



NOTICE OF MEETING

Meeting:	Overview and Scrutiny Committee
Date and Time:	Tuesday 20 April 2021 7.00 pm
Place:	Council Chambers
Enquiries to:	Committee Services committeeservices@hart.gov.uk
Members:	Axam, Davies, Dorn, Drage, Farmer, Lamb, Makepeace-Browne, Smith, Wildsmith, Worlock (Chairman) and Wright

Joint Chief Executive

CIVIC OFFICES, HARLINGTON WAY
FLEET, HAMPSHIRE GU51 4AE

AGENDA

This meeting is being administered under the provisioning of the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meeting) (England and Wales) Regulations 2020. The Provision made in this regulation applies notwithstanding any prohibition or other restriction contained in the standing orders or any other rules of the Council governing the meeting and such prohibition or restriction had no effect.

This Agenda and associated appendices are provided in electronic form only and are published on the Hart District Council Website.

1 MINUTES OF PREVIOUS MEETING (Pages 4 - 8)

The minutes of the meeting of 16 March 2021 are attached to be confirmed and signed as a correct record.

2 APOLOGIES FOR ABSENCE

To receive any apologies for absence from Members*.

***Note:** Members are asked to email Committee Services in advance of the meeting as soon as they become aware they will be absent.

3 DECLARATIONS OF INTEREST

To declare disclosable, pecuniary and any other interests*.

***Note:** Members are asked to email Committee Services in advance of the meeting as soon as they become aware they may have an interest to declare.

4 PUBLIC PARTICIPATION (ITEMS PERTAINING TO THE AGENDA)

Anyone wishing to make a statement to the Committee should contact Committee Services at least two clear working days prior to the meeting. Further information can be found at https://www.hart.gov.uk/sites/default/files/4_The_Council/Council_meetings/Public%20Participation%20leaflet%202020%20A4.pdf

5 CHAIRMAN'S ANNOUNCEMENTS

6 PRESENTATION BY BERKELEY ST EDWARDS

This is a presentation on employment and skills work by Berkeley St Edwards at Hartland Village by Liza Smith who is the Employment and Skills Manager.

7 SERVICE PERFORMANCE - HEADS OF SERVICE ATTENDANCE

Head of Place to attend to discuss service performance.

8 MINUTES FROM THE MULTI-AGENCY FLOODING GROUP (Pages 9 - 13)

Minutes of the meeting held on 22 March 2021 to be noted.

9 WASTE MANAGEMENT CONTRACT (Pages 14 - 109)

The Chairman to brief Committee Members on the attached appendices which were considered by Cabinet on 1 April 2021. *Appendix G is exempt.*

10 HART HOUSING PROPERTY MANAGEMENT COMPANY LTD: INITIAL DRAFT BUSINESS PLAN (Pages 110 - 138)

The Council has agreed to set up a wholly owned company limited by shares to hold and maintain residential assets procured by the Council for commercial return purposes. This report deals with the draft business case and seeks Committee's input.

RECOMMENDATION

Committee is invited to consider the draft Business Plan attached at Appendix 1 and to forward its views to Cabinet. The areas specifically highlighted in yellow in the business plan are particularly recommend for discussion.

11 MODERN.GOV (Pages 139 - 141)

This report is to update the Committee of the ongoing implementation and bringing into use the new committee management system (Modern.gov).

RECOMMENDATION

This report contains no recommendation as the report is an update for information only.

12 CHAIRMAN'S ANNUAL REVIEW OF THE WORK OF THE COMMITTEE (Pages 142 - 149)

To review the work of Overview and Scrutiny Committee over the past year 2020/21.

13 CABINET WORK PROGRAMME (Pages 150 - 155)

The Cabinet Work Programme is attached for information.

14 OVERVIEW AND SCRUTINY WORK PROGRAMME (Pages 156 - 161)

To consider and amend the Overview and Scrutiny Work Programme.

Date of Publication: Monday, 12 April 2021

OVERVIEW AND SCRUTINY COMMITTEE

Date and Time: Tuesday 16 March 2021 at 7.00 pm

Place: Council Chamber, Committee Rooms One and Two

Present:

Worlock (Chairman), Axam, Davies, Dorn, Drage, Farmer, Lamb, Smith, Wildsmith, Wright and Delaney

In attendance:

Officers: Elson, Phillips, Jaggard, Carpenter and Grist

112 APOLOGIES FOR ABSENCE

Apologies received from Councillor Makepeace-Browne who was substituted by Councillor Delaney.

113 MINUTES OF PREVIOUS MEETING

The minutes of the meeting of 16 February 2021 were confirmed and signed as a correct record.

114 DECLARATIONS OF INTEREST

Cllr Forster declared a non-prejudicial interest on item 9 on the Agenda, as a Hampshire County Councillor.

115 PUBLIC PARTICIPATION (ITEMS PERTAINING TO THE AGENDA)

None.

116 CHAIRMAN'S ANNOUNCEMENTS

None.

117 PRESENTATION BY THE 2021 CENSUS TEAM

Jeremy May the Census Engagement Manager from the Office of National Statistics attended to present the implementation of the 2021 Census. The presentation explained how the Census is a snapshot of a time in society covering housing, healthcare, education, and transport and 2021 being the first year that the Census is done digitally. Members were advised how The Office of National Statistics has been raising awareness of the Census using local news, radio and local authorities covering deadlines, support centres and field staff help that is available.

Members were informed that the Census media has expressed that invitations are by letter only and that if any Hart residents had not received an invitation letter, they should get in touch with the Census Contact Centre. The Committee had concerns with Census scams and were rest assured that all Field Officers will carry a unique ID number when making door to door contact. All data collected would be checked and validated over the following year for accuracy and kept anonymous for 100 years.

118 TO NOTE SECTION 4 OF THE MINUTES OF 2ND MARCH CLIMATE CHANGE WORKING GROUP MEETING – UPDATE ON CLIMATE CHANGE ACTION PLAN

The Committee were updated on the action plan from the Climate Change Working Group and the Council's corporate objective to build pathways to net zero omissions. As there is no budget at present for funding the actions it was suggested that the action plan is incorporated as a consideration into service plans.

The Working Group is working on making conscious decisions on how best to achieve carbon efficiencies and its long term plan.

Members asked for clarification on:

- Energy efficient waste vehicles being trialled by Serco in urban areas.
- Working closely with Everyone Active to minimise emissions.
- Specific targets with firm dates.

119 SERVICE PERFORMANCE - HEADS OF SERVICE ATTENDANCE

The Head of Environment and Technical Services, John Elson, attended to discuss service performance and highlighted the resilience of staff working through three lockdowns, and how Hart has continued to deliver all services in accordance with agreed Key Performance Indicators (KPIs). New areas being focused on are supporting the COVID-19 response team with lateral flow testing and the Climate Change Working Group.

Focus was made on the success of the Edenbrook bike track, continued work on the potential transfer of the Joint Waste Client Team arrangement, and CCTV service. After requests, Mr Elson agreed to circulate links to the joint waste client team report on our website.

Councillors thanked Mr Elson for his comprehensive summary update and thanked him for the hard work and support of his team.

ACTION

The Head of Environment and Technical Services to circulate to Members the link to the draft FUTURE ARRANGEMENTS FOR THE JOINT WASTE CLIENT TEAM AND INTER AUTHORITY AGREEMENT report.

[Joint Waste Contract Cabinet ReportApril21v2_0.pdf](#)

120 FLEET ROAD PEDESTRIANISATION

Members noted the costs incurred by the Council in implementing and then securing the removal of the Fleet Road pedestrianisation scheme. The Chief Executive explained that the report is a factual statement of costs incurred. The report was not intended to be a commentary on the merits of the scheme or how it was implemented and then removed. The report was for noting only.

Members discussed:

- Officer's time to be included in the costs with assistance from the Section 151 Officer.
- Funding from the Reopening High Street Grant of £86K from the MHCLG used for bay closures and social distancing.
- Further clarification of the provisional costs was requested, and these will be sent out by the Joint Chief Executive.
- The EM3 LEP withdrawal of its funding as the scheme was withdrawn early (but Officers renegotiated £24K which has been agreed).
- The M3LEP funding for the Fleet Town Centre to Fleet Station cycle scheme was also lost when the Fleet Road pedestrianisation was withdrawn.
- Traffic monitoring and management costs were made by HCC and paid directly by County Council and these are going towards the department of transport project costs.
- Confirmation was given that Fleet Town Council and Fleet Bid both contributed £10K but that these contributions would not now be pursued.
- Competitive process selection was carried out for suppliers and local companies were used where possible within timescales available.
- The large planters have been given to Fleet Town Council for a contribution of £5K.
- The Chairman requested that the original motion to the September 2020 Council be append to these minutes.
- HCC incurred the costs of the Traffic Management for the scheme which are not included.

