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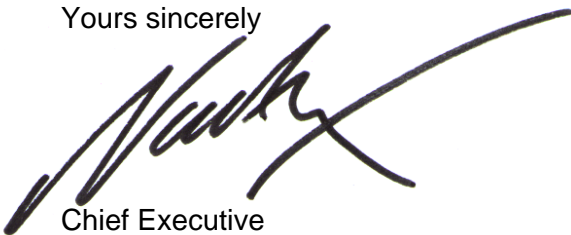
25 June 2010

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **CABINET** will be held at these Offices (Council Chamber) on Monday 5 July 2010 at 11.00 am when the following business will be transacted.

Members of the public who require further information are asked to contact Kate Batty-Smith on (01304) 872303 or by e-mail at kate.batty-smith@dover.gov.uk.

Yours sincerely



Chief Executive

Cabinet Membership:

Councillor P A Watkins	Leader of the Council
Councillor F J W Scales	Deputy Leader and Portfolio Holder for Economy & Special Projects
Councillor T J Bartlett	Portfolio Holder for ICT, Consumer Affairs & Human Resources
Councillor S S Chandler	Portfolio Holder for Community, Housing & Youth
Councillor N J Collor	Portfolio Holder for Access & Property Management
Councillor P G Heath	Portfolio Holder for Health, Well Being & Public Protection
Councillor N S Kenton	Portfolio Holder for Environment, Waste & Planning
Councillor C J Smith	Portfolio Holder for Skills, Training & External Relations
Councillor I H Ward	Portfolio Holder for Corporate Resources & Performance

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.

AGENDA

1. **APOLOGIES**

2. **DECISIONS** (Pages 4-9)

The Decisions of the meeting of the Cabinet held on 7 June 2010 numbered CAB 1 to CAB 8 (inclusive) are attached.

3. **ISSUES ARISING FROM OVERVIEW AND SCRUTINY OR OTHER COMMITTEES** (Pages 10-12)

- Regent, Victoria Parade, Deal
- Performance Report – 4th Quarter 2009/10

To consider any issues arising from Overview and Scrutiny or other Committees not specifically detailed elsewhere on the agenda.

EXECUTIVE – NON-KEY DECISIONS

4. **AGREEMENT BETWEEN KENT COUNTY COUNCIL AND DOVER DISTRICT COUNCIL REGARDING FLY-TIPPING ENFORCEMENT** (Pages 13-26)

To consider the attached report of the Director of Development and Public Protection.

Responsibility: Portfolio Holder for Health, Well-Being and Public Protection

5. **EXCLUSION OF THE PRESS AND PUBLIC** (Page 27)

The recommendation is attached.

MATTER WHICH THE MANAGEMENT TEAM SUGGESTS SHOULD BE CONSIDERED IN PRIVATE AS THE REPORT CONTAINS EXEMPT INFORMATION AS DEFINED WITHIN PART 1 OF SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972 AS INDICATED AND IN RESPECT OF WHICH THE PROPER OFFICER CONSIDERS THAT THE PUBLIC INTEREST IN MAINTAINING THE EXEMPTION OUTWEIGHS THE PUBLIC INTEREST IN DISCLOSING THE INFORMATION

EXECUTIVE – KEY DECISIONS

5A. **SHORT TERM AND LONG TERM CONTRACTS FOR RESPONSE MAINTENANCE AND VOID WORKS 2009/15** (Paragraph 3 – Information relating to the financial or business affairs of any particular person)

To consider the attached report of the Director of Property, Leisure and Waste Management.

Responsibility: Portfolio Holder for Community, Housing and Youth

EXECUTIVE – NON-KEY DECISIONS

6. **EAST KENT WASTE PROJECT** (Paragraph 3 – Information relating to the financial or business affairs of any particular person) (Pages 29-52)

To consider the attached report of the Director of Property, Leisure and Waste Management.

Responsibility: Portfolio Holder for Environment, Waste and Planning

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 Kate Batty-Smith, Democratic Support Officer, telephone: (01304) 872303 or email: kate.batty-smith@dover.gov.uk for details.

