

East Kent Joint Arrangements Committee

3 December 2008

Subject:	Joint Housing Landlord Services
Director:	Velia Coffey, Director of Community Services
Decision Issues:	These matters are within the authority of the Committee.
Decision type:	N/A
Classification:	This report is open to the public.
Summary:	This paper builds on the decision of the East Kent Leaders' Group to move forward with proposals to create a Shared Services Vehicle for the future management of council housing in East Kent and Ashford. Using the experience of local authorities that have established successful arms length arrangements to manage their housing stock, this report begins to flesh out the proposals in terms of what the Shared Service Vehicle (SSV) might look like and what functions it will deliver. The paper sets out the project management and implementation proposals and includes a revised timetable for decision-making and implementation that takes account of the statutory requirement to consult tenants and demonstrate their support for the proposal. This paper also deals with the arrangements concerning the joint management of council housing. A separate paper about the establishment of Local Housing Companies will be presented to the next meeting after the cabinets/executives of each authority has considered the outline proposals.
To Resolve:	a) The project structure and role of EKJAC as project sponsor b) The outline principles for the governance of the SSV in section 2.4 c) The outline of functions to be transferred to the SSV in section 2.5 d) Two executive members of Ashford Borough Council be co-opted onto this

Committee as non-voting members to participate in debates on the landlord services project

- e) The delegation of management and expenditure of the project budget to the Chief Executive of Thanet District Council**
- f) Such recommendations shall only take effect when the last of the district councils concerned in this proposed project has voted to support it in principle.**

SUPPORTING INFORMATION

1. Introduction

- 1.1 As part of the aspiration of the East Kent local authorities to achieve service improvements and efficiencies through shared services, the housing leads were tasked with developing proposals for joint working in the management of council housing in East Kent. Given the distribution of stock holding authorities in Kent, it was logical that Ashford B.C should also be included in this project.
- 1.2 Outline proposals and options were presented to the East Kent Chief Executives and Leaders early in 2008. At this stage it was agreed to work up more detailed proposals on establishing a joint services vehicle for the management of the housing stock and a local housing company to develop new homes using the councils' housing assets.
- 1.3 The East Kent Leaders Group (including Ashford BC) considered more detailed proposals in early November and affirmed their desire to continue with an aspiration to have the new arrangements in place by April 2010. Since that time each authority has sought from their executive/cabinet/council an in principle decision to proceed and an agreement to a budget to cover the implementation costs. Not all Authorities will have decisions in place to a principle agreement to proceed at the date of this committee. The project will only proceed when the last of the district councils concerned in this project has voted to support it in principle.
- 1.4 Preliminary consultation has taken place during this period with tenant representatives, staff, unions and members.
- 1.5 The rationale for joining up the management of council housing and the benefits that the project is expected to deliver are set out in previous papers to the East Kent Leaders and in papers presented to the cabinets/executives of each council. In summary they include:

- **Service improvements** – including the aspiration to raise the rating of the service from fair/good to excellent.
- **Efficiencies and cost reductions** – initial savings of around £700,000 pa have been identified.
- **Resilience** – giving us the depth of experience and critical mass to compete effectively with RSLs and strengthening the long term viabilities of the HRA Business Plans
- **Improving capacity** –being able to recruit, train and retain high calibre and specialist staff that will be required to deliver excellent standards of service

2. **Detail**

2.1 **What is being proposed- Shared Service Vehicle (SSV)**

It is proposed to establish a Shared Service Vehicle through an arms length management company jointly owned by the five local authorities to manage the 21,000 homes owned collectively by the partners. The new company would be accountable to its own Board. Some outline considerations on the composition of the Board and the governance arrangements are set out below. It is anticipated that each council will have to agree the governance arrangements at the next decision stage in February /March next year.

Existing staff involved in delivering the housing service in each of the local authorities would transfer to the new company. Each council would delegate to the SSV responsibility for the running of the HRA housing management service.

The new organisation will be a significant operation in terms of size with around 270 FTE posts being transferred from the five councils to the new organisation.

The SSV would be subject to Secretary of State approval following detailed tenant consultation.

These issues are set out in more detail below.

Each council retains ownership of its stock and responsibility for setting the HRA budget, rent levels, the HRA Business Plan and long-term investment priorities. It also agrees the annual service delivery plan to which the SSV must operate. The councils will also have a nominee on the board of the SSV Company. Key policies, such as allocation of council housing, also remain with the local authorities. Tenants are still tenants of the individual councils with their respective rights and responsibilities unchanged.

The SSV through its board is responsible for running the service specified by the councils through a management agreement and annual service delivery plan. The SSV board must be independent of the councils and so must comprise councillors, tenants and independents. Suggested SSV governance arrangements are set out later.

