



RESOURCE AND FINANCE SCRUTINY COMMITTEE

You are hereby invited to attend a meeting of the Resource and Finance Scrutiny Committee to be held on Tuesday, 10 September 2024 at 7.00 pm in the Council Chamber, Civic Offices, Gloucester Square, Woking, Surrey GU21 6YL.

The agenda for the meeting is set out below.

Richard Carr

Chief Executive

NOTE: Filming Council Meetings

Please note the meeting will be filmed and broadcast live and subsequently as an archive on the Council's website (www.woking.gov.uk). The images and sound recording may also be used for training purposes within the Council. Generally, the public seating areas are not filmed. However, by entering the meeting room and using the public seating area, you are consenting to being filmed.

AGENDA

1 Apologies for Absence

To receive any apologies for absence.

2 Declarations of Interest (Pages 5 - 6)

- (i) To receive declarations of disclosable pecuniary and other interests from Members in respect of any item to be considered at the meeting.
- (ii) In accordance with the Officer Employment Procedure Rules, the Strategic Director - Corporate Resources, Kevin Foster, declares a disclosable personal interest (non-pecuniary) in any items concerning the companies of which he is a Council-appointed director. The companies are listed in the attached schedule. The interests are such that Mr Foster may advise on those items.
- (iii) In accordance with the Officer Employment Procedure Rules, the Strategic Director - Communities, Louise Strongitharm, declares a disclosable personal interest (non-pecuniary) in any items concerning the companies of which she is a Council-appointed director. The companies are listed in the attached schedule. The interests are such that Mrs Strongitharm may advise on those items.
- (iv) In accordance with the Officer Employment Procedure Rules, the Head of Transformation, Digital and Customer, Adam Walther, declares a disclosable personal interest (non-pecuniary) in any items concerning the companies of which he is a Council-appointed director. The companies are listed in the attached schedule. The interests are such that Mr Walther may advise on those items.

3 Minutes (Pages 7 - 10)

To approve the minutes of the meeting of the Committee held on 9 July 2024 as published.

4 Urgent Business

To consider any business that the Chair rules may be dealt with under Section 100B(4) of the Local Government Act 1972.

Matters for Determination

5 Work Programme RFSC24-010 (Pages 11 - 24)

To review the Committee's work programme, the draft Executive forward plan, and the recommendations and actions tracker.

Matters for Scrutiny

6 Contracts, Procurement, and New Legislation RFSC24-005 (Pages 25 - 28)

Overview of the Council's contracts and procurement approach and the implementation of new procurement legislation.

Reporting Person: Kevin Foster

7 Commercial Protocol RFSC24-006 (Pages 29 - 46)

An overview of the Council's Commercial Protocol.

Reporting Person: Kevin Foster

8 Improvement and Recovery Programme Update RFSC24-007 (report to follow)

The most recent 6-month update to the Commissioners on the Council's Improvement and Recovery Programme.

Reporting Person: Kevin Foster

9 Legacy Adjustments to the Housing Revenue Account (HRA) RFSC24-008 (Pages 47 - 56)

Reporting Person: Stephen Fitzgerald

10 Performance Management Report RFSC24-009 (report to follow)

Please refer to your electronic copy of the most recent Performance Management Report.

Agenda Ends

Date Published - 2 September 2024

Contact Officer: Toby Nash, Scrutiny & Democratic Services Officer, Ext 3056, Email toby.nash@woking.gov.uk

Schedule Referred to in Declaration of Interests

Council-appointed directorships

Kevin Foster, Strategic Director – Corporate Resources	
Brookwood Cemetery Limited	Kingfield Community Sports Centre Limited
Brookwood Park Limited	LAC 2021 Limited (Dormant)
Export House Limited	Woking Necropolis and Mausoleum Limited
Woking Shopping Limited	

Louise Strongitharm, Strategic Director – Communities	
Rutland Woking (Carhouse Lane) Limited	Rutland Woking (Residential) Limited
Rutland (Woking) Limited	

Adam Walther, Head of Transformation, Digital and Customer	
Brookwood Cemetery Limited	Brookwood Park Limited
Woking Necropolis and Mausoleum Limited	

MINUTES
OF A MEETING OF THE
RESOURCE AND FINANCE SCRUTINY COMMITTEE

held on 9 July 2024

Present:

Cllr A Boote (Chair)
Cllr L Rice (Vice-Chair)

Cllr S Greentree Cllr P Pandher
Cllr S Oades Cllr J Pearce

Also Present: Councillor D Roberts

Absent: Councillors G Cosnahan and A Javaid

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Cosnahan. Councillor Boote apologised for being unable to attend the start of the meeting.

2. DECLARATIONS OF INTEREST

No declarations of interest were received from Members.

In accordance with the Officer Employment Procedure Rules, the Strategic Director – Corporate Resources, Kevin Foster, declared a disclosable personal interest (non-pecuniary) in any items concerning the companies of which he was a Council-appointed director. The interests were such that Mr Foster could advise the Committee on those items.

The interests of Strategic Director – Communities, Louise Strongitharm, and the Head of Transformation, Digital, and Customer, Adam Walther, were referred to in the agenda but it should be noted that neither were present at the meeting.

3. MINUTES

RESOLVED

That the minutes of the meeting of the Resource and Finance Scrutiny Committee held on 20 May 2024 be approved and signed as a true and correct record.

4. URGENT BUSINESS

There were no items of Urgent Business under Section 100B(4) of the Local Government Act 1972.

5. WORK PROGRAMME

The Committee had met informally with Officers to discuss topics for inclusion on the Work Programme for the year. The Chair, Vice-Chair, Strategic Director of Corporate Resources, and Scrutiny Officer would meet to agree the topics for presentation to the Committee at its next meeting.

Included in the Work Programme were several suggested additions inherited from the preceding Overview and Scrutiny Committee, since made defunct. The Committee agreed to retain:

- Biannual Review of Complaints;
- Definition of Statutory and Non-Statutory Services; and
- Review of Member Development.

It was agreed that the Plan for Member and Officer Finance Training be removed; the Member training to be covered in the Review of Member Development item, and an action for the Strategic Director of Finance be raised for Officer training.

6. PROJECT MANAGEMENT

Kevin Foster introduced the item, highlighting that the project management process had undergone a review over the previous two years.

The Council did not employ dedicated project managers. Instead, Officer from the relevant department was appointed to oversee each project.

The Corporate Leadership Team met quarterly as a programme board to review the status of each project. In the interim between meetings, if a project was perceived to be falling behind schedule or facing other risks, it was incumbent on the responsible manager to immediately submit an exception report to the Corporate Leadership Team. Pino Mastromarco, Corporate Strategy Manager, clarified that the Project Management Office collaborated daily with assigned project managers to help monitor projects.

Concern was shared within the Committee that formal reporting on a quarterly basis was too infrequent.

It was confirmed that change control was embedded in the reporting process and changes to the project were represented against those agreed in the project mandate.

A specific question was raised regarding the amber RAG status of the Sheerwater Regeneration budget. In response, Pino Mastromarco explained that the project was being redefined, which included a reassessment of the budget.

In response to a query on project managers employed by the Council's subsidiary companies, Kevin Foster confirmed that ThamesWey had project management capability but not in the form of dedicated project managers. Victoria Square employed project managers throughout its existence.

The Corporate Strategy Manager noted that the Council did distinguish between projects and programmes but that were very few of the latter. The Improvement and Recovery Programme was cited as an example. The Strategic Director of Place added that any

initiative, regardless of its size, was subject to the same project management process if it did not have a pre-allocated budget.

It was suggested that the template project mandate should be revised to include sections on the potential impact of delaying or not undertaking the project. It was further proposed that a review be undertaken of what is considered to be a project and a separate review on the project monitoring methodology.

The Committee discussed how cost overruns were approved. All cost overruns would be presented to the programme board and then submitted to the Executive for approval prior to any expenditure. It was confirmed that while this process was in place, it could not be guaranteed that all projects had historically followed the same process.

RESOLVED

That the report be noted.

7. PRINCIPLES OF RISK MANAGEMENT

It was noted that the Strategic Risk Register and Risk Management Policy were not readily available on the website. It was suggested that they be made easily accessible.

The Committee discussed the Council's approach to risk appetite. It was highlighted that the current approach to appetite had been established two years ago and Officers agreed that the approach could be revisited given the Council's current circumstances. Pino Mastromarco confirmed that rather than a separate risk appetite outturn report, appetite was assigned to each risk on the Strategic Risk Register.

RESOLVED

That the report be noted.

8. PERFORMANCE MANAGEMENT REPORT

In response to a query on the lack of detailed information in the Corporate Key Performance Indicators pie chart, Officers confirmed that narrative for each indicator was contained further into the report. Officers suggested that a narrative could be added to the pie chart for clarity.