ACTION

- (i) The Joint Chief Executive to circulate a note to the Committee and reconcile the detailed costs with previous transparency reports.
- (ii) The original motion to the September 2020 Council be appended to these minutes

121 DRAFT SERVICE PLANS 2021/2022

Overview and Scrutiny Committee considered the draft Service Plans for 2021/22 as set out in Appendix 1, having regard to the agreed Budget for 2021/22 and made the following recommendations to Cabinet as appropriate.

Members asked for clarification on:

- The Uniform Project, which is a database run by the data team as a background system for planning, licensing, and environmental health to ensure work is done in the most effective way.
- Winchfield updating their Neighbourhood Plan.

DECISION – Recommendation to Cabinet

That, subject to more detailed information being provided in the resourcing charts for both Place and Environmental & Technical Services, the draft Service Plans 2021/2022 be adopted by Cabinet.

122 DRAFT ENVIRONMENTAL HEALTH & LICENSING ENFORCEMENT PLAN

The Committee considered and reviewed the draft Environmental Health & Licensing Enforcement Plan.

RECOMMENDATION

That the draft Environmental Health & Licensing Enforcement Plan was endorsed for adoption by Cabinet.

123 HART DISTRICT COUNCIL EQUALITY OBJECTIVES 2021 - 2023

Members were presented with highlights of the progress made against the Council's Equality Objectives 2017-2021 and the Overview and Scrutiny Committee's comments were requested on the proposed Equality Objectives for 2021-23.

RECOMMENDATION

That, subject to any suggested amendments, Overview and Scrutiny Committee recommended to Cabinet the adoption of the Equality Objectives for the period 2021-2023.

124 QUARTER 3 PERFORMANCE REPORT - 2020/21

Members were updated on the Council's performance indicator results for the third quarter of 2020/2021 (1 October 2020 – 31 December 2020). The report was for noting only.

Members asked for clarification on:

- Trend indicators to be consistent with a requirement for benchmarks and targets across KPIs.
- Confirmation was given that we will meet legal requirements for audit purposes for 2021.
- H02 and H04 increase noted.
- ET04 rise in complaints for littering.
- KPIs and measurable outcomes to be scrutinised. Request to set up a cross party working group for KPI targets.

ACTION

A small informal cross party working group of Committee be set up to review the number and purpose of KPIs.

125 CORPORATE RISK REGISTER

As part of the Council's governance framework, it is essential that it identifies and manages risk that it is exposed to. Members were asked to review the Corporate Risk Register which is reviewed by management on a regular basis and reported to members to provide assurance that appropriate arrangements are in place to mitigate identified risks. The report was for noting only.

126 CABINET WORK PROGRAMME

The Cabinet Work Programme was considered and the draft Environmental Health & Licensing Enforcement Plan to be added to April.

127 OVERVIEW AND SCRUTINY WORK PROGRAMME

The Overview and Scrutiny Work Programme was considered and noted, and Members were advised that there will be a presentation on employment and skills work by St. Edwards, Hartland Park at next months' meeting and all Councillors were encouraged to attend.

ACTION

Subject to any final report to Cabinet in April on possible changes to the Joint Waste Contract, Members of the Committee will be asked to provide written comments to the Chairman so that the Chairman can convey the views of Committee to Cabinet.

The meeting closed at 9.56 pm

Minutes of the Meeting of Thames Water, Environment Agency, Hampshire County Council with Hart District Council Members

22 March 2021 at 2pm

Present:

Hart Councillors: Axam, Dorn, Forster (part), Makepeace-Browne, Oliver, Quarterman, Southern, Tomlinson, Worlock (Chairman).

Hampshire County Council (HCC) Cllrs. Bennison, Collett, Glen.
Susanna Hope

Thames Water Utilities: (TW) Carley Mason, Sarah Edmunds, Nikki Hines

Environment Agency: (EA) Neil Landricombe, Brian Roberts

Hart District Council (HDC): Philip Sheppard, Celia Wood

1. Apologies for Absence

Apologies had been received from Councillor Wildsmith (HDC), Sarah Reghif (HCC) and Keith Thompson, Highways Manager HCC.

2. Minutes and Action Table of 12 October 2020

There were two typing errors noted on the Action Table for Naishes Lane and Taylor Wimpey. With these amendments, the minutes for 12 October 2020 were approved.

The Chair welcomed Susie Hope back to the meeting with thanks to Hampshire County Council for enabling her to join and help in the transition phase as her replacement is not in post yet.

Action Table – items that were completed in October have been removed from the table and there are 4 new items:

- 2) Steering group for Fleet and Sandy Lane Ditch – ongoing.
Neil Landricombe introduced Brian Roberts who gave an update on the Fleet project work in the general update from the EA. Meetings have taken place and this has evolved further, not so much of a steering group now.
Yateley area – status update given later on Blackwater hydraulic remodelling and any project work will take in the Blackwater catchment to include Yateley. Discussions with Councillors are welcome if they wish to be involved with updates.
- 39) Crookham Park/Naishes Lane (HCC lead with HDC) – (SH) – HCC surveyed all of the stretches of water courses in the area (nearly 40 structures) and have gathered 3rd party information of direct observations during wet weather. Have received an update from Hart but not the Parish – if there is evidence it would be useful to have that information (SH and Cllr Bennison to discuss outside of the meeting).
- 44) Planning not able to attend today. PS (action) - to ask Planning to attend the Autumn meeting.

- 45) Processes, difficulties and potential strengthening of Flood and Water Management Act powers (HCC) – no update for this meeting but will be followed up by SH with VW. If it is not possible to get an update, this will be reviewed and closed off if no longer relevant. Noted that there is a lot of information on the HCC website however it is important to understand how to get things determined and actioned by the correct parties.

HCC to do a presentation at the next meeting of 11 October. SH (action) to send information on the HCC website to committee members ahead of that meeting.

- 48) Defer to Agenda item 7.
- 51) To make 101 aware of the Hart sandbag procedures – PS (action) to chase. Suggested educational campaign to raise awareness for people who think their property may be vulnerable to flooding – Hart District Council website to be refreshed (PS).
Also use social media (press release) to get the message across with local publications and bulletins.

- 53) Fleet FAS next consultation meeting - update from Brian Roberts (EA):

We have moved on from May 20 despite Covid-19 and have appointed a consultant (JBA) but Covid-19 has delayed some things mainly in the transfer of information and setting up partner meetings to explore concerns and consider options. There is a long list of options and EA is in the process of completing a review with information to complete the analysis for feed back to the consultants. Options will be narrowed down to provide a shortlist to be shared with partners at a second meeting in May/June.

Next stage of the business case will be presented Autumn 2021. Further meetings can be set up with PS to discuss with Councillors.

Plans produced from workshops identifying significant locations will be shared with Councillors. (BR action).

- 54) Taken under item 5.1 for update.
- 55) Webbs corner - update from Keith Thompson (HCC):

Phase 1 – the works at Webbs Corner is nearly complete.
Phase 2 – CCTV survey has been undertaken in The Street and at the east end of Warbrook Lane. Currently assessing the survey information to identify potential options to distribute flows to the various outfalls to Long River.

When the survey of existing network has been completed, the way forward will be discussed with PS and the Parish Council.

- Cllr Southern requested that the information goes out to the Parish Clerk due to some of the urgent work that is required in the area.
- Cllr Collett requested the same for the local County Councillor (PS action).

3. Impact of Recent Storms

No update.

4. Planning Applications (how to avoid flooding around new developments)

Planning to be invited to the October meeting (PS action).

5. STATUS UPDATES

5.1 Environment Agency (NL)

[a] Forward Programme & Existing Projects – EA has requested a small amount of funding for Griffin Stream (Hook) and Mill Lane (North Warnborough) to gather existing information and conduct a desktop study. Also aware of other areas within Hart ie Crondall that will fall under the Blackwater catchment for hydraulic remodelling programme. Currently EA do not have the resources to do Crondall until 2022.

[b] Modelling Programme – current modelling is from 200,7 remodelling will be based on updated hydrology focusing on Blackwater catchment – this will take about 18 months. The reason for this is that EA is coming to the end of a 6-year cycle and there is now the opportunity to add schemes in the next 6-year cycle.

[c] Flood Risk Management Plans – strategic document looking at measures to reduce flood risk. Consultation was intended for late summer but has been pushed back to October 2021. Anyone wishing to read up about the plans they are available on the Gov.uk website.

NL to share a list of works setting out all the areas EA are dealing with.

Action (NL) - send to PS to circulate to committee members.

Members expressed some concern about the performance of the EA and the updates given which they considered to be more on analysing data rather than action on issues.

5.4 HDC projects - Mill Corner, Phoenix Green and Kingsway. (PS)

The schemes are on hold until the new financial year and new Flood Risk Management Officer is in post.

Still awaiting approval from EA on the business case for Kingsway. EA have assured approval is on its way. Once that approval is given Hart can access the money needed for the next stage.

The committee noted the interruption caused by Covid-19 Pandemic and SH leaving HDC, which had put a strain on resources and slowing up some of the projects. However, with the ease of lockdown the situation will improve. Awaiting formal confirmation of acceptance of the post for the replacement for SH who will be in post by the end of April.

