



EAST KENT (JOINT SCRUTINY) COMMITTEE

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16 January 2012

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **EAST KENT (JOINT SCRUTINY) COMMITTEE** will be held in the Council Chamber at these Offices on Wednesday 25 January 2012 at 9.30 am when the following business will be transacted.

Members of the public who require further information are asked to contact Rebecca Brough on (01304) 872304 or by e-mail at rebecca.brough@dover.gov.uk.

Yours sincerely

Chief Executive

East Kent (Joint Scrutiny) Committee:

Councillor I Linfield	(Chairman)	(Canterbury City Council)
Councillor D Green	(Vice-Chairman)	(Thanet District Council)
Councillor B Copping		(Shepway District Council)
Councillor H Cragg		(Canterbury City Council)
Councillor M Dance		(Kent County Council)
Councillor G Glover		(Canterbury City Council)
Councillor C Goddard		(Shepway District Council)
Councillor I Gregory		(Thanet District Council)
Councillor D Hannent		(Dover District Council)
Councillor J Holben		(Shepway District Council)
Councillor G Lymer		(Dover District Council)
Councillor R Manning		(Kent County Council)
Councillor K Mills		(Dover District Council)
Councillor M Vye		(Kent County Council)
Councillor Z Wiltshire		(Thanet District Council)

AGENDA

1. **APOLOGIES**

2. **APPOINTMENT OF SUBSTITUTE MEMBERS**

To note appointment of Substitute Members in accordance with the agreed procedure.

3. **DECLARATIONS OF INTEREST**

Members are required to disclose the existence and nature of a personal interest at the commencement of the item of business to which the interest relates or when the interest becomes apparent. An explanation in general terms of the interest should also be given to the meeting. If the interest is also a prejudicial interest, the Member should then withdraw from the room or chamber.

NOTE: (1) By virtue of Rule 11 of the Members' Code of Conduct, a member must, if he/she is involved in the consideration of a matter at a meeting of an overview and scrutiny committee or sub committee, regard him/herself as having a personal and prejudicial interest if that consideration relates to a decision made, or action taken, by another committee or sub committee of which he/she may also be a member.

(2) This rule will not apply if the member attends the Scrutiny Committee/Sub Committee for the purpose of answering questions or otherwise giving evidence relating to that decision or action.

4. **MINUTES** (Pages 4-6)

To confirm the attached Minutes of the meeting of the Committee held on 12 October 2011.

5. **OPERATING ARRANGEMENTS** (Pages 7-15)

The Operating Arrangements for the East Kent (Joint Scrutiny) Committee are attached for information.

6. **ISSUES REFERRED TO THE COMMITTEE BY THE EAST KENT (JOINT ARRANGEMENTS) COMMITTEE OR BY A DISTRICT COUNCIL SCRUTINY MEMBER**

None.

7. **ITEMS PLACE ON THE AGENDA BY A MEMBER OF THE COMMITTEE**

In accordance with Paragraph 7.1 of the Operating Arrangements any Member of the Committee may require that an item be placed for consideration on the agenda of the next available meeting.

– Members' ICT Support

Councillor D Hannent has requested that this item be added to the agenda for consideration.

8. **UPDATE ON EK SERVICES**

To receive an update from the Director of Shared Services.

Access to Meetings and Information

- Members of the public are welcome to attend meetings of the Council, its Committees and Sub-Committees. You may remain present throughout them except during the consideration of exempt or confidential information.
- All meetings are held at the Council Offices, Whitfield unless otherwise indicated on the front page of the agenda. There is disabled access via the Council Chamber entrance and a disabled toilet is available in the foyer. In addition, there is a PA system and hearing loop within the Council Chamber.
- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website www.dover.gov.uk. Minutes are normally published within five working days of each meeting. All agenda papers and minutes are available for public inspection for a period of six years from the date of the meeting. Basic translations of specific reports and the Minutes are available on request in 12 different languages.
- If you require any further information about the contents of this agenda or your right to gain access to information held by the Council please contact Rebecca Brough, Democratic Support Officer, telephone: (01304) 872304 or email: rebecca.brough@dover.gov.uk for details.

