

# **FOLKESTONE AND HYTHE DISTRICT COUNCIL** **CONSTITUTION**

## **PART 12 – JOINT ARRANGEMENTS**

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## **PART 12 – JOINT ARRANGEMENTS**

### **PART 12.1 – EAST KENT HOUSING OWNERS’ COMMITTEE**

#### **1. INTRODUCTION**

The four district councils in East Kent have established a joint committee, known as East Kent Housing Owners’ Committee, to exercise certain functions in connection with the management of housing stock (and relative activities) across their combined administrative areas. The committee has been established to discharge both executive and non-executive functions and its operating arrangements are set out in this Part.

**Canterbury City Council**

**Dover District Council**

**Folkestone and Hythe District Council**

**Thanet District Council**

together referred to as ‘the Parties’

#### **2. KEY PRINCIPLES**

**2.1** The executive and full Council of each of the Parties has determined, by resolution, to establish this joint committee, to become effective from 1 April 2010, for the purposes of exercising agreed functions, in connection with the management of housing stock (and related activities) by East Kent Housing Limited, across their ‘combined administrative area’.

**2.2** The joint committee will be established as the EKH Owners’ Committee (EKHOC).

**2.3** The Parties are committed to a joint committee, which provides oversight and decision-making, and co-ordination of services, in relation to the management of housing stock (and related activities) by East Kent Housing Limited, across the combined administrative area, through mutual co-operation.

**2.4** The Parties are committed to open and transparent working, and proper scrutiny and challenge of the work of the EKHOC.

**2.5** Any new Parties to these arrangements, after they become effective, will have all the same rights and responsibilities under these arrangements.

**2.6** The Parties agree that, in the event of any conflict between the terms of these Operating Arrangements and the terms of the Owners’ Agreement, the terms of the Owners’ Agreement will prevail.

#### **3. DEFINITIONS**

**3.1** ‘Decisions’ means those decisions of the Parties delegated, from time to time, to the EKHOC to discharge.

- 3.2** 'A shared service' means a service delivering functions, as agreed by two or more of the Parties.
- 3.3** 'The combined administrative area' means the local government areas of the city and district authority Parties combined.
- 3.4** 'The Parties' means the authorities listed above.
- 3.5** 'Voting Member' means the appointed elected members of each of the Parties.
- 3.6** 'Host Authority' means the local authority appointed by the Parties, under these arrangements, to lead on a specified matter or function, as set out in paragraphs 14 and 19.
- 3.7** 'the ALMO' means East Kent Housing Limited (company number 07489230).
- 3.8** 'Housing Management Services' means the services provided by the ALMO, for the Parties, from time to time
- 3.9** 'the Owners' Agreement' means the agreement between the Parties and the ALMO, dated 1 April 2011, as amended, or varied, from time to time.

#### **4. OBJECTIVES**

The objectives of the EKHOC are to:

- a) Act as the final decision-making body for decisions to be made jointly, by the Parties, under the terms of the Owners' Agreement, in circumstances where all the Parties (through their delegated officer) have not reached unanimity;
- b) Act as the final arbiter of disputes arising under the Owners' Agreement, as referred to in clause 9 thereof.

#### **5. POWERS AND FUNCTIONS**

- 5.1** The EKHOC is established under section 20 of the Local Government Act 2000 and Regulations 4, 11 and 12 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000, and sections 101(5) and section 102(1) of the Local Government Act 1972, enabling the Parties to perform the functions, referred to in the Schedule, in the manner set out in these arrangements.
- 5.2** The functions of the EKHOC shall be those functions or services that are delegated to it by the parties, from time to time, as approved by resolution of the executive and/or full Council (as appropriate) of such of the parties as are minded to participate in those joint functions and services.

**5.3** Any delegations to the EKHOC shall be made in a common form and shall not take effect until agreed by the executive and/or full Council (as appropriate) of all those Parties participating in the services.

**6. TERMS OF REFERENCE**

The terms of reference for the EKHOC are as set out in the Schedule.

**7. MEMBERSHIP AND VOTING RIGHTS**

The EKHOC shall comprise the leaders of the Council, of each of the Parties. The Leader of each Party may nominate one member of their executive (who has been authorised by the respective Parties to act as substitutes) to substitute for the Leader, as necessary.

**8. FREQUENCY OF MEETINGS**

The EKHOC will meet:

- a) At least once between 1 December and 28 February, annually; and
- b) Whenever it is necessary for a joint decision of the Parties to be considered under the terms of the Owners' Agreement; and
- c) At such other times as may be required.

