

# KENT COUNTY COUNCIL –RECORD OF DECISION

## DECISION TAKEN BY:

**Peter Oakford, Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services**

## DECISION NO:

22/00020

## For publication

### Key decision: YES

*Key decision criteria. The decision will:*

- a) *result in savings or expenditure which is significant having regard to the budget for the service or function (currently defined by the Council as in excess of £1,000,000); or*
- b) *be significant in terms of its effects on a significant proportion of the community living or working within two or more electoral divisions – which will include those decisions that involve:*
  - *the adoption or significant amendment of major strategies or frameworks;*
  - *significant service developments, significant service reductions, or significant changes in the way that services are delivered, whether County-wide or in a particular locality.*

## Subject Matter / Title of Decision

Kent Holdco - Education Supplies

## Decision:

As Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services, I agree to:

approve a new trading construct for education supplies with all revenue, stock, and contracts vesting with Kent Holdco (CES Holdings Limited) rather than KCC;

require this to be implemented via the relevant HoldCo corporate governance arrangements for commercial and operational decision-making, including normal compliance with standard regulatory and legislative requirements for contracting and associated due diligence; and

Delegate authority to the Monitoring Officer to take relevant actions, including but not limited to, entering in contracts and other legal agreements as necessary to implement this decision.

## Reason(s) for decision:

Education supplies are traded by Kent County Trading (KCT) using the KCS brand to over 5,300-customer and generated £24-million of gross revenue in the 2020/21 financial year with £1.3-million EBITDA. KCT acts as an agent for Kent County Council (KCC) with all the revenue, stock, and contracts vesting with KCC. Purchases are made in accordance with the Public Contracts Regulations 2015 (PCRs) given that KCC is a body governed by public law (Regulation 2). The proposed trading construct will allow a more competitive commercial approach by supporting more agile sourcing and direct access to overseas manufacture achieved via CES Holdings Limited operating a legally compliant model which permits trading outside of PCRs.

Legal implications:

CES Holdings Limited (CES) is a company owned by Kent Holdco that already trades education supplies. Legal advice has confirmed that CES can conduct the KCS business via the proposed trading construct provided all revenue, stock, and contracts vest with it and compliance continues with other rules regarding State Aid and the like. CES will be able to secure significant cost savings and have more direct control over supply chains operating in this way.

CES and the KCS business are subject to wider legislation and regulations governing procurement activity including but not limited to the Bribery Act 2010 and Modern Slavery Act 2015 which will continue to regulate commercial activity and support fair and proper business practice conducted by HoldCo.

**Cabinet Committee recommendations and other consultation:**

The proposed decision was considered and endorsed by the Policy & Resources Cabinet Committee on 24 March 2022. P&R Members highlighted specific points related to the importance of ensuring appropriate conduct and legal compliance of any parties contracted via the new model. Some specific concerns were raised regarding risk considerations and management options when dealing with overseas business partners.

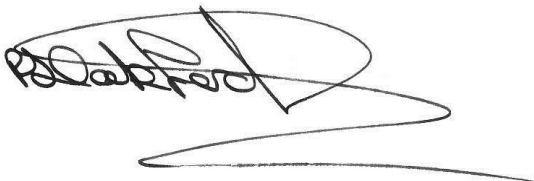
No external consultation required.

**Any alternatives considered and rejected:**

No change: to continue procurement as current. Rejected due to greater opportunities for cost reduction and profitability, as well as more direct control over supply chains through implementing the proposed change.

**Any interest declared when the decision was taken and any dispensation granted by the Proper Officer:**

None



24 May 2022

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signed

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date