A view was raised that some indicators would be more informative if absolute values were included in addition to relative values.

The corporate complaints indicator was identified as an area of improvement. Rather than report the timeliness of responses, an indicator that captured the substance of a complaint would be more beneficial and help the Council to identify service improvements.

Pino Mastromarco confirmed that discussions were underway with Local Partnerships on conducting ongoing benchmarking between Local Authorities. While some benchmarking between Surrey authorities already took place, it was not reflected in the Performance Management Report.

A view was expressed that more information on staff turnover and vacancies would be beneficial.

The Vice-Chair requested an age analysis of the past dues for Council Tax and Rateable Value (Business Rates) in addition to information on write-offs.

The Committee discussed the negative balance of Byfleet and West Byfleet Ward Community Infrastructure Levy funding. The Chair explained that human error had attributed some funds from West Byfleet Neighbourhood Area, these had been spent and once the error had been corrected, had left Byfleet and West Byfleet fund with a negative balance.

The Chair suggested some level of scrutiny of the collection of Community Infrastructure Levy funds be undertaken.

The meeting commenced at 7.00 pm
and ended at 8.04 pm.

Chair: _____

Date: _____



Scrutiny Work Programme

Woking Borough Council runs three Scrutiny Committees: Communities & Housing Scrutiny Committee, Environment & Place Scrutiny Committee, and Resource and Finance Scrutiny Committee.

Each Committee is composed of seven Councillors. Any Councillor may sit on a Scrutiny Committee apart from members of the Executive.

This document is published with the purpose of assisting the Council in its overview and scrutiny role. The Work Programme covers the following areas:

- A forward plan of items to be received at future meetings of the three Scrutiny Committees and the expected meeting at which each item will be received.
- Suggested items for the Forward Plans.
- Any Scrutiny Review Topics proposed by Members of the Council and reviewed by the Chair and Vice-Chair of the respective Committee.
- A tracker of the recommendations and actions made by any of the Committees.
- The draft forward programme for the Executive.
- Details of any current Task and Working Groups set up by any of the Scrutiny Committees.

Any changes to the Work Programme since it was last published have been highlighted in green.

Communities & Housing	Environment & Place	Resource & Finance
Chair:	Chair:	Chair:
Cllr Steve Greentree	Cllr John Morley	Cllr Amanda Boote
Vice-Chair:	Vice-Chair:	Vice-Chair:
Cllr Daryl Jordan	Cllr Chris Martin	Cllr Leslie Rice
Members:	Members:	Members:
Cllr Attia Aslam Cllr Bonsundy-O'Bryan Cllr Mukherjee Cllr Mumtaz Cllr Sullivan	Cllr Akberali Cllr Graves Cllr Kuipers Cllr Leach Cllr Raja	Cllr Cosnahan Cllr Greentree Cllr Javaid Cllr Oades Cllr Pandher Cllr Pearce
Meeting Dates:	Meeting Dates:	Meeting Dates:
30 July 2024 8 October 2024 7 January 2025	18 July 2024 3 December 2024 4 March 2025	9 July 2024 10 September 2024 5 November 2024 4 February 2025 6 March 2025

Recommendations

The Committee is requested to:

RESOLVE That the report be noted.

The Committee has the authority to determine the recommendation set out above.

Background Papers: None.

Reporting Person: Councillor Amanda Boote

Email: CllrAmanda.Boote@woking.gov.uk

Contact Person: Toby Nash, Scrutiny and Democratic Services Officer

Email: toby.nash@woking.gov.uk, Extn: 3056

Date Published: 2 September 2024

Forward Plans of the Scrutiny Committees

As well as items listed below for each Committee, there shall be a number of standing items for consideration. These include, but are not limited to:

- Scrutiny Work Programme
- Recommendation & Action Tracker
- Performance Management Information
- Task or Working Group Updates

Communities & Housing Scrutiny Committee

30 July 2024 | 8 October 2024 | 7 January 2025

Meeting Date	Item	Added	Item Owner
8 October 2024	Housing Improvement Programme	WPS*	Louise Strongitharm
8 October 2024	CAT Policy and Update	WPS	Riëtte Thomas
8 October 2024	Housing Revenue Account Business Plan	WPS	Louise Strongitharm
7 January 2025	Housing Complaints	WPS	Rosalynn Funnell
7 January 2025	Fees and Charges for Discretionary Services	WPS	Louise Strongitharm
7 January 2025	Report from Tenant Panel	WPS	Rosalynn Funnell

Environment & Place Scrutiny Committee

18 July 2024 | 3 December 2024 | 4 March 2025

Meeting Date	Item	Added	Item Owner
3 December 2024	Local Plan – Timeframe	WPS	Jill Peet
3 December 2024	Environmental Health Service Plans: Food Safety, Health and Safety, and Housing Standards	WPS	Emma Bourne

Resource & Finance Scrutiny Committee

9 July 2024 | 10 September 2024 | 5 November 2024 | 4 February 2025 | 6 March 2025

Meeting Date	Item	Added	Item Owner
5 November 2024	Insourcing of Facilities Management	WPS	David Loveless
5 November 2024	Management of Assets	WPS	David Loveless
5 November 2024	Companies Governance Overview	WPS	Kevin Foster
2025	Overview of Internal Audit	WPS	Pino Mastromarco
6 March 2025	Financial Management Information	WPS	Stephen Fitzgerald

Suggested Items for the Forward Plans

Set out below are topics suggested for a future meeting of the Scrutiny Committees along with proposer, proposal date, and officer comment.

At the end of the 2023/24 Municipal Year the Council reconstituted its single Overview & Scrutiny Committee into three, directorate-specific Scrutiny Committees.

| Key: O&S – Overview & Scrutiny Committee | C&H – Communities and Housing Scrutiny Committee | E&P – Environment & Place Scrutiny Committee | R&F – Resource & Finance Scrutiny Committee |

Topic	Proposed by	Date	Intended Committee	Officer Comment
Biannual Overview of Complaints Report	Chair and Vice-Chair	2021/21 Municipal Year	R&F	Following the meeting of the Committee on 21 February 2022 it was expressed by Members that the possibility of having this report appear at the Committee twice a year, as opposed to once a year would be beneficial.
Invite Thames Water	O&S	2023/24 Municipal Year	E&P	In recognition of the Work Programme for the remainder of the Municipal Year and the position of Thames Water the item has been delayed for consideration until the next Municipal Year.
Invite Commissioners	O&S Chair & Committee	2023/24 Municipal Year	C&H E&P R&F	Invite the DLUHC-appointed Commissioners to a future meeting of the Committee.
Scrutiny of definitions of statutory and non-statutory services	O&S Chair & Committee	2023/24 Municipal Year	R&F	The Committee is interested in considering how Officers determined statutory and non-statutory services.
Review of Member Development	O&S Committee	2023/24 Municipal Year	R&F	At its meeting on 28 February 2024 the Committee requested a report on Member development.
St Johns Footbridge	O&S Committee	2023/24 Municipal Year	E&P	The Chair and Vice-Chair agreed to put onto the Work Programme consideration of inviting Network Rail to discuss plans to replace the St Johns Footbridge.
Emergency Planning and Business Continuity	Officers	August 2024	E&P	Review the emergency planning and business continuity procedures in place.
UKSPF Projects Update	Officers	August 2024	E&P	To receive an update on the UKSPF projects.
Approach to Retender of Waste Contract	Officers	August 2024	E&P	Receive an overview of the waste contract retender.

Treasury Management Mid-Year Review	Officers	August 2024	R&F	To scrutinise the treasury management. Target meeting: 5 November 2024.
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Scrutiny Topic Review Requests

Councillors, residents, and those employed or that study in the Borough may submit scrutiny topic review requests to one of the Scrutiny Committees. Each topic request will be considered at first stage by the Chair and Vice-Chair of the respective Committee in consultation with the Proper Officer and Scrutiny Officer. If it is not clear to which Committee the topic pertains it shall be considered by the Chairs' Forum and directed on. Scrutiny topic review requests may not be progressed to publication if, when considered at the first stage, the topic is rejected. Full details on why a topic would be rejected may be found in the Council's Constitution.

| Key: O&S – Overview & Scrutiny Committee | C&H – Communities and Housing Scrutiny Committee | E&P – Environment & Place Scrutiny Committee | R&F – Resource & Finance Scrutiny Committee |

Topic	Submission Date	Submitter	Date of First Stage Review

Recommendations and Actions Tracker

The Recommendations and Actions Tracker allows the scrutiny committees to monitor responses, actions and outcomes against their recommendations or requests for further action. The tracker is updated following each meeting. Once an action has been completed, it will be removed from the tracker following the next meeting.