**9. AGENDA SETTING AND ACCESS TO MEETINGS AND INFORMATION**

**9.1** The agenda for the EKHOC shall be agreed by the Chairman of the EKHOC, following a briefing by relevant officers. Any member of the EKHOC may require that an item be placed on the agenda of the next available meeting, for consideration.

**9.2** Notice of meetings, and access to agendas and reports, will be in accordance with The Local Authorities (Executive Arrangements) (Access to Information) (England) Amendment Regulations 2000 and 2002 or sections 100A-K and Schedule 12A of the Local Government Act 1972, as appropriate.

**10. DELEGATION TO OFFICERS**

The EKHOC may arrange for the discharge of any of its functions by an officer of one of the Parties.

**11. MEETINGS AND PROCEDURE**

**11.1** The Chairman and Vice Chairman of the EKHOC will be appointed by the EKHOC, on the basis of the position being rotated annually, as follows, and repeated each four years:

	<b>Chairman and Host Authority</b>	<b>Vice Chairman</b>
Year 1	Canterbury City Council	Folkestone and Hythe District Council
Year 2	Thanet District Council	Dover District Council
Year 3	Folkestone and Hythe District Council	Thanet District Council
Year 4	Dover District Council	Canterbury City Council

**11.2** In the absence of the Chairman and the Vice-Chairman, at a meeting, the meeting will elect a chairman for that meeting.

**11.3** The quorum of the EKHOC will be four, with one member present from each of the four Parties. If the meeting is inquorate, then it shall stand deferred for seven days to meet at the same time and in the same place, when the quorum shall be three, drawn from any of the Parties.

**11.4** The EKHOC may approve rules for meetings and procedure, from time to time.

## **12. DECISION-MAKING**

Decisions of the EKHOC will normally be made by consensus. Alternatively, a vote shall be taken where the Chairman, or any Voting Member, requests that a vote be taken. The vote will be by way of a show of hands. A simple majority shall be required, in order for a resolution to be passed. In the case of an equality of votes, the Chairman shall have a casting vote.

## **13. FORWARD PLAN**

Decisions of the EKHOC, which will amount to a key decision of any Party, shall be included within the Leader of that authority's Forward Plan.

## **14. HOST AUTHORITIES AND ALLOCATION OF ROLES**

**14.1** In order to achieve the objectives of the EKHOC, 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.

**14.2** Staff from the Host Authority, who are commissioned to provide services, advice and support to the EKHOC, will continue to be employees of the relevant Host Authority.

**14.3** Responsibility for the following support services, to the EKHOC, will be allocated to the Host Authority:

- a) The provision of legal advice and services;
- b) The provision of financial advice and services;
- c) Secretariat support and services;
- d) Communications support and services.

**14.4** The cost of the services and advice, set out in this section, will be paid for by the Host Authority.

## **15. AMENDMENTS TO THESE ARRANGEMENTS**

These arrangements may be amended by the unanimous agreement of the EKHO, following a recommendation approved by the executive and full Council of each of the Parties.

## **16. NEW MEMBERSHIP AND CESSATION OF MEMBERSHIP**

**16.1** Subject to the provisions of the Owners' Agreement, new Parties may join the joint committee, provided that the executive and full Council of the joining Party (ies), and of all the Parties to these arrangements, for the time being, so resolve.

**16.2** Any of the Parties, which cease to be a member of the ALMO, shall cease to be a party to these arrangements on the date of such cessation.

**16.3** On any of the Parties ceasing to be a party to these arrangements, these arrangements shall continue, unless the remaining parties determine that those arrangements shall terminate. The benefits and burdens of such termination shall be agreed between the Parties and, in default of such agreement, shall be determined in accordance with clause 17.

**16.4** Termination of these arrangements may occur by agreement of all the Parties.

## **17. DISPUTE RESOLUTION**

Any dispute between the Parties, arising out of these arrangements, shall be referred to a single arbitrator to be agreed between the Parties, or, where no agreement can be reached, and having regard to the nature of the dispute, by an arbitrator nominated by the Chairman of the Local Government Association, and will be carried out in accordance with the provisions of the Arbitration Act 1996, as amended or modified, and in force for the time being.