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

Record of the decisions of the meeting of the **CABINET** held at the Council Offices, Whitfield on Monday, 7 June 2010 at 11.00 am.

Present:

Chairman: Councillor P A Watkins

Councillors: T J Bartlett
S S Chandler
N J Collor
P G Heath
N S Kenton
F J W Scales
C J Smith
I H Ward

Also Present: Councillor B W Butcher
Councillor G Cowan

Officers: Head of Business and Community Transformation
Head of Development and Public Protection
Head of Finance and ICT
Head of Governance
Head of Housing, Culture and Community Safety
Head of Property, Leisure and Waste Management
Governance Investigator
Housing Services Manager
Performance and Risk Manager
Democratic Support Officer

DECISIONS

The Decisions of the meeting of the Cabinet held on 10 May 2010 as detailed in decision Nos CAB 135 to CAB 152 were approved as a correct record and signed by the Chairman.

The formal decisions of the Executive are detailed in the following schedule.

Record of Decisions: Executive Functions

Decision Status	Record of Decision	Alternative options considered and rejected (if any)	Reasons for Decision	Conflicts of interest (if any) declared by decision maker(s) or consultees (if any)
CAB 1 7.6.10 Open Key Decisions No Call in to apply Yes Implementation Date 15 June 2010	<u>ISSUES ARISING FROM OVERVIEW AND SCRUTINY OR OTHER COMMITTEES – EQUAL ACCESS</u> It was agreed: (a) That the Scrutiny (Community and Regeneration) Committee's recommendation, made at its meeting held on 26 May 2010 (Minute No 40), be acknowledged. (b) That Cabinet decision CAB 141 be reaffirmed.	None.	The Scrutiny (Community and Regeneration) Committee, at its meeting held on 26 May 2010, endorsed Cabinet decision CAB 141 made at its meeting held on 10 May 2010 (Minute No 40).	

Decision Status	Record of Decisions	Alternative options considered and rejected (if any)	Reasons for Decision	Conflicts of interest (if any) declared by decision maker(s) or consultees (if any)
CAB 2 7.6.10 Open Key Decisions No Call-in to apply Yes	<u>EAST KENT (JOINT ARRANGEMENTS) COMMITTEE</u> It was agreed that the Minutes of the East Kent (Joint Arrangements) Committee meeting held on 19 May 2010 be noted.	None.	The four district councils in East Kent have signed a joint working protocol which commits them to working together to identify opportunities for the joint provision of services.	

Implementation Date 15 June 2010				
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Decision Status	Record of Decisions	Alternative options considered and rejected (if any)	Reasons for Decision	Conflicts of interest (if any) declared by decision maker(s) or consultees (if any)
CAB 3 7.6.10 Open Key Decisions No Call-in to apply Yes Implementation Date 15 June 2010	<u>DECISIONS TAKEN BETWEEN CABINET MEETINGS</u> It was agreed that decision number U10 (Dover District Council's response to BT's proposal to remove a public telephone box at Adelaide Road/Milner Road, Elvington) be received and noted.	None.	To note the decision taken by the Portfolio Holder for Access and Property Management pursuant to paragraph 13 (General Responsibilities) of Part 3 of the Constitution.	

Decision Status	Record of Decisions	Alternative options considered and rejected (if any)	Reasons for Decision	Conflicts of interest (if any) declared by decision maker(s) or consultees (if any)
CAB 4 7.6.10 Open Key Decisions No Call-in to apply Yes	<u>2009/10 ANNUAL GOVERNANCE ASSURANCE STATEMENT</u> It was agreed: (a) That the Annual Governance Assurance Statement, as recommended by the Corporate Management Team, be approved, and the Leader authorised to sign the Statement. (b) That the Governance Committee be asked to accept the Annual Governance Assurance Statement alongside the 2009/10	None.	The Accounts and Audit Regulations (England) 2003, as amended in 2006, require that the Council conducts at least annually a review of the effectiveness of its	