Key: C&H – Communities & Housing Scrutiny Committee | E&P – Environment & Place Scrutiny Committee | R&F – Resource & Finance Scrutiny Committee

Topic	Meeting Date/ Item	Target Committee/ Member/ Officer	Response	Status (open/ closed)
Status of Finance training for Officers.	09/07/2024 Item 5 R&F	Stephen Fitzgerald		Open
Add sections on potential impact of delaying or not undertaking a project to the template project mandate.	09/07/2024 Item 6 R&F	Pino Mastromarco	Already included in the project workbook. Can be added to the project mandate pending approval from CLT.	Open
A review of what is considered to be a project be undertaken.	09/07/2024 Item 6 R&F	Pino Mastromarco	Project definition will be added to the Council's intranet to provide guidance for Officers.	Open
Review the Council's approach to risk appetite	09/07/2024 Item 7 R&F	Pino Mastromarco	Pino Mastromarco to raise at future Assurance meetings with CLT to enable risk appetite to be reviewed and adjusted as necessary.	Open
Absolute value be included for certain performance indicators.	09/07/2024 Item 8 R&F	Pino Mastromarco	Both percentages and raw numbers can be added to certain performance indicators	Open
A performance indicator that captured the substance of complaints be developed.	09/07/2024 Item 8 R&F	Gareth John	This is being developed and will be reported on in due course.	Open
Performance indicators for staff turnover and vacancies be included.	09/07/2024 Item 8 R&F	Pino Mastromarco	Officers will look to add numbers to the percentages in current key performance indicators where appropriate. Vacancies fluctuate frequently throughout each reporting period and Officers consider this may not be a useful metric.	Open

The Scrutiny Work Programme

An age analysis of past dues for Council Tax and Rateable Value (Business Rates) be produced)	09/07/2024 Item 8 R&F	Kevin Foster	This is being reviewed by Officers.	Open
Complaints handling training material for Officers be shared with Members	30/07/2024 Item 9 C&H	Rosalynn Funnell		Open
The Committee discussed the planned tenant engagement sessions, and it was requested which ones Councillors could attend	30/07/2024 Item 9 C&H	Rosalynn Funnell		Open
The Committee discussed the potential for tenant representatives to be involved with the Committee.	30/07/2024 Item 9 C&H	Rosalynn Funnell		Open
Officers agreed to provide Councillors with details of the groups that could be set up by tenants.	30/07/2024 Item 9 C&H	Rosalynn Funnell		Open

The Draft Executive Forward Plan

The following list sets out the draft forward programme of work for the Executive over the coming year. The programme is subject to additions and alterations and will be updated for future meetings of the Scrutiny Committees. The purpose of the list is to enable the Members the Committees to identify those items they would like to scrutinise and perform as pre-decision scrutiny. The list includes those items for recommendation to Council as well as those for determination by the Executive.

Executive – 12 September 2024

Matters for Consideration	Decision Type
1) Grounds Maintenance and Street Cleaning Contract Re-tender	Rec to Council
2) Climate Change Strategy	Rec to Council
3) Housing Standards Enforcement Policy and Housing Standards Civil Penalty Notice (CPN) Policy	Rec to Council
4) Improvement and Recovery Plan Progress	Executive Resolve
5) Local Authority Housing Fund (LAHF)	Executive Resolve
6) Legacy Adjustments to the Housing Revenue Account (HRA)	Executive Resolve
7) Draft List of Locally Listed Heritage Assets 'The Local List'	Executive Resolve
8) Performance Management Report	Executive Resolve
9) Budget Monitoring Q1 2024-25	Executive Resolve
10) Grounds Maintenance and Street Cleaning Contract Re-tender (PART II)	Rec to Council

Executive – 17 October 2024

Matters for Consideration	Decision Type
1) Woking for All Strategy	Rec to Council
2) Grant Thornton Remuneration	Executive Resolve
3) UK Shared Prosperity Fund (UKSPF)	Executive Resolve
4) Asset Disposal	Executive Resolve
5) Asset Disposal (PART II)	Executive Resolve

Executive – 14 November 2024

Matters for Consideration	Decision Type
1) Review of Fees and Charges 2025-26	Rec to Council
2) 30 Year Housing Revenue Account (HRA) Business Plan	Rec to Council
3) Calendar of Meetings 2025-26	Rec to Council
4) Draft Medium Term Financial Strategy (MTFS) and General Fund Budget 2025-26	Executive Resolve
5) Draft Housing Revenue Account Budget Update 2025-26	Executive Resolve
6) Draft Capital Programme 2024-25 to 2028-29	Executive Resolve
7) Sheerwater Land Transfer	Executive Resolve
8) Asset Disposal	Executive Resolve
9) Performance Management Report	Executive Resolve
10) Budget Monitoring Q2 2024-25	Executive Resolve
11) Asset Disposal (PART II)	Executive Resolve

Executive – 5 December 2024

Matters for Consideration	Decision Type
1) Asset Disposal	Executive Resolve
2) Project Monitoring Report	Executive Resolve
3) Asset Disposal (PART II)	Executive Resolve

Executive – 16 January 2025

Matters for Consideration	Decision Type
1) Asset Disposal	Executive Resolve
2) Asset Disposal (PART II)	Executive Resolve

Executive – 13 February 2025

Matters for Consideration	Decision Type
1) General Fund Budget 2025-26	Rec to Council
2) Housing Revenue Account Budgets 2025-26	Rec to Council
3) Capital Programme 2024-25 to 2028-29	Rec to Council
4) Asset Disposal	Executive Resolve
5) Performance Management Report	Executive Resolve
6) Budget Monitoring Q3 2024-25	Executive Resolve
7) Asset Disposal (PART II)	Executive Resolve

Executive – 13 March 2025

Matters for Consideration	Decision Type
1) Improvement and Recovery Plan Progress	Rec to Council
2) Regulation of Investigatory Powers Act 2000 – Annual Monitoring Report	Executive Resolve
3) Write off of Sundry Debts	Executive Resolve
4) Asset Disposal	Executive Resolve
5) Project Monitoring Report	Executive Resolve
6) Asset Disposal (PART II)	Executive Resolve

Current Working and Task Groups Responsible to the Committee

The table below provides a list of current Working and Task Groups established by the Committee, including an indication of the resource requirements and the anticipated completion date. Any updates on the progress of individual Working and Task Groups are included elsewhere on the Committee’s agenda.

Finance Working Group	
Remit:	<p>The Finance Working Group has been established to review financial issues as identified either by itself or the Scrutiny Committees. The Working Group will receive financial information, including reports to the Executive, to enable it to undertake effective scrutiny of the financial performance of the Council.</p> <p>The Working Group will receive reports on areas such as Treasury Management, Budget Process and Financial Forecast, Statement of Accounts, Investment Programme, Review of Fees and Charges, General Fund Budget, Update on Commercial Rents, Update on Irrecoverable Debt, and matters arising from the Green Book. Its Work Programme will be received at each Working Group meeting.</p>
Membership:	Cllrs Boote (Chair), Rice (Vice-Chair), Greentree, Morley, Oades, Pandher
Resources:	Officer and Councillor time.
Date Established:	25.05.06

RESOURCE AND FINANCE SCRUTINY COMMITTEE – 10 SEPTEMBER 2024

CONTRACTS, PROCUREMENT, AND NEW LEGISLATION

Executive Summary

The Committee is invited to scrutinise the work that is underway to improve the processes that are in place for procurement/contract management and provide recommendations as it sees fit.

Recommendations

The Committee is requested to

RESOLVE That the report be noted.

The Committee has the authority to determine the recommendation set out above.

Background Papers:	None.
Reporting Person:	Kevin Foster, Strategic Director – Corporate Resources Email: Kevin.Foster@woking.gov.uk
Contact Person:	Kevin Foster, Strategic Director – Corporate Resources Email: Kevin.Foster@woking.gov.uk
Portfolio Holder:	Councillor Dale Roberts Economic Development, Resources and Finance Email: CllrDale.Roberts@woking.gov.uk
Date Published:	2 September 2024

1.0 Introduction/Overview

- 1.1 The application of robust procurement and contract management is fundamental to the effective delivery of services across the Council. To ensure that arrangements within the Council are fit for purpose and reflect best practice, a full review and re-design of processes around commissioning, procurement, and contract management is being undertaken.
- 1.2 The review is timely not only because there is a need to deliver efficiencies across the Council, but also because of the impending legislation changes arising from The Procurement Act 2023 (PA23) that will come into force in October 2024. PA23 aims to simplify and modernise the procurement process for public sector organisations in England, Wales, and Northern Ireland. As per Government guidance, the PA23 “will introduce the most significant changes to the way public sector organisations buy goods and services for a generation”.
- 1.3 The changes outlined in the PA23 will create significant additional work not only in getting the Council ready for October 2024, but also in the undertaking of future procurement and day-to-day contract management.
- 1.4 Despite challenges around timescale, preparation for the Act does present an opportunity for the Council to have a renewed focus on procurement compliance and good practice. This will help to reset behaviour around procurement, hopefully leading to a positive culture change. A project team comprised of officers from procurement, legal, finance, ICT, and corporate strategy has now met and has started to identify a series of immediate changes that need to be implemented.

