

Report to be considered by the East Kent (Joint Arrangements) Committee

EAST KENT JOINT ARRANGEMENTS COMMITTEE

8 APRIL 2009

Subject: Shared HR/Payroll Business Case

Director/Head of Service: Jim McDonald, Director of Corporate Services, Canterbury City Council
Wendy Head, Corporate Director, Organisational Performance, Shepway District Council

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

Decision type: Non-key

Classification: This report is open to the public.

Summary: This report sets out the progress to date, towards the creation of a shared service for the delivery of HR and payroll services to the East Kent authorities of Dover DC, Canterbury CC, Shepway DC and Thanet DC and asks the East Kent Joint Arrangements Committee to agree to the recommendations below being implemented. The business case indicates that there is potential for £2.9 million savings over five years.

To Recommend:

- (1) **That the East Kent Joint Arrangements Committee recommends to the Councils and the Executives of Canterbury City Council, Dover District Council, the District Council of Shepway and Thanet District Council that with effect from 1 June 2009**
 - (a) **That the Council and Executive of each of those Councils agrees to**

enter into the joint administrative arrangements described in the administrative collaboration agreement appended to this report.

- (b) that the Council of each of those councils agrees (in so far as the administrative collaboration agreement relates to functions which are the functions of the Council) that the functions set out in the Agreement shall be discharged by the East Kent Joint Arrangements Committee subject to the terms, conditions and limitations contained in the Agreement**
 - (c) that the Executive of each of those councils agrees (in so far as the collaboration agreement relates to functions which are the functions of the executive) that the functions set out in the Agreement shall be discharged by the East Kent Joint Arrangements Committee subject to the terms, conditions and limitations contained in the Agreement**
- (2) That on and from the day upon which the above takes effect that the Human Resource functions described in Administrative Collaboration Agreement be discharged by The Head of the Human Resources Shared Service in the employment of Dover District Council in accordance with the Service Level Agreement to be approved by the Head of Paid Service of each authority.**
- (3) That on and from the day upon which the above takes effect that the Payroll functions described in Administrative Collaboration Agreement be discharged by the officer with responsibility for the delivery of Payroll in Employee Services**

at Kent County Council in accordance with the Service Level Agreement to be approved by the Head of Paid Service of each authority.

- (4) That immediately after the meeting of this committee the post of Head of HR Shared Services be advertised internally first, with external advertisement only if internal recruitment is not successful, with no offer of employment being made until after the last councils executive committee has met to make the appropriate delegations, i.e. 21 May 2009.**

1.0 Introduction

- 1.1 This report presents an overview of the detailed business case for the creation of a shared HR and Payroll Service across the East Kent Districts authorities in line with the Kent Commitment and the shared services agenda.
- 1.2 The report also asks the committee to recommend to each of the authorities' executives to make the appropriate delegations to allow the implementation of the shared service arrangements.

2.0 Background

- 2.1 On 3 December the East Kent Joint Arrangements Committee agreed to the following;

To recommend to the Executive of each participating Council that they:

1. Delegate to EKJAC the responsibility to develop business models for a shared HR and Payroll Service between some or all of the parties and to make recommendations to them.
2. Contribute £10,000 to develop the project.
3. Agree to KCC commencing an appropriate procurement process for the acquisition of a suitable HR/Payroll software system provided that the system shall not be acquired until the participating Districts have approved the business model.

To resolve that upon the first two parties approving the above recommendation the following shall take effect:

1. The EKJAC delegates to the Project Lead (Wendy Head, Corporate Director,

Organisational Performance, Shepway District Council) the power to develop the business models for a shared HR and Payroll Service between some or all of the parties.

2. The EKJAC delegates decisions on the use of funding secured to develop the project to the Project Lead as above in consultation with the Chief Executives of the parties.

2.2 The above recommendations were agreed by three of the partner authority's Cabinets as follows:

10 December 2008	Shepway District Council Cabinet
15 December 2008	Dover District Council Cabinet
8 January 2008	Canterbury City Council Cabinet

2.3 Thanet District Council has not yet taken a report recommending the above to their Cabinet and therefore has not made the financial contribution to developing the project that the other authorities have.

2.4 Between December 2008 and March 2009 work on the detailed business case has been completed.

2.5 On 25th March 2009 the East Kent Forum considered the detailed business case and agreed that this should progress to the EK JAC on 8th April based on the financial savings of £2.9 million over five years and other benefits that can be realised from the creation of this service.