Implementation Date 15 June 2010	Accounts.		system of internal control, and then publishes a statement within the Annual Governance Assurance Statement. The Statement explains how the Council has complied with the legislation and its own Local Code of Corporate Governance	
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Decision Status	Record of Decisions	Alternative options considered and rejected (if any)	Reasons for Decision	Conflicts of interest (if any) declared by decision maker(s) or consultees (if any)
CAB 5 7.6.10 Open Key Decisions No Call-in to apply Yes Implementation Date 15 June 2010	<u>PERFORMANCE REPORT – 4TH QUARTER 2009/10</u> It was agreed: (a) That the Council's Performance Report for the 4th Quarter 2009/10 be noted. (b) That the Scrutiny (Policy and Performance) Committee be advised of the intention not to produce a Performance Report for the First Quarter 2010/11, as the Council is currently undergoing its Employment Stability review and is awaiting the outcome of the Emergency Budget, which will indicate future public sector funding arrangements and will allow the Council to set its performance standards and targets for 2010/11.	To not amend the report's recommendations.	The Performance Report is the cornerstone of the Council's performance management framework, and is key to the monitoring of progress towards achieving the Council's aims and objectives.	

Decision Status	Record of Decisions	Alternative options considered and rejected (if any)	Reasons for Decision	Conflicts of interest (if any) declared by decision maker(s) or consultees (if any)
CAB 6 7.6.10 Open Key Decisions No Call-in to apply Yes Implementation Date 15 June 2010	<u>APPOINTMENT OF MEMBER REPRESENTATIVES TO OUTSIDE BODIES 2010/11 – DOVER DISTRICT VOLUNTEER CENTRE</u> It was agreed that Councillor C J Smith be replaced by Councillor S S Chandler as Dover District Council's representative on the Dover District Volunteer Centre.	None.	Cabinet is requested to make an amendment to one of the outside bodies appointments made at its meeting held on 10 May 2010 (CAB 143).	

Decision Status	Record of Decisions	Alternative options considered and rejected (if any)	Reasons for Decision	Conflicts of interest (if any) declared by decision maker(s) or consultees (if any)
CAB 7 7.6.10 Open Key Decisions No Call-in to apply Yes Implementation Date Immediate	<u>EXCLUSION OF THE PRESS AND PUBLIC</u> That, in accordance with the provisions of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, the press and the public be excluded from the remainder of the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 of Schedule 12A of the 1972 Act.	None.		

Decision Status	Record of Decisions	Alternative options considered and rejected (if any)	Reasons for Decision	Conflicts of interest (if any) declared by decision maker(s) or consultees (if any)
<p>CAB 8 7.6.10 Exempt</p> <p>Key Decisions Yes</p> <p>Call-in to apply Yes</p> <p>Implementation Date 15 June 2010</p>	<p><u>REGENT, VICTORIA PARADE, DEAL</u></p> <p>It was agreed:</p> <p>(a) That the freehold interest in The Regent, Victoria Parade, Deal be sold to Silver Screen Cinemas for cinema use only at the price outlined in the report, thereby meeting the Scrutiny (Policy and Performance) Committee's recommendation (Minute No 527 of 20 April 2010) on community use as well as the Council's objectives on achieving best value for its assets.</p> <p>(b) That the petition signed by approximately 1,600 people supporting a cinema in Deal, together with the covering statement from Deal Films Limited, be noted.</p> <p>(c) That the application of the petition scheme to the Council's commercial decision-making process be questioned, and the validity of the petition received from one of the bidders considered by the Monitoring Officer against the Council's Contract Standing Orders.</p> <p>(d) That the Head of Property, Leisure and Waste Management, in consultation with the Portfolio Holder for Access and Property Management, be authorised to agree terms for the disposal of the property.</p>	<p>To accept one of the other offers received.</p>	<p>Following agreement at Cabinet on 7 September 2009 that the Regent be sold to Evolution Productions (CAB 47), negotiations stalled and the property was put back onto the market with a deadline for offers of 14 April 2010. Six offers were received (one outside the deadline) which Cabinet is now requested to consider.</p>	

The meeting ended at 11.39 am.

