

SCHEDULE 5

Arrangements for the Discharge of Functions and Delegations

Functions To Be Discharged By EKSC On Behalf Of The Authorities

Framework and Definitions

1. The functions delegated in this Schedule are associated with the following services which are to be delivered by Canterbury City Council, Dover District Council and Thanet District Council through the East Kent Services Committee:
2. Detailed as below:
 - (a) ICT
 - (b) face to face and contact centre customer services
 - (c) revenues and benefits
 - (d) human resources
3. It is contemplated that the East Services Committee will in turn delegate the discharge of these functions to the Director of Collaborative Services and/or the Director of Shared Services or other of their officers.
4. 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 is constituted and its powers defined.
5. "Authority" means Canterbury City Council, Dover District Council, or Thanet District Council as the context requires, being the authority on whose behalf the particular powers or functions are being exercised and "Authorities" shall be construed accordingly.
6. "The Committee" means the East Kent Services Committee.
7. "The Department" means as the context requires the East Kent Shared Services department under the Directorship of the Director of Shared Services and or the East Kent Human Resources department under the Directorship of the Director of Collaborate Services.
8. "Scheme of Delegation" means the arrangements for the discharge of functions and delegations set out in this Schedule.

Exercise of Functions

9. The Council's and the Executives of the Authorities delegate the discharge of the functions set out in this Scheme of Delegations to the East Kent Services Committee pursuant to all powers contained in or having effect under the Local Government Acts of 1972 and 2000.
10. The exercise of the powers and functions set out in this Schedule shall without prejudice to any specific delegation or authorisation set out, and subject to any express Conditions/Exclusions/Limitations/Notes specified, be taken to include power to do anything

incidental or conducive to the discharge of such functions including (by way of example and not by way of limitation) power to do any of the following:

- (a) To appoint or designate any officer as an "authorised officer", "inspector", "person duly authorised" or similar under any of the legislation or functions specified for the purposes of enabling any such person to carry such legislation or functions into effect.
- (b) To authorise any officer for the purposes of any of the above mentioned legislation or functions.
- (c) To exercise any power or function conferred by or in connection with the specified legislation or functions to:
 - (i) Require any person to provide any information.
 - (ii) Enter or inspect any land, premises, vehicle or vessel.
 - (iii) Take samples of, seize, test, dispose of, destroy, or otherwise deal with and thing or substance in accordance with the applicable legislation.
 - (iv) Make application for any warrant or order to a court of summary jurisdiction and to execute any such warrant or order taking with him or her any other person as may be authorised.
 - (v) To make or swear any information.
 - (vi) Institute or defend any legal proceedings, and to take all proper steps in the furtherance or compromise of such proceedings (in each case) in consultation with the Solicitor to the Council which may be undertaken in relation to specific cases or in relation to categories of work,.
 - (vii) Execute work.
 - (viii) Sell or dispose of any goods, articles, samples materials or other property (other than land and buildings).
 - (ix) Recover any sums of money due to the Authorities.
 - (x) Authorise any other person to do any of the things mentioned in (i) to (ixi) above to the extent permitted by law.

11. The East Kent Services Committee are hereby authorised to discharge on behalf of the Authorities the function of preparing and approving, amending or repealing, any policy, statement, practice note, code of guidance, procedure or similar in connection with the functions hereby delegated and:-

- (a) Until such time as they have done so any reference in this Part to any policy, procedure, process or similar administrative statement of practice 'of the Authority' shall be interpreted as a reference to the relevant policy, procedure process of similar administrative statement of the relevant Authority in force on 11 February 2015.
- (b) Any reference in this Part to any policy, procedure, process or similar administrative statement of practice 'of the Authority' shall be interpreted as a reference to the relevant policy, procedure process of similar administrative statement as approved by the former East Kent Joint Arrangements Committee or the East Kent Services Committee (or the relevant Authority) after 11 February 2015.

12. Any reference to any Act, Rule, Order or Regulation shall be taken as including a reference to that Act, Rule, Order or Regulation as re enacted replaced or modified from time to time.
13. References to any statutory provision shall include a reference to any subordinate or secondary legislation made under or taking effect under it from time to time.