2.0 Areas of work

- 2.1 There are a number of immediate actions that are being undertaken to ensure that the Council is compliant when PA23 comes into force in October 2024 – five specific workstreams have been identified at this stage. An outline of each workstream is as follows:

2.2 Workstream 1 - Reviewing/Updating Policies/Procedures

- 2.3 The Council must make sure that current processes and procedures adhere to the Act and are robust in areas such as pre-market engagement and supplier evaluation/assessment. Initial assessment by legal and the commercial team has identified a raft of items that will need to be reviewed/updated. These include:

- Contract Standing Orders – redrafting to reflect best practice and ensure compliance.
- Tender documents – redrafting.
- Standard Terms and conditions – reviewing to ensure compliance.
- Procurement procedures and workflows - reviewing/updating.
- Identifying the raft of statutory notices required under the new regime.
- Creation of a Social Value Policy which is a key component of the Act.

2.4 Workstream 2 - Training

- 2.5 It is important that officers across the Council are equipped to procure and manage contracts effectively and with confidence in the context of PA23. Plans are therefore being developed to train/upskill colleagues in the procurement team and contract managers across the Council.
- 2.6 There is a centrally funded Learning and Development package provided by the Cabinet Office which is available to all councils across the UK. The e-learning packages range from an overview of the changes, through to more detailed and specific instruction on the new

regime for practitioners in contracting authorities, and an intensive advanced course of 'deep dive' learning focussed on the behavioural and cultural changes required.

2.7 Workstream 3 - Internal/External Communication

2.8 An essential component of getting ready for PA23 will be a robust communication plan. A communication plan is in development to cover internal and external messaging, including:

- Updating information/guidance on the Council website and intranet.
- Targeted updates to contract managers to outline expectations and support required.
- Working with current suppliers to inform them of the upcoming changes; making sure that they are aware of the new legislation and signposting them to resources where needed.
- Identifying who the Council's key suppliers are and feed updates about the new regime through the supply chain.

2.9 Workstream 4 - Contract Register Improvements

2.10 A complete and up to date contract register will be fundamental in enabling effective reporting to ensure compliance to the PA23. A number of improvements around data integrity are currently being worked on, key areas include:

- Identifying any gaps on the contract register and gathering additional information.
- Working with senior officers to develop a 'pipeline' of planned procurement – planning up to 18-months ahead to ensure that savings can be made, and resources aligned.
- Developing a monitoring regime of all live contracts on the register.

2.11 Workstream 5 – Data/Systems

2.12 A review of current procurement and data reporting systems is underway to ensure that existing tools can deliver the new transparency requirements. This review will highlight where any constraints exist, and outline steps/costs needed to resolve any issues.

3.0 Supplier Spend Controls

3.1 In addition to the five specific workstreams above, work is also underway with to introduce greater monitoring of supplier/contract spend. A monitoring report is being developed which will provide the following:

- Showing spend to date per supplier summarised at cost centre level - it will cover the entire supplier base in integra.
- Spend to date as a value will be reported, as will spend shown as a % against the contract commitment which is held on the contract register.
- A RAG rating will be applied against the % of spend against commitment – the report will be adjusted to reflect RAG rules as required moving forward.
- The report will show if Purchase Orders are assigned to the spend, and if so, will detail what the commitment is.

4.0 Contract Segmentation

4.1 A key next step will be to review existing procurement thresholds to determine if the current parameters should remain or should be altered; Once agreed, the structure will allow:

- Each contract to be centrally assessed against value, complexity, and risk (using a matrix-based approach) and assigned a Gold, Silver, or Bronze status.

Contracts, Procurement, and New Legislation

- Gold, Silver, or Bronze status will frame a range of follow-on actions including assigning appropriate training to officers, determining the monitoring and governance arrangements to be applied, and outlining expectations for contract management.
- The approach will also enable a streamlined workflow to be developed for process around commissioning, procurement, and contract management to support officers.

5.0 Future Scrutiny / Procurement Audit

- 5.1 As evidenced in this report, a great deal of work is underway to improve the whole procurement and contract management landscape. Progress will be made prior to PA23 coming into force, with further improvements being delivered throughout the Autumn.
- 5.2 Procurement and contract management processes are scheduled to be reviewed by Internal Audit early next year in quarter 4 once key changes have been made, at which point additional scrutiny by this committee would be welcomed if required.

6.0 Corporate Strategy

- 6.1 The application of robust performance management underpins the effective delivery of the functions that the Council provides, which in turn supports the objectives listed in the Corporate Strategy.

7.0 Implications

Finance and Risk

- 7.1 None arising from this report.

Equalities and Human Resources

- 7.2 None arising from this report.

Legal

- 7.3 None arising from this report.

8.0 Engagement and Consultation

- 8.1 None arising from this report.

REPORT ENDS

COMMERCIAL PROTOCOL

Executive Summary

The Committee is invited to scrutinise the processes and arrangements that are in place for project management and provide recommendations as it sees fit.

Recommendations

The Committee is requested to:

RESOLVE That the report be noted.

The Committee has the authority to determine the recommendation set out above.

Background Papers:	None.
Reporting Person:	Kevin Foster, Strategic Director – Corporate Resources Email: Kevin.Foster@woking.gov.uk
Contact Person:	Kevin Foster, Strategic Director – Corporate Resources Email: Kevin.Foster@woking.gov.uk
Portfolio Holder:	Councillor Dale Roberts Economic Development, Resources and Finance Email: CllrDale.Roberts@woking.gov.uk
Date Published:	2 September 2024

1.0 Introduction

- 1.1 In January 2023 the Ministry of Housing, Communities and Local Government (formerly Department for Levelling Up, Housing and Communities), commissioned an External Assurance Review covering Woking Borough Council's governance, finance and commercial issues, following concerns raised from engagement with the council since May 2022.
- 1.2 On 25 May 2023 the Secretary of State, using their powers under the Local Government Act 1999, acted to intervene at the council and appointed the review team as Commissioners.
- 1.3 The Secretary of State subsequently directed the Authority on a number of issues which included rebuilding the commercial decision-making, regeneration, property management, procurement and management of commercial projects functions of the Authority to ensure conformity with the best value duty, thereby delivering improvements in outcomes for the people of Woking and the public purse.
- 1.4 In response, the Council adopted a Commercial Protocol in Autumn 2023. The primary purpose of this Protocol is to ensure that commercial activities and use of commercial assets are demonstrably aligned to the Council's prevailing strategic priorities. At the time of their adoption, these strategic priorities could be found in the council's Woking for All Strategy, the MTFs Guiding Principles 2024/25, the emerging Asset Management Strategy (within which the disposals strategy will be found) and in the Improvement and Recovery Programme.
- 1.5 The Commercial Protocol was developed with the support of Ethical Commercial.

2.0 Commercial Protocol

- 2.1 Attached at Appendix 1 is the Commercial Protocol.
- 2.2 The Protocol incorporates:
 - i. Scope
 - ii. Principles
 - iii. Objectives
 - iv. Risks
- 2.3 It is very important to note that adopting a commercial approach does not mean that every activity with which the Council is involved should be concerned with making a profit. That is not the Council's core purpose. However, taking a commercial approach does mean understanding the full costs of delivering a service or activity, the risks involved, and the impacts created - both good and bad.
- 2.4 Implementation of this Protocol will allow the Council to demonstrate it is fulfilling its Best Value duty (as it applies to the scope of this Protocol) in the follow terms:

- i. Having arrangements in place to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency, and effectiveness.
- ii. Consideration of economic, environmental, and social value impacts.

2.5 Continuous improvement will be demonstrated through the historic performance of commercial activities and assets through information such as business plans and periodic strategic reviews, which will test commercial activities and assets against alternative delivery models and uses.

2.6 The Commercial Protocol is due for review September 2024. Feedback from the Resources and Finance Scrutiny will inform this review and proposed updates to the protocol can be reported to a future meeting of the Committee.

3.0 Corporate Strategy

3.1 The application of a robust approach to performance management underpins the effective delivery of the functions that the Council provides, which in turn supports the objectives listed in the Corporate Strategy.

