of funding from borrowing and approved capital funding. All acquisitions should be outlined in the Medium Term Financial Plan as part of service transformation programme and capital programme.

4. All acquisitions (freehold and leasehold) must be authorised by the Director of Property and Infrastructure Support (following consultation with the Cabinet Member for Business Strategy, Performance and Health Reform) either in accordance with the delegations set out in this Protocol, or the decision making procedures set out in the Constitution.

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Non-Highways Acquisitions

5. For all non-highways acquisitions, the relevant Directorate will provide the Director of Property and Infrastructure Support with:

- (1) A definition of the service requirement giving rise to the proposed acquisition
- (2) A full financial appraisal of options for meeting service delivery requirements (developed as appropriate with support from the Property and Infrastructure Support Group) and Bold Steps for Kent ambitions
- (3) An evaluation of the other public sectors service needs to promote efficient asset collaboration across public agencies.

Deleted: and in accordance with the Project Appraisal Handbook

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6. The Cabinet Member for Business Strategy, Performance and Health Reform:

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(1) will be consulted on all proposed acquisitions

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(2) will be kept informed of their progress.

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(3) will determine if they or an officer will give approval for the acquisition.

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(4) may at any stage direct that a decision be referred to them.

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7. Where the Cabinet Member for Business Strategy, Performance and Health Reform has determined that they will take the decision on a proposed acquisition, the matter will be dealt with in accordance with the appropriate provisions of this Protocol and decision making procedures set out in the Constitution, which will include consultation with Local Members.

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8. Subject to paragraph 12 below, the use of compulsory powers for acquisitions must be agreed by both the Cabinet Member for Business Strategy, Performance and Health Reform, and any other relevant Cabinet Members.

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Highways Acquisitions

9. The Corporate Director for Environment & Enterprise will, in the case of all highway acquisitions, seek Local Member views as part of the consultation process for highways and traffic schemes.

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10. Highways scheme design and cost (including land acquisition) shall be approved by the Cabinet Member of Environment, Highways & Waste (or officer authorised by him) in accordance with the relevant KCC financial regulations.

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11. Highways acquisitions may be made by the Director of Property and Infrastructure Support in consultation with the Cabinet Member for Business Strategy, Performance and Health Reform, provided the scheme is in an approved programme with allocated funding for construction, including all compulsory purchase compensation and disturbance payments, or falls within blight policies.

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12. All other highways acquisitions (i.e. land not incorporated in the highway) will be referred by the Director of Property and Infrastructure Support to the Cabinet Member for Business Strategy, Performance and Health Reform, who will determine if they or an officer will give approval for the acquisition. Once the principle of acquisition of land is agreed, any decision whether or not to use compulsory powers will be decided by the Cabinet Member for Environment, Highways & Waste (in consultation with the Cabinet Member for Business Strategy, Performance and Health Reform) in accordance with the terms of this Protocol and the decision making procedures set out in the Constitution.

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MANAGEMENT & USE

13. Objective: To ensure that property is used efficiently, effectively and economically with due regard to legislative requirements, Regular asset reviews of property assets will be made in accordance with the Chartered Institute for Public Finance and Accountancy (CIPFA) and Royal Institute of Chartered Surveyors (RICS) guidelines based on asset management best practice. Assets will be identified for disposal or re-development on a regular basis.

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14. The occupation and use of property by a Directorate is subject to the authority of the Director of Property and Infrastructure Support (in consultation with the Cabinet Member for Business Strategy, Performance and Health Reform) to approve

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all material changes to property, including change of use, the granting or taking of interests, reversion to operational use, alterations, additions, use by partners etc. Such changes must be reported to the Corporate Director of Finance and Procurement for correct accounting treatment and apportionment of charges for CIPFA asset valuations.

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Premises Management

15. The Director of Property and Infrastructure Support has the authority to recommend reviews of all or part of the Council's property portfolio, to determine if it is optimised in terms of its utilisation, cost and value and, within this, to challenge the retention or use of existing properties occupied by services or partners.

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Building works

16. Major capital works for properties should be subject to a formal project appraisal and should be consistent with existing financial approval and procurement processes. Procurement of any building works will need to be subject to Spending the Council's Money and delegations that have been set up. The Director of Property and Infrastructure Support is authorised to enter into property contracts up to a value of £1million where the necessary approvals are in place.

Health & Safety

17. Staff and services are required to ensure that in respect of all property matters all obligations under health and safety legislation and KCC health and safety policies are followed.

DISPOSALS

18. Objective: To ensure that land and property surplus to operational need is either reallocated to meet alternative needs or sold in line with statutory requirements.