ISSUES ARISING FROM OVERVIEW AND SCRUTINY OR OTHER COMMITTEES

REGENT, VICTORIA PARADE, DEAL

Responsibility: Portfolio Holder for Access and Property Management

Report of: Director of Property, Leisure and Waste Management

Decision Route

Cabinet	7 June 2010	CAB 08
Scrutiny (Policy & Performance) Committee	15 June 2010	Minute No 75
Cabinet	5 July 2010	

Scrutiny (Policy & Performance) Committee Recommendations

The Scrutiny (Policy & Performance) Committee, at its meeting held on 15 June 2010, endorsed Cabinet decision CAB 08 and made further recommendations (highlighted in bold) as follows:

- (c) That it be recommended to the Cabinet:
- (i) That Cabinet decision CAB 8(a) to sell the freehold interest in The Regent, Victoria Parade, Deal to Silver Screen Cinemas for cinema use only at the price outlined in the report be endorsed.
 - (ii) **That the need for a legal restriction to prevent the change of use and/or redevelopment of the site without the consent of the Cabinet and an uplift clause to ensure a payment to the Council of a share of any increase in value of the site as part of the conditions of sale be reinforced in order to ensure that the Council retains control over the permitted use of the property to safeguard the provision for the people of Deal of the cinema they desire.**
 - (iii) **That the level of concern expressed by the petition organiser, public speakers and the people of Deal for retaining the Regent, Victoria Parade, Deal for leisure use be noted and the Portfolio Holder for Access and Property Management and the Director of Property, Leisure and Waste Management be urged to proceed on that basis.**
 - (iv) **That the Scrutiny (Policy and Performance) Committee express its concern in the event of any alterations to the proposed legal**

restrictions as part of the conditions of sale and request that in such a circumstance a further report be submitted to Cabinet and the Scrutiny (Policy and Performance) Committee on the matter.

Cabinet Decision CAB 8

Cabinet Decision CAB 8 of 7 June 2010 was as follows:

- (a) That the freehold interest in The Regent, Victoria Parade, Deal be sold to Silver Screen Cinemas for cinema use only at the price outlined in the report, thereby meeting the Scrutiny (Policy and Performance) Committee's recommendation (Minute No 527 of 20 April 2010) on community use as well as the Council's objectives on achieving best value for its assets.
- (b) That the petition signed by approximately 1,600 people supporting a cinema in Deal, together with the covering statement from Deal Films Limited, be noted.
- (c) That the application of the petition scheme to the Council's commercial decision-making process be questioned, and the validity of the petition received from one of the bidders considered by the Monitoring Officer against the Council's Contract Standing Orders.
- (d) That the Head of Property, Leisure and Waste Management, in consultation with the Portfolio Holder for Access and Property Management, be authorised to agree terms for the disposal of the property.

ISSUES ARISING FROM OVERVIEW AND SCRUTINY OR OTHER COMMITTEES

PERFORMANCE REPORT – 4TH QUARTER 2009/10

Responsibility: Portfolio Holder for Corporate Resources and Performance

Report of: Director of Governance

Decision Route

Cabinet	7 June 2010	CAB 05
Scrutiny (Policy & Performance) Committee	15 June 2010	Minute No 80
Cabinet	5 July 2010	

Scrutiny (Policy & Performance) Committee Recommendations

The Scrutiny (Policy & Performance) Committee, at its meeting held on 15 June 2010, endorsed Cabinet Decision CAB 05 and made an additional recommendation (highlighted in bold) as follows:

That it be recommended to the Cabinet:

- (a) That the Performance Report for the 4th Quarter be noted.
- (b) That the intention not to produce a Performance Report for Quarter 1 2010/11 for the reasons specified in Cabinet Decision CAB 5 be endorsed.
- (c) **That Performance Indicator LP125 (Reduction in previous year level of all corporate debt where over one year old) be changed to differentiate between debt owed to Dover District Council and debt owed to third parties.**

Cabinet Decision CAB 5

Cabinet Decision CAB 05 of 7 June 2010 was as follows:

- (a) That the Council's Performance Report for the 4th Quarter 2009/10 be noted.
- (b) That the Scrutiny (Policy and Performance) Committee be advised of the intention not to produce a Performance Report for the First Quarter 2010/11, as the Council is currently undergoing its Employment Stability review and is awaiting the outcome of the Emergency Budget, which will indicate future public sector funding arrangements and will allow the Council to set its performance standards and targets for 2010/11.