## **18. CLAIMS AND LIABILITIES**

**18.1** The purpose of these arrangements, and any actions taken under them, is to assist all of the Parties (or those of the Parties as are engaged in any particular shared service). The Parties therefore have agreed that:

- a) Where one of the Parties, nominated by the EKHOC to act on its behalf in respect of the Services, undertakes actions or incurs liabilities in respect of the Services, on behalf of the EKHOC (but not otherwise), then it shall be entitled to be indemnified by the other Parties for the appropriate proportion of all its costs and liabilities incurred in good faith;
- b) Where one of the Parties, nominated by the EKHOC to act as Host Authority, undertakes actions or incurs liabilities in that respect, then it shall be entitled to be indemnified by the other Parties for the appropriate proportion of all its costs and liabilities incurred in good faith;
- c) A Party, carrying out actions in good faith on behalf of the EKHOC, shall not (other than in the case of fraud and/or clear bad faith) be liable to claims from the other Parties (and there shall be no right of set-off against any claim for indemnity under (b) above) on the grounds that the actions that were taken were not the proper actions, carried out properly, or that the costs and liabilities incurred were not reasonably and properly incurred (as long as they were in fact incurred).

**18.2** Each of the Parties shall, at all times, take all reasonable steps within its power to minimise and mitigate any loss for which it is seeking reimbursement from any of the other Parties.

**19. DATA PROTECTION, FREEDOM OF INFORMATION, INFORMATION SHARING AND CONFIDENTIALITY**

**19.1** Subject to the specific requirements of this clause, each of the Parties shall comply with its legal requirements under Data Protection legislation, Freedom of Information and associated legislation, and the law relating to confidentiality.

**19.2** An authority will be appointed as a Host Authority for the purposes of ensuring compliance with any legislative or legal requirements relating to these issues should they arise directly in relation to the joint committee (as compared to information held by the Parties to these arrangements).

**19.3** Each of the Parties shall:

- a) Treat as confidential all information relating to:
  - i. the business and operations of the other Parties; and/or
  - ii. the business or affairs of any legal or natural person in relation to which, or to whom, confidential information is held by that Party;(‘Confidential Information’) and
- b) Not disclose the Confidential Information of any other of the Parties without the owner’s prior written consent.

- 19.4** Clause 19.3 shall not apply to the extent that:
- a) Such information was in the possession of the Party making the disclosure, without obligation of confidentiality, prior to its disclosure;
  - b) Such information was obtained from a third party without obligation of confidentiality;
  - c) Such information was already in the public domain at the time of disclosure otherwise than through a breach of these arrangements; or
  - d) Disclosure is required by law (including under Data Protection legislation, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004) or disclosure is permitted by the Human Rights Act 1998.
- 19.5** The Parties may only disclose Confidential Information, of another of the Parties, to staff who need to know, by reason of their work. Each of the Parties shall ensure that such staff are aware of, and comply with, these confidentiality obligations and that such information is not used, other than for the purposes of the EKHOC.
- 19.6** If any of the Parties receives a request for information, under the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004, then the other Parties shall (at their own expense) assist and co-operate to enable the request to be dealt with.
- 19.7** If a request for information is received, then the Party receiving it shall copy it to the other Parties and consider, when making its decisions, any views of the other Parties.
- 19.8** Notwithstanding the provisions of clauses 19.6 and 19.7, it shall be the Party receiving the request that is responsible for determining, at its absolute discretion, how to reply to the request.

## **20. EXERCISE OF STATUTORY AUTHORITY**

Without prejudice to these arrangements, nothing in these arrangements shall be construed as a fetter, or restriction, on the exercise, by any of the parties, of their statutory functions.

## **THE SCHEDULE**

### **TERMS OF REFERENCE OF THE EAST KENT HOUSING OWNERS' COMMITTEE**

1. To act as the final decision-making body for decisions to be made jointly, by the Parties, under the terms of the Owners' Agreement, in circumstances where all the Parties (through their delegated officer) have not reached unanimity.



2. To act as the final arbiter of disputes, arising under the Owners' Agreement, as referred to in clause 9 thereof.
3. To exercise any of the functions or services that the Parties may, from time to time, unanimously decide.

## **Composition**

The Leader of each of the participating Councils may nominate one member of the executive (who has been appointed by the respective authorities to act as substitutes) to substitute as the Leader, as necessary.

## **ANNEX**

This annex does not form part of the Constitution but is included for information.

## **EAST KENT (HOUSING MANAGEMENT) COMMITTEE PROCEDURE RULES**

These Rules are made supplemental to clause 11.4 of the EKH Owners' Committee Operating Arrangements ('Operating Arrangements') and are to be read in conjunction with them. In the event of conflict, the Operating Arrangements shall prevail. 'Joint Committee' means the EKH Owners' Committee. Words and phrases, not otherwise defined in these Rules, shall have the meanings given them in the Operating Arrangements.

### **1. THE OPERATION OF THE JOINT COMMITTEE**

#### **1.1 Who may make decisions**

The arrangements for the discharge of functions are:

- a) the Joint Committee as a whole;
- b) an officer of one of the Parties.