4.0 Implications

Finance and Risk

4.1 None arising from this report.

Equalities and Human Resources

4.2 None arising from this report.

Legal

4.3 None arising from this report.

Engagement and Consultation

4.4 None arising from this report.

REPORT ENDS



WBC Commercial Protocol

11th October 2023

Glossary

Term	Definition
Commercial Activity	An activity or activities that seek payment from another person or entity for goods, services, leases, licences, or other benefits provided, whether those activities are for profit or otherwise. The commercial activity may be provided by the council directly or by any other entity in which it has an interest. For example, limited companies with shares, companies limited by guarantee, charitable trusts and so forth.
Commercial Assets	<p>Commercial assets are, for the purposes of this protocol likely to be tangible assets but for completeness intangible assets are also included:</p> <ul style="list-style-type: none"> • Tangible commercial assets are physical assets that can be seen and touched. They include buildings, land, equipment, and inventory. • Intangible commercial assets are assets that cannot be seen or touched but have value. They include intellectual property, such as patents, trademarks, and copyrights.
Best Value	<p>From statutory guidance, Best Value authorities are under a general Duty of Best Value to “make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency, and effectiveness.”</p> <p>Under the Duty of Best Value, therefore, authorities should consider overall value, including economic, environmental, and social value, when reviewing service provision.</p>
WBC Companies Governance Framework	Is a practical guide for members and officers, and staff and board members of

	companies in which the council have an interest.
Fees and Charges	Sums levied for a range of council services, whether on a level set by statute, on a cost recovery only basis or at a level set within the council's discretion. These services are contained within the Commercial Activities definition.
MTFS Guiding Principles 2024/25	See Appendix B
Policies	Notwithstanding the strategic context, the council may wish to apply certain policy considerations to the application of this Protocol. For example, prioritisation of one or more of the financial, environmental, social or local economic impact areas.
Subsidy Control Act 2022	Is an Act that allows local authorities to give subsidies that are tailored to their local needs, and that drive economic growth while minimising distortion to UK competition and protecting our international obligations.

1. Purpose

- 1.1 The primary purpose of this Protocol is to ensure that commercial activities and use of commercial assets are demonstrably aligned to the Council's prevailing strategic priorities. At the time of writing, these strategic priorities may be found in the council's Working for All Strategy, the MTFS Guiding Principles 2025/25, the emerging Asset management Strategy (within which the disposals strategy will be found) and in the Improvement and Recovery Programme.
- 1.2 Many commercial activities and assets will link to other Council strategies. Where this is the case, those links will be clear and auditable.
- 1.3 It is very important to note that adopting a commercial approach does **not** mean that every activity with which the Council is involved should be concerned with making a profit. That is not the Council's core purpose. However, taking a commercial approach **does** mean understanding the full costs of delivering a service or activity, the risks involved, and the impacts created - both good and bad.
- 1.4 Implementation of this Protocol will allow the Council to demonstrate it is fulfilling its Best Value duty (as it applies to the scope of this Protocol) in the follow terms:
 - Having arrangements in place to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency, and effectiveness
 - Consideration of economic, environmental, and social value impacts
- 1.5 Continuous improvement will be demonstrated through the historic performance of commercial activities and assets through information such as business plans and periodic strategic reviews, which will test commercial activities and assets against alternative delivery models and uses.

2. Scope

- 2.1 The impacts and risks evaluation matrix in Appendix A will allow officers to determine whether or not a particular activity or asset is in the scope of the Commercial Protocol.
- 2.2 At this stage, this Protocol does not include procurement or contract management. However, future iterations of this Protocol will include both areas of activity, being a very significant area of the council's spend and service delivery. It will be a requirement of this Protocol that the [Sourcing Playbook](#) approach will be followed for procurement and the [Good Practice Contract Management Framework](#) published by the national Audit Office, or a similar model, will form the basis of the council's contract management approach.
- 2.3 In common with the requirements of the WBC Companies Governance Framework, this Protocol, where it applies, requires a 'comply or explain' approach. This allows

deviations from the Protocol where this can be justified as being in the interests of the Borough Council. Any deviations must be approved in advance by the Strategic Director, Corporate Resources and recorded for audit purposes. This record will also include the date of a review to ensure the deviation is still justified or that it is no longer appropriate or required. The reviews will also be recorded and reported to the Commercial Board.

- 2.4 All relevant commercial activities and assets will be reviewed against this Protocol on an annual basis to ensure they continue to comply with its requirements. Where an annual business plan is produced, the requirements of this Protocol will be considered as part of the business planning process.
- 2.5 Similarly, whenever the Council is carrying out delivery model assessments, the requirements of this Protocol must be followed if a commercial activity or asset is intrinsic to service delivery.
- 2.6 This Protocol also applies to asset disposals. The flow chart in Appendix D reflects the requirements of this Protocol as it applies to asset disposals.

3. Principles

- 3.1 Whilst evaluation of impacts and of risk are of critical importance, there are additional principles that the Council wishes to apply to commercial activity. These are:
 - (i) **A focus on core purpose and supporting the Council's priority outcomes:** Commercial activities must demonstrably contribute to improved outcomes for the people and communities the Council serves. Commercial investments or activities outside Woking, which cannot demonstrate a direct contribution to delivering the Council's strategies, will be avoided
 - (ii) **Compliance:** commercial activities must be consistent with statutory duties and the council's policies, strategies and constitutional requirements
 - (iii) **Commercial discipline:** commercial activities must demonstrate robust governance, performance management, financial performance and appropriate controls
 - (iv) **Governance and structures:** proportionate governance and structures to provide oversight of commercial activities and assets, and to support good, evidence-based decision making
 - (v) **Learning and risk management:** we will achieve a sensible balance of risk and opportunity across the Council's commercial portfolio, assess and manage performance robustly, and capture learning from commercial activities and assets
 - (vi) **Training and development:** specific training and development needs of both officers and members must be frequently reviewed to make sure appropriate

levels of competency are maintained for both groups to carry out their duties effectively

- (vii) **Sustainability:** at the outset, commercial activities need to demonstrate they are sustainable for the full period during which they are likely to be pursued.
- (viii) **Commercial activities and assets will be required to evaluate and forecast impacts** in the following areas:
 - a. Financial impacts for the Borough Council such as
 - i. Any investment required
 - ii. Revenue costs and returns over time
 - iii. Movement in net asset value over time (where applicable) and
 - iv. Impact on the local economy and local businesses
 - b. Environmental impacts such as
 - i. Net carbon dioxide emissions reduction / increase
 - ii. Changes to the natural environment through land use / enhancement including changes to biodiversity and habitats
 - iii. Changes to flood risks and
 - iv. Air quality impacts
 - c. Social impacts such as
 - i. Clear, demonstrable links to the delivery and support of the Council's core purpose and contribution to improved outcomes
 - ii. The number of individuals and communities in Woking impacted
 - iii. The number and magnitude of the impacts
 - iv. Equality, diversity and inclusion
 - d. Benefits to the local economy such as
 - i. Employment
 - ii. Skills and work-related training
 - iii. Transport
 - iv. Digital inclusion
- (ix) **Any new commercial activities or investment in assets, within the scope of this Protocol, will be required to produce a business case** and follow the HM Treasury Guide to Developing the Project Business Case, often referred to as the [five case model](#). This requires the following areas to be addressed, proportional to the scale of risks and impacts:
 - a. Provides strategic fit and is supported by a compelling case for change. This dimension of the five cases focuses on business planning and is the 'strategic case' section within the Project Business Case.

- b. Will maximise public value to society through the selection of the optimal combination of components, products and related activities. This dimension of the five cases focuses on options appraisal and the identification of the preferred option and is the 'economic case' section within the Project Business Case.
 - c. Is commercially viable and attractive to the supply side. This dimension of the five cases focuses on the development and procurement of the potential Deal and is the 'commercial case' section within the Project Business Case.
 - d. Is affordable and is fundable over time. This dimension of the five cases focuses on the whole life costs of the proposed Deal and is the 'financial case' section within the Project Business Case.
 - e. Can be delivered successfully by the organisation and its partners. This dimension of the five cases focuses on the implementation arrangements for the proposal and is the 'management case' section within the Project Business Case.
- (x) Decision making that flows from the implementation of this Protocol will be carried out in accordance with the council's Constitution. The Strategic Director, Corporate Resources has a duty to ensure that the requirements of this Protocol, the Companies Governance Framework and wider constitutional and legal requirements (as far as they apply to activity under her/his leadership) are observed. In practice, the Strategic Director, Corporate Resources will advise colleagues where requirements are not being observed or where there are concerns, with a view to resolving them.
 - (xi) The Commercial and Finance Governance Board holds the Strategic Director, Corporate Resources, to account for the delivery of this Protocol and acts as the gatekeeper for any commercial matters that will be taken to the Executive or full Council for decision or any other report. This includes procurement and contract management decisions and reports. This will ensure that the quality, depth and robustness of matters put in front of the Executive or full Council is sufficient to comply with both Public Law principles and the specific requirements of the council's constitution.
 - (xii) The Commercial and Finance Governance Board will have a rolling programme of work to provide assurance that all commercial activities are being managed in line with this Protocol.

