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Date of publication: 26 May 2010

CANTERBURY CITY COUNCIL

EAST KENT (JOINT ARRANGEMENTS) COMMITTEE

**Minutes of a meeting held on Wednesday, 19th May, 2010
at 10.00 am in The Guildhall, Westgate, Canterbury**

Present: Councillor R Bayford, Thanet District Council (Chairman)

Councillor R Bliss, Shepway District Council
Councillor R Doyle, Canterbury City Council
Councillor J Gilbey, Canterbury City Council
Councillor A King, Kent County Council
Councillor R Love, Shepway District Council
Councillor F Scales, Dover District Council
Councillor I Ward, Dover District Council

Officers:

Nadeem Aziz	Chief Executive, Dover District Council
Colin Carmichael	Chief Executive, Canterbury City Council
Richard Samuel	Chief Executive, Thanet District Council
Alistair Stewart	Chief Executive, Shepway District Council
Mark Ellender	Head of Legal and Democratic Services, Canterbury City Council
Roger Walton	Head of Property, Leisure and Waste Management, Dover District Council
Linda Davies	Director, Environment and Waste, Kent County Council
Matthew Archer	Assistant Head of Democratic Services, Canterbury City Council
David Godfrey	Public Policy, Kent County Council

34 APOLOGIES FOR ABSENCE

Apologies received from Councillors Carter (Kent), Watkins (Dover), Wise (Thanet) and Law (Canterbury).

35 DECLARATIONS OF INTEREST

No declarations of interests were received.

36 SUBSTITUTE MEMBERS

Councillor Rosemary Doyle substituted for Councillor Law (Canterbury) and Councillor Ian Ward substituted for Councillor Watkins (Dover).

37 **MINUTES**

The minutes of the meeting held on 20 January 2010 were agreed as a correct record.

38 **APPOINTMENT OF HOST AUTHORITY, DELEGATION OF POWERS FOR THE PROPOSED THANET, DOVER AND CANTERBURY SHARED SERVICES AND LOCATION OF STAFF**

The committee was informed that following acceptance by three of the five participant authorities of the strategic business case for a range of shared services earlier in the year, a Director of Shared Services had now been appointed. Delegated powers needed to be agreed by the committee for the new post to undertake her duties. These delegated powers would also be exercisable should Kent County Council and Shepway District Council delegate functions to the Committee in future. Attention was drawn to analysis, as set out in schedule 1, of which authority should act as host. It identified Thanet District Council as the preferred employer for the new Director. Canterbury was identified as the most suitable location for the shared services management team. He noted that it was not for the Joint Arrangements Committee to appoint the host but it did have authority to delegate powers to the Director. He recommended two minor amendments to the report:

- (i) That recommendation 1 be amended to Director of Shared Services *and her staff*.
- (ii) That within the scheme of delegation set out in Schedule 2 that "The Parties" means any two or more of Canterbury City Council, Dover District Council, Kent County Council, the District Council of Shepway and Thanet District Council.

RESOLVED –

1. That Thanet District Council as the host employer of the Director of Shared Services and her staff be approved.
2. That the Director of Shared Services when employed by Thanet District Council be delegated the powers of the Committee as set out in schedule 2 attached to this report.
3. That the Director of Shared Services and associated staff be located at Canterbury City Council offices.
4. That the definition of "the parties" be amended to include Kent County Council.

A copy of the scheme of delegation as amended is appended to the minutes.

39 **REVIEW OF ADMINISTRATIVE ARRANGEMENTS FOR THE EAST KENT (JOINT ARRANGEMENTS) COMMITTEE AND THE EAST KENT (JOINT SCRUTINY) COMMITTEE**

The Committee was informed that a review of the arrangements had been undertaken by Mr Doug Bradbury, SOLACE consultant and former Chief Executive of Shrewsbury and Atcham Borough Council, who was well versed in constitutional matters. The review had concluded that the current arrangements were robust. A number of recommendations had been made in the report to further enhance the

arrangements and these were included in the report for consideration by the committee. Particular attention was drawn to the difficulties inherent in EKJAC's decision-making processes, which had contributed to the delay of projects. These had been taken on board in preparing the methodology for the strategic business case earlier in the year.