REPORT OF THE DIRECTOR OF DEVELOPMENT AND PUBLIC PROTECTION

RESPONSIBILITY – PORTFOLIO HOLDER FOR PORTFOLIO HOLDER FOR HEALTH, WELL-BEING AND PUBLIC PROTECTION

NON-KEY DECISION

EXECUTIVE

CABINET – 5 JULY 2010

AGREEMENT BETWEEN KENT COUNTY COUNCIL AND DOVER DISTRICT COUNCIL REGARDING FLY-TIPPING ENFORCEMENT

Recommendation

That Cabinet delegate powers to Kent County Council allowing their officers to carry out surveillance and enforcement relating to fly-tipping cases within the District.

Contact Officer: Diane Croucher/Paul Neagle, extension 2208/2291.

Reasons why a decision is required

1. Dover District Council is a partner in the Clean Kent Campaign which deals with issues regarding litter, fly-tipping, graffiti and dog fouling. DDC officers have statutory authority to carry out investigation and enforcement of fly-tipping offences within the District. Fly-tipping is a county wide problem and operations are often carried out with officers from the Clean Kent Campaign. However, their officers have no authority to act within the District unless DDC delegates the power to them.

Options available to the Council with assessment of preferred option

2. Do not give Clean Kent delegated powers. This would mean Clean Kent Officers can not carry out work within the District and we will not benefit from their expertise or be able to arrange joint investigations. It would also undermine our membership of the Clean Kent Campaign and reduce the financial value to us.
3. Delegate the powers. This will enable us to fully participate in the Clean Kent Campaign and reap the benefits including:
 - continue joint working with Clean Kent Officers
 - use their equipment to carry out monitoring
 - seek their expertise and guidance on fly-tipping enforcement
 - benefit from training initiatives on enforcement

The delegation can run for 3 years or be continuous. The agreement can be terminated by KCC or DDC by giving 3 months written notice.

The preferred option is to have a continuous, i.e. open-ended agreement to reduce officer and member time spent on this matter.

Information to be considered in taking the decision

4. The Clean Kent Campaign, launched in May 2004, is a partnership initiative to tackle environmental crime, improve the cleanliness of our neighbourhoods and involve local people to help take a pride in Kent.
5. It aims to improve and maintain the quality of the local environment, particularly focusing on a reduction in fly-tipping, littering and graffiti as well as reducing rubbish fires and environmental antisocial behaviour.
6. The campaign has a particular focus on litter and fly-tipping and changing attitudes towards these to help reduce environmental crime and make Kent a cleaner county. This is being achieved through a combination of enforcement activity, community action, strong marketing/communications and school education programmes.
7. The Clean Kent Campaign is facilitated by KCC and involves strong partnership involvement of the 12 district/borough councils, Kent Fire and Rescue Service, Kent Police, Environment Agency, Highways Agency, Kent Probation Area, Crown Prosecution Service, Kent Downs Area of Outstanding National Beauty and voluntary organisations.
8. DDC were involved with the Clean Kent initiative from the onset and entered into a formal agreement with KCC in March 2005. The initial expired at the end of 2007. This was renewed until 2010. The initiative has proved helpful to both District and County Councils.

Examples include:

- information sharing regarding cases
 - the use of KCC equipment
 - being accompanied by KCC staff when carrying out interviews under caution of a suspect currently detained at Her Majesty's Pleasure.
 - Environmental Protection staff attending legal training paid for and organised by Clean Kent.
9. The Environmental Health budget contributes £5000 per annum to Clean Kent to aid in joint enforcement and benefit from training and use of equipment.
 10. Historically residents have provided a high-level of feedback on concerns over fly-tipping including Street Scene consultation and the recent Place Survey. Having extra resources available addresses these concerns and illustrates that concerns are listened to.