3.2 Fees and Charges

3.21 Please refer to Appendix B, MTFs Guiding Principles 2024/25 and Appendix D, Fees and Charges Flowchart

3.21 As a minimum, in respect of all fees and charges levied for services provided by the council, the actual full costs of service provision need to be ascertained including fixed and variable costs, contribution to corporate overheads etc.

- 3.22 Taking the forecast revenues, a profit and loss (net) position can then be established for each service provided.
- 3.22 Taking the net position, whether positive or negative, the true costs of service delivery can be established and, when considered alongside the corporate strategic, environmental, social and financial impacts, a value for money position can be established.
- 3.23 As set out in paragraph 1.3, there is no expectation that all services or activities for which a fee or charge is levied will return a net profit. What is required is that the net costs of delivery are clearly understood, alongside the risks and impacts, and that this position demonstrably supports the Council's key strategic objectives and policies.

3.3 Council owned companies

- 3.31 Notwithstanding the requirement to follow the Companies Governance Framework, it is essential that the separation between the council and any companies it owns (in whole or in part) is understood and respected.
- 3.32 In practice, this means that the role of the council as client, shareholder and lender are managed separately and to avoid any conflicts of interest. See the Companies Governance Framework for more information.
- 3.33 Any proposed investment or effective subsidy of a council owned or part owned company *must* be cleared with Legal for implications arising from the council's obligations under the Subsidy Control Act 2022, and monitored thereafter. Periodic reports on Subsidy Control matters will be made to the Commercial and Finance Governance Board.

4. Objectives

- 4.1 The overall objective of this Protocol is to ensure and to demonstrate, transparently and openly, that the Borough Council's commercial activities and assets are aligned to its core strategic aims. This supported by the following enabling objectives:
- (i) That the strategic fit of commercial activities and assets is reviewed annually or whenever a significant change is proposed (see WBC Companies' Governance Framework section on Strategic Review)
 - (ii) To maintain a register of all commercial activities and assets to which this Protocol applies
 - (iii) To create and deliver a workplan of commercial Protocol reviews for all existing commercial activities and assets
 - (iv) To create a review process along with a process for addressing any non-compliance or shortfalls with the principles above

5. Risks and impacts

- 5.1 All commercial activities that are delivered by entities other than the council but in the council's ownership or control (eg limited companies etc) must comply with the WBC Companies' Governance Framework requirements on risk and, in the case of commercial activities or assets that are entirely within the Council (that is to say are not a separate legal entity), the council's Risk Management and Policy Framework must also be followed.
- 5.2 The approach to commercial risks must be balanced against potential opportunities and reward with an emphasis on being risk aware, not risk averse. Risks need to be managed continuously from the earliest conception of an idea for a project or opportunity and for all the time they are live. The Strategic Director, Corporate Resources will be responsible for overseeing the management of commercial risks.
- 5.3 In the case of novel commercial activities and assets, where performance or benchmark information is not available, a higher level of risk awareness is required.
- 5.4 The overall balance of risks across the portfolio of the Council's commercial activities and assets must also be considered in aggregate as well as individually. This is to ensure that exposure to common risks among the commercial activities and assets is understood and appropriately managed.
- 5.5 Similarly, the impacts of the commercial activities and assets should be considered in aggregate as well as individually. By doing so, the overall contribution to delivering the Council's strategic objectives can be understood.
- 5.6 The Strategic Director, Corporate Resources will report on aggregated risks and impacts on a quarterly basis to the commercial board.

6. Review

- 6.1 This Protocol will be kept under regular review every twelve months. The next review is due in September 2024.

7. Policies

- 7.1 The application of this Protocol will be carried out in accordance with any specific policies in place at the relevant time.
- 7.2 Policies will be appended to this Protocol.

Appendix A

Impacts and risks evaluation

Impacts and risk evaluation for:	Critical	Significant	Important	Not significant	Marginal
How important is this commercial activity or asset for the Council to achieve its strategic objectives?					
What financial impacts does this commercial activity or asset bring the Borough Council?					
What environmental impacts does this commercial activity or asset bring the Borough?					
What social impacts does this commercial activity or asset have on the Borough?					
To what extent does this commercial activity or asset impact the local economy?					
To how much risk does this commercial activity or asset expose the Borough Council?					

The full requirements of the Commercial Protocol will apply, on a comply or explain basis, to any commercial activity or asset that has either one or more critical or significant impacts or risks, or more than two important impacts or risks.

Those that have less than two important impacts or risks and no critical or significant risks, will be reviewed annually or when any significant change occurs.

Appendix B

The Guiding Principles

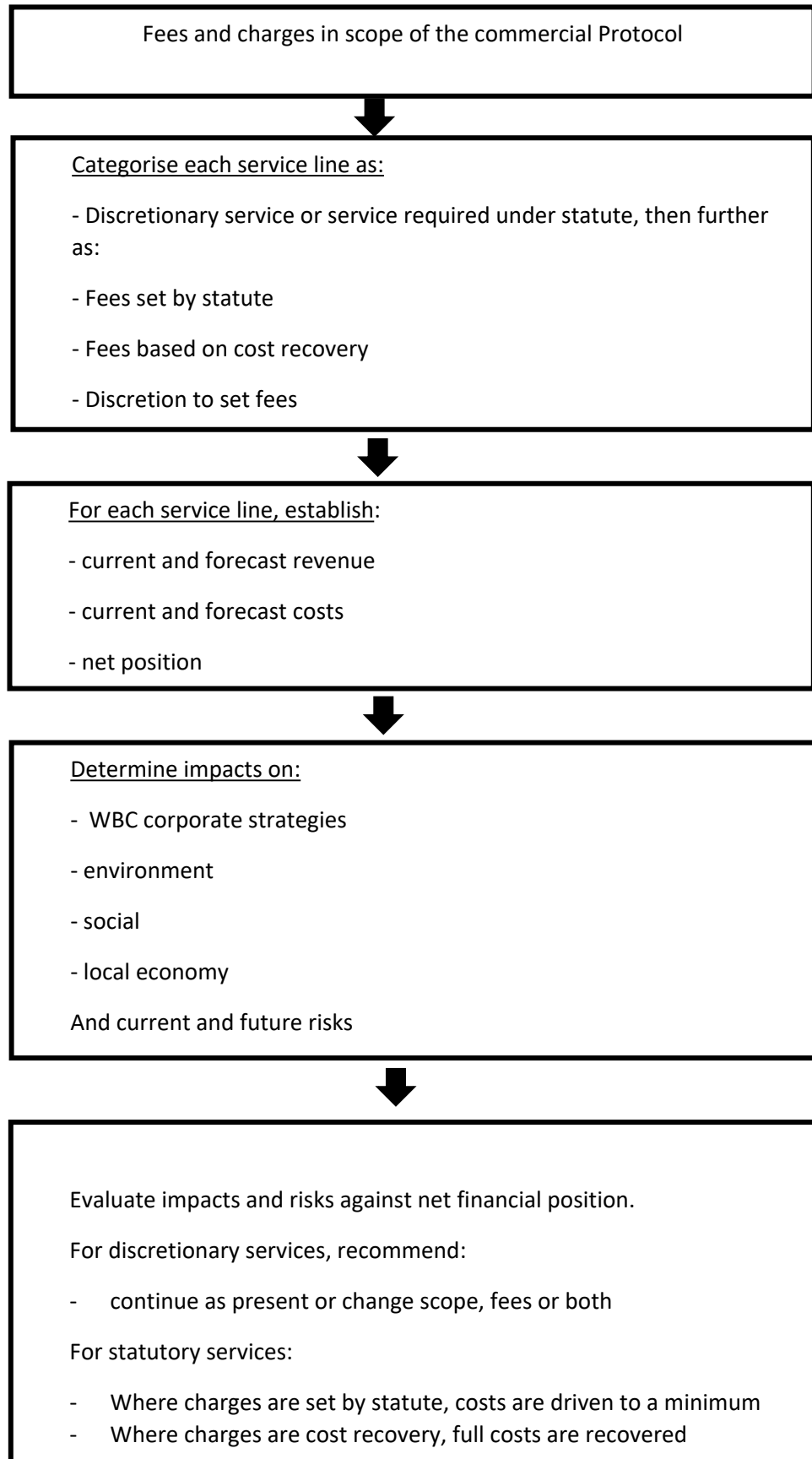
In undertaking its financial operations over the period of the MTFs the Council is recommended to adopt the following Guiding Principles ('The Principles'). The Principles are based on sound management and professional practice. They are presented as *Guiding* Principles because there may be occasions where – after careful consideration - the exigencies of strategic or operational management may necessitate from time to time a departure from the Principles.

