



AGENDA

GOVERNANCE AND AUDIT COMMITTEE TRADING ACTIVITIES SUB GROUP

Tuesday, 1 September 2009 at 10.00 am Ask for: **Andrew Tait**
Swale 3, Sessions House, County Hall, Maidstone Telephone: **01622 694342**

Tea/Coffee will be available 15 minutes before the meeting

- 1 Terms of Reference (Pages 1 - 2)
- 2 Audit Commission Review of Commercial Operations (Pages 3 - 8)
- 3 Existing Trading Activity (Pages 9 - 14)
- 4 Proposed Annual Workplan (Pages 15 - 18)
- 5 Any Other Business
- 6 Agree items for next agenda
 - (1) Draft protocol relating to companies in which KCC has an interest
 - (2) Review of the legal status of KCC trading activities post L.A.M.L
 - (3) Review of KCC's limited companies' financial accounts
- 7 Agree approximate dates for next meetings

Peter Sass
Head of Democratic Services and Local Leadership
(01622) 694002

Friday, 21 August 2009

Please note that any background documents referred to in the accompanying papers maybe inspected by arrangement with the officer responsible for preparing the relevant report.

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By: Richard Long – Chairman of Governance and Audit Committee

Lynda McMullan – Director of Finance

To: Governance and Audit Trading Activities Sub Committee – 1 September 2009

Subject: **TERMS OF REFERENCE**

Classification: Unrestricted

Summary: To formally endorse the Terms of Reference agreed by the Governance and Audit Committee in June 2009.

FOR INFORMATION

1. INTRODUCTION AND BACKGROUND

- 1.1 The Governance and Audit Committee agreed in September 2008 to establish a sub committee to specifically focus upon Kent County Council's trading activities.
- 1.2 This was part of its commitment to fully review this activity in light of the concerns being expressed by the business community.

2. TERMS OF REFERENCE

The recommended terms of reference were as follows:

To ensure that the trading activities of the Council are run properly, transparently and fairly.

Specifically:

1. Monitor the financial performance and reporting of all trading accounts and all limited companies owned in whole or in part or controlled by KCC.
2. Receive the annual business plans and annual financial accounts of any KCC limited companies.
3. Oversee the establishment of new limited companies through examination of the business case before the company commences trading and make recommendations to the appropriate Cabinet Member.
4. Monitor trading and commercial activities being undertaken by the Council to ensure that they have the right structure.
5. Monitor adherence to the appropriate legal, regulatory and accounting frameworks governing local authority trading activities.

Frequency

Twice each year

3. RECOMMENDATIONS

3.1 It is recommended that Members ENDORSE these terms of reference

**Lynda McMullan
Director of Finance
Ext: 7000 4550**

By: Richard Long – Chairman of Governance and Audit Committee

Lynda McMullan – Director of Finance

To: Governance and Audit Trading Activities Sub Committee – 1 September 2009

Subject: **AUDIT COMMISSION REVIEW OF COMMERCIAL OPERATIONS**

Classification: Unrestricted

Summary: The Audit Commission was commissioned by Kent County Council to independently review the integrity of its trading activity. This was in response to the criticism made by elements of the business community.

The review has concluded that the Council's trading activity is driven by a requirement to deliver competitively and has been managed in line with all legal requirements, with robust costing methodology. No evidence of cross subsidisation was identified.

Subject to the requirements of commercial sensitivity, the Council should seek to evaluate opportunities to provide more information about these activities.