#### **1.2 Sub-delegation of functions**

- a) Where the Joint Committee are acting as a whole, they may delegate further to an officer.
- b) Even where functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated them.

#### **1.3 The Joint Committee's scheme of delegation**

The Joint Committee's scheme of delegation will be subject to adoption by it and may only be amended by it. It will contain any limitations or conditions.

#### **1.4 Joint Committee meetings – frequency and venue**

The Joint Committee will meet at least once between 1 December and 28 February, annually, and whenever it is necessary for a joint decision of the Parties, to be considered under the terms of the Owners Agreement, and at such other times as may be required.

A meeting of the Joint Committee shall be summoned by the Head of Paid Service of the Host Authority, who will give a minimum of five working days notice (or less, in the case of urgency) or any other date convenient to the Chairman, subject to the requirements of legislation.

### **1.5 Meetings of the Joint Committee**

Meetings of the Joint Committee will be held in public, except in so far as the matters for decision relate to issues which can be dealt with in private, in accordance with the Access to Information requirements of the Local Government Act 1972.

### **1.6 Quorum**

The quorum of the Joint Committee is as provided for in paragraph 11.3 of the Operating Arrangements.

## **2. CONDUCT OF MEETINGS**

### **2.1 Chair**

The Chairman will preside at any meeting of the Joint Committee at which he/she is present, and, in his/her absence, the Vice Chairman will preside. In the absence of both the Chairman and Vice Chairman, the members present shall appoint another person to preside.

### **2.2 Attendance**

Members of the public (including other members of the Parties) may attend all meetings of the Joint Committee except when exempt or confidential information is being considered, where the press and public may be excluded, by resolution of the Joint Committee, in accordance with the Local Government Act 1972.

### **2.3 Order of business**

Meetings of the Joint Committee will include the following business:

- a) Consideration of the minutes of the last meeting;
- b) Apologies for absence;
- c) Declarations of interest, if any;
- d) Matters referred to the Joint Committee by the East Kent Joint Scrutiny Committee, whether by call-in or otherwise;

- e) Consideration of reports from the officers;
- f) Matters set out in the agenda for the meeting, which shall indicate which are key decisions, and which are joint decisions, for the purposes of the Owners Agreement;
- g) Advice to leaders on the items for their forward plans.

## **2.4 Consultation**

Reports will set out the details and outcome of consultation, as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## **2.5 Timescales**

In considering matters in relation to budgetary issues, the Joint Committee will have due regard to any appropriate timescale, within which budgets have to be approved by the Parties.

## **2.6 Key decisions**

Decisions of the Joint Committee, which are key decisions, shall only be taken, provided that the matter in question is contained within each of the Parties' forward plans, or, if not in all or any of the forward plans, that decision can only be taken if any delay, likely to be caused by the call-in process, would seriously prejudice the interests of any of the parties or the public interest. The record of the decision, and the notice by which it is made public, shall state whether, in the opinion of the decision-maker, the decision is an urgent one, and therefore not subject to call-in. The Chairman of EKJSC, and the members of each of the parties affected by the decision, must agree both that the decision proposed is reasonable, in all the circumstances, and to it being treated as a matter of urgency. In the absence of the Chairman of EKJSC, the consent of the Vice-Chairman shall be required. In the absence of both the Chairman and Vice-Chairman, the consent of the Head of Paid Service for that Party (or his/her nominee) shall be required. Decisions taken, as a matter of urgency, must be reported to the next available full Council meetings of each of the Parties, together with the reasons for urgency.

## **2.7 Recording of decisions**

**2.7.1** Following a meeting of the Joint Committee, at which a report has been received, and at which a decision has been made, the Host Authority shall ensure that a written statement is kept which must include the following:

- a) A record of the decision;
- b) A record of reasons for the decision;

- c) Details of alternative options considered;
- d) A record of any conflict of interest declared; and
- e) Any dispensation granted by the Audit and Governance Committee, where appropriate.

**2.7.2** No decision will be made by the Joint Committee unless there is present, at the meeting, the Head of Paid Service of the Host Authority (or his representative), or the officer, responsible for the housing management service, is present, or their representative, and the Proper Officer for recording decisions is present, which for this purpose shall be an officer of the Host Authority who is not the Head of Paid Service.

**2.7.3** A written statement of the decision taken will be produced by the Proper Officer, within two clear working days following the Joint Committee.

**2.7.4** As soon as reasonably practicable, following any decision of the Joint Committee, which relates to any matter which is a joint decision, or the resolution of a dispute for the purposes of the Owners Agreement, the Joint Committee shall take such steps as are necessary to notify:

- a) the ALMO; and
- b) each of the Parties;

of its decision in relation to the matter.