Administrative

14. The Committee may only exercise the delegated powers in this schedule in accordance with:-
 - (a) 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.
 - (b) The Constitution of the Authority where relevant including standing orders, contract standing orders and financial regulations.
 - (c) The revenue and capital budgets of the Authority, subject to any variation thereof which is permitted by the Authority's Financial Regulations.
 - (d) Consideration of any relevant policy adopted by the Committee.
15. The Committee may not exercise delegated powers where –
 - (a) The matter is reserved to the Authority by the arrangements.
 - (b) The matter is a function which cannot by law be discharged by the Committee.
16. The Committee may not exercise delegated powers in a way which is contrary to the policies and plans approved by or on behalf of the Authority.
17. Where an officer has delegated powers the Committee or sub-committee (as appropriate) the Committee can still exercise that power if it considers that it is appropriate to do so.
18. If for any reason it is not practical to consult a person required to be consulted in the exercise of a delegation then the Committee must consult someone else they reasonably consider to be an appropriate substitute consultee if reasonably practicable to do so.
19. The delegations in this Scheme of Delegation include the discharge of both executive and non-executive functions
20. Any reference in this Scheme of Delegation to any enactment shall include a reference to any amendment to or re-enactment of the same.
21. Where The Committee has delegated authority to discharge functions by virtue of any other decision by the parties or the absence of the delegation from this Scheme of Delegation shall not prevent the exercise of the delegation.
22. Where the Committee delegates the exercise of any function to an officer of any of the Authorities that officer may nominate another officer or officers to exercise that duty, function or power, provided that the nominated officer(s) report to or is responsible to officer to whom the delegation has been made.
23. Where an officer has delegated authority to discharge functions;

- (a) By virtue of any other decision of the parties or;
- (b) Through a specific decision of the Committee, or a sub-committee, either before or after the adoption of this Scheme of Delegation,

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

Functions Related to the Administration and Management of the Shared Service

Business cases and delivery of services

- 24. To develop shared service business cases work programmes and projects in relation to the functions which any of the Authorities are minded to delegate to the Committee. [E/C]
- 25. With the assistance if necessary of the appropriate Chief Executive of any of the Authorities to obtain from his or her Authority any information required in preparing a shared service business case. [E/C]
- 26. Once a business case is approved to implement the same and deliver the service as defined therein. [E/C]
- 27. To make arrangements for the management of the Department. [E/C]

Financial

- 28. 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]
- 29. Authorise Entry into contract documentation following tender/bid acceptance (subject to the provisions of Financial Regulations and Contract Standing Orders of the Authority relating to the execution of contracts under seal). [E/C]
- 30. 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 Authority and ensuring sufficient budgetary provision exists. [E/C]
- 31. The assignment or novation of a contract. [E/C]
- 32. 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]
- 33. Virement between heads of expenditure of up to the limit specified in the Authority's Financial Regulations provided that such virement is in accordance with the conditions for virements in such Financial Regulations. [E/C]
- 34. Provision of reasonable hospitality to representatives of other authorities, visiting a department or premises under the Committees control subject to agreement by the Chief Executives of each of the parties for expenditure in excess of £500. [E]
- 35. To negotiate and agree variations in contracts arising out of statutory requirements subject to adequate budgetary provision being available. [E/C]

Shared Services Employees

36. The Authority's empower the Committee to the intent that the Director has the necessary delegated powers to;-
- (a) to determine the establishment and make changes to the establishment of the Department [C]
 - (b) to exercise all powers functions and responsibilities in relation to the employment, management and dismissal of staff engaged [C] in the shared services under the terms, conditions, policies and procedures of the Authority. [C]

General

37. To publicise the services they provide. [E/C]
38. To deal with issues relating to the Commission for Local Administration relevant to the Committee. [E/C]

Delegation of the functions associated with the provision of ICT services, face to face contact centre customer services and benefits and benefits administration.

Column 1 Legislation/Function	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
1. Council Tax	<p>In connection with the administration of the council tax:</p> <p>(a) to determine occupation, to send invoices, grant reliefs, issue penalties, collect income and take all recovery and other administrative steps necessary to collect the council tax in accordance with any statute or statutory regulations and make determinations and exercise discretions as appropriate, except for matters specifically reserved to the Authorities;</p> <p>(b) to administer the Authorities' Council Tax Reduction Schemes in accordance with any statute or statutory regulations and make determinations and exercise discretion as appropriate, except for matters specifically</p>	

Column 1 Legislation/Function	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	<p>reserved the Authorities;</p> <p>(c) to represent the Billing Authority in any proceedings tribunal or appeals panel dealing with matters of housing benefit or council tax, and in any proceedings relating to the recovery and enforcement of council tax and penalties before the Magistrates and County Court, and to authorise officers of any Authorities who are represented on the East Kent Services Committee to similarly represent the Billing Authority;</p> <p>(d) to undertake interviews under caution, to issue cautions, administrative penalties and authorise prosecutions in accordance with legislation, and the Authorities' prosecution policy and statement on fraud;</p> <p>(e) to administer discretionary housing payments in accordance with legislation and the Authorities' policy;</p> <p>(f) to complete statutory returns in connection with council tax;</p> <p>(g) to serve or withdraw completion notices under Schedule 4a of the Local Government Finance Act 1988 as amended;</p>	