3.0 Financial modelling/Potential savings

3.1. Financial modeling

3.1.1 A detailed financial modelling exercise has been undertaken as part of developing the detailed business case.

3.1.2 The objectives of this financial modeling exercise were to provide sufficient data for assessing the business case and to obtain district s151 officer sign-off.

3.1.3 In order to do this it was necessary to:

- Establish the current “baseline” costs and project the baseline costs over the next 5 years
- Determine the costs of the new service and establish equitable methods of recharging
- Assess the cost / benefit, to each authority, of the new service
- Agree protocols to protect the interests of authorities and ensure that robust exit arrangements exist.

3.1.4 The financial analysis has costed a 5 year period from 2009/10 in order to indicate the scale of savings, but the new arrangements will be implemented in stages, through 2009/10, so we are not predicting "whole year" savings for all authorities in 2009/10. The actual savings in 2009/10 will be determined in more detail as the implementation plan is completed.

3.2 Establishing the baseline costs

3.2.1 Each of the districts has provided data on the current costs of the provision of payroll, human resources, learning and development and health and safety. The data provided has been on the basis that the service would be continuing as an "in-house" service.

3.2.2 This ensures that savings (for example from current vacant posts) have not been included in the costings if they are not sustainable, since to do so would undermine the comparison with the new service.

3.2.3 The data is also analysed between "marginal" costs (typically employee costs and license costs) which can be saved if the service is closed / transferred, and fixed costs which, in the short term, cannot be saved – these tend to be recharges such as premises, desktop support etc.

3.2.4 Finally, districts have also provided "one-off" costs over the next 5 years. Typically, these relate to service upgrades / re-implementations which may arise every 3 years or so.

3.2.5 The data has then been used to produce, for each district, and for each of payroll, human resources, learning and development and health and safety, the annual cost for each year from 2009/10 – 2013/14.

3.2.6 The projections do not include the effects of inflation for two reasons. First, we are in a very low inflationary environment, so it is not a significant factor. Second, in terms of comparing the current and future service provision, inflation, to the extent that there is any, might reasonably be expected to bear upon both service provision models, and so it is not relevant to the cost comparison.

The results have been checked and agreed with district s151 officers and form the baseline costs against which savings are determined.

3.3 Determining the costs of the new service

3.3.1 The cost of the payroll service has been calculated based on data supplied by KCC, and the results have been agreed with Richard Vince from KCC.

3.3.2 The cost of the rest of the service has been calculated by Wendy Head and Mike Davis based on the anticipated structure and size of the new service. This has also been discussed with all district s151 officers.

3.3.3 These costs have then been attributed to the districts using a combination of employee headcount, payslips, and some core costs that have simply been split equally between the 4 authorities (see protocols at **Appendix 1**).

3.4 Determining the cost/benefit to each authority

3.4.1 The cost / benefit to each authority has been determined at two levels. First, the total cost of the current service, including overheads, has been compared to the costs of the new service. This shows total combined “savings” of over £5m over the 5 year period. However, this is not a realistic assessment, since a significant proportion of the current service costs are “fixed”.

3.4.2 The second assessment compared the “marginal” costs of the current service with the new service. That shows potential cashable savings of £2.9m over the 5 year period. It must be re-iterated that this may not be a saving against current budgets if the budgets already anticipate some of these savings.

3.4.3 More work is required to fine tune the attribution of costs under the new service, and so the savings cannot be regarded as definitive. However, the modelling is of sufficient detail, the potential savings are of sufficient scale, and the modelling has sufficient buy-in from district s151 officers to indicate that the project is viable and should proceed.

3.2 The table over the page sets out the savings for each authority over the 5 year period.

3.5 Future additional savings

3.5.1 Due to economies of scale there will inevitably be other cashable savings in the creation of the shared service. e.g.

- Learning and Development (current spend approximately £800,000 across the 4 authorities)
- Recruitment advertising (current spend approximately £200,000 across the 4 authorities)
- Occupational Health provision (Joint contract being let in summer 2009 is expected to bring savings)
- Reduction in the need for technology support to individual systems and individual upgrade costs.

3.5 Financial Protocols.

3.5.1 As part of the financial modelling a set of financial protocols has been developed and agreed by the s151 officers in each authority. A copy of these protocols is attached at **Appendix 1**.