FOR INFORMATION

1. INTRODUCTION AND BACKGROUND

- 1.1 Kent County Council has successfully operated a Commercial Services operation since the 1960s. Over the years new business has been added, in response to the need to deliver value for money for Kent residents.
- 1.2 This has inevitably led to some tensions within certain business sectors, who have felt that unfair advantage has been given to this operation. This is despite the fact that some 97% of the Council's supplies being directly provided by the private and other sectors.
- 1.3 This has led to a number of internal and external reviews over the years, most recently an internal report presented to Governance and Audit Committee in September 2008. One of the key recommendations of this report was the establishment of this sub committee (appendix A details all the recommendations for information).
- 1.4 In addition to these recommendations, the Council also requested the Audit Commission undertake its own internal review of its trading activities as part of its 2008/09 audit plan. Specifically, the Council wanted to ensure the Audit Commission understood the specific business concerns being raised and responded to these in an independent report.

1.5 This report has now been completed and was reported to the Director of Finance on 4th August 2009. This meeting is the first opportunity for Members to review its findings before it is reported to the full Governance and Audit Committee on 16 September 2009.

2. REPORT CONCLUSIONS AND RECOMMENDATIONS

2.1 The Audit Commission made 5 main conclusions to this extensive review:

- the Council's commercial operations are structured in accordance with statute. Commercial Services and the Council's subsidiaries understand the limits to their powers and act within them;
- the Council has a robust methodology for allocating its costs incurred on behalf of its commercial undertakings to the business units operated by Commercial Services directorate and the Council's own subsidiaries;
- we identified no evidence of any financial support or cross-subsidisation of the commercial operations by the Council that gives any competitive advantage;
- the commercial operations are driven by a need to supply goods and services at competitive prices to both the public and private sectors and to both reduce the Council's costs and make surpluses and profits for the Council; and
- the Council should evaluate opportunities to address the concerns expressed by the some parts of the public about access to information in respect of its commercial operations, subject to the Council's consideration of maintaining.

2.2 In total 8 detailed recommendations have been made by the Audit Commission. All of these were either in progress and/or are fully accepted by Kent Council Council. Details are found in Appendix B to this report.

3. RECOMMENDATIONS

The Trading Activities Sub Group is asked to:

- (i) NOTE the contents of the contents of the Audit Commission's independent review.
- (ii) AGREE the proposed actions to meet the 8 recommendations.
- (iii) REPORT their conclusions to the full Governance and Audit Committee on 16 September 2009.

Lynda McMullan
Director of Finance
Ext: 7000 4550

Appendix A

Extract from Minutes of Governance and Audit Committee held on 30 June 2008

Mr N J D Chard, the Cabinet Portfolio Holder for Finance was present for this item pursuant to Committee Procedure Rule 2.34 and responded to questions from Members of the Committee.

(1) Mr D Smyth, Chairman of the Budget Informal Member Group moved the recommendation set out in Page 12:1 of the report. There were agreed.

(2) RESOLVED that:-

- (a) the positive direction of travel for Commercial Services be formally welcomed and that the Director of Commercial Services, Mr Kevin Harlock be congratulated for the achievement of his services;
- (b) a Sub-Group of the Committee be set up to oversee the governance of the County Council's trading activities;
- (c) Commercial Services be encouraged to post assessments for medium sized companies as a gesture of greater openness about the County Council's trading activities;
- (d) the County Council's ability to support private companies (for example by offering its own preferential procurement arrangements to suppliers) within Kent be promoted; and
- (e) new business cases be considered by the Sub-Group of the Committee prior to being submitted to the relevant Cabinet Member for approval.

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Appendix B

Recommendations	Responsible Officer	Proposed Action	Agreed Completion Date
R1 The loan agreement with Kent Top Temps Limited should be re-drawn in the name of Kent County Council rather than Commercial Services.	Head of Financial Services / Head of Strategic Finance for Commercial Services	Review agreement prepared.	September 2009
R2 The Council should develop a dividends policy for its subsidiaries.	Head of Strategic Finance for Commercial Services	A dividend policy will be produced to formalise the decisions taken on dividends documented at each AGM.	December 2009
R3 Independent reviews of Council contracts won by Commercial Services or its subsidiaries should be introduced to ensure that tendering procedures are adhered to fully and that no subsidisation occurs or could be alleged.	Senior Audit Manager	Independent reviews of Council contracts won by Commercial Services (or its subsidiaries) will be reviewed by Internal Audit, and will be included in the Audit Plan, to ensure that tendering procedures are fully adhered to and that no subsidisation occurs or could be alleged. An audit will also be carried out annually to review basis for charging, e.g. oncosts etc.	With immediate effect and ongoing
R4 A business case should be prepared for Kent Top Travel as a trading operation. If new business activities are undertaken in future, business cases should be prepared.	Commercial Services Director	A full business case will be produced to supplement the business plan.	December 2009