Attention was drawn to a number of the more detailed recommendations as follows:

- (i) administration and chairmanship – it was recommended that Canterbury retained the 'administering authority' arrangements for a further year, making a total of 3 years, whilst the chairmanship rotated. A further review would take place in a year's time;
- (ii) that the chairman of both EKJAC and EKJSC be given a second or casting vote unless his or her council was not participating in the shared service concerned;
- (iii) agreement to a fund to meet the costs of researching and creating shared services projects; and
- (iv) creation of an SLA for the functions of the administrative host.

He also said the following matters should be kept under review:

- (v) relationship between EKJSC and individual scrutiny committees, which may be the subject of a future protocol;
- (vi) the need for specialist officer advice to support the work of the Joint Scrutiny Committee; and
- (vii) funding the work of officers supporting the Joint Arrangements Committee.

RECOMMEND -

That the following recommendations be made to each council –

1. That the East Kent (Joint Arrangements) Committee operating arrangements be amended as follows:
 - (a) Paragraph 11.1 – In the table delete "and Host Authority".
 - (b) Paragraph 12.1 – To add "in the event of an equality of votes the Chairman may have a second or casting vote unless his council is not participating in the shared service concerned".

Paragraph 12.2 – To add "Any such recommendation shall be considered by each of the parties and a response made to it within three months of the date such recommendation is made".
 - (c) Paragraph 14.1 – To delete "the Parties will appoint a Host Authority which is for the time being the Authority shown as the Chairman and Host Authority in the table at clause 11.1" and substitute "which until May 2012 shall be Canterbury City Council and thereafter such Administering Authority as EKJAC may from time to time appoint".

Paragraph 14.4 – Delete “will be paid for by the host authority” and substitute “will be paid for by the parties in equal shares”.

- (d) To add the following paragraphs and re-number the succeeding paragraphs:

“Paragraph 15. – Finance

Paragraph 15.1 – “To agree that the councils allocate sums from time to time to funds for meeting the costs of researching and creating Shared Services projects and that the Chief Executive of the Host Authority be given delegated power in consultation with the Chief Executives of the parties participating in those projects to authorise any expenditure within the allocated budget”.

- (e) Where the context so admits change “Host Authority” to “Administering Authority” throughout.

2. That the East Kent (Joint Scrutiny) Committee operating arrangements be amended as follows:

To add at the end of 11.1 “In the event of an equality of votes the chairman may have a second or casting vote unless his council is not participating in the shared service concerned”.

To add “11.3 Where two or more parties have resolved to delegate the relevant functions to the EKJAC then:

- (a) The service will thereafter be a shared service only in relation to those parties and
- (b) Those parties alone will have voting rights at the EKJSC in relation to further decisions as to how that shared service is jointly managed provided or procured.
- (c) The parties that did not delegate that shared service will not have voting rights in relation to that shared service until or unless they do delegate such service at some future date.

3. That the Head of Legal and Democratic Services at Canterbury prepare a Service Level Agreement to describe the role of the administrative host authority for the EKJAC to be approved by the Monitoring Officers of all the parties.

4. That the following matters be kept under review in relation to the operating arrangements of both Committees:

A protocol regulating the relationship between EKJSC and the individual council Overview and Scrutiny Committees.

Recruitment of a specialist officer to support the work of EKJSC.

The principle that any work carried out by staff of the councils towards achieving a shared service be reimbursed from EKJAC funds and that such funds are made available to EKJAC.

40 **ANY OTHER BUSINESS WHICH FALLS UNDER THE EXEMPT PROVISIONS OF THE LOCAL GOVERNMENT ACT 1972 OR THE FREEDOM OF INFORMATION ACT 2000 OR BOTH**

RESOLVED – That, under Section 100(A) 4 of the Local Government Act 1972, the press and public be excluded from the meeting during the consideration of the following item on the grounds that there would be disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act or the Freedom of Information Act or both.