3.5.2 These protocols set out arrangements covering things such as:

- Pension back funding
- Closure and exit from the service
- Set up costs
- Charging costs

Costs for Period
2009/10 - 2013/14

Payroll **HR** **L&D** **H&S** **Shared
Costs** **Total**

**Current Service Cost -
All Costs**

CCC	928,000	2,075,000	140,000	300,000	0	3,443,000
DDC	594,268	1,204,340	290,010	348,445	0	2,437,063
SDC	518,600	901,600	502,500	205,650	0	2,128,350
TDC	592,923	2,106,909	311,655	290,827	0	3,302,315
Total	<u>2,633,791</u>	<u>6,287,849</u>	<u>1,244,165</u>	<u>1,144,922</u>	<u>0</u>	<u>11,310,728</u>

**Current Service Cost -
Marginal Costs Only**

CCC	678,000	1,595,000	110,000	240,000	0	2,623,000
DDC	548,118	1,078,340	258,510	303,745	0	2,188,713
SDC	447,750	735,900	410,450	205,650	0	1,799,750
TDC	505,473	1,606,609	268,005	247,177	0	2,627,265
Total	<u>2,179,341</u>	<u>5,015,849</u>	<u>1,046,965</u>	<u>996,572</u>	<u>0</u>	<u>9,238,728</u>

New Service Costs

CCC	445,619	1,291,167	227,065	0	83,440	2,047,292
DDC	200,528	811,245	102,179	0	37,548	1,151,501
SDC	272,687	929,045	132,833	0	48,813	1,383,377
TDC	359,897	1,087,855	174,159	0	63,999	1,685,910
Total	<u>1,278,731</u>	<u>4,119,313</u>	<u>636,238</u>	<u>0</u>	<u>233,800</u>	<u>6,268,081</u>

**Savings Compared to
Total Costs**

CCC	-482,381	-783,833	87,065	-300,000	83,440	-1,395,708
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DDC	-393,740	-393,095	-187,831	-348,445	37,548	-1,285,562
SDC	-245,913	27,445	-369,667	-205,650	48,813	-744,973
TDC	-233,026	-1,019,054	-137,496	-290,827	63,999	-1,616,405
Total	-1,355,061	-2,168,537	-607,928	-1,144,922	233,800	-5,042,647

<u>Savings Compared to</u>						
<u>Marginal Costs</u>						
CCC	-232,381	-303,833	117,065	-240,000	83,440	-575,708
DDC	-347,590	-267,095	-156,331	-303,745	37,548	-1,037,212
SDC	-175,063	193,145	-277,617	-205,650	48,813	-416,373
TDC	-145,576	-518,754	-93,846	-247,177	63,999	-941,355
Total	-900,611	-896,537	-410,728	-996,572	233,800	-2,970,647

4.0 Legal and Governance issues

4.1 Location/Host employer

4.1.1 Based on an initial assessment and the stated preference of the majority of staff it is proposed that Dover District Council becomes the location and host employer for the staff involved and that the shared service is based at that location.

4.1.2 There is recognition that this may be an interim arrangement that is subject to change at some point in the future by the EK JAC if the current early discussions on the creation of a new company to receive and manage all shared services on behalf of the East Kent authorities are progressed to implementation.

4.2 Delegation to East Kent Joint Arrangements Committee

4.2.1 Each authority will need to formally authorise the changes to the existing methods of service provision through their normal decision making processes to delegate their current service to the EK JAC.

4.2.2 The proposed timetable for each partner authority's Executive/Council to consider the detailed business case and delegate the shared service into EK JAC after its meeting on 8 April 2009 is;

Council	Executive meeting date	Council meeting date
Canterbury	Tbc (special executive to be arranged)	23 April 2009
Dover	15 April	13 May 2009
Shepway	15 April	29 April 2009
Thanet	7 May	21 May 2009

4.3 Administrative Collaboration Agreement

4.3.1 An Administrative Collaboration Agreement between the four East Kent authorities for the provision of services is in the process of being drawn up by the legal officers from each of the 4 authorities delegating their HR, Payroll and Health and Safety services to the EK JAC. A copy of the Administrative Collaboration agreement is attached at **Appendix 2**.

4.3.2 This agreement is based on the Audit partnership agreement that was prepared for the councils by Evershed's. It covers key areas such as:

- delegation of functions
- responsibilities of head of paid services
- client officer group
- variation
- staff
- transfer of assets
- intellectual property
- liabilities in respect of this agreement
- funding
- withdrawal from this agreement
- duration of agreement
- determination of this agreement
- dispute resolution procedure
- arbitration
- notices
- data protection/freedom of information
- insurance
- information and confidentiality
- scrutiny
- audit
- vat
- force majeure
- severance
- contracts (rights of third parties) act 1999
- governing law

4.3.3 Appended to this agreement will be a Service Level Agreement (SLA) between the shared service and Kent County Council for the provision of payroll and an SLA between the EK JAC and the shared service on the provision of HR and Health and Safety services.