Recommendations	Responsible Officer	Proposed Action	Agreed Completion Date
R5 The Council should pay invoices raised by its subsidiaries promptly.	Head of Financial Services/Head of Strategic Finance for Commercial Services	KTT's new on live system Bond is being implemented on a phased basis starting in the main problem area. Head of Financial Services and HoF Commercial Services will review level of outstanding invoices monthly.	September 2009
R6 The Council should seek to maximise disclosure of information in its commercial undertakings, subject to exercising proper commercial sensitivities, including expanding the disclosure of its commercial activities in its own annual financial statements.	Head of Financial Management	Subject to completed accounts on the commercial undertakings being available at an earlier date the Council will expand the level of disclosure/narrative up to the point where further information would compromise commercial sensitivity.	December 2009
R7 Statutory accounts for the Council's subsidiary companies should be prepared in long-form.	Commercial Services Director/ Head of Strategic Finance for Commercial Services	The accounts for 2008-09 will be available in medium form with a move to providing additional information in for 2009-10, subject to the continuing exercising of proper control over commercially sensitive information. The benefits of producing an annual report covering all aspects of Commercial Services activities including those of KCC's subsidiary companies will be evaluated.	January 2010
R8 The benefits of the production of an annual report covering all Commercial Services activities including those of its subsidiary companies should be evaluated as part of its engagement with the local business community and other interested parties.			

By: Richard Long – Chairman of Governance and Audit Committee

Lynda McMullan – Director of Finance

To: Governance and Audit Trading Activities Sub Committee – 1 September 2009

Subject: **EXISTING TRADING ACTIVITY**

Classification: Unrestricted

Summary: To identify the £371.71m of trading activity turnover across Kent County Council for Members' consideration.

FOR INFORMATION

1. INTRODUCTION AND BACKGROUND

- 1.1 The Trading Activities sub committee has been explicitly established to review and comment upon the commercial activities across the whole of Kent County Council.
- 1.2 To facilitate the sub committee in this responsibility, as a first course of action the Finance Function has compiled a financial profile of this activity.
- 1.3 This activity amounts to some £371.71m turnover per year, including brokerage services. This is detailed as Appendix A to this report.

2. RECOMMENDATIONS

- 2.1 It is recommended that Members NOTE the existing level of trading activity across the Council and is USED when deciding upon its future workplan.

Lynda McMullan
Director of Finance
Ext: 7000 4550

Appendix A

Service	Activity	Delivery Vehicle	Trading Activities 2008-09			
			Gross £'000	Internal Income £'000	External Income £'000	Net £'000
<u>Children, Families & Education</u>						
Finance	Finance support provided to KCC schools.	KCC	748	-748		0
Finance	Finance support provided to Medway & independent schools	KCC	47		-75	-28
Advisory Service Kent	Selling training courses to schools	KCC	397	-357	-50	-10
Management Information	Selling training courses to schools	KCC	14	-27		-13
School Advisory Services	Governor training & improving together network	KCC	253	-199		54
School Organisation	Clerking agency - KCC schools	KCC	125	-125		0
			1,584	-1,456	-125	3
<u>Kent Adult Social Services</u>						
NIL RETURN						
			0	0	0	0
<u>Environment & Regeneration</u>						
Country Parks	Income from country parks: café, shops, visitor centres & education centres.	KCC	429	-685		-256
Nat Env & Coast	Eco Advice to Sevenoaks DC	KCC	5		-5	0
Heritage	Archaeological work carried out - Districts & Medway	KCC	117		-112	5
	Archaeological work carried out - Education	KCC	10	-10		0
	Archaeological work carried out - KHS	KCC	25	-25		0
	Farm Env Plans (£75 charged per plan)	KCC	4		-4	0
	Officer time for providing information (£65 per job)	KCC	1		-7	-6
			591	-848		-257