Large print copies of this agenda can be supplied on request.

Minutes of the meeting of the **EAST KENT (JOINT SCRUTINY) COMMITTEE** held at the Council Offices, Whitfield on Wednesday 12 October 2011 at 9.30 am.

Present:

Chairman: Councillor I Linfield (Canterbury City Council)

Councillors: C Goddard (Shepway District Council)
G Glover (Canterbury City Council)
D Green (Thanet District Council)
I Gregory (Thanet District Council)
D Hannent (Dover District Council)
G Lymer (Dover District Council)
Z Wiltshire (Thanet District Council)

Officers: Chief Executive (Dover District Council)
Solicitor to the Council (Dover District Council)
Democratic Support Officer (Dover District Council)

Apologies for absence were received from Councillors B Copping, J Holben, K Mills and M Vye.

1 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

2 MINUTES

The Minutes of the meetings of the Committee held on 22 March 2011 were approved as a correct record and signed by the Chairman.

3 OPERATING ARRANGEMENTS

The Committee considered the operating arrangements.

RESOLVED: That the operating arrangements be noted.

4 ISSUES REFERRED TO THE COMMITTEE BY THE EAST KENT (JOINT ARRANGEMENTS) COMMITTEE

There were no items for consideration.

5 ITEMS PLACED ON THE AGENDA BY A MEMBER OF THE COMMITTEE

There were no items for consideration.

6 REVIEW OF THE ROLE AND FUNCTION OF THE EAST KENT (JOINT SCRUTINY) COMMITTEE

The Democratic Support Officer advised the Committee had resolved at its last meeting (Minute No 54(c)) that a review of its role and function be undertaken. The report before Members set out one possible approach to resolving the concerns raised and also set out the view of the East Kent Forum on the future role of the committee. It was stated that in principle both approaches were not mutually incompatible.

The Chief Executive reminded Members that scrutiny of the shared services was already taking place at a local level in each authority and suggested that the development of a protocol as recommended by the East Kent Chief Executives Forum would lead to be a clearer definition of the roles of the East Kent (Joint Scrutiny) Committee (EKJSC) and district scrutiny committees. It was the view of the Forum that the Committee should wait until such a protocol had been drafted before proceeding with the recommendations set out in the report.

There was concern expressed over the need to ensure continuity in the membership of the EKJSC to build experience, although the majority view was that there was no benefit in changing the rotating chairmanship arrangements at this point.

- RESOLVED:
- (a) That an annual report be prepared by the host authority for consideration by the Committee at the last meeting of each municipal year detailing topics received, reviews undertaken, reports and recommendations made and those accepted, performance analysis and any other relevant information.
 - (b) That a standing item for the receipt of referrals from local scrutiny committees be added to the agenda.
 - (c) That the proposed annual budget for 2012/13 be provisionally set at zero, subject to review during the course of the municipal year 2011/12.
 - (d) That an annual informal meeting be held between the Chairman of the East Kent (Joint Scrutiny) Committee and a Chairman from a scrutiny committee at each authority represented on the East Kent (Joint Scrutiny) Committee.
 - (e) That it be recommended to the East Kent (Joint Arrangements) Committee:
 - (i) That a protocol be developed with East Kent Services, East Kent Housing and East Kent Human Resources Partnership to ensure that appropriate officers are made available on request to attend meetings of the East Kent (Joint Arrangements) Committee and East Kent (Joint Scrutiny) Committee.
 - (ii) That a Red, Amber and Green ('RAG style') performance report based on a selection of key indicators for East Kent Services, East Kent Housing and the East Kent Human Resources Partnership be submitted to the East Kent (Joint Arrangements) Committee and the East Kent (Joint Scrutiny) Committee on a six month basis.
 - (iii) That where a shared service has a 'red' indicator on the Performance Report, an officer

representing that shared service attend the meetings of the East Kent (Joint Arrangements) Committee and the East Kent (Joint Scrutiny) Committee to provide an explanation of why the 'red' indicator had occurred and what steps were being taken to restore the indicator to a 'green' status.

