

Summary of the discussion of the Cabinet Scrutiny Committee on 21 July in relation to the extension of the Kent TV contract

Background

Concerns were expressed about the decision taken by the Chief Executive to negotiate a new contract for Kent TV with Ten Alps plc for a period of 7 months to a value of £350,000. (This is referred to in these notes as a “contract extension” because the new contract has the effect of extending the existing contract with Ten Alps plc). Before it was decided to exercise a formal call-in procedure the Chairman and the Conservative spokesperson met with the Chief Executive, the Director of Strategic Development and Public Access and the Barrister (Contracts and Procurement) on 15 July and these notes are appended. At the conclusion of the meeting the Chairman and spokesperson explored the issues set out at the end of that note. The Barrister subsequently sent an email to the Chief Executive, which was appended to the note, in which he set out the reasons given for his view that the Chief Executive did not have a conflict of interest. Two issues were of concern to the Chairman and the Conservative Spokesperson; the first was whether the decision had been taken properly by an Officer of the County Council (as opposed to it being a Member-level decision) and the second matter was whether Mr Gilroy was the most appropriate person to take that decision.

Discussion at the meeting on 21 July regarding special circumstances

Because the original contract did not contain an explicit provision for an extension, it was necessary to enter into a new contract on the same terms and conditions as the existing contract, for a period of seven months. Due to the value of the contract, special circumstances had to be deemed to apply to avoid the need to seek competitive tenders for the new contract. Questions were asked about the existence of special circumstances and the issue of perception and sensitivity.

Reference was made to the special circumstances that were deemed by the Chief Executive to exist in relation to the contract extension and these are set out clearly in the notes of the informal meeting held on 15 July.

Discussion at the meeting on 21 July in relation to the signing of the contract by the Chief Executive

A large proportion of the discussion on 21 July related to the issue of whether it was proper and appropriate for the Chief Executive to personally sign the new contract, in view of the fact that he was also the Chairman of the Board of Governors of Kent TV.

The Chairman stated that at the informal briefing, Members had come to the conclusion that in terms of the process followed, the Chief Executive was perfectly entitled to exercise an authority that the guidelines of the County Council gave him. This is supplemented in the written advice from the

Barrister (Contracts and Procurement), which is appended to the notes of the informal meeting, in which it is made clear that the Chief Executive did not have any conflict of interest in this matter. The role of the Board of Governors was clearly set out at points (a) to (e) of the Barrister's note circulated to Committee Members.

Members discussed the public perception of the Chief Executive both authorising the special circumstance and signing the contract extension. In particular, the following views were expressed:

- Mr Manning raised concerns about the sensitivity of the issue and the public perception of Mr Gilroy being both the Chief Executive and the Chairman of the Board of Governors of Kent TV.
- Mr Christie raised concerns whether, perception wise, it was a reasonable decision for the Chief Executive to take, his views were that public perception might be that somehow there was a conflicting interest.
- Mr Hotson suggested that for the future, the Chief Executive should not be in a position to take such decisions and it should be another officer or a Member level decision because there could be the perception of a conflict of interest.
- Mr Hotson stated that it was unforgiveable that there was a period of four of five months when there was no Member involvement of knowledge, and that should not happen in the future.
- Mr Kite stated that this situation failed the public perception test
- Mr Christie remarked that the decision to extend the contract was taken during April, but the contract was only signed on 15 July, the same day as the informal meeting.
- The Chairman explained that neither she nor the spokespersons had exercised an official call in of this issue firstly because they were satisfied that the Chief Executive had the authority to exercise this decision. The issue was whether it was an appropriate decision for him to take and that was a matter of judgement.
- Mr Parry raised concerns about the period of time in which there was no Member involvement. In future Members should be notified at the earliest opportunity of what was going on.
- Mr R King explained that it was a matter of Member involvement and which decisions should be made by the Cabinet.

- Mr Scholes stated that it was inconceivable that the public wouldn't think that there would be a conflict of interest. He also asked whether the matter should not have been brought to the attention of the Cabinet
- In response to a question, the Chairman stated that she had had a discussion with the Leader on this subject and he explained that he did have a discussion with the Chief Executive prior to this decision being taken so it was assumed that the Cabinet were aware