Service	Activity	Delivery Vehicle	Trading Activities 2008-09			
			Gross	Internal	External	Net
			£'000	Income £'000	Income £'000	£'000
Communities						
Adult Education	Fees paid to attend courses. The fee covers tuition costs and exam fees where applicable. Most courses are subsidised by LSC grants. Some courses are 100% funded so are free, but for premium courses students pay the full cost with no subsidy.	KCC	13,501		Students: -2,707 LSC Grant: -10,845	-51
Adult Education	Sales and premises lettings	KCC	75		-149	-74
Library and Archives	Loans for AV materials in libraries	KCC	341		-526	-185
Library and Archives	Merchandising of stamps, greeting cards, books, etc. through libraries and archive centres	KCC	82		-126	-44
Youth Service	Outdoor education centres. The youth service operates 4 outdoor education centres which fully recover costs through charges to individual young people and groups	KCC	1,284		-1,450	-166
Registration Service	Registration. A range of fees are charged for different services. Some are statutory fees set by the General Register Office (so not trading). Others are discretionary fees for additional ceremonial and other services.	KCC	2,147		-2,361	-214
Kent Scientific Services	Provision of calibration and analytical services for other local authorities	KCC	665		-745	-80
Trading Standards	Business advice and testing, fees to register into Buy with Confidence scheme	KCC	18		-147	-129
KEY Training	Fees charged to individual learners towards exam fees	KCC	481	-24	-539	-82
			18,595	-24	-19,595	-1,024

Service	Activity	Delivery Vehicle	Trading Activities 2008-09			
			Gross	Internal Income	External Income	Net
			£'000	£'000	£'000	£'000
Chief Executive's Department						
Property	Oakwood House - income from internal & external sources	KCC/Plc	2,080	-2,058		22
Property	Asset Management Consultancy Hampshire, Russian Study Tour & EU Nations Finance Project, Consultancy work for Royal Berkshire & NPS	KCC	62	-62		0
Property	Classcare (insurance) for schools.	KCC	1,349	-1,349		0
ISG	EIS provides ICT support to schools and community projects by offering a full range of services to meet the need of customers to use ICT effectively in the classroom for the curriculum, or in the office for management and school administration.	KCC	5,966	-1,070	-5,172	-276
Personnel & Development - Schools Personnel Service	CFE holds the Local Education Authority budget for which they are required to provide minimum services to KCC schools, eg. provision of statutory returns, Headteacher recruitment, CRB, strategic support to CFE, ER management etc.	KCC	716		-716	0
	Personnel advice and support delivered through a range of "packages" designed to respond most effectively to the needs of the customer. Customers purchase services on an annual basis at a rate dependant on the number of staff they employ.	KCC	1,883	-1,938		-55
	Additional personnel support over and above what is offered in "packages" on an ad-hoc basis.	KCC	160	-164		-4
	SPS undertakes CRB checks for schools on both a retrospective and new staff basis and this is on-going through out the year.	KCC	11	-11		0
	Delivery of specialist training and workshops to schools and other educational establishments around a varied range of relevant and timely topics.	KCC	52	-54		-2
Legal Services	Income from legal services provision internal to KCC and external customers (including schools (KCC & non-KCC), other LAs, Police & Fire authorities, Probation Service, Super Fund third party).	KCC	5,066	-1,321	-4,869	-1,124
			17,345	-8,027	-10,757	-1,439
TOTAL EXCLUDING COMMERCIAL SERVICES			38,115	-9,542	-31,289	-2,716

