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To: Governance and Audit Committee - 27 April 2016

Subject: Protocol relating to companies in which KCC has an interest

Classification: Unrestricted

Summary: The Committee is invited to approve a number of proposed minor amendments to the Protocol relating to companies in which KCC has an interest, (the Protocol) following an officer review and subsequent consideration by the Governance and Audit Committee Trading Activities Sub Committee on 27 April 2016.

FOR DECISION

INTRODUCTION

1. Enclosed at **Appendix 1** is the Report on the Protocol considered by the Governance and Audit Committee Trading Activities Sub Committee on the morning of 27 April 2016.
2. The proposed minor amendments considered and supported by the Governance and Audit Committee Trading Activities Sub Committee are set down in paragraph 4 below.
3. An updated version of the Protocol showing in track changes the proposed minor amendments is enclosed at **Appendix 2**, which was also appended to the report to the Trading Activities Sub-Committee.

PROPOSED MINOR AMENDMENTS TO THE PROTOCOL

4. It is proposed that a small number of amendments are made to the current Protocol. The reasoning behind the substantive changes is set out below. The numbering refers to the clause numbering in the Protocol:

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- Reference is now made to the toolkit, which has been written since 2012 to inform officers of the options around creating an alternative service delivery model.
- It is now made clear that officers must take appropriate technical advice before a company is set up.
- Clause 2 has been reformatted but the key change is that any company set up cannot trade until the business case and governance arrangements have been

examined by the Governance and Audit Committee Trading Activities Sub-Committee.

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- There may be occasions, especially in the case of a joint venture, where for commercial reasons the Council will not be able to insist on what is included in the articles of association. This clause has been amended to make it clear that it applies only if the Council has that control.
- The amendment to Clause 4(a) reflects the fact that there may be circumstances where it may not be appropriate to have Sessions House as the registered office, especially if the operational base of the company is not there. However, it is recommended that this is controlled carefully by requiring the approval of the Monitoring Officer and the Section 151 Officer before any alternative address is selected.

5(a)

- The governance structures for a number of companies owned by the Council incorporate a Shareholder Board with significant KCC officer and Member representation. It is recommended that such a Board, if there is one, should nominate who is appointed to represent the Council on the Board of Directors.

7(d)

- This clause has been simplified to make it clear that if a company decides to adopt its own policies it must, before it starts trading, give assurance to the Governance and Audit Committee Trading Activities Sub-Committee that adequate policies and procedures are in place.

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- The existing Protocol is designed to be retrospective and to apply to companies already in existence, which may have been set up without all the safeguards in place as required by the Protocol. However, this may not always be possible and so it is suggested the words “so far as is reasonably practicable” are added.

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- This clause has been updated to refer to the correct bodies and again it is suggested that this clause is only applicable where the Council has a controlling interest in the company.

RECOMMENDATION

5. The Committee is invited to approve the proposed minor amendments to the Protocol relating to companies in which KCC has an interest, as set out in paragraph 4 above and incorporated in the updated version of the Protocol attached at **Appendix 2**.

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