- (iv) That a process of pre-decision scrutiny be adopted where it is appropriate to do so.
- (v) That a voluntary protocol be drawn up to sit alongside the Operating Arrangements for the East Kent (Joint Scrutiny) Committee for the purpose of resolving the anomaly where Members whose authority is not participating in a shared service have voting rights at the Committee in respect of that shared service and that such a protocol also cover the issue of the Chairman's casting vote where she or he is a member of an authority not participating in the shared service.
- (vi) That in the event of the East Kent (Joint Arrangements) Committee being willing to accept the recommendations set out at (e)(i)-(v) in whole or part, a report be submitted to a future meeting of the East Kent (Joint Scrutiny) Committee setting out a timescale for the implementation of the agreed recommendations.

The meeting ended at 10.15 am.

East Kent (Joint Scrutiny) Committee – Operating Arrangements

Canterbury City Council

Dover District Council

[Kent County Council]

Shepway District Council

Thanet District Council

together referred to as 'the Parties'

1. Key Principles for the Operation of the East Kent (Joint Scrutiny) Committee (EKJSC)

- 1.1 The members of the EKJSC will work together to maximise the exchange of information and views, to minimize bureaucracy and make best use of the time of members and officers of local and other authorities.
- 1.2 The guiding principle for the work of EKJSC is that it should be consensual and positive. The emphasis of the work should be on making proactive contribution to the development of policy and the discharge of EKJAC's functions. This is best achieved by an inclusive process covering members, the parties' partners, service users and officers.
- 1.3 The process of joint scrutiny will be open and transparent, designed to engage the parties, their residents and other stakeholders.

2. Objectives

- 2.1 The EKJSC is established under section 101 and 102 Local Government Act 1972 and Section 2 Local Government Act 2000 with the objective of acting as the single Scrutiny Committee for the monitoring, review and scrutiny of the East Kent (Joint Arrangements) Committee (EKJAC).

3. Terms of Reference

- 3.1 The terms of reference of the EKJSC are as set out in Schedule 1.
- 3.2 These arrangements will be reviewed regularly. No proposed amendments to these arrangements will take effect until they have been agreed and endorsed by each of the parties.

4. Call-In

- 4.1 The arrangements for the operation of call-in by the EKJSC shall be as set out in Schedule 2. The EKJSC shall have power to call-in any decision made by EKJAC, a sub-committee of EKJAC, or any member or officer with delegated authority from

EKJAC. The EKJSC will not have the power to call-in any decision of the Executive of any of the Parties.

- 4.2 Where there is a call-in by a statutory scrutiny committee of any of the Parties of any decision of the EKJAC, each of the other Parties will be notified forthwith. The call-in shall be heard by the call-in Party's statutory scrutiny committee in accordance with the call-in Party's own arrangements. Where there is more than one call-in on the same subject the parties shall endeavour to ensure that they are heard together at the same time and place.
- 4.3 The call-in procedure set out in clauses 4.1 and 4.2 above shall not apply where the decision being taken by or on behalf EKJAC is urgent. A decision will be urgent 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 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 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, 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 of 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.

5. Membership and Terms of Office

- 5.1 The EKJSC will comprise three non-executive councillors from each of the Parties.
- 5.2 Each appointing Party shall appoint its three members on the basis of its overall political proportionality.
- 5.3 Members of the EKJSC shall be appointed by the Parties at their annual meetings of their respective Council and shall hold office until:
- (a) the next annual meeting of the Party that appointed them, save that the Party that appointed them may remove them from office, either individually or collectively, at an earlier date in the event of a change in political control of that Party; or
 - (b) they resign from office; or
 - (c) they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension)
- 5.4 Each Party may appoint substitutes to represent their authority in the absence of the appointed councillors. Nominated substitutes will be non-executive councillors and will be able to attend any meeting of EKJSC in order to familiarise themselves with the issues involved, but will not be able to participate in debate or vote unless they are formally acting as a substitute member.
- 5.5 Non-voting members may be co-opted onto the EKJSC from any or all of the Parties or from other public sector partner organisations as the EKJSC may unanimously decide. Co-optees may participate in the debate but may not vote.