41 **EAST KENT JOINT WASTE PROJECT**

The report was introduced by Roger Walton, Head of Property, Leisure and Waste Management (Dover). The Committee was informed that the report before them built on the previous agreement made in November 2009 to adopt the Notional Optimum Model (NOM) for waste disposal and collection. In the interim period, a competitive dialogue procurement process had been continuing on the joint tender between Shepway, Dover and Kent to allow prospective tenders the opportunity to inform the client authorities on the most effective waste collection methodology. This had led to a recommendation that an Alternative NOM be adopted, which included separate weekly collection of food and separate containerised collection of dry recyclables. He said the new model allowed those who presently charge for green waste on a subscription basis to continue to do so.

The impact of the changes to the cost model were described. It was explained that the savings accrued by Kent County Council from disposal would be retained by them and used, in part, to provide enabling payments to the districts to support them with the waste collection service. He explained that there were two components to the payment to districts; one part offset the loss of recycling income presently enjoyed by districts and a second compensatory payment was included to ensure that overall the new collection service would, based on estimated costs, be cost neutral to the districts whilst delivering improved recycling rates.

He said for various procurement reasons it had not been possible to prepare a single contract for East Kent at this stage but the opportunity to do so in 2020 had been retained. The possibility of co-located depots had been rejected by prospective tenderers, due to the lack of cost benefit. It was explained that the business case had moved away from a desegregation of shared benefits so that the disposal authority now retained the income from recyclate disposal, which carried the risk of fluctuation according to market conditions. This had led to a proposal from the County council that the enabling payments to districts should be capped at the rates set out in section 2.7 of the report. Anticipated gross disposal savings arising from the alternate NOM were estimated to be £2.96 million and the adjusted total net savings, taking into account all enabling payments and containerisation costs were estimated to be £1.008 million.

The funding arrangement for the sharing of consultancy costs for technical and legal advice was explained. The timetable set out in Appendix 3 of the report for the Shepway, Dover, Kent element of the contract was amended to reflect the most recent advice. The award of contract would take place in September 2010 and contract commencement was expected in November 2010.

A Member asked if all of the recommendations needed to be referred to the constituent authorities Executive/Cabinet. In response the Head of Legal and Democratic Services (Canterbury) explained that recommendations one to five were for EKJAC to determine and that recommendations six and seven would be a matter for each partner and may differ slightly in each authority according to individual circumstances.

RESOLVED –

1. That EKJAC agrees the proposal to use the Alternate NOM as the base model to be priced by tenderers in the procurement for the waste collection, disposal and cleansing services for Dover, Shepway and KCC.
2. That the Alternate NOM is used in the future for the development of services in Canterbury and Thanet.
3. That the required additional future funding to complete the current procurement process is met initially by KCC, with the part contributions to these costs by the districts being deducted from their Enabling Payments once these commence
4. That delegated authority is given to the Chief Executive of Dover District Council in consultation with the Chief Executives of Kent, Shepway, Canterbury and Thanet councils to determine the formula to share the outstanding and future project development costs of completing the first phase of procurement in the East Kent Joint Waste project, but if he considers there is difficulty in reaching a consensus he may refer it to this Committee for decision.
5. That KCC will provide capital funding for additional containerisation up to the figures set out in the table under paragraph 2.6 for each district. KCC will deal with any revenue fluctuations that arise from the borrowing of these funds.

To recommend to the partner authorities that they seek authority to agree:

6. That net disposal savings generated by the new service arrangements set out in Appendix 1 are retained by KCC, and that they limit the sums payable to the districts to the enabling payments for each authority set out in the table under paragraph 2.7 plus the alternate view payments to Canterbury and Thanet set out in paragraph 2.10.
7. That provided the overall waste diversion increases in East Kent then KCC will share 50% of the savings with the East Kent districts. The allocation between the districts will be based on a simple formula pro-rata to their populations.
8. That the amendments set out in the supplementary agenda relating to paragraphs 2.8, 2.11 and 6.3 of the report be confirmed.