The replacement will be present at the Parish Flood Forum 7 September and Multi-agency meeting 11 October.

- 5.5 HCC projects:
[a] Highway Authority (HCC) – Webbs corner already updated and notes taken on Warbrook Lane.
- 5.6 Local Flood and Water Management Strategy HCC (SH) – HCC have recently revised and updated the strategy and published in November 20, now working on 18 catchment plans set under the strategy identifying which areas have the highest risk and producing a management plan for managing the risk in those areas.

As well as Hart, the strategy covers Farnborough and Rushmoor – working through in priority order and when completed will get published. When completed, HCC will advise which plans are available for examination.

- 5.7 TW projects: (SE)
[a] Surface Water Management Plans
This is now a programme of projected works for the next 5 years and includes a scoring for prioritisation with the focus more on strategic partnerships across the region. Currently, this is taking time to get up and running. Ongoing.

[b] Drainage and Wastewater Management Plans
These are industrywide plans so sessions are being held around prioritising at the options stage. Output of all this set of potential options should solve some of the challenges posed by climate change over next 25 years.

TW will share the public portal link, as part of the meeting minutes that explains further identification of some of the key catchments being looking at. Working to a time frame of having our drainage and wastewater plans completed in draft format consultation by the summer of 2022.

Ground Water Impacted System Management Plans (GWISMP) – update:

3 infiltration loggers installed in Crondall in November 2020 to capture the wet weather conditions - results are due to be published on TW website by 31st August. Phase 1 plans are already complete and published and a link will also be sent with these minutes as an example, because the Crondall plan will follow in the same format.

Note: Thames Water representatives (CM and SE) to liaise with Cllr Dorn offline on information on Crondall GWISMP.

6. Update on Parish Flood Forum (HDC)

The format for the Forum is proposed to be held on TEAMS with break out rooms, should restrictions for Covid19 still be in place. Instructions will be sent in plenty of time with a phone number for clarification if required. Please note date:

Next meeting date: Tuesday 7 September 2021 (afternoon).

7. Forward Water Situation (EA & TW)

EA: Over winter the levels were high, dropping down now. Levels will continue to reduce, moving into Spring and Summer. In the absence of a Met Office long range forecast, it is anticipated that the levels will remain manageable.

TW: (NH) Reflected EA comments.

8. Any Other Business

PS - Ground Water Management Plans – updates to be included future meetings.

AC – sought reassurance that the flooding in gardens of residents in Frys Lane has been resolved. CM reported that there have been no reports of incidents since October 20.

TS – Phoenix Green flood remediation progress – PS confirmed this is on hold, until the new Flood Engineer is in post at Hart.

9. Date of Next Meeting

Next meeting will be on Monday 11 October 2021 at 2pm.

As normal with the minutes, there will be a post-meeting note added for the responses of the various agency partners.

Meeting ended 3:46pm



Basingstoke
and Deane



working together

DATED

2021

BASINGSTOKE AND DEANE BOROUGH COUNCIL (1)

and

HART DISTRICT COUNCIL (2)

INTER-AUTHORITY AGREEMENT

relating to the Provision of Household
Waste Collection and Recycling Services

Fiona Thomsen, Solicitor
Head of Law & Governance and Monitoring Officer
Shared Legal Services
Basingstoke & Deane Borough Council and Hart District Council
Civic Offices
London Road
Basingstoke
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INTER-AUTHORITY AGREEMENT

DATE

2021

PARTIES

- (1) **BASINGSTOKE AND DEANE BOROUGH COUNCIL** of Civic Offices, London Road, Basingstoke, Hampshire, RG21 4AH ("**BASINGSTOKE**"); and
- (2) **HART DISTRICT COUNCIL** of Civic Offices, Harlington Way, Fleet, Hampshire, GU51 4AE ("**HART**")

IT IS AGREED AS FOLLOWS:

RECITALS:

- (A) BASINGSTOKE and HART (the 'Parties') are the waste collection authorities for their respective administrative area under section 30(3) of the Environmental Protection Act 1990.
- (B) The Parties entered into an Inter-Authority Agreement dated 15th February 2012 (the 'Previous Inter-Authority Agreement') for the purpose of providing joint arrangements for the management of an economic, efficient and effective joint household waste and recycling collection service.
- (C) The Parties have decided to continue their joint arrangements and, following a procurement process carried out in pursuance of contract notice 2017/S 017-027595 published on 25th January 2017 in the Official Journal of the European Union, have entered into the Collection Contract for the provision of a joint household waste and recycling service.
- (D) The Parties have further agreed:
 - (i) to provide an interest free finance facility to the Collection Contractor, via the Vehicle Loan Agreement, to cover its cost of purchasing new vehicles (to be used exclusively to operate the Services) prior to the Commencement Date. The proportions in which the Parties provided such finance are set out in **Schedule 2**;
 - (ii) to enter into this Agreement for the purpose of regulating their respective rights and obligations to each other as a consequence of the joint arrangements for the management of a joint household waste and recycling service; and
 - (iii) that BASINGSTOKE will replace HART as the Administering Authority for the purposes of this Agreement, the Principal Contracts and the Vehicle Loan Agreement.

- (E) HART has agreed to delegate to BASINGSTOKE its statutory functions in relation to the collection and recycling of waste.
- (F) The Joint Governance Group [and Partnership Board] shall oversee the strategic performance of this Agreement.

I. DEFINITIONS AND INTERPRETATION

I.1 In this Agreement unless the context otherwise requires:

"Administering Authority"	means Basingstoke and Deane Borough Council;
"Agreement"	means this agreement (including its schedules);
"Annual Budget"	means the annual budget of the Joint Waste Client Team for a Financial Year, as set out in Schedule 5 , as approved or amended by the Parties for each year in accordance with clause 12 and Schedule 5 ;
"Business Day"	means a day (other than a Saturday, Sunday or Bank Holiday) on which banks are open for domestic business in the City of London;
"CEDR"	means the Centre for Effective Dispute Resolution;
"Chief Executive"	means the Chief Executive or Joint Chief Executive or the head of paid service of either of the Parties;
"Collection Contract"	means the contract for the provision of household waste and recycling services for the local authority areas of Basingstoke & Deane and Hart in the County of Hampshire dated 26 th April 2018 between Hart (1) and the Collection Contractor (2), as novated by the Novation Agreement dated [date] 2021 between Hart (1); the Collection Contractor (2); and Basingstoke (3)
"Collection Contractor"	means Serco Limited (or such other contractor as may be appointed under the terms of the Collection Contract from time to time);
"Commencement Date"	means the date of this Agreement;
"Confidential Information"	means all know how and other information whether commercial, financial, technical or otherwise relating to the operations, affairs or methods of both or either party which is contained in or discernible in any form

	whatsoever (including without limitation software, data, drawings, film, document, and computer readable material) whether or not marked or designated as confidential or proprietary or which is disclosed orally or by demonstration and which is described at the time of disclosure as confidential or is clearly so from its content or the context of disclosure;
“Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures”	have the meaning assigned to them in the Data Protection Legislation;
“Data Protection Legislation”	means UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party;.
“Domestic Law”	means the law of the United Kingdom or a part of the United Kingdom;
"EIR"	means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such regulations;
"EPA 1990"	means the Environmental Protection Act 1990;
"Financial Year"	means a calendar year commencing on 1st April in any year;
"FOI Act"	means the Freedom of Information Act 2000 and any subordinate legislation (as defined in section 84 of the Freedom of Information Act 2000) made under the Freedom of Information Act 2000 from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such Act;

“[Relevant Senior Officer]”	means [title of senior Basingstoke officer] – <i>role currently performed by Hart’s Head of Technical Services & Environmental Maintenance;</i>
"Joint Waste Client Team" or "JWCT"	means the group of officers employed by the Administering Authority appointed from time to time pursuant to clause 8 ;
“Joint Governance Group” or “JGG”	means the group formed in accordance with and having the roles and responsibilities set out in clause 9 ;
“Law”	the laws of England and Wales and (where applicable) the European Union and any other laws or regulations, regulatory policies, guidelines or industry codes which apply to the provision of the Services or with which the Parties must comply;
"LGA 1972"	means the Local Government Act 1972;
"Material Change"	means a change proposed to this Agreement which either of the Parties (acting reasonably) considers to be a material change to the nature or operation of the rights and obligations of the Parties (including a change which has a material impact on the scope or the cost of the services provided under the Principal Contracts) and which it considers must be subject to approval by elected members of the Parties;
“Materials Recovery Facility” (MRF)	means the Materials Recovery Facility at Alton that separates all the dry mixed recyclables (newspapers, magazines, plastic bottles, tins and cans) that are collected from the kerbside, and which also provides specialist sorting processes to segregate the materials before they are baled up and sent to private companies for recycling.
"Monitoring Officer"	means the Monitoring Officer of the Administering Authority;
"Parties"	means together BASINGSTOKE and HART;
“Payment Date”	means the date upon which HART is required to make a payment to the Administering Authority in accordance with clause 12.3 and Schedule 5 ;
“Performance Board”	means ...[details to be added]?
“Previous Collection Contract”	means the contract for the provision of household waste and recycling services covering the period 3 rd October 2011 to 30 th September 2018

