

## KENT COUNTY COUNCIL

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### GOVERNANCE AND AUDIT COMMITTEE TRADING ACTIVITIES SUB GROUP

MINUTES of a meeting of the Governance and Audit Committee Trading Activities Sub Group held in the Wantsum Room, Sessions House, County Hall, Maidstone on Friday, 1 March 2013.

PRESENT: Mr R L H Long, TD, Mr T Prater and Mr C T Wells

ALSO PRESENT: Mr B J Sweetland

IN ATTENDANCE: Mr A Wood (Corporate Director of Finance and Procurement), Mr G Record (Finance and Procurement Officer), Mr D Crilley (Director of Community Cultural Services), Mr J White (Capital Project Officer), Mr M Austerberry (Corporate Director, Environment and Enterprise), Mr I McPherson (Managing Director Commercial Services), Mr K Abbott (Finance Business Partner, ELS Directorate), Mr P McSweeney (EduKent Officer), Ms N Major (Interim Head of Internal Audit) and Mr A Tait (Democratic Services Officer)

#### UNRESTRICTED ITEMS

##### **1. Minutes - 28 September 2012**

*(Item 3)*

RESOLVED that the Minutes of the meeting held on 28 September 2013 are correctly recorded and that they be signed by the Chairman.

##### **2. Statutory Accounts for those companies in which KCC has an interest**

*(Item 4)*

(1) The Chairman informed the Sub-Group that he had been a director of Kentish Fare (a dormant company which was now a subsidiary of Produced in Kent).

(2) The Corporate Director of Finance and Procurement tabled the accounts for Kent on Canvas and Kent Cultural Trading. He explained that these had been sent by Companies House.

(3) The Corporate Director of Finance and Procurement presented those 2011/12 Statutory Accounts which had not been available to the previous meeting of the Sub-Group.

(4) The Corporate Director of Finance and Procurement replied to a question from Mr Prater by saying that he had been unable to establish the grounds for objection by HMRC over the proposed dissolution of Invicta Services Ltd. It was therefore agreed that the next meeting of the Sub-Group would receive an update on this matter.

(5) The Corporate Director of Finance and Procurement agreed to circulate to the Members of the Sub-Group the reasons for Kentish Fare Ltd being transferred to the ownership of Produced in Kent Ltd rather than being dissolved.

(6) Mr Wells asked whether the intended merger of Groundwork Kent and Medway into Groundwork South had taken full account of the risk of loss of control and benefits to Kent. He asked for a report on this question. It was agreed that Internal Audit would examine this question during its next tranche of auditing KCC companies.

(7) The Chairman asked for the report to the next meeting to include an explanation of the role and function of The North Kent Architecture Centre Ltd.

(8) RESOLVED that the report be noted for assurance and that the report to the next meeting of the Sub-group encompass responses to the matters set out in paragraphs (4) to (7) above.

### **3. Proposed Dissolution of Kent Cultural Trading and Kent on Canvas**

*(Item 5)*

(1) The Director of Customer Services set out the background to Kent on Canvas and Kent Cultural Trading and the steps taken to re-align the business following recent developments, including the rationale for the proposed dissolution of both companies. He said that the intention had been to grow returns against the County's cultural assets. In the light of the findings of the 2012 Internal Audit examination of Kent Cultural Trading's activities, the decision had been taken to temporarily cease trading and to suspend a member of staff. Following a review of the Companies' potential, he would be recommending their voluntary dissolution.

(2) The Members of the Sub-Group asked for assurance in terms of monitoring and legal advice. The Director of Customer Services replied that he was looking closely at all the controls and systems that had been in place at the time with a view to improving them. He confirmed that future ventures would seek advice from a Legal Services representative with experience of company law as well as an independent legal advisor who would look at the same questions from the company's perspective.

(3) Mr Prater asked when Kent Cultural trading had made the decision to pursue the "cleansing product" and "patient essentials" trading activities set out in the report. The Director of Customer Services replied that consideration of these activities had never reached the point where a business plan had needed to be produced.

(4) The Director of Customer Services confirmed that the losses accrued by the companies would be transferred to KCC, which was now the only shareholder. The debts to all other creditors had been settled in full.

(5) The Director of Finance and Procurement informed the Sub-Group that Internal Audit had made 17 recommendations of which 16 had been implemented. He was unable to comment further at this stage as to do so would involve naming individuals.