There being no other business the meeting closed at 11.00 am

The East Kent Joint Arrangements Committee Scheme of delegation of functions to officers

Introduction

This scheme has been adopted by the East Kent Joint Arrangements Committee and is the list of delegations to officers under section 101 of the Local Government Act 1972 (as amended), section 20 of the Local Government Act 2000 Regulation 11(4) of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 and all other powers enabling delegations to officers. It is adopted with the intention of giving a clear transparent and accountable decision-making process.

“The arrangements” means the operating arrangements, Terms of Reference, Committee Procedure Rules and any other minutes or documents for the time being in force by which the East Kent Joint Arrangements Committee and the East Kent Joint Scrutiny Committee are constituted and their powers defined.

“The Committee” means the East Kent (Joint Arrangements) Committee.

“The council” means Thanet District Council as host authority by whom the officers will be employed.

“The Department” means the East Kent Shared Services department under the Directorship of the Director of Shared Services.

“The Director of Shared Services” means the chief officer appointed by the council and primarily responsible for the development and delivery of such shared services as the parties decide.

“The Parties” means as the context requires any two or more of Canterbury City Council, Dover District Council, Kent County Council, the District Council of Shepway and Thanet District Council.

1. Officers may only exercise the delegated powers in this scheme in accordance with
 - 1.1 Statutory or other legal requirements, including the principles of public law, the Human Rights Act 1998 (as amended), statutory guidance and statutory codes of practice.
 - 1.2 The Constitution of the council where relevant including standing orders, contract standing orders and financial regulations.
 - 1.3 The revenue and capital budgets of the Committee, subject to any variation thereof which is permitted by the council’s Financial Regulations.
 - 1.4 Consideration of any relevant policy adopted by the Committee.
2. Officers may not exercise delegated powers where –
 - 2.1 The matter is reserved to the Committee by the arrangements.
 - 2.2 The matter is a function which cannot by law be discharged by an officer.

2.3 The Committee or a sub-committee has determined that the matter should be discharged otherwise than by an officer.

Where an officer has delegated powers the committee or a sub-committee (as appropriate) can still exercise that power if it considers it is appropriate to do so.

3. Officers may not exercise delegated powers in a way which is contrary to the policies and plans approved by or on behalf of the Committee.
4. If for any reason it is not practical to consult a person required to be consulted in the exercise of a delegation then the person with the delegated powers must consult someone else they reasonably consider to be an appropriate substitute consultee.
5. Delegations to the Director of shared services or other identified officers may be exercised by other officers whom they authorise to act on their behalf; provided that the delegation is recorded in writing.
6. The delegated powers held by an officer may be exercised by the line manager of that officer (or by the line manager's line manager) if:
 - That post is vacant.
 - The post holder is not at work for any reason.
 - The decision is urgent and the reasons are recorded in writing.
7. The delegations in this Scheme of Delegation include the discharge of both executive and non-executive functions.
8. Any reference in this Scheme of Delegation to any enactment shall include a reference to any amendment to or re-enactment of the same.
9. Where an officer has delegated authority to discharge functions
 - by virtue of any other decision by the parties or
 - through a specific decision the committee, or a sub-committee, either before or after the adoption of this Scheme,

the absence of the delegation from this Scheme shall not prevent the exercise of the delegation.

Powers delegated to the Director of Shared Services

Business cases and delivery of services

1. To develop shared service business cases work programmes and projects in relation to the functions which all or not less than two of any of the parties are minded to delegate to the EKJAC.
2. With the assistance if necessary of the appropriate Chief Executive of any of the parties to obtain from his or her council any information required in preparing a shared service business case.
3. Once two or more of the parties have resolved a service is to be shared to implement the business case and deliver the service as defined therein. [E/C]

4. To take any action which is required as a matter of urgency in the interests of the committee, in consultation with the Chair, if time permits. [E/C]
5. To manage the Department. [E/C]