	(as amended) entered into by the Administering Authority on behalf of the Parties and Veolia Environmental Services (UK) Plc;
"Principal Contracts"	means the Collection Contract and any contracts replacing such contracts and such other contracts as the Administering Authority may administer from time to time on behalf of the Parties;
"Prohibited Act"	<p>means:</p> <ul style="list-style-type: none"> (a) offering, giving or agreeing to give to any servant of the Parties any gift or consideration of any kind as an inducement or reward: <ul style="list-style-type: none"> (i) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement or the Principal Contracts; or (ii) for showing or not showing favour or disfavour to any person in relation to this Agreement or the Principal Contracts; (b) entering into this Agreement or any other contract with either of the Parties or other public body relating to this Agreement in connection with which commission has been paid or has been agreed to be paid by either of the Parties or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the other party; (c) committing any offence relating to this Agreement or the Principal Contracts: <ul style="list-style-type: none"> (i) under the LGA 1972; (ii) under the Bribery Act 2010; (iii) under legislation creating offences in respect of fraudulent acts; or (iv) at common law in respect of fraudulent acts in relation to this Agreement or any other contract with HART; or

	(d) defrauding or attempting to defraud or conspiring to defraud the Parties in relation to this Agreement or the Principal Contracts;
“Quarter Months”	means the months of March, June, September and December;
"Review Report"	means a report of a review referred to in clause 17.3 ;
“Scrutiny Arrangements”	means the arrangements set out in the constitutions of BASINGSTOKE and HART governing the roles and responsibilities of their respective Overview and Scrutiny Committees;
“Service Credit”	means the sums attributable to a Service Failure as specified in Schedule 3 , Part 3, of the Collection Contract;
“Service Failure	means a failure by the Collection Contractor to provide services in accordance with the terms and conditions of the Collection Contract;
“Service Level Agreement”	means the service level agreement set out at Schedule 1 (as amended by the Parties from time to time)
"TUPE"	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended from time to time;
“UK Data Protection Legislation”	Means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.
"VAT"	means value added tax;
“Vehicle Loan Agreement”	means the Vehicle Loan Agreement dated 10th October 2018 made between HART and the Collection Contractor, a copy of which is annexed at Schedule 4 ;
[“Waste & Recycling Manager”]	[currently Hart’s Waste & Recycling Manager responsible for managing the Joint Waste Client Team];

1.2 Interpretation

1.2.1 In this Agreement (unless the context requires otherwise):

- (a) references to clauses and schedules are to the clauses and schedules of this Agreement. Any reference to a sub-clause is to the relevant sub-clause of the clause in which it appears;
- (b) the table of contents and headings are not part of this Agreement and are not to be taken into account in the interpretation of this Agreement;
- (c) the use of the masculine gender alone includes the feminine and neuter genders and the singular includes the plural and vice versa;
- (d) references to legislation (including subsidiary legislation), determinations, and directions include all amendments, replacements, or re-enactments thereof and all regulations, determinations, directions and statutory guidance made or given under them save that the treatment under this Agreement of any such amendment or modification that imposes any new or extended obligation or liability adversely affecting the parties or any of them shall be determined by the Joint Governance Group, provided that where either of the Parties (acting reasonably) considers such amendment or modification would result in a Material Change, the amendment or modification shall require the approval of that party;
- (e) any reference to a requirement for "consent" or "approval" shall be taken to be the prior written consent or approval of the relevant person or body;
- (f) the terms "including" and "in particular" are illustrative only and are not intended and shall not limit the meaning of the relevant words that precede them;
- (g) the term "persons" means individuals, companies, industrial and provident societies, limited liability partnerships, statutory bodies, or other bodies with a legal personality and includes H.M. Government, government departments, and the European Union and its constituent parts; and
- (h) the Schedules to this Agreement are to have effect as if set out in full in the body of this Agreement and references to this Agreement include the Schedules.

1.2.2 The principles set out in this **clause 1.2** shall be borne in mind and applied so far as appropriate in the interpretation of this Agreement and in the resolution of any disputes under this Agreement.

2. POWERS AND DELEGATION

2.1 The Parties have entered into this Agreement pursuant to the provisions of sections 101, 102 and 113 of the Local Government Act 1972 and sections 9EA and 9EB of the Local Government Act 2000, together with Section 1 of the Localism Act 2011, the supporting provisions within section 111 of the Local Government Act 1972 and all other relevant enabling powers.

- 2.2 The Parties recognise that nothing in this Agreement shall prejudice or prevent them carrying out their individual statutory duties and responsibilities as waste collection authorities or restrict the decisions to be made with regard to such duties and responsibilities.

3. COMMENCEMENT AND DURATION

- 3.1 This Agreement and the rights and obligations of the Parties under this Agreement shall take effect on the Commencement Date.
- 3.2 The Agreement shall terminate on the earlier of:
- 3.2.1 the termination or expiry of the Principal Contracts (subject to the option of the Parties to extend the Collection Contract in accordance with **clause 4.1 of Schedule 9**);
 - 3.2.2 a notice of termination being served in accordance with **clause 28.2.4 (c)**; or
 - 3.2.2 the agreement of both Parties in writing at any time.
- 3.3 This Agreement is intended to supersede and replace the Previous Inter-Authority Agreement and shall, save to the extent the Parties have undischarged obligations in relation to the Previous Inter-Authority Agreement (in which case they will continue to assist and co-operate with each other as appropriate in order to discharge such obligations), cease to have effect and the rights and obligations under this Agreement shall be deemed to take effect from the Commencement Date.

4. GUIDING PRINCIPLES AND OBJECTIVES

- 4.1 The Parties will work together in a spirit of partnering in connection with their dealings with each other in respect of the subject matter of this Agreement so that wherever possible the activities of one complement and enhance the activities of the other for the benefit of all residents, businesses and visitors to their respective administrative areas.
- 4.2 The Parties recognise the importance of consultation and liaison on issues concerning waste services to include, without limitation, planning and (where possible) harmonising the implementation of future proposals for the management and collection of waste and in particular the reduction, reuse, recycling, composting and recovery of waste.
- 4.3 The Parties agree to commit themselves to the principle of consultation with each other and, where appropriate, with the community, on any issue which the Parties agree to be significant and which will impact upon those receiving waste related services within their respective administrative areas.
- 4.4 For the purposes of this Agreement, the spirit of partnering referred to in clause 4.1 above means that the Parties:

- 4.4.1 work in good faith with each other in pursuit of overall benefits to the community, resolve problems together rather than taking an adversarial stance, act reasonably and in so far as is reasonably possible share information that could reasonably be expected to impact upon this Agreement or the other party;
- 4.4.2 take all reasonable steps (without incurring excessive expenditure) to mitigate any losses arising from a Parties' actions under this Agreement;
- 4.4.3 provide information to each other that will (or could) impact upon the obligations, rights and liabilities of either Party to this Agreement or to the Collection Contractor;
- 4.4.4 will not take a decision independently of the other Party which could have a detrimental and financial implication for one or both of the Parties without first providing relevant information in accordance with **clause 4.4.3**
- 4.4.5 work together to ameliorate any "detrimental impact" on the Collection Contract arising from their activities (and the term detrimental impact shall include the application of any relief or remedy available to the Collection Contractor);
- 4.4.6 work together to achieve statutory targets and as far as is reasonable or practicable work to ameliorate the detrimental impact on the Parties and the public in the event that one of the Parties fails to carry out its obligations under this Agreement;
- 4.4.7 use reasonable endeavours working with the other party to minimise waste and to increase the amount recycled, composted and recovered from wastes collected in line with UK Government targets, Legislation and in particular the Landfill Directive (1999/31/EC);
- 4.4.8 work together to:
 - 4.4.8.1 continue to promote and raise awareness of waste issues and to give people the knowledge and resources to take action at school, at work and in the community through waste related education, awareness raising and behavioural change programmes where possible;
 - 4.4.8.2 make the strategic planning and development of each of the Parties' waste services as transparent as possible to each other and to the public as a whole;
 - 4.4.8.3 research, develop and implement detailed proposals to achieve the purposes referred to in **clause 4.4.6** above and this **clause 4.4.8**;

4.4.8.4 explore other appropriate partnering opportunities with both the private and public sectors in the pursuit of the aims and objectives of this Agreement.

4.5 The Parties will discuss and agree ways in which they may respond to local needs, achieve value for money and, in particular, efficiencies and economies of scale through this partnering arrangement including where appropriate by sharing resources that achieve the best 'whole service cost' for tax payers with cost being defined as both financial and environmental.

4.6 The Parties acknowledge that any decisions made pursuant to this Agreement are subject to appropriate delegations and the decision making procedures of each Party. Any decisions are not intended to fetter the constitution of either of the Parties.