## **PART 12.2 – DELEGATION TO EAST KENT HOUSING LTD**

### **FUNCTIONS DELEGATED TO EAST KENT HOUSING LTD (EKH)**

<b>Co-ordination with corporate policy in relation to housing element of:</b>	<b>Council</b>	<b>EKH</b>	<b>Both</b>
Community safety	X		
Neighbourhood renewal	X		
Regeneration	X		
Housing and health	X		
Supporting people	X		
Sustainable development	X		
Social exclusion	X		
Equalities and diversity	X		
New tenancies			
Administration of housing register/choice-based lettings	X		
Housing allocations policy for council housing	X		
Selection of tenants for vacant properties	X		
Transfer list management	X		
Granting of new tenancies		X	
Successions		X	
Mutual exchange management		X	
Repairs and maintenance			
Stock condition survey, local authority housing		X	
Response repairs		X	
Contract and planned maintenance and refurbishment programmes		X	
Modernisation and improvements		X	
Energy and efficiency		X	
Develops a business plan for investment in housing stock		X	
Implementation of annual investment programme: monitors delivery, manages programme		X	
Void and empty property management			
Terminations		X	
Inspection		X	
Repairs		X	
Sustainable Communities			
Neighbourhood and Estate Management		X	
Enforcement of conditions of tenancy		X	
Evictions and court action to support enforcement		X	
Alterations to conditions of tenancy		X	
Illegal occupation		X	
Development of ASBO policy	X		
Responsibility for legal process to obtain anti-social		X	

behaviour orders			
Administering application prior to legal action for ASBO		X	
Regeneration and estate development			X
Estate management			
Caretaking on housing schemes		X	
Environmental services		X	
Grass cutting/ground maintenance		X	
Supported housing			
Manage supporting people policy			X
Sheltered housing schemes		X	
Folkestone and Hythe Lifeline	X		
Supported housing schemes		X	
Refugees	X		
Homelessness accommodation	X		
Temporary accommodation	X		
Gypsies	X		
Medical adaptations		X	
Right to buy			
Valuations	X		
Administration and calculation of discount		X	
Approvals	X		
Leasehold management			
Finance			
Rent setting/service charges	X		
Rent accounting		X	
Recovery of rent arrears		X	
Recovery of other charges		X	
Financial returns, subsidy returns	X	X	
Insurance of property and land	X	X	
Insurance claims		X	
Management of HRA capital resources			X
Preparation of HRA budgets	X		
Annual determination of SSV fee			X
Procurement			
Policy	X		
Letting of contracts in relation to delegated activities		X	
Tenant involvement in Housing Strategy			
Tenant participation		X	
Tenant consultation			X
Information to tenants		X	
Reports to tenants		X	
Other Assets (including lettings and management)			
Garages		X	
Shops and buildings		X	
Estate offices		X	
Tenant resource centres or tenant offices		X	
Community centres	X		
Sale of dwellings	X		

Clearance and disposal of dwellings	X		
Compensation	X		
Decanting tenants			X
Housing Benefit and Council Tax Benefit administration	X		
Programme of service reviews	X		
Preparation of business plan for Housing Revenue Account	X		
Preparation of delivery plan		X	
Preparation of service plan		X	
Bidding for capital resources	X		
Monitoring Arrangements with the SSV			X
Developing and agreeing the annual delivery plan		X	
Monitoring the delivery plan achievement			X
Liaison with SSV on housing service standards and inspectorate requirements			X

## **PART 12.3 – JOINT STANDARDS HEARING COMMITTEE**

### **1. JOINT STANDARDS HEARING COMMITTEE**

#### **1.1 Terms of reference proposed for the joint hearing committee are:**

In respect of allegations made against parish / town councillors, concerning breaches of the code of conduct of their parish or town council –

- a) At the request of the Monitoring Officer, to consider whether an allegation of breaches of the code of conduct should be referred for local investigation or other action, but not to make any finding of fact at that stage;
- b) To consider the report of the investigating officer;
- c) Where the investigating officer has concluded that there has been a potential breach of the code of conduct, to hear and determine the allegation;
- d) To impose or recommend the imposition of appropriate sanctions, where it finds that there has been a breach of the code of conduct.

#### **1.2 Composition**

2 district councillors drawn from the Audit and Governance Committee and 2 parish/town representatives nominated by the parish / town councils.

#### **1.3 Chairmanship**

The chairmanship alternates at each meeting, between a parish/town councillor and a district councillor. The quorum is 2, with a district councillor and a parish/town representative present.