No.	Guiding Principles
1	Fees & Charges will be reviewed annually and adjusted for inflation, comparability, and competitiveness.
2	As a compassionate Council, in setting charges, the impact on vulnerable groups will be considered carefully.
3	Service level spend will be benchmarked regularly with a suitable peer group and proposals to align with the benchmark will be brought forward.
4	The Council will adopt a policy of Digital First in service delivery but as a compassionate Council will be mindful of the risks of <i>digital exclusion</i> in doing so.
5	A rolling programme of Service Reviews launched as part of the <i>Budget Gateway</i> process will continue within the timeframe of the MTFs and will be used to ensure that operating models, organisational design and cost footprints are subject to regular review and adjustment across the Council.
6	Service developments, savings and investment will be brought forward on the basis of business cases that must demonstrate feasibility, deliverability, and appropriate financial pay back and other investment appraisal techniques.
7	The Council will consult with residents and other stakeholders in the Borough in forming budget proposals
8	Where business cases are prepared for decision a proactive approach will operate encompassing review in depth prior to such presentation; this will include rigorous application of investment appraisal techniques, peer review and use of the Scrutiny function to achieve searching review and challenge before business cases are adopted.
9	The Council will welcome approaches from regional and other partners for joint working and joint management initiatives.

10	The Council presently has a <i>negative</i> balance on the General Fund of £1.180 billion (7 June 2023 estimate). The Council will seek to rebalance the General Fund through (a) its own endeavours generally (b) a programme of property rationalisation and (c) with support to be sought from Government. In the long term the Council will seek to reach for Unearmarked Reserves at a level of 5% of Net Expenditure (i.e. £0.8m based on current core funding of £16m).
11	Given the financial position of the Council and the need to maintain key statutory services the Council will seek to maximise receipts from all funding streams including Council Tax and income over the period of the MTFS.
12	Growth in service budgets must be funded from (a) grants or other contributions, (b) realistic estimates of commercial income or fees and charges (c) or revenue savings. No other growth will be adopted into the Budget within the period of the MTFS.
13	Council will develop enhanced means of assessing and managing risks at both strategic and operational levels and these will be used to inform the annual Budget process.
14	The Council will seek to make Value for Money decisions and be mindful of its obligations to obtain best value for the 'public purse' generally.

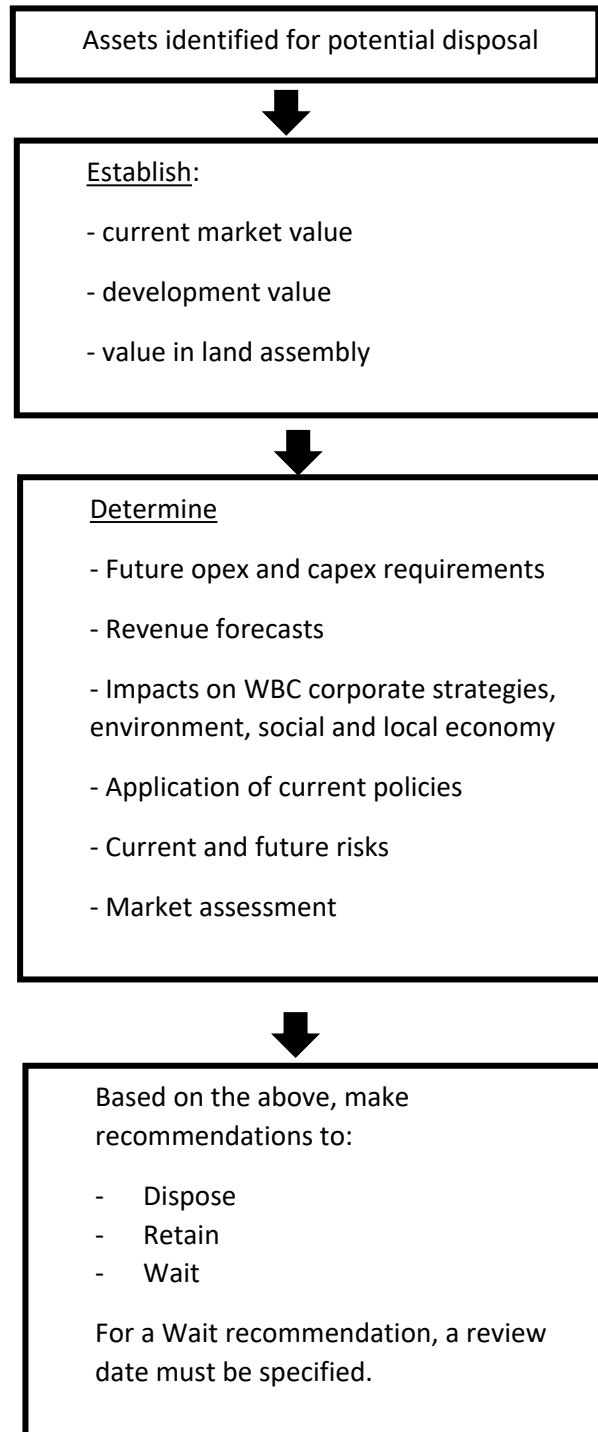
Appendix D

Fees and charges flow diagram



Appendix C

Asset disposals flow diagram



LEGACY ADJUSTMENTS TO THE HOUSING REVENUE ACCOUNT

Executive Summary

Attached to this cover report is the Executive report for the Legacy Adjustments to the Housing Revenue Account item, due to be received at the Executive on Thursday 12 September 2024, for the Committee to review.

Recommendations

The Committee is requested to:

RESOLVE That the report be noted.

The Committee has the authority to determine the recommendation set out above.

Background Papers:	None.
Reporting Person:	Stephen Fitzgerald, Strategic Director for Finance (Section 151 Officer) Email: stephen.fitzgerald@woking.gov.uk, Extn: 3480
Contact Person:	Benedict Falegan, HRA Specialist Accountant Email: benedict.falegan@woking.gov.uk, Extn: 3667
Portfolio Holder:	Councillor Dale Roberts Economic Development, Resources & Finance Email: cllrdale.roberts@woking.gov.uk
Date Published:	2 September 2024

LEGACY ADJUSTMENTS TO THE HOUSING REVENUE ACCOUNT

Executive Summary

The General Fund and Housing Revenue Account (HRA) 2024/25 budget reports advised that a review of the recharges between the General Fund and the HRA was underway. This report provides an update on this review against the assumptions made in the budget. This update includes details of discrepancies on the historic recharges made and outlines the adjustments required to correct the recharges.

This report also provides an update on the amount of interest the HRA is entitled to receive from the General Fund (GF) on its reserves and the impact of this on the 2024/25 reserves position.

Recommendations

The Executive is requested to:

RESOLVE That

- (i) the additional work since the setting of the budget identifying the further £782k reduction in historic recharges to the Housing Revenue Account (HRA) be noted;
- (ii) it be noted that this results in a cumulative adjustment of £2.9 million to the benefit of HRA reserves, improving the financial stability of the HRA;
- (iii) it be noted that an impact on the General Fund of £2.1 million was included in the 2024/25 budget and that the further impact of £782k can be covered by the Capitalisation Direction provisionally approved by the Government; and
- (iv) it be noted that the interest on balances of £460k will improve the HRA reserves and improve its viability. The impact on the General Fund can be covered by the Capitalisation Direction provisionally approved by the Government.

Reasons for Decision

Reason: To correct the historic accounting treatment of recharges and interest receipts debited and credited to the HRA, increasing the HRA reserve balance accordingly.

The Executive has the authority to determine the recommendation(s) set out above.

Legacy Adjustments to the Housing Revenue Account (HRA)

Background Papers: None.

Reporting Person: Stephen Fitzgerald, Strategic Director for Finance (Section 151 Officer)
Email: stephen.fitzgerald@woking.gov.uk, Extn: 3480

Contact Person: Benedict Falegan, HRA Specialist Accountant
Email: benedict.falegan@woking.gov.uk, Extn: 3667

Portfolio Holder: Councillor Dale Roberts
Economic Development, Resources & Finance
Email: clldale.roberts@woking.gov.uk

Date Published: 4 September 2024

Legacy Adjustments to the Housing Revenue Account (HRA)