5. **VEHICLE LOAN AGREEMENT**

In respect of the Vehicle Loan Agreement, whereby the parties agreed to provide interest free finance to the Collection Contractor to cover its cost of purchasing new vehicles (to be used exclusively to operate the Services) prior to the Commencement Date, the Parties wish to record that they provided such monies in the proportions set out in **Schedule 4, Part 2**.

6. **ADMINISTERING AUTHORITY**

6.1 The Parties agree that BASINGSTOKE shall replace HART as the Administering Authority for the purposes of this Agreement.

6.2 The Administering Authority shall:

- 6.2.1 arrange for the Joint Waste Client Team to discharge its roles, functions and responsibilities as set out in the Service Level Agreement;
- 6.2.2 manage HART's share of the Annual Budget calculated in accordance with the principles set out in **Schedule 6** (Budget and Cost Sharing Agreement);
- 6.2.3 make the payments due under the Collection Contract;
- 6.2.3 ensure that the terms and conditions of the Vehicle Loan Agreement are complied with at all times, including the repayment by the Collection Contractor of all monies due thereunder and apportionment of such repayments between the Parties in accordance with **Schedule 4, Part 2**;
- 6.2.5 arrange for the Monitoring Officer to promptly and diligently notify the monitoring officer of HART should it appear to him at any time that any proposal decision or omission of the Administering Authority constitutes or may give rise to a contravention of any enactment or rule of law or maladministration under Part III of the Local Government Act 1974;
- 6.2.6 provide or arrange promptly and diligently such legal advice, via the shared service arrangements between the Parties for the provision of legal

services, as may be required in connection with any aspect of this Agreement from time to time;

- 6.2.7 provide or arrange promptly and diligently such human resources advice, health & safety, staff well-being and any other related services as may be required in connection with any aspect of this Agreement from time to time;
 - 6.2.8 provide or arrange promptly and diligently such additional administrative services, resources and office facilities that may be reasonably necessary to discharge the duties and obligations of the Administering Authority and/or the Joint Waste Client Team under the provisions of this Agreement;
 - 6.2.9 where agreed, to hold any capital assets in respect of the Principal Contracts and the Joint Waste Client Team on behalf of the Parties;
 - 6.2.10 to carry out any functions delegated to it by HART; and
 - 6.2.11 instigate and defend legal proceedings on behalf of the Parties (subject to obtaining the prior written consent of HART and itself as appropriate).
- 6.3 Following the transfer of staff of the Joint Waste Client Team pursuant to **Schedule 8**, the Administering Authority shall be responsible for the appointment, employment and management of all staff of the Joint Waste Client Team and for the payment of the salaries, wages, income tax, national insurance contributions, and all other payments and emoluments of such staff provided that such payments shall not, without the approval of HART exceed the amount specified within the Annual Budget for such expenditure.
- 6.4 The Administering Authority shall provide such administrative services, resources and arrange or provide such office facilities that may be reasonably necessary to enable the Joint Waste Client Team to carry out its functions and activities.
- 6.6 The Administering Authority shall not assign in whole or part or delegate or sub-contract any of its responsibilities under this Agreement to any other authority, company, persons or individuals without the prior written consent of HART.

7. HART'S RESPONSIBILITIES

- 7.1 HART acknowledges the role and responsibilities of the Administering Authority and its obligations to share in good faith the costs of the Administering Authority in accordance with this Agreement.
- 7.2 Any provision in HART's constitution, standing orders and scheme of delegation which requires that an action can only be taken with the consent of the relevant officer of HART shall, except where such a construction is abhorrent, contrary to law or otherwise contrary to the requirements of HART, be taken and construed as a reference to the consent of the [Relevant Senior Officer - currently Hart's Head of Technical Services and Environmental Maintenance].

- 7.3 HART acknowledges and agrees that it shall promptly pay any money properly due in accordance with this Agreement (including but not limited to its contribution to the Annual Budget) to the Administering Authority.
- 7.4 Where HART (acting in good faith) disputes all or any part of any sum due the undisputed amount of such sum shall be paid to the Administering Authority in accordance with **clause 12** and the principles set out in **Schedule 6** (Budget and Cost Sharing Agreement) and the provisions of **clause 28** shall apply in respect of the disputed amount.
- 7.5 Following resolution of the dispute in question any amount agreed or determined to have been payable shall be paid forthwith to the Administering Authority together with any additional amount calculated in accordance with **clause 12.6**.
- 7.6 HART shall use all reasonable endeavours to make any decisions or ratify any decisions of the Administering Authority as required by this Agreement as soon as reasonably practicable.
- 7.7 HART shall consider any proposed amendments to the Annual Budget in good faith and act reasonably in considering whether or not to approve any proposed amendments.
- 8. JOINT WASTE CLIENT TEAM**
- 8.1 The Administering Authority shall maintain the Joint Waste Client Team in accordance with the organisational structure set out in **Schedule 2**, save that the Parties agree and acknowledge that the structure may, from time to time, be subject to review and amendment in accordance with **clause 8.5**.
- 8.2 The parties agree that the provisions of **Schedule 8** shall apply to any Relevant Transfer of staff under this Agreement.
- 8.3 The Administering Authority shall, following a Relevant Transfer of Hart Transferring Staff be the employer of the staff who work in the Joint Waste Client Team.
- 8.4 The Administering Authority shall determine the staff training, development and continuing professional development needs of the Joint Waste Client Team through annual Performance Development Reviews and One to One Meetings held regularly.
- 8.5 Any recruitment to Joint Waste Client Team shall be in accordance with the Administering Authority's normal staff recruitment policies.
- 8.6 The Administering Authority shall be entitled to change the structure of the Joint Waste Client Team subject to prior consultation with HART. Where any such change results in any savings or increase in costs, the Annual Budget shall be adjusted in accordance with **Schedule 6** (Budget and Cost Sharing Agreement).
- 8.7 The Joint Waste Client team shall carry out its roles, functions and responsibilities as set out in the Service Level Agreement.

9. JOINT GOVERNANCE GROUP

[does provision also need to be made for role of Performance Board?]

- 9.1 The Joint Governance Group, which is responsible for overseeing the strategic performance of this Agreement, shall comprise the following persons:
- (a) relevant Portfolio Holder (or their nominated deputy) from each of the Parties;
 - (b) corporate director (for BASINGSTOKE) or joint chief executive (for HART) or their nominated deputy;
 - (c) [Relevant Senior Officer];
 - (d) [Waste & Recycling Manager]; and
 - (e) other invited officers as may be required.
- 9.2 The JGG shall meet as and when required and the Parties shall share (in accordance with the principles set out in **Schedule 6 (Budget and Cost Sharing Agreement)**) any administrative costs and arrangements required for the JGG.
- 9.3 The Parties agree that the JGG shall have the following roles and responsibilities:
- 9.3.1 to ensure that the legal duties and statutory functions of HART delegated to the Administering Authority in accordance with this Agreement are being discharged effectively in accordance with relevant legislation and with due economy, efficiency and effectiveness;
 - 9.3.2 monitoring the performance of the Joint Waste Client Team in accordance with the Service Level Agreement;
 - 9.3.3 to review and comment on the performance monitoring reports submitted by the Joint Waste Client Team and make recommendations for any actions it deems necessary (acting reasonably) in accordance with Principal Contracts;
 - 9.3.4 to review the Annual Budget prepared by the Administering Authority and where relevant make recommendations for any changes it deems necessary (acting reasonably) before submission to HART for approval;
 - 9.3.5 to review the Health & Safety reports from the contractor as well as the Joint Waste Client Team and take responsibility for the management of this area.
 - 9.3.6 to consider such other reports submitted by the Joint Waste Client Team, including the Services risk register, regarding the performance of the Principal Contracts;
 - 9.3.7 to consider any other information provided in accordance with **clause 9.3.6** which may have a detrimental and financial implication for one or both of the Parties and, as far as possible, agree and recommend action(s) to the relevant internal decisions-maker of the Party concerned; and

9.3.8 to review the effectiveness of the JGG in:

- (a) helping the Parties to meet its statutory and local targets; and
- (b) achieving efficiency savings on behalf of the Parties,

following which it shall report and, where appropriate, make recommendations to the Parties on the effectiveness of the JGG and any changes or amendments necessary to improve the effectiveness of the JGG.

9.3.9 act in dispute resolution in accordance with **clause 29.1**;

9.3.10 review and set a standard agenda for all meetings including the following:

- (a) Client Team Monthly Report;
- (b) Budget position;
- (c) Contract Update:
 - (i) Current work
 - (ii) Any issues or problems
 - (iii) Defaults
 - (iv) Innovation
 - (v) IT development
- (d) Health & Safety
- (e) Complaints

9.4 Where the Parties decide to continue with the joint arrangements set out in this Agreement the JGG shall:

9.4.1 consider, review and give direction on any process for the re-tendering of the Collection Contract, which shall include (but not exclusively) such matters as:

- (a) exploring opportunities and benefits that might be delivered by extending the current joint working arrangements to include other local authorities;
- (b) exploring alternative opportunities for procurement of the waste service, including in house provision, and joint venture;
- (c) reviewing current service provision across both councils and identify opportunities for service improvement;
- (d) considering the value of extending the waste contract to incorporate other service areas, i.e. Streets/Grounds, Bulky and Clinical Waste;

- (e) reviewing the results of any re-tendering process and to make appropriate recommendations to each Parties' cabinet for the award (or otherwise) of a contract to the preferred tenderer.