2.2 Project management

The proposed project structure is set out below:

The East Kent Joint Arrangements Committee will act as the project sponsoring body in line with Prince 2 principles. The Committee's role will be to ensure that the project is kept on track to meet the April 2010 implementation target and to ensure that there is a consistency of approach across all authorities, i.e. it will resolve any disputes or disagreements between the parties over the implementation or approach to the new arrangements. The position of Ashford BC in these arrangements needs to be clarified. Constitutionally there is provision for the membership of EKJAC to be extended to include Ashford on a non-voting basis. Ashford BC can make their own arrangements to mirror decisions to be made in the project.

Project Team. The project team will be lead by Richard Samuel the Chief Executive of Thanet District Council The project team will include the five lead officers for housing, the Project Director, the Project Manager and a tenant representative. The Project Team will meet at least monthly throughout the implementation period.

Project Director. It has been agreed to appoint a Project Director to advise and help steer the project. The Project Director will be independent of the five authorities and will have experience of implementing or working for a housing Arms Length Management Organisation in other local authorities. It is likely their appointment will be part time. A number of potential candidates have already been identified.

Project Manager. An officer from Ashford BC has been seconded to act as project manager for the implementation of the SSV to work at least 2-3 days a week on the project

Sub Groups. A series of sub groups dealing with the main work streams will report into the Steering Group and these include:

- **Legal and Governance**
 - Establishment of SSV
 - Memorandum and articles for company
 - Charitable/Non Charitable status
 - Management agreements between SSV and each local authority
 - Section 27 consent from the Secretary of State
 - Appointment of and liaison with external legal advisors
 - Person specification and Job description for Board members
 - Recruitment of Independent Board members
 - Membership and terms of reference of area boards
- **Finance**
 - First year budget for SSV
 - Calculation of annual management fee
 - Arrangements for HRA accountancy

[illegible]

Month	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M
6. Appoint Management Team and other structures/posts																		
7. Develop service agreements with existing support and other services																		
8. Develop and submit Section 27 application to Government																		
9. Development and sign off of Management Agreements and delivery planning																		
10. TUPE staff for 'go live'																		

2.4 SSV Governance Options

A jointly owned independent company will be formed to carry out the management of all council housing and associated functions in the five local authority area. The model for the company and its governance arrangements will draw on the experience of local authorities that have set up arms length arrangements for their housing and on best practice outlined by the Audit Commission and others. The proposed company will be limited by guarantee and not for profit. We will explore the possibility of the company having charitable status although none of the existing 70 ALMOs in the country appear to have gone down this route. A number of RSLs set up by local authorities to take the transfer of their housing have been granted charitable status.

In line with best practice it is suggested that the Board has 15 members, including five councillors (one nominated from each authority), five tenants (again one from each district/borough) and five independent members, (recruited through an open selection process). It may be advantageous if the chairman of the Board is one of the independent members to remove any perceptions of bias to a given local authority area. The Chair of the Board could be recruited specifically to that position, rather than be selected from the Board.

A key decision will be whether or not Board members will be paid. A majority of ALMOs have unpaid Boards linked to the ethos of service to the community. Others with paid Board members claim that it has increased the quality of Board members especially the independents.

Area Boards

The Board of the SSV will be supported by a structure of district/borough based Area Boards. Representation on these Boards is yet to be determined but it is proposed that they are made up of members and tenant representatives. The role of the area boards will include:

- Monitoring local service delivery
- Providing tenant and member input in to investment decisions
- Advising on local priorities for the annual delivery plan
- Providing local accountability to members

2.5 Transfer of functions

Working on the experience of ALMOs established by other local authorities it is proposed that the following activities transfer to the SSV

- Direct housing management and maintenance functions
 - Tenancy management
 - Leasehold management
 - Responsive, day to day repairs
 - Capital, programme and cyclical repairs
 - Procurement of repairs services and grounds maintenance services
 - Sheltered housing
 - Rent recovery including former tenant arrears
 - Estate management including cleaning services
 - Management and allocation of garages,
 - Processing of Right to Buy applications
 - Lettings of HRA tenancies
 - Tenant Participation

We would be minded to transfer responsibility of the following functions to the SSV

- Housing specific support services
 - Finance and HRA accountancy
 - Legal services relating to tenancy management, possession actions, ASB

Staff currently involved in delivering these functions would be considered for transfer to work for the SSV

The Council would continue to provide the following services to the HRA

- Legal Support to the HRA
- Customer contact- Gateway access
- HR and payroll

- IT support
- Democratic/Committee Services

The council would continue to have control over the following activities/policies

- Setting budgets
- The setting of rents and service charges
- HRA Business Plan
- Lettings and allocations policies
- Asset disposals

Although the council will remain responsible for these activities the preparatory work and delivery may be delegated to the SSV

The staffing structure of the SSV will be determined by the Shadow Board but based on ALMOs the senior management structure is likely to include

- Chief Executive
- Director of Housing/Operations
- Corporate Services Director and company secretary
- Director/Head of Finance

2.6 **Accommodation**

The Audit Commission would want to see some physical separation between the councils and the SSV. At the same time there needs to be a commitment to retain a local management based in all five districts. Using models from ALMOs it is proposed that the head office and backroom functions of the SSV are relocated to new premises away from existing council activities. However, front line services, housing management and surveying teams will continue to be located in council premises. This situation will be reviewed as the relationship between the SSV and councils evolves.