Service	Activity	Delivery Vehicle	Trading Operations 2008-09		
			Expenditure	Turnover	Net Surplus/Deficit (-)
			£'000	£'000	£'000
Commercial Services - Existing Trading Operations					
Kent County Supplies and Furniture	Provision of educational and office supplies and furniture assembly	KCC/Plc	36,161	-37,701	-1,540
Facilities & Technical Services	Provision of a wide range of Facilities & Staff Care Mangement, and Maintenance of buildings and equipment including IT	KCC/Plc	4,823	-5,236	-413
Brokerage Services	Procurement and distribution of Services, including Laser energy buying group, community equipment service, and the specification and control of transport for CFE, E&R & KASS.	KCC/Plc	248,880	-250,768	-1,888
County Print	Graphic design and general printing	KCC/Plc	2,575	-2,583	-8
Transport Services	Provision of lease cars, minibuses, ambulances and lorries, plus vehicle maintenance and repairs. Provider of bus services, including school transport.	KCC/Plc	18,767	-20,744	-1,977
Landscape Services	Grounds maintenance including constructing and safety Inspection Services for electrical and fire fighting equipment	KCC/Plc	7,531	-8,181	-650
Commercial Services - Existing Limited Companies					
Kent Top Temps Ltd	Includes Kent Top Temps and Kent Top Travel	KCC/Plc	14,134	-14,389	-255
Kent County Facilities Ltd	First full trading year	KCC/Plc	779	-819	-40
			333,650	-340,421	-6,771

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By: Richard Long – Chairman of Governance and Audit Committee

Lynda McMullan – Director of Finance

To: Governance and Audit Trading Activities Sub Committee – 1 September 2009

Subject: **PROPOSED ANNUAL WORKPLAN**

Classification: Unrestricted

Summary: To ensure the Trading Activities Sub Committee deliver upon its Terms of Reference, a draft work plan has been prepared for its consideration.

FOR INFORMATION

1. INTRODUCTION AND BACKGROUND

- 1.1 In order to meet the terms of reference discussed earlier on this agenda. It is proposed that a formal work plan of activity be delegated to the Director of Finance on behalf of the Sub Committee.
- 1.2 A draft work plan has been drafted for Members' consideration as Appendix A.

2. RECOMMENDATIONS

- 2.1 It is recommended that Members CONSIDER the draft work plan attached, AGREE any amendments or additions and DELEGATE delivery of this to the Director of Finance.

Lynda McMullan
Director of Finance
Ext: 7000 4550

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PROPOSED ANNUAL WORKPLAN

1. Monitor the financial performance and reporting of all trading accounts and all limited companies owned in whole or in part or controlled by KCC.
 - *Produce summary of trading activity across KCC for agreement*
 - *Finance to produce bi-annual reports tracking financial performance for meetings*
 - *Members to identify particular areas for further scrutiny to be added to agendas (to be discussed)*
 - *Commission review of charging policies across the Council (to be discussed)*

2. Receive the annual business plans and annual financial accounts of any KCC limited companies.
 - *Produce business plans and financial accounts annually*

3. Oversee the establishment of new limited companies through examination of the business case before the company commences trading and make recommendations to the appropriate Cabinet Member.
 - *As required (note that urgent meetings may be called to deal with such business or alternatively this business conducted through e mail)*

4. Monitor trading and commercial activities being undertaken by the Council to ensure that they have the right structure.
 - *Commission annual review by Internal Audit to review whether structures are appropriate*
 - *Request comment by Director of Law and Governance*
 - *Request comment by External Audit as part of the annual Final Accounts audit*

5. Monitor adherence to the appropriate legal, regulatory and accounting frameworks governing local authority trading activities.
 - *Commission External Audit to undertake one-off review of Commercial Services activity (now complete)*
 - *Other work - to be discussed*

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