9.4.2 consider and recommend terms and conditions to their respective councils for extending this Agreement or entering into a replacement Agreement, as appropriate, for the purpose of regulating the rights and obligations of the Parties relating to the future management arrangements for the joint household waste and recycling service (and any additional service areas) following completion of a re-tendering process of the existing Collection Contract.

9.5 The JGG may prepare, and amend from time to time, such terms of reference as it deems appropriate to record its administrative arrangements and to facilitate the performance of its roles and responsibilities set out in this **clause 9**.

10. SCRUTINY ARRANGEMENTS

10.1 The decisions, actions and activities of the Administering Authority shall be subject to the Scrutiny Arrangements of each of the Parties.

10.2 The Administering Authority and the Joint Waste Client Team and its officers shall fully co-operate with the Scrutiny Committees of each of the Parties and shall ensure that any reports to be considered by a Scrutiny Committee are prepared and submitted to the most appropriate meeting, and in a timely fashion, in order not to cause any undue delays to the planned work of the Administering Authority.

10.3 Any decision of the Administering Authority called in for Scrutiny before it is implemented shall not be implemented until the Scrutiny procedures of either the Parties whose membership has called in the decision has been completed.

10.4 A call in of such a decision can only be made if the decision concerned affects either of the Parties whose membership wishes to call in the decision.

11. ANNUAL BUDGET

11.1 HART acknowledges the requirements of **Schedule 6** (Budget and Cost Sharing Agreement) in respect of the preparation and agreement of the Annual Budget.

11.2 HART shall provide such reasonable assistance as is necessary to the Administering Authority to assist in preparing the Annual Budget.

12. PAYMENTS BY THE HART

12.1 HART shall:

12.1.1 contribute to the Annual Budget in accordance with the principles set out in **Schedule 6** (Budget and Cost Sharing Agreement); and

12.1.2 pay an appropriate proportion of all sums that become payable by the Administering Authority to the Collection Contractor in accordance the Collection Contract, such payments to be calculated and made in accordance with the principles set out in **Schedule 6** (Budget and Cost Sharing Agreement).

12.3 The amount of HART's annual contribution towards the costs arising out of its obligations under this Agreement in any Financial Year shall be such amounts as shall be specified for HART in the schedule of payments attached to the Annual Budget for that Financial Year.

12.4 HART shall pay to the Administering Authority monthly instalments each equal to one twelfth of the sums payable by it in accordance with this **clause 12** and **Schedule 6** (Budget and Cost Sharing Agreement), such payment to be made within 5 working days of receipt of a statement detailing the sums due.

12.5 The sums payable in accordance with **clause 12.3** shall be reconciled and adjusted, as necessary, at the end of each Quarter Month to take account of any additions or variations to the actual costs incurred under the Collection Contract or otherwise. HART shall pay to the Administering Authority any additional sums that become due as a consequence of such reconciliation and adjustment, such payment to be made in the calendar month following completion of the reconciliation and adjustment and in accordance with this **clause 12** and **Schedule 6** (Budget and Cost Sharing Agreement).

12.6 Where HART (acting in good faith) disputes all or any part of any sum due the undisputed amount of such sum shall be paid to the Administering Authority forthwith and the provisions of **clause 29** shall apply in respect of the disputed amount.

12.7 Following resolution of the dispute in question any amount agreed or determined to have been payable shall be paid forthwith to the Administering Authority together with the reasonable costs and compensation for any losses incurred by the Administering Authority calculated in accordance with **clause 12.8**.

12.8 In the event of HART failing to make a payment under **clauses 12.4** and **12.5** on the relevant Payment Date, the Administering Authority may, in respect of any losses incurred relating to the outstanding instalments, require HART to pay interest on any amount not paid on the Payment Date from that date to the date of payment at a rate equal to two (2) % above the Bank of England base rate.

- 12.9 Before the start of each Financial Year, the Administering Authority shall issue to HART an annual payment and invoicing schedule for the forthcoming Financial Year, identifying the twelve monthly payments due on the Payment Date.
- 12.10 The Administering Authority and HART agree to keep under review the structure of the payment of contributions under this Agreement to minimise any adverse VAT implications for HART.

13. ACCOUNTS, AUDIT AND REPORTING

- 13.1 The Administering Authority shall maintain accounts relating to all financial matters and payments arising under this Agreement for in accordance with the requirements of the Local Authorities (Accounts and Audit) Regulations 2015 and the Audit Commission Act 1998 and with the requirements of relevant central government departments, H.M. Revenue and Customs and all other applicable requirements.
- 13.2 The Administering Authority shall procure that such accounts shall be audited annually by a properly appointed external auditor.
- 13.3 The Administering Authority shall ensure that all financial statements are submitted to the Joint Governance Group for approval and copies shall be provided to the section 151 officer of HART by no later than 30th April in each Financial Year in respect of the un-audited accounts and by no later than 30th June in each Financial Year in respect of the audited accounts.
- 13.4 The Administering Authority shall provide sufficient financial information to the section 151 officer of HART to enable HART to report on the financial status of the joint working arrangements against the relevant Annual Budget.

14. ARRANGEMENTS FOR INSURANCE, INDEMNITIES AND CONDUCT OF CLAIMS

Indemnities

- 14.1 Excluding any liabilities in respect of the Collection Contract (which shall be subject to **clause 15.5**) insofar as the Administering Authority shall perform its obligations and functions as Administering Authority in accordance with the provisions of this Agreement, HART hereby agrees to be bound by and comply with any or all outcomes of the exercise of such obligations and functions and HART hereby undertakes to pay to the Administering Authority its appropriate share of any additional costs, contributions to claims or liabilities which may arise as a result of the performance by the Administering Authority of its obligations under this Agreement in accordance with the principles set out in **Schedule 6** (Budget and Cost Sharing Agreement).
- 14.2 HART shall indemnify the Administering Authority from and against any damages or awards (including legal expenses on an indemnity basis) paid by it to their employees or their personal representatives or to third parties in settlement of any

claims arising from a breach by HART of this Agreement, negligence of HART or its employees or agents acting in the course of their employment, damage to real and personal property or injury to persons including injury resulting in death.

- 14.3 Neither of the Parties shall be responsible or obliged to indemnify the other for:
- 14.3.1 any liability which arises as a direct result of either of the Parties acting on the instructions of the other Party claiming under any indemnity in this Agreement (to the extent that the party is entitled to give such instructions); or
 - 14.3.2 any injury, loss, damage, cost and expense caused by the negligence, wilful misconduct or a breach of this Agreement by one of the Parties claiming under any indemnity in this Agreement or an agent, contractor or employee of that party.
- 14.4 Neither of the Parties shall be liable in tort to the other for any negligent act or omission of that other party relating to this Agreement and the only remedy of such other party is under this Agreement. The Parties shall use reasonable endeavours to procure that no agent, contractor or employee of it brings a claim in tort or otherwise against either of them.
- 14.5 Any indemnity under this **clause** 14 shall be without prejudice to any indemnity by the Parties under any other provision of this Agreement.
- 14.6 None of the indemnities under this Agreement shall apply, and there shall be no right to claim damages for breach of this Agreement whatsoever to the extent that any loss claimed is for loss of profits, loss of use, loss of production, loss of business or loss of business opportunity or is a claim for consequential or for indirect loss of any nature allegedly suffered by the Parties.

Insurance

- 14.7 The Administering Authority shall take out and maintain the following insurances in respect of the employees, premises (except the Springwell Lane Depot, which shall be insured by HART) and equipment allocated to the Joint Waste Client Team:
- 14.7.1 public liability insurance;
 - 14.7.2 employees liability insurance;
 - 14.7.3 buildings and/or contents insurance; and
 - 14.7.4 any other insurances required by law or agreed by the Joint Governance Group to be appropriate.
- 14.8 In relation to the insurances referred to in **clause** 14.7:
- 14.8.1 HART shall neither take any action or fail to take any action nor allow anything to occur which would entitle an insurer to refuse a claim under any of the insurance policies or which may render such a claim wholly or partially repayable; and

14.8.2 the Administering Authority shall provide on request to HART copies of insurance policies referred to in this **clause 14.8** and evidence of the payment of the premiums and that the insurances are in full force and effect at all material times.

14.9 HART shall assist the Administering Authority in respect of the insurance requirements and obligations in this Agreement.