4.3.4 The SLA's are currently being finalised and will set out:

- The services to be provided
- Service standards
- Performance monitoring arrangements

- Confidentiality
- Complaints process

4.3.5 Performance against the SLA will be monitored through a client officer group (The Strategic HR Board).

4.3.6 The Strategic HR Board will report quarterly to the EK Forum and the EK JAC on service performance.

5.0 Appointment of the Head of HR Shared Services

5.1 The Head of HR Shared Services is a key role in the success of this service. The service will require a person with business acumen, customer and performance management focus and personal integrity in order to build the necessary relationships with the four authorities to make the new service succeed.

5.2 It is essential that this post is recruited to as soon after the decisions of the EK JAC have been taken on 8th April in order for the post holder to become involved in the development and roll out of the service.

5.3 There are a small number of current HR staff who could put themselves forward for this role and the EK Forum have therefore recommended that the post be advertised internally first immediately after the meeting of the EK JAC on 8th April with no offer being made until after the last executive committee has met to make the appropriate delegations, i.e. 21 May 2009.

5.4 It is proposed that the selection panel will be made up of a representative from each of the four authorities.

6.0 TUPE issues

6.1 TUPE is a complicated piece of employment legislation which changes frequently as case law is considered by employment tribunals, appeals courts etc. In order to ensure that the most up to date assessment of the TUPE implications of the HR Shared Service were considered, specialist employment law firm Outset UK have been engaged. Outset UK was asked to provide professional legal advice on various employment aspects of the shared service project in addition to the obvious TUPE issues.

6.2 There is no question about the application of TUPE in the creation of the HR Shared Service through the host employer option in relation to HR and Health and Safety staff. Outset UK has confirmed that the proposed arrangements will meet the definition of a service provision change in the TUPE Regulations 2006 and so will constitute a relevant transfer so far as the HR and health and Safety Officers at each of the partner authorities (excepting the host employer) are concerned.

- 6.3 A key issue with TUPE is the actual date of the relevant transfer(s) and this is of particular importance with this project given the need to have new operating arrangements in place from 1 October 2009 with a new staffing structure. Having explored the options, the recommendation from Outset UK is that all employees (HR, Payroll and Health and safety staff) are seen to transfer to the lead authority from day 1, i.e. 1 June 2009. This approach would mean that the method of delivery of services will not change immediately but over time – (between 1 June 09 and 31 March 2010) when location and responsibilities will gradually change. This will still allow for sufficient change to take place for the new operating arrangements to take effect in October 2009 although some staff will not be in their final roles until the new HR/Payroll system has been rolled out to each authority.
- 6.4. KCC has however raised the question of whether the subsequent transfer of payroll services to KCC will constitute a relevant transfer under TUPE. Because each of the authorities will “go live” with the new HR/Payroll system at different dates over a four month period, there will be no clear single date of TUPE transfer. The period from 1 October 2009 to 31 March 2010 will see a transition period as the new payroll/HR system is implemented in each authority. It will be essential to retain a level of payroll knowledge within the shared service for this period to support the transition. However KCC will need to have sufficient staff in place before the final authority has gone live to ensure a smooth transition.
- 6.5 In addition the roles in KCC are not likely to be comparable to the roles undertaken by any of the existing payroll staff in each authority and the additional travel to work time to get to Kings Hill is seen by many of the staff as prohibitive.
- 6.6 Further advice on this issue was sought from Outset UK and they have confirmed that in their opinion the transfer of payroll to KCC does constitute a relevant transfer under TUPE.
- 6.7 However, noting the issues raised above, Outset UK has identified the ability of the employee to object to the transfer. Given that discussions have taken place with staff about possible redeployment to alternative roles either within the new service or within one of the partner authorities for those staff who would be due to transfer, it would be open to the partner authorities to make these offers of alternative employment some time in advance of the proposed transfer. If the offers are accepted, we have sufficient evidence of the employee objecting to transfer under TUPE and are therefore unlikely to fall foul of the legislation.
- 6.8 It would appear highly likely that this agreement would be forthcoming when the alternative option of transferring to KCC would seem almost certain to result in redundancy, with it also unlikely that the employee would be keen to take up an alternative role located at Kings Hill in view of travel to work requirements. Regional union has confirmed their support for such an approach.