2.7 **Decision making Framework**

Annex 1 outlines the anticipated decision making required for key aspects of the project.

3. **Relevant Council Policy/Strategies/Budgetary Documents**

N/A

4. **Consultation planned or undertaken**

The development of the SSV creates opportunities for tenants and leaseholders to have a far greater influence over the housing service than they had previously through their involvement in the Board and Area Boards.

The involvement of tenants in the implementation and decision making process is critical. In order to get approval of the Secretary of State we are required to demonstrate the support of our tenants for the proposal. There is also a legal requirement under the Housing Act 1985 S105 on councils to consult tenants about any significant changes in the arrangements for the management of their homes.

It is proposed to engage an Independent Tenants' Advisor to support tenant representatives in the process and help develop a robust consultation programme that can be used in evidence to support our submission to the Secretary of State.

A detailed formal consultation process will be required for all five groups of tenants. Subject to professional and legal opinion, our view is that each authority's tenants would need to demonstrate support in order to proceed with each management agreement. Public relations and communications advice within a communications strategy would be desirable and considerable resources required supporting the processes which could entail public meetings and surveys.

Tenant support is **essential** for Section 27 consent.

The key activities would include:

Preparation of all publicity and offer material
Carry out actual consultation events
Report on outcomes to the project sponsors.

External communications advisers may well be required to develop the specialist materials needed to secure support.

A tenant's consultative board will be established to work in parallel with the officer steering group. Amongst other things the tenant's consultative board will be charged with developing proposals for how tenant representatives will be elected to the SSV Board. A tenant's representative will also be elected to the Project Team which will oversee the various sub groups described in 2.2. This will provide the tenant's representative with an opportunity to help and shape the emerging work streams and to report back to the tenant's consultative board on progress and issues.

The need for extensive tenant consultation has an impact on the decision making timetable. It is proposed that in February the cabinets/executives of the five authorities will be asked to agree:

- The operating name of the SSV
- The legal and governance structure of the SSV including its charitable/non charitable status
- The Shadow Board arrangements
- The shape of the SSV and what functions will transfer
- The arrangements to involve tenants in the decision making process

- The timetable and process for seeking Secretary of State approval
- A Business Case to justify moving to the next stage of the implementation stage. Including firmer costs for setting up the SSV, robust forecasts on potential savings to each HRA, the viability for each HRA to proceed and a full acknowledgement of the risks to the General Fund.

It is hoped that the programme of tenant consultation will be concluded in the summer of 2009, with each Council making a formal decision to delegate its housing management function to the SSV in the autumn. For most authorities this is likely to be a decision of full council. An application to the Secretary of State will be made at the year-end allowing the SSV to be operational by April 2010.

5. Options available

1. To agree proposals set out in the report
Essentially these proposals enable detailed work to pursue the concept of a single housing management service through an SSV. The background studies, previously considered by the East Kent and Ashford Leaders and Chief Executives and more latterly by their respective decision making bodies, suggest this model as one best suited to meeting the project objectives set out in paragraph 1.5 above.
2. To amend proposals set out in the report
Any amendments need to be considered against the project objective in paragraph 1.5 and the decisions already reached by the Cabinets/Executives/Councils of the respective district councils.
3. To reject proposals set out in the report
Rejection would leave each council with an incomplete project designed specifically to meet the objectives in paragraph 1.5 above.

6. Reasons for supporting option recommended, with risk assessment

There has been considerable effort and resources committed to establish a sustainable and cost effective model of joint working for housing management services. The discussion and studies to-date have concluded that an East Kent and Ashford SSV is the best way forward. Nevertheless there are still a number of issues that need further exploration and specific consents to be secured before an SSV can be established. The key risk therefore is that the resources committed to the project would not be recouped if the SSV is not established or is established but is not successful. A fuller schedule of risks and possible mitigation is set out in Annex 2.