1.0 Introduction

- 1.1 The Executive is asked to consider this report by the Section 151 Officer (Strategic Director of Finance) on the legacy and outstanding adjustments to be made to the HRA.
- 1.2 The HRA is an account separate from the Council's General Fund (GF) which is ring-fenced, by law, to be limited to expenditure purely on housing. The Council's GF covers the general services of the Council outside those specifically defined in the HRA.
- 1.3 The purpose of this report is to provide clarity to Members of the Council on events that have played out over a prolonged period that relate to the Housing Revenue Account and which have resulted in an understatement of the historic the HRA reserves and the viability of the HRA.
- 1.4 The work on the evaluation of the HRA recharges showed incorrect recharges of over £1.759m from the GF to the HRA. This is in respect of overheads wrongly charged to the HRA during the period 2019/20 to 2023/24. The total including the 2024/25 adjustments is £2.103m.
- 1.5 These included costs associated with a fuel cell at a leisure facility that did not serve HRA properties, plus other charges for health and wellbeing services, corporate transformation, corporate management, and support to Council companies and community development that were unrelated to the Council's social landlord function.
- 1.6 These led to a cumulative adjustment of £1.759m (including the fuel cell adjustments) from 2019/20 to 2023/24, the breakdown is shown in table 1 of Appendix 1. As part of the budget process, the 2023/24 amount, was adjusted in the budget monitoring, and now reflected in the HRA outturn position, so the amount to apply retrospectively is £1.379m.
- 1.7 Further work has shown an additional £782k of fuel cell recharges which were wrongly charged to the HRA between 2015/16 and 2018/19. The breakdown of this is shown in table 2 of Appendix 1.
- 1.8 The HRA is entitled to interest on the balances of its earmarked reserves and Major Repair Reserves (MRR) from the GF. A review of previous year's accounts shows that these amounts were not credited to the HRA.
- 1.9 The interest on balances calculation shows the HRA entitlement from the General Fund for the period between 2008/09 and 2022/23 of approximately £460k. The table in Appendix 2 provides a breakdown of the calculation. These figures are provisional and may be subject to changes if there are other adjustments between the GF and the HRA.
- 1.10 The incorrect HRA recharges and interest not credited to the HRA have had a negative impact on the HRA long-term viability, as showed in the latest update of the 30-year HRA Business Plan.
- 1.11 The legal advice to the Council, regarding the historical making of unlawful recharges from the GF to the HRA, confirmed that if the Council made the relevant corrections by crediting the HRA with the incorrect recharges, then there would not be a requirement to take additional action under section 114 of the Local Government and Housing Act (1988). This is because the rectification of the incorrect charge was already in process.

2.0 Background

- 2.1 The HRA is a ring-fenced account, which is governed by Section 75 of Schedule 4 to LGHA 1989. It must be maintained in accordance with "proper practices". These are described in Section 21 of the Local Government Act 2023.

Legacy Adjustments to the Housing Revenue Account (HRA)

- 2.2 Schedule 4 to LGHA 1989 specifies the income and expenditure items that may be recorded in the HRA. They are sums “in respect of” what can broadly be described as social housing.
- 2.3 Recharges to the Housing Revenue Account (HRA) were evaluated as part of the 2024/25 budget setting process. The review was retrospective and covered the period back to 2019/20, which is the last period of currently open (unaudited) accounts. The review was in two parts:
- (a) charges from the Management and Administration Accounts for staff time, staff resources, and overheads and
 - (b) charges for the HRA share of a fuel cell used primarily for Woking Park leisure centre and Pool in the Park, part of which were erroneously allocated to the HRA: there was no connection from the fuel cell to HRA properties.
- 2.4 The review of the fuel cell recharges was for the period between 2013/14 and 2023/24. There are neither invoice records nor information from ThamesWey (TW) for 2012/13 and previous years, and while it is possible that there were charges made to the HRA in these periods, there is no accounting evidence on which to reliably base any reallocation for these recharges. Table 2 in Appendix 1 provides the breakdown of the adjustments.
- 2.5 Although there are records from TW for 2013/14 and 2014/15, there were no invoices or records of payment of the invoices from the Council. Assumptions can be made from Integra records, combined with TW usage data to derive the figures. However, the calculation shows that the estimated adjusted charge for these two years on this basis would exceed those for later years, which does not seem reasonable.
- 2.6 The sums to be credited by the General Fund to the Housing Revenue Account under Item 8 of Part I of Schedule 4 to the 1989 Act should include interest on the notional HRA cash balances. The balances on which the HRA should have been credited with interest include: the Housing Revenue Account general reserve; the Housing Revenue Account Repairs Account; and the Major Repairs Reserve.
- 2.7 The review of the Council Accounts from 2008/09 to 2022/23 shows that the HRA has not received sufficient interest on its reserve balances.
- 2.8 Under the Local Government Act, the HRA budget cannot be set in deficit. The Council cannot set an unbalanced HRA budget, and it is good practice to maintain, at any time, a reasonable level of reserves within the HRA – a guideline target being around £500 per property.
- 2.9 Consultants from Housing Finance Associates were engaged to produce the 30-year HRA Business Plan. Their work has shown the HRA is viable if measures are in place to reduce revenue costs and streamline the HRA Capital Programme. The update of the business plan confirms that without these measures, the HRA reserves balance would be in negative territory from 2027/28 onwards.
- 2.10 The unlawful recharges have given rise to discussions amongst the Council’s statutory officers (Strategic Director for Finance, Monitoring Officer (MO), and Head of the Paid Service, under Section 4 of LGHA 1989), around whether it would be appropriate to consider the issuing of: -
- (1) By the Section 151 Officer, of a Report pursuant to Section 114(2) of LGFA 1988; and
 - (2) By the MO, of a Report pursuant to Section 5 of LGHA 1989.
- 2.11 Legal advice was sought by the Council as to whether the incorrect recharges identified above are unlawful as provided by S114 (2) (b) of the LGFA and, particularly in view of the historical nature of the recharges, and would require the S151 Officer and Monitoring Officer under a

Legacy Adjustments to the Housing Revenue Account (HRA)

statutory duty to consider issuing a S114 (2) LGFA report and/or a S5 LGHA report respectively.

2.12 The conclusions from the legal advice were:

- (1) that the incorrect recharges were unlawful, and a contravention of the HRA ringfence;
- (2) the Council owed and owes a duty to the general body of its HRA tenants to ensure reversal of the diversion of HRA funds;
- (3) This causes or would cause a loss or deficiency on the part of the GF;
- (4) That might trigger a Section 114(3) of LGFA 1988 Report.

2.13 However, the legal advice resolved that S114 and S5 reports will not be required once the Council had ceased to take a course of action, which would be unlawful and likely to cause a loss or deficiency to the HRA by correcting the issue through crediting the HRA, debiting the General Fund and making appropriate adjustments to the Accounts.

3.0 Financial Implications

3.1 The impact of the cumulative £2.9 million recharges adjustments on the HRA is to increase its level of reserves. The £2.1 million impact of the adjustment back to 2019 on the General Fund was included in the budget set at Council in March 2024.

3.2 The other £782k fuel cell adjustment now reported will have a financial implication on the General Fund budget, via the Capitalisation Directive (CD). A provision of up to £5 million was made in the CD for the HRA adjustment. The impact will be accounted for as part of finalising the Capitalisation Directive in the 2023/24 and 2024/25 accounts.

3.3 The impact of the cumulative £460k interest on balances to be credited to the HRA will increase its level of reserves. The impact on the General Fund will be considered as part of finalising the Capitalisation Directive in 2023/24 and 2024/25 accounts.

3.4 The table below shows the impact of the proposed amendments to the HRA reserves.

HRA estimated reserves - 2024/25 (£000)

HRA Reserves 2023/24 closing reserves**	-599
Fuel cells recharges adjustment 2015/16 to 2018/19	-782
Interest on Balances adjustments	-460
Transfer from reserves to fund overspends	505
HRA Reserves 2024/25 (closing)	-1336

** already including the recharges adjustments from 2019/20 to 2023/24

4.0 Conclusion

4.1 The adjustments detailed above will correct the historic recharges made to the Housing Revenue Account over the previous years and improve the HRA reserves balances.

5.0 Corporate Strategy

5.1 This report is designed to contribute to the proper financial management of the Council.

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6.0 Implications

Finance and Risk

6.1 The financial implications are in the body of the report.

Equalities and Human Resources

6.2 None.

Legal

6.3 The legal background is as set out in section 2 above and the Monitoring Officer has been consulted on and has agreed the contents of this report.

7.0 Engagement and Consultation

7.1 None

REPORT ENDS

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Appendix 1

Table 1 - breakdown of recharges incorrectly charged to the HRA.

Year	£'000
2019/20	292
2020/21	283
2021/22	286
2022/23	518
2023/24	380
Sub-total	1,759
2024/25	344
Total	2,103

(The fuel cells adjustment between 2019/20 to 2022/23 are included in the above figures)

Table 2 - Fuel Cells adjustments

(2019/20 to 2022/23) - included in Table 1 above.

Year	£'000
2019/20	242
2020/21	220
2021/22	224
2022/23	129
Total	815

(2015/16 to 2018/19)

Year	£'000
2015/16	193
2016/17	195
2017/18	185
2018/19	209
Total	782

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Appendix 2

Breakdown of interest on Balances not credited to the HRA.

Year	£'000
2008/09	1
2009/10	1
2010/11	6
2011/12	21
2012/13	24
2013/14	26
2014/15	34
2015/16	39
2016/17	9
2017/18	23
2018/19	36
2019/20	26
2020/21	(4)
2021/22	17
2022/23	201
TOTAL	460