Conduct of claims

14.10 This **clause 14.10** shall apply to the conduct, by either the Parties from either of whom an indemnity is sought under this Agreement, of claims made by a third person against either of the Parties having (or claiming to have) the benefit of the indemnity. The party having, or claiming to have, the benefit of the indemnity is referred to as the "**Beneficiary**" and the party giving the indemnity is referred to as the "**Indemnifier**". Accordingly:

14.10.1 if the Beneficiary receives any notice, demand, letter or other document concerning any claim for which it appears that the Beneficiary is, or may become entitled to, indemnification under this Agreement, the Beneficiary shall give notice in writing to the Indemnifier as soon as reasonably practicable having regard to any timescale imposed by a notice, demand, letter or any other form of document received by the Beneficiary;

14.10.2 subject to **clauses 14.10.3, 14.10.4 and 14.10.5** below, on the giving of a notice by the Beneficiary pursuant to **clause 14.10.1** above, where it appears that the Beneficiary is or may be entitled to indemnification from the Indemnifier in respect of at least half of the liability arising out of the claim, the Indemnifier shall (subject to providing the Beneficiary with an indemnity to its reasonable satisfaction against all costs and expenses that it may incur by reason of such action (over and above those which the Beneficiary would otherwise have borne if the Indemnifier had no entitlement to conduct the relevant claim) be entitled to dispute the claim in the name of the Beneficiary at the Indemnifier's own expense and take conduct of any defence, dispute, compromise, or appeal of the claim and of any incidental negotiations. The Beneficiary shall give the Indemnifier all reasonable co-operation, access and assistance for the purposes of considering and resisting such claim;

14.10.3 with respect to any claim conducted by the Indemnifier pursuant to **clause 14.10.2** above:

- (a) the Indemnifier shall keep the Beneficiary fully informed and consult with it about material elements of the conduct of the claim;
- (b) the Indemnifier shall not bring the name of the Beneficiary into disrepute; and
- (c) the Indemnifier shall not pay or settle such claims without the prior consent of the Beneficiary, such consent not to be unreasonably withheld or delayed;

- 14.10.4 the Beneficiary shall be free to pay or settle any claim on such terms as it thinks fit and without prejudice to its rights and remedies under this Agreement if:
- (a) the Indemnifier is not entitled to take conduct of the claim in accordance with **clause** 14.10.2 above; or
 - (b) the Indemnifier fails to notify the Beneficiary of its intention to take conduct of the relevant claim within 20 Business Days of the notice from the Beneficiary under **clause** 14.10.2 above or notifies the Beneficiary that it does not intend to take conduct of the claim; or
 - (c) the Indemnifier fails to comply in any material respect with the provisions of **clause** 14.10.3 above;
- 14.10.5 the Beneficiary shall be free at any time to give notice to the Indemnifier that it is retaining or taking over (as the case may be) the conduct of any defence, dispute, compromise or appeal of any claim (or of any incidental negotiations) to which **clause** 14.10.2 above applies. On receipt of such notice the Indemnifier shall promptly take all steps necessary to transfer the conduct of such claim to the Beneficiary, and shall provide to the Beneficiary all reasonable co-operation, access and assistance for the purposes of considering and resisting such claim. If the Beneficiary gives any notice pursuant to this **clause** 14.10.5 then the Indemnifier shall be released from any liability under its indemnity under **clause** 14 (as the case may be) and, without prejudice to any accrued liabilities, any liability under its indemnity given pursuant to **clause** 14.10.2 in respect of such claim;
- 14.10.6 if the Indemnifier pays to the Beneficiary an amount in respect of an indemnity and the Beneficiary subsequently recovers (whether by payment, discount, credit, saving, relief or other benefit or otherwise) a sum which is directly referable to the fact, matter, event or circumstances giving rise to the claim under the indemnity, the Beneficiary shall forthwith repay to the Indemnifier whichever is the lesser of:
- (a) an amount equal to the sum recovered (or the value of the saving or benefit obtained) less any out of pocket costs and expenses properly incurred by the Beneficiary in recovering the same; and
 - (b) the amount paid to the Beneficiary by the Indemnifier in respect of the claim under the relevant indemnity; and
- 14.10.7 any body taking any of the steps contemplated by **clauses** 14.10.2 to 14.10.5 shall comply with the requirements of any insurer who may have an obligation to provide an indemnity in respect of any liability arising under this Agreement.

15. COLLECTION CONTRACT

- 15.1 The Parties accept the terms of and agree to be bound by the Collection Contract.
- 15.2 HART agrees that the provisions of this **clause 15** and **Schedule 9** (Collection Contract) shall apply in respect of the administration of the Collection Contract.
- 15.3 The Administering Authority shall (acting as a reasonable local authority) administer the Collection Contract in accordance with its terms.
- 15.4 The Administering Authority shall indemnify HART in respect of any claims, losses or liabilities incurred by HART as a result of the Administering Authority:
- 15.5.1 wilfully breaching the terms of the Collection Contract;
 - 15.5.2 negligently administering the Collection Contract; and/or
 - 15.5.3 failing to act as a reasonable local authority in administering the Collection Contract;
- 15.5 HART hereby undertakes to pay to the Administering Authority its appropriate share of any additional costs, contributions to claims or liabilities which may arise as a result of the performance by the Administering Authority of its obligations under the Collection Contract in accordance with **clause 12** and the principles set out in **Schedule 6** (Budget and Cost Sharing Agreement).
- 15.6 The Parties agree that any decision taken by the Joint Governance Group which puts the Administering Authority in breach of the Collection Contract shall not be implemented and that in the event that any costs or losses are incurred by the Administering Authority (arising from any decision of the Joint Governance Group which puts the Administering Authority in breach of the Collection Contract) each of the Parties shall bear an appropriate share of such any additional costs or losses.
- 15.7 Switch to Alternate Weekly Collection
- 15.7.1 The Parties recognise and acknowledge that BASINGSTOKE may, at some stage during the term of the Collection Contract, wish to switch to fortnightly, rather than weekly, collection of all residual household across the BASINGSTOKE district ("Alternate Weekly Collection") (to align the collection frequency to that carried out across the HART district) or the Parties may require to otherwise vary the frequency of such collection across both or either of their districts.
 - 15.7.2 In the event that BASINGSTOKE requires to switch to Alternate Weekly Collection, the provisions of **Schedule 3** shall apply.
 - 15.7.3 In the event of the Parties requiring to otherwise vary the frequency of any collection services provided under the Collection Contract, the provisions of **clause 16** shall be followed.

15.8 Optional Services

15.8.1 Where a Party wishes to introduce any of the optional services listed below (**Optional Services**) (which were specified in the Invitation to Tender, but not included in the scope of services to be provided under the Collection Contract from the Commencement Date), the Party concerned shall follow the procedure set out in **Schedule 9**, paragraph 2:

- (a) Textiles in Basingstoke and Deane
- (b) Glass moving to four Weekly – Hart DC and Basingstoke and Deane BC
- (c) Glass Kerbside moving to Bring Banks/sites – Hart DC and Basingstoke and Deane BC
- (d) Bulky Waste – Hart DC and Basingstoke and Deane BC
- (e) Healthcare (Clinical) Waste– Hart DC and Basingstoke and Deane BC

16 **CHANGES**

16.1 Where a Party wishes to propose a change to this Agreement, other than a change to the Collection Contract (which shall be dealt with in accordance with **Schedule 9**, paragraph 2), it shall arrange for the proposed terms of the change to be discussed at a meeting of the Joint Governance Group.

16.2 The Party seeking a change shall provide a report setting out:

- 16.2.1 the terms of the proposed change;
- 16.2.2 its likely impact on the requesting Party;
- 16.2.3 the likely impact on the other Party;
- 16.2.4 the likely cost of the change and/or savings resulting from the change;
- 16.2.5 how the proposed change should be implemented; and
- 16.2.6 any other relevant implications.

16.3 The Relevant Senior Officer shall arrange for the terms of all proposed changes to be considered at a meeting of the Joint Governance Group as soon as practical.

16.4 The Relevant Senior Officer shall provide a report setting out the terms of the proposed change and its likely impact on the Parties, the likely cost implications of the change and/or any savings resulting from it, how it would be implemented along with any other relevant implications of the change.

16.5 Any change that only has impact for the Party requesting the change and has no impact on the other Party is likely to be agreed and implemented with effect from a mutually acceptable date.

- 16.6 The Joint Governance Group shall determine whether or not any other change shall be accepted. The Relevant Senior Officer shall effect the change if approved by the Joint Governance Group, or, if the change is not agreed then the Relevant Senior Officer shall notify the Parties that such change was not approved.

