

By: Richard Long – Chairman of Governance and Audit Committee

Lynda McMullan – Director of Finance

To: Governance and Audit Trading Activities Sub Committee – 1 September 2009

Subject: **AUDIT COMMISSION REVIEW OF COMMERCIAL OPERATIONS**

Classification: Unrestricted

Summary: The Audit Commission was commissioned by Kent County Council to independently review the integrity of its trading activity. This was in response to the criticism made by elements of the business community.

The review has concluded that the Council's trading activity is driven by a requirement to deliver competitively and has been managed in line with all legal requirements, with robust costing methodology. No evidence of cross subsidisation was identified.

Subject to the requirements of commercial sensitivity, the Council should seek to evaluate opportunities to provide more information about these activities.

FOR INFORMATION

1. INTRODUCTION AND BACKGROUND

- 1.1 Kent County Council has successfully operated a Commercial Services operation since the 1960s. Over the years new business has been added, in response to the need to deliver value for money for Kent residents.
- 1.2 This has inevitably led to some tensions within certain business sectors, who have felt that unfair advantage has been given to this operation. This is despite the fact that some 97% of the Council's supplies being directly provided by the private and other sectors.
- 1.3 This has led to a number of internal and external reviews over the years, most recently an internal report presented to Governance and Audit Committee in September 2008. One of the key recommendations of this report was the establishment of this sub committee (appendix A details all the recommendations for information).
- 1.4 In addition to these recommendations, the Council also requested the Audit Commission undertake its own internal review of its trading activities as part of its 2008/09 audit plan. Specifically, the Council wanted to ensure the Audit Commission understood the specific business concerns being raised and responded to these in an independent report.

1.5 This report has now been completed and was reported to the Director of Finance on 4th August 2009. This meeting is the first opportunity for Members to review its findings before it is reported to the full Governance and Audit Committee on 16 September 2009.

2. REPORT CONCLUSIONS AND RECOMMENDATIONS

2.1 The Audit Commission made 5 main conclusions to this extensive review:

- the Council's commercial operations are structured in accordance with statute. Commercial Services and the Council's subsidiaries understand the limits to their powers and act within them;
- the Council has a robust methodology for allocating its costs incurred on behalf of its commercial undertakings to the business units operated by Commercial Services directorate and the Council's own subsidiaries;
- we identified no evidence of any financial support or cross-subsidisation of the commercial operations by the Council that gives any competitive advantage;
- the commercial operations are driven by a need to supply goods and services at competitive prices to both the public and private sectors and to both reduce the Council's costs and make surpluses and profits for the Council; and
- the Council should evaluate opportunities to address the concerns expressed by the some parts of the public about access to information in respect of its commercial operations, subject to the Council's consideration of maintaining.

2.2 In total 8 detailed recommendations have been made by the Audit Commission. All of these were either in progress and/or are fully accepted by Kent Council Council. Details are found in Appendix B to this report.

3. RECOMMENDATIONS

The Trading Activities Sub Group is asked to:

- (i) NOTE the contents of the contents of the Audit Commission's independent review.
- (ii) AGREE the proposed actions to meet the 8 recommendations.
- (iii) REPORT their conclusions to the full Governance and Audit Committee on 16 September 2009.

Lynda McMullan
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Appendix A

Extract from Minutes of Governance and Audit Committee held on 30 June 2008

Mr N J D Chard, the Cabinet Portfolio Holder for Finance was present for this item pursuant to Committee Procedure Rule 2.34 and responded to questions from Members of the Committee.

(1) Mr D Smyth, Chairman of the Budget Informal Member Group moved the recommendation set out in Page 12:1 of the report. There were agreed.

(2) RESOLVED that:-

- (a) the positive direction of travel for Commercial Services be formally welcomed and that the Director of Commercial Services, Mr Kevin Harlock be congratulated for the achievement of his services;
- (b) a Sub-Group of the Committee be set up to oversee the governance of the County Council's trading activities;
- (c) Commercial Services be encouraged to post assessments for medium sized companies as a gesture of greater openness about the County Council's trading activities;
- (d) the County Council's ability to support private companies (for example by offering its own preferential procurement arrangements to suppliers) within Kent be promoted; and
- (e) new business cases be considered by the Sub-Group of the Committee prior to being submitted to the relevant Cabinet Member for approval.

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Appendix B

Recommendations	Responsible Officer	Proposed Action	Agreed Completion Date
R1 The loan agreement with Kent Top Temps Limited should be re-drawn in the name of Kent County Council rather than Commercial Services.	Head of Financial Services / Head of Strategic Finance for Commercial Services	Review agreement prepared.	September 2009
R2 The Council should develop a dividends policy for its subsidiaries.	Head of Strategic Finance for Commercial Services	A dividend policy will be produced to formalise the decisions taken on dividends documented at each AGM.	December 2009
R3 Independent reviews of Council contracts won by Commercial Services or its subsidiaries should be introduced to ensure that tendering procedures are adhered to fully and that no subsidisation occurs or could be alleged.	Senior Audit Manager	Independent reviews of Council contracts won by Commercial Services (or its subsidiaries) will be reviewed by Internal Audit, and will be included in the Audit Plan, to ensure that tendering procedures are fully adhered to and that no subsidisation occurs or could be alleged. An audit will also be carried out annually to review basis for charging, e.g. oncosts etc.	With immediate effect and ongoing
R4 A business case should be prepared for Kent Top Travel as a trading operation. If new business activities are undertaken in future, business cases should be prepared.	Commercial Services Director	A full business case will be produced to supplement the business plan.	December 2009

Recommendations	Responsible Officer	Proposed Action	Agreed Completion Date
R5 The Council should pay invoices raised by its subsidiaries promptly.	Head of Financial Services/Head of Strategic Finance for Commercial Services	KTT's new on live system Bond is being implemented on a phased basis starting in the main problem area. Head of Financial Services and HoF Commercial Services will review level of outstanding invoices monthly.	September 2009
R6 The Council should seek to maximise disclosure of information in its commercial undertakings, subject to exercising proper commercial sensitivities, including expanding the disclosure of its commercial activities in its own annual financial statements.	Head of Financial Management	Subject to completed accounts on the commercial undertakings being available at an earlier date the Council will expand the level of disclosure/narrative up to the point where further information would compromise commercial sensitivity.	December 2009
R7 Statutory accounts for the Council's subsidiary companies should be prepared in long-form.	Commercial Services Director/ Head of Strategic Finance for Commercial Services	The accounts for 2008-09 will be available in medium form with a move to providing additional information in for 2009-10, subject to the continuing exercising of proper control over commercially sensitive information. The benefits of producing an annual report covering all aspects of Commercial Services activities including those of KCC's subsidiary companies will be evaluated.	January 2010
R8 The benefits of the production of an annual report covering all Commercial Services activities including those of its subsidiary companies should be evaluated as part of its engagement with the local business community and other interested parties.			