Background Papers

Clean Kent Campaign website - <http://www.cleankent.co.uk/>

Resource Implications

There is an annual commitment of £5000 towards the Clean Kent Campaign. The Environmental Health Department has already budgeted for this during the 2010/11 financial year. There is therefore no extra resource implication.

Comments from Finance

The report has been reviewed on behalf of Finance and there are no negative comments to make, although the following is noted. The purpose of this report is to enable partner officers to operate and support Dover District Council in the

enforcement of fly-tipping regulations through the Clean Kent Campaign. There is a financial commitment of £5,000 per year which DDC allocates towards the partnership; and this is already budgeted for within the current year. Further ongoing expenditure is expected to be made towards the partnership; however, there is an option to cease the agreement by notice. It would therefore be possible to review this commitment if the financial climate necessitates future savings to be made. (LS)

Consultation Statement

This report has been developed in consultation with Councillor Pat Heath the Portfolio Holder for Health, Well-Being & Public Protection. DDC Legal Services have also been consulted.

Impact on Corporate Objectives and Corporate Risks

Delegating authority to KCC, officers to carry out fly-tipping investigation and enforcement work within the District increases resources at a minimal cost to the Council. It also meets the corporate goal of *'transformed public services through joint working with others including.....Kent County Council'*

A cleaner district helps improve and enhance quality of life, ensure public safety and sustainable economic growth. This benefits residents, businesses and those passing through the District.

If this delegation were not given it would have a negative impact,

- on the value for money of our contribution to the Clean Kent Campaign
- on our ability to mount high impact awareness campaigns with KCC
- training opportunities

Attachments

Appendix 1: Copy of Service Level Agreement on Fly Tipping Enforcement

Appendix 2: Copy of Agreement to delegate powers.

MICHAEL G DAWSON

Director of Development and Public Protection

The officer to whom reference should be made concerning inspection of the background papers is Paul Neagle, Team Leader, Dover District Council, White Cliffs Business Park, Dover, Kent CT16 3PJ. Telephone: (01304) 821199, Extension 2291.

FLYTIPPING ENFORCEMENT

SERVICE LEVEL AGREEMENT BETWEEN

KENT COUNTY COUNCIL

AND

DOVER DISTRICT COUNCIL

APRIL 2010

1. Introduction

Fly tipping is recognised as a national problem. The duties and powers for enforcing against fly tipping are shared between the Environment Agency and waste collection authorities. In January 2005 the Environment Agency and the Local Government Association agreed a national protocol¹ defining lead responsibility for a range of fly tipping events.

The national protocol gives guidance on the use of local agreements. This national protocol does not address how local authority fly tipping responsibilities and working practices are managed with the Clean Kent fly tipping enforcement team, creating a need for this SLA.

2. Scope of the SLA

In Kent local agreements exist whereby the investigation and enforcement powers of local authorities are delegated to the Clean Kent fly tipping enforcement team. The Clean Kent Enforcement Team supports Kent local authorities and other key partners to detect and prosecute offenders.

This Service Level Agreement defines the roles and responsibilities of the Clean Kent Enforcement Team and Dover District Council and the mechanisms by which work will be undertaken in respect of the delivery of a Clean Kent Enforcement Service in Dover District.

The Agreement seeks to:

- clarify arrangements for the deployment of the Clean Kent fly tipping enforcement team;
- define the roles and responsibilities of each of the parties involved in the delivery of the service;

2 Parties to the SLA

This SLA is made between Kent County Council and Dover District Council.