6. Frequency of Meetings

- 6.1 The EKJSC will meet quarterly, but may change the frequency of meetings and call additional meetings as required.

7. Agenda Setting and Access to Meetings and Information

- 7.1 The agenda for the EKJSC shall be agreed by the chairman following a briefing by relevant officers. Any member of the EKJSC may require that an item be placed for consideration on the agenda of the next available meeting.
- 7.2 There will be a standing item on the agenda of each meeting of the EKJSC for matters referred by the EKJAC.
- 7.3 Notice of meetings and access to agendas and reports will be in accordance with sections 100A-K and Schedule 12A of the Local Government Act 1972.

8. Sub-Committees

- 8.1 The EKJSC may establish sub-committees as it may determine by unanimous agreement of the EKJSC.
- 8.2 When establishing a sub-committee the EKJSC will agree the:
- (a) terms of reference for the sub-committee
 - (b) size and membership of the sub-committee including co-optees
 - (c) period for which the sub-committee will remain constituted
 - (d) chairman of the sub-committee or will delegate this decision to the sub-committee
 - (e) mechanism for hosting the sub-committee and sharing the cost amongst the relevant Parties, as appropriate

9. Delegation to Sub-Committees

- 9.1 The EKJSC may arrange for the discharge of any of its functions by a sub-committee of the EKJSC.

10. Meetings and Procedure

- 10.1 The Chairman and Vice Chairman will be appointed by the EKJSC on the basis of the position being rotated annually, as follows, and repeated each five years:

	Chairman and Scrutiny Host Authority	Vice-Chairman
2008-9	Shepway	Dover
2009-10	Dover	Kent
2010-11	Kent	Canterbury
2011-12	Canterbury	Thanet
2012-13	Thanet	Shepway

- 10.2 The Chairman and Vice Chairman of EKJSC shall be drawn from any political group not forming part of the administration of the appointing Council.

- 10.3 In the absence of the chairman and the vice chairman at a meeting, the meeting will elect a chairman for that meeting.
- 10.4 The quorum of the EKJSC will be five with at least one member present from four of the five Parties.
- 10.5 The EKJSC may approve rules for meetings and procedure from time to time.
- 10.6 The EKJSC may ask organisations, individuals or groups to assist it from time to time and may ask independent professionals to advise it during the course of reviews. Such individuals or groups will not be able to vote.
- 10.7 The EKJSC may request the attendance of officers employed by the participating authorities to answer questions and give evidence to the committee. Such requests must be made via the Chief Executive of the relevant participating authority.
- 10.8 The EKJSC may invite any other person to attend its meetings to answer questions or give evidence; however, attendance by such persons cannot be mandatory.

11. Decision Making

- 11.1 Decisions of the EKJSC will normally be made by consensus. 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.
- 11.2 Where a minimum number of two members express an alternative to the majority view, they will be permitted to produce a minority report.

12. Scrutiny Host Authorities and Allocation of Roles

- 12.1 In order to achieve the objectives of the EKJSC, the Parties will appoint a Scrutiny Host Authority which is for the time being the Authority shown as the Chairman and Scrutiny Host Authority in the table at clause 10.1.
- 12.2 Staff from the Scrutiny Host Authority who are commissioned to provide services, advice and support to the EKJSC will continue to be employees of the relevant Scrutiny Host Authority.
- 12.3 Responsibility for the following support services to the EKJSC will be allocated to the Scrutiny 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
 - (e) data protection, freedom of information, information sharing and confidentiality issues in accordance with clause 17
 - (f) research
- 12.4 The cost of the services and advice set out in this section will be paid for by the Scrutiny Host Authority.

13. Amendments to these Arrangements

- 13.1 These arrangements may be amended by the unanimous agreement of the EKJSC following a recommendation approved by the full Council of each of the Parties.