Column 1 Legislation/Function	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	<p>(h) to determine liable persons, exemptions, discounts, transitional relief schemes, calculate instalments, appoint bailiffs, debt collection agents and process servers, request a statement of case for the opinion of the High Court, attach earnings and income support, impose a charge upon property, commence bankruptcy proceedings, attach allowances, levy distress, impose charges for levying distress, seek insolvency of the debtor or commitment to prison, to request and execute warrants of arrest and exercise any other administrative step for the collection of council tax;</p> <p>(i) to represent the Authorities in the determination of proposals, alterations and appeals for council tax where appropriate;</p> <p>(j) to represent the Billing Authority in requests for administration orders under the County Courts Acts in respect of unpaid council tax;</p> <p>(k) to be responsible for the prevention, detection and prosecution of council tax fraud.</p>	<p>Statutory returns must be authorised by the Section 151 Officer of the Authorities</p>

Column 1 Legislation/Function	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes

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2. Administration of the Housing Benefit Scheme	<p>In connection with the administration of the Housing Benefit Scheme:</p> <p>(a) to be responsible for promoting take up of Housing and Council Tax Support p schemes;</p> <p>(b) to grant Housing Benefit (rent allowances and rent rebates) in accordance with any statute or statutory regulations and make determinations and exercise discretion as appropriate, except for matters specifically reserved for the Council and Committees/Executive;</p> <p>(c) to determine and recover overpayments of Housing Benefit including making decisions on the method of recovery;</p> <p>(d) to make determinations and payments in accordance with the Authorities' Discretionary Housing Payments policy;</p> <p>(e) to undertake interviews under caution, to issue cautions, administrative penalties and authorise prosecutions in accordance with legislation, and the Authorities' prosecution policy in respect of Housing Benefits</p>	

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	<p>(f) to complete statutory subsidy calculations and returns , and all other statistical returns;</p> <p>(g) to undertake all other administrative processes in connection with the Housing Benefit scheme.</p>	<p>Statutory subsidy calculations and returns must be authorised by the Section 151 Officer of the Authorities</p>
3. National Non-Domestic Rate	<p>In connection with the administration of the national non domestic rate:</p> <p>(a) to determine occupation, to send invoices, grant reliefs, collect income and take all recovery and other administrative steps necessary to collect the national non domestic rate in accordance with any statute or statutory regulations and make determinations and exercise discretions as appropriate, except for matters specifically reserved to the Authorities;</p>	<p>This includes and recovering money from Business Improvement Districts.</p>

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	<p>(b) to represent the Billing Authority in any proceedings before the Valuation Tribunal, and in any proceedings relating to the recovery and enforcement of national non domestic rate before the Magistrates and County Court, and to authorise officers within the Head of Business and Community Transformation's Division to similarly represent the Billing Authority;</p> <p>(c) to complete statutory returns in respect of national non domestic rate;</p> <p>(d) to serve or withdraw completion notices under Schedule 4a of the Local Government Finance Act 1988 as amended;</p> <p>(e) to determine liable persons, exemptions, transitional relief schemes, calculate instalments, appoint bailiffs, request a statement of case for the opinion of the High Court, impose a charge upon property, levy distress, impose charges for levying distress, seek insolvency of the debtor or commitment to prison or liquidation of companies, to request and execute warrants of arrest and exercise any other administrative step for the collection of national non domestic rate;</p>	<p>Statutory returns must be approved by the Section 151 Officer of the Authorities</p>

Column 1 Legislation/Function	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	<p>(f) to represent the Authority in the determination of proposals, alterations and appeals for national non domestic rate where appropriate;</p> <p>(g) to represent the Billing Authority in requests for administration orders under the County Courts Acts in respect of unpaid national non domestic rate;</p> <p>(h) to calculate and pay interest on overpayments of national non domestic rate in accordance with the NDR (Payment of Interest) Regulations 1990;</p> <p>(i) to determine applications under Section 44A of the Local Government Finance Act 1988;</p> <p>(j) to be responsible for the prevention, detection and prosecution of national non domestic rate fraud.</p>	

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4. ICT	<p>To provide ICT technical support services to the Authorities including:-</p> <p>network infrastructure both LAN and WAN solutions, hardware infrastructure, internet access and web infrastructure solutions.</p> <p>To provide technical and business advice on ICT solutions and use of technology.</p> <p>To Provide ICT business support services to the Authorities including:-</p> <p>service application system support services including third party supplier liaison, management of corporate data bases, including GIS, quality assurance of data and integration with other business systems.</p> <p>To provide associated procurement administration including all quotations, ordering, invoicing and contract management.</p>	<p>Note: The nature and extent of the activities to be undertaken in connection with the discharge of these functions will be as detailed from time to time in a Service Level Agreement</p>