¹ Working Better Together Protocol Series Protocol Six 'Flytipping and Illegal Waste Activities'

3 Roles and Responsibilities

3.1. Kent County Council (Flytipping Enforcement Team) will:

- 3.1.1 Establish and coordinate the implementation of an online GIS Data Management System for fly tipping hotspots and enforcement. This is to be populated by all local authority partners, Kent police and reports from members of public via the KCC Contact centre. This Data Management System will be used to identify hotspots and instigate a problem profiling approach based on the National Intelligence Model (NIM).
- 3.1.2 Upon receipt of fly tipping reports KCC will communicate with Dover DC Enforcement officers and agree on the lead investigator and prosecuting authority for the case. This communication is to be documented. KCC will prioritise its investigations, focusing mainly on cases with direct evidence, or more complex/cross boundary cases.
- 3.1.3 Where Dover DC receive reports of fly tipping incidents, KCC will, if requested, investigate where
- there is direct evidence,
 - indirect scene evidence has been recovered
 - complex/cross boundary cases.
- 3.1.4 Following consultation with DDC Environmental Health Manager, KCC Clean Kent Environmental Crime Manager has the right to refuse to act as lead investigator in any cases if it has insufficient staff resources.
- 3.1.5 Assist where requests for urgent action are received outside the scope of 3.1.2 and 3.1.3, subject to agreement by the Clean Kent Environmental Crime Manager. Examples may include when the lead investigating authority requests additional help from the other authority such as during periods of staff shortages, to undertake specialist activities etc.
- 3.1.6 When acting as lead investigating and / or prosecuting authority, KCC will regularly communicate with and update DDC on the individual case status and outcome. This communication is to be documented.
- 3.1.7 Provide, maintain and deploy covert surveillance equipment in fly tipping investigations. Requests to deploy equipment will be considered by the Clean Kent team following a feasibility survey and will be prioritised in accordance with the availability of resources and other operational commitments. Where requests requiring urgent action are received outside this forum the decision will rest with the Clean Kent Environmental Crime Manager.
- 3.1.8 In cases where KCC have been appointed lead authority in accordance with 3.1.2 above, manage the case investigation and undertake

- 3.1.9 In addition to the individual case updates referred to in 3.1.6, compile monthly and annual statistical reports giving details of reported incidents, investigations and enforcement activity undertaken within Dover District. These reports shall be distributed to in an appropriate format.
- 3.1.10 Establish and co-ordinate a programme of training/mentoring, to support enforcement staff in Dover District. This training will be based on an assessment of needs by the partnership and will include;
- Duties and powers as defined by legislation
 - Legal process
 - Investigatory methods e.g. evidence gathering and preservation, witness statements, compiling case files
 - Deployment of covert surveillance equipment
- 3.1.11 In addition, regular practitioner meetings will provide a forum for:
- identifying the types of support needed by partners to maximise effective enforcement and agree methods for delivery
 - sharing intelligence between partner organisations
 - establishing and promoting best practice
 - developing cross-boundary strategies for detecting and preventing fly tipping

3.2 Dover District Council will:

- 3.2.1 Retain primary responsibility for investigating fly tipping within their area (where this does not fall to the Environment Agency) except in accordance with 3.1.2 and 3.1.3 above whereby KCC accept to take on the lead Investigating / Prosecuting role.
- 3.2.2 Assist where requests for urgent action are received outside the scope of 3.1.2 and 3.1.3, subject to agreement by the Dover DC Environmental Health Manager. Examples may include when the lead investigating authority requests additional help from the other authority such as during periods of staff shortages, to undertake specialist activities etc.
- 3.2.3 Provide data to populate the Clean Kent GIS Data Management System for fly tipping, enforcement and related anti social behaviour.
- 3.2.4 Actively participate in the Practitioners Working Groups, providing data, intelligence and potential areas for investigation and prosecution.
- 3.2.5 Contribute to the compilation of monthly and annual reports on investigations and enforcement activity as requested.

Signatories

Signed on behalf of

Signed on behalf of

2. Definitions and interpretation

In this Agreement:

- 2.1 references to any enactment include references to that enactment as for the time being amended, applied, consolidated, re-enacted by or having effect by virtue of any subsequent enactment and for this purpose “enactment” means any Act whether public, general or local and includes any byelaw, order, rule, regulation, scheme or other instrument having effect by virtue of an enactment.
- 2.2 references to this Agreement include references to this Agreement as varied in accordance with Clause 8 below.
- 2.3 “Expiry Date” means the date on which the three month notice to terminate shall expire and from which date this Agreement shall be of no further effect.
- 2.4 “Specified Functions” means the functions of the District Council set out in the First Schedule and relating to environmental crime.
- 2.5 “Start Date” means 01 April 2010

3. Commencement and duration

- 3.1 This Agreement shall commence on the Start Date and continue until terminated by either party in accordance with Clause 6.

