

KENT COUNTY COUNCIL - RECORD OF DECISION

DECISION TAKEN BY

Bryan Sweetland, Cabinet Member for Environment, Highways and Waste

Roger Gough, Cabinet Member for Business Strategy, Performance and Health Reform

DECISION NO.

12/01946

If decision is likely to disclose exempt information please specify the relevant paragraph(s) of Part 1 of Schedule 12A of the Local Government Act 1972

Subject:

RE-ALIGNMENT OF COMMERCIAL SERVICES COMPANY STRUCTURE

Decision:

As Cabinet Member for Environment, Highways and Waste, with the support of the Cabinet Member for Business Strategy, Performance and Health Reform, I agree to:

- a) The formation from an existing company of a wholly owned Limited Company called Commercial Services Kent Ltd, with revised Articles of Association to be approved by the Director of Governance and Law.
- b) The formation from an existing company of a wholly owned company called Commercial Services Trading Ltd.
- c) The transfer of existing KCC employees currently working within Commercial Services to the new Limited Companies as appropriate.
- d) Such changes to the company Directors as agreed with the Director of Governance and Law to be appropriate and in any case in accordance with the Articles of Association of those companies.
- e) The entering into of all necessary leasehold and other agreements to give effect to these arrangements, including for transfer of operations to separate premises as necessary, discrete from the main corporate estate.
- f) Subject to being satisfied as to the detailed terms and conditions, the Corporate Director for Enterprise and Environment being granted delegated authority on behalf of the County Council to approve all necessary agreements and changes to the company structures and legal arrangements required by a) – e) above, in consultation with the Cabinet Member for Environment, Highways & Waste.
- g) The delegation to the Corporate Director for Enterprise and Environment of authority to exercise control on behalf of the County Council of Commercial Services Kent Ltd as if it were a department of the Council and to exercise proper and appropriate control over Commercial Services Trading Ltd, in consultation with the Cabinet Member for Environment, Highways & Waste.

The background to and reasons for these proposals were presented to and discussed by the Policy & Resources Cabinet Committee on 27 September 2012, where the Committee endorsed the report, and by the Trading Activities Sub-Group of the Governance and Audit Committee on 28 September 2012, where the report and actions were duly noted.

Any Interest Declared when the Decision was Taken

None

Reason(s) for decision, including alternatives considered and any additional information

The decision recognises the need for Commercial Services to simplify its operating model from managing five limited companies to two specific company structures. One of these is a "Teckal" compliant company, essentially a company that is owned, controlled and employed by the County Council itself, which will trade exclusively with the County Council, and the other a "Section 95" company, a company trading under the powers in s95 of the Local Government Act 2003, under which Commercial Services will trade with the wider public and private sectors. This will allow for greater financial clarity and transparency of Commercial Services activities, pre-emptively address potential future changes to public sector trading regulations, and place Commercial Services on a more appropriate platform for future business growth and income.

All affected existing staff will transfer under TUPE regulations, and will retain all accrued employment rights and existing terms and conditions, including any membership of the Local Government Pension Scheme.

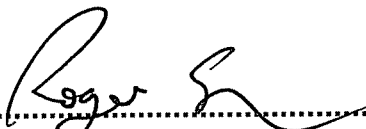
Background Documents:

Policy & Resources Cabinet Committee Report – 27 September 2012


 Signed

3/10/12
 Date

Cabinet Member for Environment, Highways & Waste


 Signed

3/10/12
 Date

Cabinet Member for Business Strategy, Performance and Health Reform

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Decision Referred to Cabinet Scrutiny			
YES		NO	

Cabinet Scrutiny Decision to Refer Back for Reconsideration			
YES		NO	

Reconsideration Record Sheet Issued			
YES		NO	

Reconsideration of Decision Published	