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19. Directorates will notify the Director of Property and Infrastructure Support of:

- (1) Any property (or part) that is:
 - (a) Vacant
 - (b) Held against a future operational need
 - (c) Not used for the principal purpose for which it is held
 - (d) Likely to be surplus to requirements (with estimated time-scale)
- (2) Any operational issues associated with such property (e.g. longer term requirements)

- (3) Any statutory/process issues relevant to its disposal (e.g. established consultation processes, reference to the Secretary of State, etc)
- (4) The recipient of the capital receipt and its intended use, as agreed with the Cabinet Member for Finance and Business Support, and the Corporate Director of Finance and Procurement
- (5) Any other issues which need to be considered prior to disposal

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20. The Director of Property and Infrastructure Support may identify any property (or part) that is, or could be made, surplus to operational requirements.

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21. The Director of Property and Infrastructure Support will consult with the Cabinet Member for Business Strategy, Performance and Health Reform on all disposals and inform them of the comments of Local Members. The Cabinet Member for Business Strategy, Performance and Health Reform will determine whether they or an officer will give approval for disposal in accordance with this Protocol and the decision making procedures set out in the Constitution.

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Treatment of Capital Receipts (Rules and Processes)

22. Capital receipts from disposals are deemed to be 'Earmarked Capital Receipts' or 'General Receipts'.

- (1) Earmarked Capital Receipts – are proceeds from the sale of an identified (named) site (or number of sites) to be used for the funding of a specific scheme (or number of schemes, where the schemes are intrinsically linked) and contained within previous Medium Term Financial Plans
- (2) General Receipts are where receipts are not intrinsically linked (generally non-operational and surplus land and property), and they are applied to the overall capital programme, including reducing the impact of revenue and reinvestment.
- (3) Treatment of all receipts must conform with the Financial Regulations and the Capital Procedures set out in the Constitution.
- (4) The decision as to whether receipts are earmarked or general shall be taken by the Cabinet Member for Finance and Business Support.

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SPECIAL PROVISIONS¶

Deleted: All decisions relating to the acquisition, management and disposal of land or property in the sole ownership of KCC or occupied by KCC at Kings Hill shall be dealt with in accordance with this Protocol and the decision making procedures set out in the Council's Constitution by the Cabinet Member for Corporate Services and Performance Management with the advice of the Director of Property in consultation with the Cabinet Member for Regeneration and Economic Development.¶
24. All decisions and duties, including attending the Partnership Board and other such meetings, relating to the joint venture partnership under the Kings Hill development agreement (and subsequent variations) shall be dealt with by the Cabinet Member for Regeneration and Economic Development in consultation with Cabinet Member for Environment, Highways and Waste with the advice of the Executive Director for Regeneration and Economic Development.¶

Kings Hill and East Kent Opportunities

23. Any property matters (acquisition/disposals/leases) in relation to Kings Hill and East Kent Opportunities will be made in accordance with the provisions of this protocol. The Director of Property and Infrastructure Support and the Cabinet Member for Business Strategy, Performance and Health Reform will consult with the Cabinet Member for Regeneration and Economic Development and Executive Director of Regeneration and the Corporate Director for Business Strategy and Support.

Enterprise Fund

24. All transactions (acquisitions and disposals) undertaken through the Property Group 'Enterprise Funds' will be supported by a business case containing as a minimum:

- (1) Details of the proposal
- (2) The rationale for making the investment (against the agreed investment criteria for the Enterprise Fund, which may be varied from time to time)
- (3) Specific objectives to be met
- (4) The cost or income to KCC (revenue and capital)
- (5) The opportunities to be gained
- (6) Any return on investment including estimated revenue costs

25. All transactions coming within the Enterprise Fund balancing limit of £10m may be authorised jointly by the Director of Property and Infrastructure Support and Corporate Director of Finance and Procurement in consultation with the Cabinet Member for Business Strategy, Performance and Health Reform and the Leader (subject to the delegations contained in paragraph 31).

26. All transactions which cause the PEF1 Enterprise Fund to exceed its balancing limit of £10m will, following consultation with the relevant Senior Manager and the Leader, be recommended by the Director of Property and Infrastructure Support and Corporate Director of Finance and Procurement for decision by the Cabinet Member for Business Strategy, Performance and Health Reform.

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Urgent Decisions

27. In exceptional circumstances, where an urgent decision is required on property matters, this will be taken by the Director of Property and Infrastructure Support in accordance with the provisions of this Protocol and only after consultation with the Cabinet Member for Business Strategy, Performance and Health Reform, the Corporate Director of Finance and Procurement and the Director of Governance and Law. If the matter is outside the delegations set out in paragraph 31, below, then the matter can only be authorised by the Cabinet Member for Business Strategy, Performance and Health Reform in accordance with the procedures for the taking of urgent decisions set out in the Constitution.