7. Implications

- (a) Financial Implications – the estimated set up costs for the SSV is around £550,000. This will be met by contributions of £110,000 from each HRA. The estimated annual efficiency savings are estimated to be in the first instance around £700,000

- (b) Legal Implications – Section 105 of the Housing Act 1985 requires the council to formally consult with its tenants before making significant changes in the management of the service. Some preliminary consultation has taken place with the tenants' representative bodies. More detailed consultation will take place with all tenants before an application is made to the Secretary of State under section 27 of the Act to delegate the management of our council housing to another organisation

Other implications

- (c) Staffing/resource – as above. The set up resources are covered in part by the project finance approved by each authority. In addition senior management time will be required to lead the project streams. EKJAC will need to meet more frequently as project sponsor if a deadline of April 2010 is to be met.

8. Conclusions

This project will have a significant impact on the way in which housing services are operated. It also provides an impetus to driving further efficiencies at the host authorities. However there is a considerable amount of work to undertake and support to be gathered prior to final decision-making. A key milestone will need to be reached in the spring to when EKJAC and the individual authorities will need to decide the parameters of the SSV and the detailed implementation phase, all of which will be subject to detailed tenant involvement and consultation and ultimately requiring Secretary of State approval of the SSV. EKJAC will play an important role in steering the project and resolving differences.

9. Background Papers

East Kent and Ashford; Landlord services joint working; stage two report

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ANNEX 1

Decision Making

Decision	Project Board	Executive / Cabinet Committee	East Kent Joint Area Committee	Full Council
Establishment of SSV	✓	✓	✓	✓
Agreeing the Memorandum and Articles for SSV Company	✓	✓	✓	✓
Consider Charitable/Non Charitable Status for the SSV	✓	✓		
Agree the management agreements between SSV and each Local Authority	✓	✓		✓
Appointment of professional advisers (including legal)	✓			
Agree person Specification and Job description for Board members	✓			
Agree membership and terms of reference of area boards	✓	✓	✓	✓
Setting First Year budget for SSV	✓	✓	✓	✓
Agree the calculation of annual fee	✓	✓	✓	✓
Agree the arrangements for HRA accountancy	✓	✓	✓	
Assess the residual effects on General Fund	✓	✓	✓	✓
Resolve Vat and tax issues awareness	✓			
Agree the communications strategy (with all media and all stakeholders)	✓			
Consider IT support for existing housing systems	✓			
Assess communication and network requirements for SSV	✓			
Assess the service level	✓			

Decision	Project Board	Executive / Cabinet Committee	East Kent Joint Area Committee	Full Council
agreements between SSV and IT teams				
Agree the approach to procurement of services from external providers and from the local Authorities	✓			
Have a vision about the arrangements for managing the residual strategic housing functions post SSV	✓			
Assess the Housing client role	✓	✓	✓	
Agree the consultation arrangements pre implementation	✓	✓	✓	
Agree the participation arrangements post implementation	✓	✓	✓	
Agree the consultation process with staff	✓	✓	✓	
Agree the TUPE arrangements with local authorities	✓	✓	✓	
Agree the appointment for the Chief Executive of the SSV	✓	✓	✓	

ANNEX 2

	High level risk	Probability	Impact	Possible mitigation
1	Support does not continue at all authorities	Medium: affected by initial 'buy in'	High: SSV may need to be reconstituted, aborted set up costs	Ensure initial commitment and buy in Negotiate options to counter local concerns
2	Tenants' support not received	Medium: ensure involved tenants support	High: aborted set up costs	Early negotiation options within the SSV to meet tenants' concerns
3	Section 27 not approved by gov't	Unknown	High: would need to seek alternative model	Establish communication from the start
4	Project costs over budget	Medium	Medium: depends on progress	Ensure appropriate contingencies in HRAs
5	Unforeseen additional service costs	Medium	Low/medium: depends on level	SSV/company to fund additional efficiencies
6	Principle of 'no financial impact' for LAs cannot be met	Low-Medium	High: may require fundamental review of options	Ensure clarity in initial service and other agreements
7	Efficiency targets not able to be met	Low-Medium	Medium-High: not able to deliver promised service improvements	Recast SSV and HRA business plans
8	Adverse impact on current services from large set up project	Low	Medium: threaten reputation and credibility for project	Ensure project resources appropriately deployed
9	Difficulties with TUPE for critical staff	Low (staff to date supportive)	Medium: may affect services of new SSV in short term	Ensure robust approach to recruitment in SSV
10	Difficulty in harmonisation of staff terms / conditions	High	Medium: affects scope to achieve efficiencies in medium term	Adoption of suitable HR and IR protocols
11	Inability to recruit directors	Low	High: reputational and governance issues	Ensure robust approach to recruitment in SSV
12	Ashford not in EK joint decision making (eg ongoing shared	High	Medium	Protocols between various joint working initiatives within East / Mid Kent

	services reviews)			
13	HRA Subsidy Review affects ring-fence)	Low	Medium	Continued robust budget management within authorities
14	Support services do not achieve alignment SLAs after review period	Medium: SSV unable to achieve efficiencies	Low	Ongoing negotiation to ensure value for money in support services