(6) RESOLVED that the report be noted for assurance and that the actions taken be endorsed, including:-

(a) the approach to minimising the reputational loss to the Authority;

- (b) the actions taken to reduce the financial impact of losses to local companies and the Authority; and
- (c) the final steps being taken to carry out the proposed dissolution of Kent Cultural Trading and Kent on Canvas.

#### **4. Progress report on the transformation programme to re-align Commercial Services following external review of its activities**

*(Item 6)*

(1) Mr Sweetland introduced the report on the significant progress made towards implementing the Commercial Services transformation programme since September 2012. This programme and its progress had also been the subject of an internal audit review which was appended to the report.

(2) The Managing Director, Commercial Services referred the Sub-Group to paragraph 1.5 of the report for a list of the activities carried out to implement the transformation programme. He drew particular attention to the reorganisation into five customer-focused Divisions and the work in building up the advisory shareholder board, including 2 or 3 independent representatives. He also confirmed that the risk policy was being re-aligned to meet business needs and that the business planning process was now in place. He expected to be able to provide KCC with a £10m Dividend within the next three years.

(3) The Corporate Director, Enterprise and Environment underlined the crucial importance of the shareholder role in the new companies and said that there would be a shareholder agreement.

(4) The Managing Director, Commercial Services replied to a question from the Chairman by saying that legal advice had been taken both internally and externally. The latter advice had been essential in order to ensure that his responsibilities to KCC did not conflict with his role as a shareholder. Eversheds had been employed to draft the articles for the Teckal companies, and further advice had been sought on the transfer of assets. This would ensure that trading could continue if the Teckal provision were to be overturned. The aim was for all companies to become operational (including the TUPE transfers) by 1 April 2013.

(5) The Managing Director, Commercial Services confirmed that trading would be at arms length and that this would include paying separately for Human Resources, ICT and back office functions rather than buying them in from KCC.

(6) The Managing Director, Commercial Services said that the employees were responding very positively to the developments described.

(7) Mr Sweetland summed up the presentation by saying that he could assure the Sub-Group that it could be absolutely certain of the legal and financial governance arrangements.

(8) RESOLVED that the progress in implementing the Commercial Services transformation programme be noted for assurance, together with the contents of the Internal Audit report dated 21 January 2013 (appended to the report).

## **5. EduKent Progress Report**

*(Item 7)*

- (1) The Director of School Resources reported on the development of EduKent during 2011 and 2012 and on the governance arrangements put in place.
- (2) RESOLVED that the development of EduKent during 2011 and 2012 be noted for assurance, together with its governance arrangements.

### **EXEMPT ITEMS**

*(The Sub-Group resolved under Section 100A of the Local Government Act 1972 to exclude the public from the meeting on the grounds that it would involve the disclosure of Exempt information as defined in Paragraph 3 of Schedule 12A of the Act)*

## **6. EduKent progress report**

*(Item 9)*

- (1) Hard copies of the report were tabled at the meeting as these had not been sent out with the agenda papers. Members of the Sub-Group had received them electronically at the time of publication.
- (2) The Director of School Resources referred to the development of EduKent during 2011 and 2012 and the governance arrangements that had been put in place (see Minute 5 above) He reported the EduKent Business Plan for the years 2012/13 to 2014/15 and set out options for the future direction of EduKent.
- (3) The Director of School Resources said that KCC Education, Learning and Skills had been trading some of its services to schools for the past 13 years. In the light of recent developments, a range of services for schools and academies had been consolidated into EduKent. As this process was now complete, it was the right time to move on to consider options for the future.

(4) Mr Prater asked how EduKent would ensure that the profits generated were ringfenced to be reinvested in improvements to services to schools. The Director of School Resources replied that this would be achieved partially through the work of the EduKent Board and that this would be monitored in turn by the Schools Funding Forum.

(5) The Director of Finance and Corporate Procurement confirmed that it was currently the strategic intention to ensure that such profits would be reinvested in the manner described. It was, however, possible that future Councils could decide to use them to support KCC overall.

(6) RESOLVED that in addition to the development of EduKent during 2011 and 2012 and its governance arrangements the Sub-Group note the following for assurance:-

(a) the 2012 to 2014/15 EduKent Business Plan; and

(b) the plans to assess alternative options for the future structure of EduKent.