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28. Any decisions made under the 'Urgent Decision' arrangements will be reported to the relevant Senior Manager, Members of the Policy and Resources Cabinet Committee, the relevant Cabinet Member, and Local Members.

Financial Regulations

29. All of the protocols set out in Financial Regulations and Schemes of Delegation must be adhered to, except where this Property Management Protocol specifically provides for alternative levels of authorisation. No transaction should be approved unless specific budgetary provision is identified, except where the purchase is approved under the authority given in Paragraph 27 above.

Reporting

30. The Director of Property and Infrastructure Support will prepare each month a schedule of acquisitions, letting and disposals, and send this to Democratic Services for publication via the Information Point. This information will also be recorded at the Policy and Resources Cabinet Committee.

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Delegation to Officers

31. Subject to the consultation provisions set out in this Protocol, the Director of Property and Infrastructure Support is authorised to:

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(1) determine and settle the acquisition or disposal of any land or property, or an interest in land or property, where the consideration (including any associated works) does not exceed £1m in any single transaction.

(2) determine and settle the terms of a lease (taken or granted) for any land or property, not exceeding a period of 20 years and/or where the consideration does not exceed £1m per annum in any single transaction.

(3) determine any wayleaves or easements

(4) determine any leases/transfers required in relation to the Academies Act 2010 and subsequent changes.

32. The Director of Property and Infrastructure Support may delegate in writing to more junior officers any of their powers delegated under this protocol.

Supporting Mechanisms

33. Whilst having no Constitutional or decision-making status, the management of the Council's property will be exercised through a variety of mechanisms which amplify and support this protocol. These forums or groups have no Constitutional rights but allow different parts of the Council to provide feedback and advice on emerging property policy, key workstreams and informal updates on the capital programme. The key mechanisms and their purpose are summarised below:

- 1) Strategic Property Asset Forum chaired by the Cabinet Member for Business Strategy, Performance and Health Reform provides a forum to discuss and agree the strategic direction for property management and key property related initiatives. It provides a mechanism to assess whether this protocol is working in practice and to identify and resolve issues with regard to corporate and service responsibilities.
- 2) Project Advisory Group (PAG) considers capital projects and significant changes to capital projects and ensures that proper planning and processes have been followed and risk assessments undertaken in line with the Constitution, the project appraisal handbook and associated financial procedures. It makes recommendations to the Leader for schemes to be included in KCC's capital programme.
- 3) Property Business Plan identifies the main priorities of the Property and Infrastructure Support division and other formal advisory groups.

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- 4) **Medium Term Financial Plan** sets out KCC's spending priorities and financial allocations over the medium term. All capital schemes are subject to the appraisal and decision making processes around the Capital Programme and the Medium Term Financial Plan.

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Information to the Council and Scrutiny

34. Transactions proposed to be authorised by the Cabinet Member for Business Strategy, Performance and Health Reform, are subject to the normal processes of publication to the Policy and Resources Cabinet Committee prior to the Cabinet or Cabinet Portfolio Holder taking a decision. The matter may also be called in by the Scrutiny Committee.

Deleted: The Director of Property will prepare each month a schedule of property transactions dealt with by the Cabinet Member for Corporate Support Services and Performance Management or him/herself, and send this to Head of Democratic Services for publication.¶
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Post	Appointing Body	Adviser
Head of Paid Service	Personnel Committee to interview and report to Council with recommendation	As determined by the Committee
Senior Manager	Personnel Committee or Member Panel (Sub-Committee)	Head of Paid Service and/or Senior Manager

The Personnel Committee may vary these arrangements, except those relating to the Head of Paid Service.

(2) Managers are also authorised to make other day to day operational decisions on the management of their staff in accordance with the relevant procedures and conditions of employment. A list of these authorisations is held by the Director of Personnel & Development, and may be altered by the Head of Paid Service.