7.0 Risks

- 7.1 The project group has undertaken an initial risk assessment around the project and created a risk log to help control the risks. The risk log is reviewed at the fortnightly project group meetings. The most significant current risks and their control measures are set out below:

Risk Description	Risk Impact Description	Control measure
One of the partners pulls out of the project.	Potential increased cost for remaining partners/reduced savings.	Seek formal commitment at early stage of the project and closely monitor views.
2 partners pull out of the project	Project fails	Seek formal commitment at early stage of the project and closely monitor views.
Business case is delayed at the EK JAC on 8 April	Creates a 6 month delay in implementation of the HR/Payroll system, subsequent severe difficulties for Dover DC on end of year payroll processing for 09/10 and potentially additional costs for the remaining authorities. See detailed explanation at paragraph 7.2 below.	Ensure robust case is presented with s151 sign off on the detailed financial modelling.

- 7.2 The delay in decision making if the business case is delayed by the EK JAC on 8th April 2009 has serious implications for the project and the individual councils in terms of payroll. The planned timetable was for EKJAC, cabinet and council decisions to be made in April/May so that the first parallel run would be in September with the final one in February 2010. If EKJAC were to delay a decision until June it is likely to be September before all councils have approved the arrangement. That will mean the first parallel run will be February 2010. Thanet's current contract expires at the end of January 2010 so they will now need to negotiate an extension or enter a new contract. Dover's current system will not run the year end in March 2010. Canterbury did not replace its payroll manager when he left in February on the basis that we could manage for 7 months with him coming back to take us through the year end for this year. It is unlikely he will come back to take Canterbury through another year end. Shepway will need to continue for 5 or 6 more months hoping that nothing happens to the one person doing their payroll. It is not practical for us to deal with the delay without making other arrangements which then put in doubt the ability to make savings from the shared service.

8.0 Key milestones

- 8.1 A detailed project plan has been developed to which the project group and the work stream project groups are working.
- 8.2 Identified in this project plan are key milestones to be achieved to allow the project to progress to successful conclusion. These are:

April 2009	EKJAC recommends business model to participating parties
April - May 2009	Participating parties make appropriate delegations.
May 2009	Head of HR Shared Service appointed
June 2009	Contract for HR/Payroll system let to successful bidder
June 2009	TUPE transfer of staff to Dover DC
July 2009	Head of HR Shared Service commences (?)
October 2009	Revised structure for HR service takes partial effect – Shared HR service “goes live”.
November 2009	New HR/Payroll system goes live at first authority followed by each of the remaining authorities over the following 4 months.

9.0 Conclusion

- 9.1 The detailed business case identifies significant potential savings and makes a compelling case to progress this project as swiftly as possible.
- 9.2 Agreement to progress is needed in order to meet the deadlines set out in the detailed business case and identified in paragraph 7.2 of this report, and in particular the commencement of the procurement of the HR/payroll system.
- 9.3 Delivering this project to the planned timescale will provide real learning opportunities for other large service areas currently progressing shared services within the partner authorities. The principles and processes developed through this project will assist these other projects to progress successfully.

10. Relevant Council Policy/Strategies/Budgetary Documents

The East Kent councils' Protocol on shared services and the Kent Commitment.

11. Consultation planned or undertaken

Consultation has taken place with staff involved in the services, other staff and managers, Trade Union representatives and some of the councils' Scrutiny committees.

12. Options available with reasons for suitability

1. Agree the recommendations
2. Do not agree the recommendations

13. Reasons for supporting option recommended, with risk assessment

Option 1 is recommended as it shows the councils have the potential to achieve savings ranging from £400,000 to around £1 million. The business plan and the financial modelling have been reviewed by Section 151 officers and has sufficient buy in for being a viable plan.

14. Implications

(a) Financial Implications

These are set out in the body of the report

(b) Legal Implications

Legal officers have advise on the legality of the proposed approach and on the content of the proposed documents setting out the terms of the delegation arrangements.

Other implications

(c) Staffing/resource

Staff from the other three districts will transfer to Dover DC. There will be a reduction in the total number of staff involved in the service.

(d) Property Portfolio

Office space will be freed up in Canterbury, Shepway and Thanet when the staff transfer to Dover. Dover has space to accommodate the new team.

(e) Environmental/Sustainability

None

(f) Planning/Building Regulations

None

(g) Human Rights issues

None

(h) Crime and Disorder

None

(i) Biodiversity

None

(j) Safeguarding Children

None

(k) Energy efficiency

None.

15.0 Conclusions

[text]

16.0 Background Papers

16.1 The Business Case (in this report referred to this detailed business case) presented to the EK forum on 25th March. *(This document is over 200 pages long and has therefore not been appended to this report but is available through members of the project group in each authority).*

17.0 Contact Officer:

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