Financial

6. Acceptance of the lowest tender or bid for the carrying out of works for the committee, the purchase, leasing or hiring of goods, materials and equipment by the committee, or the supply of services to the committee, provided that budget provision is available. [E]
7. Entry into contract documentation following tender/bid acceptance (subject to the provisions of Financial Regulations and Contract Standing Orders of the council relating to the execution of contracts under seal). [E/C]
8. Authority to negotiate and agree price increases where a contract provides for price increases to be negotiated and agreed by the parties, subject to Contract Standing Orders of the council and ensuring sufficient budgetary provision exists. [E/C]
9. The assignment or novation of a contract. [E/C]
10. The approval of the appointment of or the acceptance of the tender of a sub-contractor or supplier for specialist work or material provided that this does not result in the budget provision for the works as a whole being exceeded. [E/C]
11. Virement between heads of expenditure of up to the limit specified in the council's Financial Regulations for a Director provided that such virement is in accordance with the conditions for virements in such Financial Regulations. [E/C]
12. Provision of reasonable hospitality to representatives of other authorities, visiting a department or premises under the Director's control subject to agreement by the Chief Executives of each of the parties for expenditure in excess of £500. [E]
13. To negotiate and agree variations in contracts arising out of statutory requirements subject to adequate budgetary provision being available. [E/C]

Human resources

14. To appoint all staff subject to the council's recruitment procedures. [E/C]
15. Dealing with all staffing matters which can be contained within budget. [C]
16. Granting acceleration of increments for any staff within their substantive grade for merit and ability. [C]
17. Determination of requests or recommendations for honoraria, gratuities and responsibility allowances. [C]
18. The determination of applications for paid and unpaid leave:
 - 18.1 for trade union training with special regard to the council's policies on equalities and to courses directed towards equalities issues;
 - 18.2 for health and safety training;

- 18.3 for paid leave for an employee to discharge her/his duties of the office of President of a Trade Union;
 - 18.4 for an employee to attend meetings etc with pay as a member of another local authority, or similar public body on condition that the employee only receives the difference between pay and any amount receivable under local government regulations etc. This does not include an employee attending such a body in her/his official capacity which would be as part of their official duties;
 - 18.5 for personal or domestic reasons in accordance with conditions of service;
 - 18.6 for maternity, parental and dependant's support leave;
 - 18.7 for compassionate leave where there are urgent personal or domestic reasons for needing additional paid leave in accordance with conditions of service. [C]
- 19. Determination of extensions of sickness allowance in consultation with the Head of East Kent Shared Human Resources Service. [C]
 - 20. Determination of requests for extensions of service except that of first and second tier officers. [C]
 - 21. Determination of casual or essential car users allowance or leased car or cash in lieu to officers subject to compliance with the provisions agreed by the council. [C]
 - 22. Determination of planned overtime for officers above Scale 6. [C]
 - 23. Determination of claims for payment of subsistence allowances on the basis that only claims in respect of expenditure incurred within six months of the date of the application will be met. [C]
 - 24. Determination of proposals to attend service training courses. [C]
 - 25. Determination of staff grievances and referral to the Chief Executives of the parties where resolution is not possible at departmental level. [C]
 - 26. Discipline, suspension and/or dismissal of employees up to third tier level. [C]
 - 27. Authority to assimilate staff on appointment, promotion or regrading where appropriate within the approved grade having regard to all the circumstances. [C]
 - 28. Compliance with the provisions of the Health and Safety Policy of the council. [C/E]
 - 29. To work out appropriate managerial and operational consequences and to refine as necessary the structure of the Department in order to deliver the aims, objectives and changing priorities of the Committee. [C/E]
 - 30. To deal with redundancies and approve applications from employees for early retirement (including ill health retirements) in accordance with council policies and following referral to the council's doctor as necessary and reporting all approvals to the Committee. (C)

31. To be the Proper Officer responsible for the list of politically restricted posts within the Department. [C]

General

32. Where the Director considers that legal proceedings are needed in connection with the effective management of any service for which he or she is responsible they may, subject to consultation with the chief legal officer of the council instruct that officer to take those proceedings subject to reporting the outcome to the next committee meeting as appropriate. [C/E]
33. To take any action which the committee has the power to take in order to manage any of their service areas.
34. To publicise the services they provide. [E/C]
35. To deal with issues relating to the Commission for Local Administration relevant to the Committee.

XLS_RPEKJACDELEGATION OF FUNCTIONS