Topic	Decision	Minimum Level of Decision
Recruitment and Appointment	Agree the recruitment and appointment of staff graded on Kent Scale 10 and above who are not covered by either the Personnel Committee or the County Council.	Head of Service/Support Unit
Assistance with Employee Relocation Costs	Application of the internal relocation scheme. Application of the enhanced relocation management scheme. Updating of the relocation allowances.	Head of Service/Support Unit Director of Personnel & Development Director of Personnel & Development
Application of Mortgage and Rent Subsidy Schemes	Application of Mortgage Subsidy and Rent Subsidy Schemes.	Head of Service/Support Unit
Acting-up Arrangements	Agree acting up arrangement and determine appropriate payment where an employee is required to undertake the duties of a higher graded post on a temporary basis.	Head of Service/Support Unit to agree and review annually or earlier should the need arise
Extending service beyond the age of 65 years, and the	Approval to extend the service of an employee beyond the normal	Senior Manager

employment of pensioners	retirement age of 65 and the employment of pensioners, subject the guidelines set out in the Procedures and Conditions of Employment manual, the LGPS regulations and insurance provisions.	
Termination of Employment	Termination of employment on redundancy, early retirement, incapability and disciplinary grounds in accordance with KCC's Employment Stability and Early Retirement Policies, and the Incapability and Disciplinary Procedures.	<p>Decisions on redundancies and early retirements for Senior Managers to be taken by the Head of Paid Service following consultation with the political group leaders and the Chief Finance Officer</p> <p>All other redundancies and early retirements (other than ill health) to be jointly agreed by the Director of Personnel & Development and Senior Manager. Plus details of all early retirements to be published on a six monthly basis for Members</p> <p>All other terminations of employment to be agreed by Senior Manager</p>
Use of Ex-Employees as Consultants	Approval to use ex-employees as consultants on a "contract for service" basis with reference to the Code of Practice on Tendering and Contracts.	Senior Manager
Withholding of Redundancy Payment	Agreement to the withholding of a redundancy payment to an employee who unreasonably refuses suitable alternative employment.	Jointly agreed by Senior Manager and Director of Personnel & Development
Early Retirements on Efficiency, Redundancy and Voluntary Grounds	<p>Awarding of augmented service for early retirement under the LGPS Regulations 1997 in accordance with KCC's Early Retirement Policy.</p> <p>In wholly exceptional</p>	Jointly agreed by Senior Manager, Director of Personnel & Development

	<p>circumstances, varying KCC's Early Retirement Policy in respect of awarding augmented service within the LGPS regulations.</p> <p>Waiving of an actuarial reduction for voluntary early retirements agreed on compassionate grounds where the 85-year rule is not met.</p>	and the Pensions Manager, following consultation with the relevant Cabinet Member and Chief Finance Officer
Payment of Gratuities	Agree to the payment of a gratuity on the retirement of an employee who has a minimum of 5 years continuous service and who was not eligible to join the Pension Scheme for part of that service.	Senior Manager
Employer Discretions under the Local Government Pension Scheme Regulations 1997	Exercise of employer discretions under the Local Government Pension Scheme Regulations 1997 in accordance with KCC's policy statement.	Jointly agreed by Senior Manager, Director of Personnel & Development, Pensions Manager, following consultation with the relevant Cabinet Member and Chief Finance Officer
Changes to NJC Pay and Conditions	Agree the implementation of NJC pay awards and changes to conditions of service in accordance with NJC agreements.	Director of Personnel & Development
Advances of Salary	Agree payment of an advance of salary.	Senior Manager
Dealing with salaries and pay progression outside of the normal procedures	In exceptional circumstances agree to pay an employee on a spot salary or on a salary above the evaluated grade for the post.	Senior Manager
Payment of outstanding salary to a named individual in the event of death in service of an employee	Payment of the outstanding salary of an employee who has died in service to an individual where the next of kin is not immediately obvious.	Head of Service/Support Unit
Extension of Sick Pay	Agree conversion of any period of sick pay entitlement from half to full pay.	Senior Manager

	Agree extension of sick pay beyond the aggregate of full and half pay.	Director of Personnel & Development, on recommendation of Senior Manager
Recovery of Sick Pay	Agree recovery of sick pay where employees have been off sick due to their own misconduct.	Director of Personnel & Development, in conjunction with Chief Finance Officer
Payment of Merit Awards to Kent Scheme Staff	Approval to pay merit awards to Kent Scheme staff which do not total more than 10% of an employee's gross annual salary in any one financial year.	Head of Service/Support Unit
Payment of Honoraria to NJC Staff	Approval to pay honoraria to NJC staff to maximum of £500 or 10% of salary, whichever is the greater, in any one financial year.	Head of Service/Support Unit
Payment of enhanced overtime during emergency procedures	Approve enhanced overtime payments to staff on grades F to I where "emergency procedures" have been invoked.	Senior Manager
Payment of overtime outside of the normal arrangements	Exceptionally approve overtime rates which are different to those set out in the Procedures and Conditions of Employment manual.	Senior Manager
Payment of and Revisions to Plus or Excess Rates	Approve the payment of and revisions to plus rates or excess rates to staff employed on NJC conditions.	Senior Manager
Standby Allowances	Approve updating of Standby allowance rates under the NJC and Kent Schemes.	Director of Personnel & Development
Sleeping-in Duty, Special Needs (for Nursery Staff) and Laboratory Technicians Allowances, Homeworking allowances and Food Charges	Approve updating of Sleeping –in Duty Allowances, Special Needs Allowances for Nursery Staff, Laboratory Technicians Allowances and Food Charges.	Director of Personnel & Development
Annual Leave Buy-out	Agree, for exceptional reasons, to buy-out an	Head of Service/Support Unit