4. Exercise of Functions

4.1 In consideration of the provisions of this Agreement and pursuant to the above mentioned powers the County Council and the District Council agree that the County Council as well as the District Council shall exercise the Specified Functions within the area of the District Council, subject to the conditions referred to in the Second Schedule.

4.2 The County Council shall:

4.2.1 endeavour to notify the District Council of the locations in which it proposes exercising the Specified Functions;

4.2.2 ensure that no information relating to the business affairs of the District Council is disclosed to any person or company except as required by law or directed by the District Council.

4.2.3 provide monthly progress reports of cases where the Specified Functions are being exercised by the County Council in the District Council's administrative area, to the District Council's Environmental Health Manager

4.3 The District Council shall provide all documents necessary for the exercise of Specified Functions in relation to a matter in which the County Council is interested following a request by the County Council for the same.

5. Indemnity

The County Council shall indemnify the District Council and keep it indemnified from and against all liabilities arising directly or indirectly out of or in connection with the exercise by the County Council of the Specified Functions save that the County Council shall bear no liability where

liabilities have arisen wholly or partly in consequence of the negligent acts or omissions of the District Council during the currency of this Agreement.

6. Termination

This Agreement may without prejudice to the Local Government Act 1972, s.101(4), be terminated at any time by either party giving to the other not less than 3 months notice in writing and all documents relating to cases being pursued in the District Council's administrative area shall be returned by the County Council to the District Council on the Expiry Date.

7. Notice

Any notice to be served by one party upon the other pursuant to the terms of this Agreement shall be deemed to have been validly served if delivered by hand or sent by pre-paid registered or recorded delivery post or using the Document Exchange service to the party to be served at its address specified in this Agreement or such other address as may from time to time be notified for the purpose by written notice.

8. Variation

This Agreement may be varied from time to time by written agreement between the parties (and any such variation shall be evidenced in writing).

9. Right of Third Parties

The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

THE FIRST SCHEDULE

The Specified Functions

1. The functions of the District Council under Sections 33 and 34 of the Environmental Protection Act 1990 and under Part V the Environment Act 1995.
2. The functions of the District Council under the Control of Pollution (Amendment) Act 1989, and sections 91 to 94 of the Control of Pollution Act 1974.

SECOND SCHEDULE

Conditions and Provisions

1. This Agreement shall in no way reduce or compromise the responsibility of the District Council to perform any duty imposed on it by or under Part II of the Environmental Protection Act 1990 nor does the County Council undertake to discharge any such duty on behalf of the District Council.

2. If the District Council considers it necessary to carry out any Specified Functions itself then the County Council shall deliver to it such information as they may have relating to the particular matter following a request by the District Council for the same.

IN WITNESS whereof the parties have hereunto set their respective common seals the day and year first before written.

THE COMMON SEAL OF)
THE KENT COUNTY COUNCIL)
was hereunto affixed in the presence of:)

Authorised Signatory

THE COMMON SEAL OF)
DOVER DISTRICT COUNCIL)
Was hereunto affixed in the presence of:)

Authorised Signatory

EXCLUSION OF THE PRESS AND PUBLIC**Recommendation**

That, in accordance with the provisions of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, the public be excluded from the remainder of the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in the paragraph of Schedule 12A of the 1972 Act set out below:

<u>Item Report</u>	<u>Paragraph Exempt</u>	<u>Reason</u>
Short Term and Long Term Contracts for Response Maintenance and Void Works 2009/15	3	Information relating to the financial or business affairs of any particular person
East Kent Waste Project	3	Information relating to the financial or business affairs of any particular person

