

Canterbury City Council

Policy and Resources Committee 13 July 2016

Council 21 July 2016

Dover District Council

Cabinet 6 June 2016

Council 20 July 2016

Thanet District Council

Cabinet 16 June 2016

Council 14 July 2016

East Kent Services Committee

28 September 2016

Subject: Establishment of East Kent Services Committee and Associated Arrangements

Director/Head of Service: Head of Legal Services (Canterbury)
Director of Governance (Dover)
Solicitor to the Council (Dover)
Director of Corporate Governance and Monitoring Officer (Thanet)

Decision Issues: These matters are within the authority of the executive and the Council of each of the authorities of, Dover District and Thanet District and are within the authority of the Policy and Resources Committee and Council of Canterbury City Council.

As this is now agreed by the above authorities, this matter falls within the authority of the East Kent Services Committee.

Decision type: Not applicable

Classification: This report is open to the public.

Summary: *This report proposes minor amendments to the delegations made to the East Kent Services Committee by the three authorities in establishing revised governance arrangements for EK Services (EKS) and EK Human Resources (EKHR) in late 2014 early 2015 and the relevant delegations to the Director of Collaborative Services and Director of EK Services.*

That the Cabinets of Dover District Council and Thanet District Council agreed and approved and recommended to each Council:

That the Policy and Resources Committee of Canterbury City Council agreed and recommended to its Council

That each Council Resolved

That the delegation effected by paragraph 28 of Schedule 5 to the Original Report be amended to read as follows:-

“Acceptance of the lowest or most economically advantageous 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.”

And that the delegation effected by paragraph 31 of Schedule 5 to the Original Report be amended to read as follows:-

“The assignment or novation of a contract (subject to the provisions of the Public Contracts Regulations 2015).”

That the delegation to the East Kent Services Committee effected by the approval of paragraph 28 of Schedule 5 to the Original Report be amended to read as follows:-

“Acceptance of the lowest or most economically advantageous 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.”

And that the delegation to the East Kent Services Committee effected by the approval of paragraph 31 of Schedule 5 to the Original Report be amended to read as follows:-

“The assignment or novation of a contract (subject to the provisions of the Public Contracts Regulations 2015).”

That the East Kent Services Committee resolves:

That the delegation to each of the Director of Collaborative Services and the Director of EK Services effected by the approval of paragraph 28 of Schedule 5 to the Original Report be amended to read as follows:-

“Acceptance of the lowest or most economically advantageous 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.”

And that the delegation to each of the Director of Collaborative Services and the Director of EK Services effected by the approval of paragraph 31 of Schedule 5 to the Original Report be amended to read as follows:-

“The assignment or novation of a contract (subject to the provisions of the Public Contracts Regulations 2015).”

Next stage in process

Sealing and execution of the formal administrative collaboration agreement.

SUPPORTING INFORMATION

1. Background

The revised governance structures for the delivery of the shared services by CCC DDC and TDC were approved on the report of Head of Legal Services (Canterbury), the Director of Governance (Dover), the Solicitor to the Council (Dover) and the Interim Legal Services Manager (Thanet) (“the original report”) by the respective Cabinets Council at the end of 2014 and the early 2015 and finally, by the East Kent Services Committee on 11 February 2015

Following this, the formal administrative collaboration agreement was finalised and circulated for sealing by the three authorities. Before this process was completed it was identified that some of the fine detail of the delegations approved by the respective councils and the East Kent Services Committee and reflected in the formal documentation no longer accorded with the applicable rules on public procurement which were changed on the coming into force of the Public Contracts Regulations 2015.

Although minor and easily remedied in terms of the administrative collaboration agreement, the areas of non-compliance with the revised delegations reflect the delegations which were actually agreed by the Cabinets and Council of each of the three authorities and the East Kent Services Committee. Therefore, it was necessary to ask each of these decision making bodies to formally approve the changes which have now been incorporated into the administrative collaboration agreement.

2 **Features of Current Delegations and the Proposed Changes**

The proposed changes all relate to the schedules of the administrative collaboration agreement which set out the delegations made. These were set out, in Schedule 5 to the Original Report. They relate to two areas.

Firstly, the delegations made only allow for the East Kent Services Committee and the Directors of EK Services and Collaborative Services to accept the lowest tender or bid in a procurement process. In procurements which are subject to the Public Contracts Regulations, lowest price is no longer a lawful award criterion. Contract subject to the regulations must now be accepted on the basis of the most economically advantageous tender.

The delegations to the East Kent Services Committee and the Directors of EK Services and Collaborative Services currently reads:-

“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. (paragraph 28 of Schedule 5 to the Original Report).”

This needs to be amended to read as follows:-

“Acceptance of the lowest or most economically advantageous 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.”

Secondly, the delegations allow for the East Kent Services Committee and the Directors to agree to assign or novate contracts. The Public Contracts Regulations make specific provision in this regard which the earlier regulations did not. There is a need to reflect this in the delegations.

The delegations to the East Kent Services Committee and the Directors of EK Services and Collaborative Services currently reads:-

“The assignment or novation of a contract.” (paragraph 31 of Schedule 5 to the Original Report)

This needs to be amended to read as follows:-

“The assignment or novation of a contract (subject to the provisions of the Public Contracts Regulations 2015).”

3. **Relevant Council Documents**

Schedule 5 to the Original Report

4. **Consultation planned or undertaken**

None.

5. Options available with reasons for suitability

- (i) To approve the proposed amendments to the delegations
- (ii) Not to approve the proposed amendments to the delegations.

6. Reasons for supporting option recommended, with risk assessment

Option (i) is recommended, as it aligns the delegations with current law.

7. Implications

- (a) Financial Implications

None.

- (b) Legal Implications

The proposed amendments to the delegations are in accordance with legislation and are considered to be lawful.

8. Conclusions

These amendments to the delegations to the East Kent Services Committee and to each of the directors of EK Services and Collaborative Services will enable to formal administrative collaboration agreement to be concluded in accordance with the decisions taken by the respective authorities in 2014/2015.

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