	employee's annual leave to a maximum of 5 days in any one leave year.	
Leave for Extraneous Duties, e.g. JPs, Local Authority Members, School Governors	Grant an employee up to 18 days paid leave per year for undertaking extraneous duties.	Head of Service/Support Unit
Special Leave for Trade Union Conferences	Approval for representatives nominated by a recognised Trade Union to be granted up to 5 days paid leave to attend annual/biennial conferences	Head of Service/Support Unit
Special Leave for Retained Fire Fighters	Approval for retained fire fighters to be granted up to 2 weeks additional paid leave to attend recognised courses concerning their fire service duties.	Head of Service/Support Unit
Special Leave for Election Duties	Grant paid leave to employees acting as Presiding Officers and Poll Clerks at Parliamentary, European Parliament, County Council or County District Council elections.	Head of Service/Support Unit
Special Leave for Service in Non-Regular Forces	Grant volunteer members of the non-regular forces up to two weeks additional paid leave per year to attend camp.	Head of Service/Support Unit
Participation in the Reserve Armed Forces	Where appropriate grant approval for an employee to enter an agreement to become a reservist in the regular reserve forces or the volunteer reserves as appropriate.	Head of Service/Support Unit
Special Leave for Parliamentary Candidates	Grant special leave – 3 weeks with pay, 1 week without – to employees holding non-politically restricted posts who are adopted as candidates at a Parliamentary or European Parliament election.	Senior Manager
Paid time off to pursue personal legal action against another	Exceptionally grant paid time off to an employee to pursue personal legal action against	Senior Manager

individual or organisation	another individual or organisation.	
Compassionate Leave beyond normal provisions	In exceptional circumstances grant paid compassionate leave beyond the normal provisions of 10 days in any one leave year.	Senior Manager
Unpaid Leave	Approval for employees to be granted up to and including 10 days unpaid leave. Approvals for employees to be granted between 11 days and 6 months unpaid leave.	Head of Service/Support Unit Senior Manager
Concessionary Leave	Approval in exceptional circumstances of an additional paid concessionary day's leave.	Head of Paid Service (in consultation with Chairman of Personnel Committee)
Reimbursement for Meals	Exceptionally agree the reimbursement of reasonable and actual expenditure on a meal.	Head of Service/Support Unit
Reimbursement of Hotel Expenses	Exceptionally agree the reimbursement of reasonable and actual hotel expenses incurred.	Head of Service/Support Unit
Travelling Allowances	Allocation of car user status (casual, essential, lease) in accordance with established procedures to posts where use of a motor vehicle is required in order to perform the duties. Exceptionally grant essential car user status on criteria other than that set out in the Procedures and Conditions of Employment manual. Updating of travelling allowances and charges for county owned cars.	Head of Service/Support Unit Head of Service/Support Unit Director of Personnel & Development
Travel to and from Joint Consultative Committees by employee representatives	Approval for an employee representative to use his own car and be paid a travelling allowance when travelling to and from Joint	Head of Service/Support Unit

	Consultative Committees.	
Use of First Class Travel	In exceptional circumstances approve the use of first class travel.	Head of Service/Support Unit
Payment of Travelling Expenses at work	In exception circumstances agree the payment of travelling expenses to and from work.	Head of Service/Support Unit
Career Breaks	Agree applications for career breaks.	Head of Service/Support Unit
Car Loans	Setting the maximum amount that can be granted for a car loan. Setting the rate of interest for car loans.	Chief Finance Officer
Benchmark Lease Car	Setting the benchmark car for the lease car scheme.	Director of Personnel & Development
Secondments	Agree secondments outside of KCC. Agree secondments within KCC.	Head of Paid Service or Senior Managers Head of Service/Support Unit
Changes to the delegations and authorisations to Line Managers	Agree changes to the Officer delegations. Agree changes to the authorisations to Line Managers.	Head of Paid Service Director of Personnel & Development