14. New Membership and Cessation of Membership

- 14.1 New Parties may join the EKJSC provided that they are also a party to EKJAC and the full council of the joining Party(ies) and of all the Parties to these arrangements for the time being so resolve.
- 14.2 A Party ceases to be a member of these arrangements when it ceases to be a party to EKJAC.
- 14.3 Termination of these arrangements may occur by agreement of all the Parties.

15. Claims and Liabilities

- 15.1 The purpose of these arrangements and any actions taken under them is to assist all of the Parties. The Parties therefore have agreed that:
- (a) where one of the Parties nominated by the EKJSC to act as Scrutiny 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
 - (b) a Party carrying out actions in good faith on behalf of the EKJSC 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) and/or (c) 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)
- 15.2 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.

16. Administration

- 16.1 The decisions and recommendations of the EKJSC will be communicated to EKJAC and the participating councils as soon as possible after the resolution of the committee.
- 16.2 Where working on forthcoming decisions of the EKJAC, the EKJSC will endeavour to carry out its functions as part of the EKJAC's process in order to ensure that its findings and recommendations can influence the final decision.
- 16.3 When considering items before it, the EKJSC will take account of whether an issue could more appropriately be dealt with by one of the Parties or elsewhere.

17. Data Protection, Freedom of Information, Information Sharing & Confidentiality

- 17.1 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.
- 17.2 A Party 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 EKJAC (as compared to information held by the Parties to these arrangements).
- 17.3 Each of the each 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
- 17.4 Clause 17.3 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 or
 - (b) such information was obtained from a third party without obligation of confidentiality or
 - (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
- 17.5 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 EKJSC.
- 17.6 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.
- 17.7 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.
- 17.8 Notwithstanding the provisions of 17.6 and 17.7 it shall be the Party receiving the request that is responsible for determining at its absolute discretion how to reply to the request.

18. Exercise of Statutory Authority

- 18.1 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.

Schedule 1

TERMS OF REFERENCE of the EAST KENT (JOINT SCRUTINY) COMMITTEE

1. Monitor review and scrutinise the actions and decision of the EKJAC.
2. Make recommendations for reconsideration of any decisions made or actions taken and to make recommendations for improvement and/or changes in responsibilities and functions of the EKJAC.
3. Prepare reports and recommendations to the parties on the performance and delivery of the shared services provided by the EKJAC.
4. Propose an annual budget for the EKJSC in accordance with the requirements of the parties.
5. Prepare an annual report to the parties on the performance of these arrangements.
6. Facilitate the exchange of information about the work of the EKJSC and to share information and outcomes from reviews.

Schedule 2

ARRANGEMENTS FOR THE OPERATION OF CALL-IN by the EKJSC

1. When a decision is made by EKJAC, a sub-committee of EKJAC or an individual member with delegated authority from EKJAC, or a key decision is made by an officer with delegated authority from EKJAC, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of each of the Parties normally within two days of being made. The Chairman of the EKJSC (and all other members of each of the Parties) will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
2. That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented at 12.00 noon, on the fourth working day after the publication of the decision, unless it is called-in.
3. By 10.00 am on the fourth working day after publication of the decision, the proper officer of the Scrutiny Host Authority shall call-in a decision for scrutiny by the EKJSC if so requested by any member of the EKJSC, and shall then notify the decision maker of the call-in. A meeting of the EKJSC shall then be held within 15 working days of the decision to call-in. Reasons for calling-in a decision should be given and recorded in the agenda.
4. If, having considered the decision, the EKJSC is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to the full Council of all or any of the Parties. If referred to the decision maker they shall then reconsider within a further 10 working days, amending the decision or not, before adopting a final decision.
5. If, following an objection to the decision, the EKJSC does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the EKJSC meeting, or the expiry of that further 10 working day period, whichever is the earlier.
6. If the matter was referred to full Council of any of the Parties and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision maker, together with Council's views on the decision. That decision maker shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by EKJAC as a whole or a committee of it, a meeting will be convened to reconsider within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.
7. If the Council of any of the Parties to whom the matter has been referred does not meet, or if it does but does not refer the decision back to the decision maker, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.