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5. Customer Services	<p>To provide 'front of house' contact with the public wishing to make enquiries of the Authorities or to access services in relation to any of its functions whether that contact is made in person, by telephone, by mail or email or the websites of any of the Authorities, including but not limited to</p> <p>(i) Issuing application forms for access to services.</p> <p>(ii) receiving payments due to the Authorities and issuing receipts</p> <p>(iii) providing facilities for the public inspection of documents and the taking of copies thereof</p> <p>(iv) responding to 'low level' customer complaints</p> <p>(v) selling or distributing or issuing any item or thing arising out of the conduct of any undertaking or function of the Authorities</p> <p>Such other activities in connection with the offering of services to the public as may be detailed from time to time in the Service Level Agreements</p>	<p>Note:</p> <p>The activities identified in this paragraph 5 are intended to be either incidental or conducive to the discharge of the functions set out in paragraphs 1 to 4 above or intended to be either incidental or conducive to the discharge of all of the other functions of the Authorities.</p> <p>Limitation:</p> <p>Except as is expressly provided in paragraphs 1 to 4, paragraph 5 does not operate as to confer any power to exercise any substantive function of the Authorities</p>
6. Human Resources	<p>The function of providing a human resource and payroll service in respect of the staff employed by and elected members of the Authorities in accordance with a service level agreement agreed from time to time by the East Kent Services Board on behalf of the Authorities to include</p>	<p>The following matters are reserved to the Authorities at the present time:-</p> <p>1. The Regulatory and Investigative</p>

Column 1 Legislation/Function	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	<p>HR SERVICES</p> <p>Strategic HR Advice</p> <p>Provide advice on policy development, Workforce Strategies and other key issues.</p> <p>Attend management team meetings and committee meetings in each of the partner authorities as agreed.</p> <p>Professional HR Advice and Information</p> <p>Case management and day to day ad hoc queries.</p> <p>Learning and Development</p> <p>Provide Corporate and Bespoke Training Service.</p> <p>Recruitment</p> <p>Provide a complete recruitment administration support service from advertising to appointment. Advise Managers and respond to queries. Manage the Advertising</p>	<p>Powers Act 2000</p> <p>2. The Employment Practice Code (produced by the Information Commissioner</p> <p>3. The Telecommunications (Lawful Business Practice) Interception of Communications) Regulations 2000</p> <p>4. Save for the provision of advice as directed by the authority, the procedural aspects and decisions to be made leading to the appointment and/or removal of the Head of Paid Service, Monitoring Officer and the Local Government Act 1972 s151 Officer.</p> <p>5. Decisions to be made under s112 of the Local Government Act 1972 (but not the procedural aspects of this power)</p>

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	<p>Agency contract.</p> <p>Pre-employment checks</p> <p>Requesting of employment references, pre-employment health screening, Criminal Record Bureau checks and other checks as relevant to the type of position.</p> <p>Appointment of new employees</p> <p>Production of offer letters and employment contracts and set up of personnel records – both manual file and computerised (HR/Payroll system).</p> <p>Contractual amendments changes</p> <p>Production of contract variations and amendments to personnel record as required – both manual file and computerised (HR/Payroll system)</p> <p>Maintenance of employee records</p> <p>Update employee records in accordance with authorised instructions.</p>	

Column 1 Legislation/Function	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	<p>Input to Development and Implementation of corporate/directorate policies</p> <p>Contribute to corporate/directorate policies to ensure that requirements and input from HR Shared Services is taken into account. Provide feedback regarding the implication and issues regarding implementation.</p> <p>Sickness and Absence management</p> <p>Provide access to management reports and support for managers on sickness absence.</p> <p>Input sickness absence where self-service is not available.</p> <p>Input all other absence (not sickness) in accordance with authorised instruction for areas where self-service is not available.</p> <p>Support to Restructuring/change management</p> <p>Provide administrative support and HR advice to restructuring and change management to ensure that all HR issues are properly addressed.</p>	

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	<p>Personnel Administration</p> <p>Issue notices and keep records of general correspondence on terms and conditions and pension notifications to groups of the workforce.</p> <p>Termination/Leavers</p> <p>Administration of necessary processes associated with termination of employment as per the agreed process.</p> <p>Advice and Information</p> <p>Respond to day to day ad hoc queries for advice regarding terms and conditions.</p> <p>Consultation Forums</p> <p>Attend the various staff consultation forums in each authority as agreed to provide advice and guidance.</p> <p>Compensation and Benefits</p> <p>Pensions advice and administration including costs for early retirement, exercise of discretions, request for early</p>	

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	<p>release of benefits, Je administration, salary sacrifice and other staff benefit schemes.</p> <p>Health and Safety</p> <p>To provide professional day to day advice as necessary to the authorities and when required act as liaison with the HSE.</p> <p>Payroll</p> <p>Manage the delivery of the payroll services.</p> <p>Service to Members</p> <p>Provide a Payroll service and other services as agreed with East Kent Services Board.</p>	