17. REVIEW OF AGREEMENT

- 17.1 The Parties shall review this Agreement, including the structure and functions of the Joint Waste Client Team, 12 months after the Commencement Date and every two (2) years thereafter (the total number of such reviews being subject to whether the Parties extend the Collection Contract in accordance with **Schedule 9**, paragraph 4).
- 17.2 The Joint Governance Group shall determine the terms of reference of the review and the person or persons (which may include members of the Joint Governance Group or one or more of the Chief Executives) by whom it is to be conducted and the timescale for its completion.
- 17.3 On production of the Review Report copies thereof shall be supplied to the Joint Governance Group and the Parties for them to comment thereon in accordance with such reasonable timescale as the Joint Governance Group shall decide.
- 17.4 On receipt of comments from the Parties within the timescale referred to in **clause 17.3** (or any extension thereof agreed by or on behalf of the Joint Governance Group), the Joint Governance Group shall meet to consider the content and recommendations of the Review Report in the light of the comments received from the Parties and determine the amendments (if any) it recommends should be made to this Agreement or to the operation of the Joint Governance Group and report to the Parties with its recommendations.
- 17.5 Where the Joint Governance Group proposes any amendments in accordance with **clause 17.4** above, it shall forthwith notify the Chief Executive of each of the Parties of such proposal. The Parties shall have an initial period of 25 Business Days from receipt of the proposal in which to consider it and where either/both of the Parties (acting reasonably) considers the proposed amendment is a Material Change. Such initial period shall exclude any subsequent period that may be required to obtain a formal member approval.
- 17.6 Where neither of the Parties considers the proposal to be a Material Change (in accordance with **clause 17.5**), any proposed amendment shall be implemented as soon as is practical. Provided that where the proposed amendment involves a variation to this Agreement it shall require the written approval of both Parties in accordance with **clause 27**.
- 17.7 Where either of the Parties considers the proposed amendment is a Material Change under **clause 17.5**, and has notified the other party of its view in writing, such proposed amendment shall not be implemented unless and until the party which has given the notice has approved the proposed amendment.

18. CONFIDENTIALITY

Confidentiality

- 18.1 Without prejudice to **clause** 18.2 and subject to **clauses** 18.4 to 18.8, the Parties shall during the currency of this Agreement and at all times following termination keep private and confidential and shall not use or disclose (whether for its own benefit or that of any third party) save as provided by this Agreement any confidential information about the business of or belonging to the Parties or any party to the Principal Contracts or other contract entered into which has come to its attention as a result of or in connection with this Agreement provided always that this obligation shall not relate to any such information which:
- 18.1.1 comes into the public domain or is subsequently disclosed to the public (other than through default on the part of the Parties or any other person to whom the Parties are permitted to disclose such information under this Agreement); or
 - 18.1.2 is required to be disclosed by law (including, but not limited to, any request of or inquiry by the Information Commissioner); or
 - 18.1.3 was already in the possession of the Parties (without restrictions as to its use) on the date of receipt.
- 18.2 The Parties shall be entitled to use or disclose any confidential information about the content or operation of this Agreement insofar as this is reasonably necessary for the discharge of its functions.
- 18.3 The Parties acknowledge that the other party may be obliged to disclose information relating to this Agreement pursuant to a request for such information made by a third party under the FOI Act or the EIR as the case may be (a "**Request**").
- 18.4 Where either of the Parties (the "**Requesting Party**") receives a Request in relation to information in the other party's possession, the Requesting Party shall notify the other party (the "**Receiving Party**") in writing of the Request and the Receiving Party shall provide that Requesting Party at no charge (save where a payment can be recovered from the person submitting the Request, in which case a charge may be imposed not exceeding the amount of such payment recovered) with any information which is in the Receiving Party's possession and such other assistance as the Requesting Party may reasonably require which is needed from the Receiving Party to enable it to respond to the Request.
- 18.5 Where a Requesting Party requires information from a Receiving Party as envisaged by **clause** 18.4, the Requesting Party shall notify the Receiving Party in writing as soon as possible, after receiving the Request, of the information and/or assistance required, the form in which it should be provided and the date by which it is needed. The Receiving Party shall provide the information to the Requesting Party in accordance with the Requesting Party's notice. The Receiving Party shall notify the Requesting Party forthwith if it does not hold the requested information.

- 18.6 The Parties shall not disclose any information relating to this Agreement or the Principal Contracts that they consider in their unfettered discretion, is exempt as described in Part II of the FOI Act or Part II of the EIR (as the case may be).
- 18.7 A Receiving Party shall not respond directly to any Request notified to it pursuant to **clause** 18.4 unless expressly authorised to do so by the Requesting Partner.
- 18.8 A Requesting Party shall notify the Receiving Party as soon as practicable but in any event within five Business Days of receiving the Request.
- 18.9 The Parties shall inform the other party in writing as soon as reasonably practicable (and in any event within five Business Days) whenever it receives a Request relating to this Agreement setting out:
- 18.9.1 the nature of the Request;
 - 18.9.2 where possible, the identity of the person making the Request;
 - 18.9.3 what information relating to this Agreement is covered by the Request;
 - 18.9.4 whether and to what extent either of the Parties intends to disclose the information requested (including the intention to disclose any information relating to this Agreement); and
 - 18.9.5 a reasonable timescale in which either of the Parties may make any representations to the party receiving the Request.
- 18.10 Notwithstanding the provisions of this **clause** 18 any other term of this Agreement, HART hereby gives his consent for the Administering Authority to publish the Agreement in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted), including from time to time agreed changes to the contract, to the general public.
- 18.11 Subject to **clause** 15.6, the Parties shall not be responsible to the other party for any loss, damage, harm or detriment howsoever caused, arising from or in connection with the disclosure of any information in respect of any Request.

Announcements

- 18.12 Subject to the terms of this Agreement, the Parties shall not make any public statement or issue any press release or publish any other public document relating to, connected with or arising out of this Agreement or the matters contained therein without obtaining the other Party's prior approval as to the contents thereof and the manner of its presentation and publication.
- 18.13 The provisions of this **clause** 18 shall survive termination or expiry of this Agreement.

19. DATA PROTECTION

- 19.1 Both Parties will comply with all applicable requirements of the Data Protection Legislation. This **clause** 19 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 19.2 In relation to Personal Data, both Parties shall at all times comply with the Data Protection Legislation as a data controller if necessary. **Schedule** 10 sets out the scope, nature and purpose of processing by the Parties, the duration of the processing and the types of Personal Data and categories of Data Subject.
- 19.3 The Parties shall only undertake processing of Personal Data reasonably required in connection with this Agreement and shall not transfer any Personal Data to any country or territory outside the EEA.
- 19.4 Without prejudice to the generality of clause 19.1, the Parties will ensure that they have all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the other Party for the duration and purposes of this Agreement.
- 19.5 Without prejudice to the generality of clause 19.1, the Parties shall, in relation to any Personal Data processed in connection with the performance of their obligations under this Agreement:
- (a) process that Personal Data only on the documented written instructions of the other Party, unless required by Domestic Law to otherwise process that Personal Data. Where a Party is relying on Domestic Law as the basis for processing Personal Data, that Party shall promptly notify the other Party of this before performing the processing required by Domestic Law unless the Domestic Law prohibits such notification;
 - (b) ensure that it has in place appropriate technical and organisational measures (as defined in the Data Protection Legislation) to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
 - (d) notify the other Party immediately if it receives:
 - (i) a request from a Data Subject to have access to that person's Personal Data;
 - (ii) a request to rectify, block or erase any Personal Data;

- (iii) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation (including any communication from the Information Commissioner);
 - (e) assist the other Party in responding to any request from a Data Subject and in ensuring compliance with the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - (f) notify the other Party without undue delay on becoming aware of a Personal Data breach including without limitation any event that results, or may result, in unauthorised access, loss, destruction, or alteration of Personal Data in breach of this Agreement;
 - (g) at the written direction of the other Party, delete or return Personal Data and copies thereof to the Customer on termination or expiry of the agreement unless required by Law to store the Personal Data;
 - (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 19 and allow for audits by the other Party or the Party's designated auditor and immediately inform the Customer if, in the opinion of that Party, an instruction infringes the Data Protection Legislation.
- 19.6 The provisions of this clause shall apply during the continuance of the agreement and indefinitely after its expiry or termination.

19.7 Indemnity

The Parties shall indemnify and keep indemnified the other party against all losses, claims, damages, liabilities, costs and expense (including reasonable legal costs) incurred by them in respect of any breach of this **clause 19** by any act or omission of that party.

20. EQUAL OPPORTUNITIES

- 20.1 The Parties shall adopt a policy to comply with its statutory obligations under the Race Relations Act 1976 (as amended), the Sex Discrimination Act 1975 (as amended), the Disability Discrimination Act 1995 (as amended), the Equality Act 2006, the Employment Equality (Religion or Belief) Regulations 2003, the Employment Equality (Sexual Orientation) Regulations 2003, the Employment Equality (Sex Discrimination) Regulations 2005, the Employment Equality (Age) Regulations 2006, Equality Act 2010 ('Equality Act') and Codes of Practice issued in pursuant of the Equality Act or any other relevant legislation relating to discrimination in the employment of employees and accordingly will not unlawfully treat one group of people less favourably than others because of their colour, race, disability, sex, sexual orientation, nationality, ethnic origin or age in relation to decisions to recruit, train, promote, discipline or dismiss its personnel.

- 20.2 In the event of any finding of unlawful discrimination being made against the Administering Authority or a contractor of the Administering Authority in respect of any matter relating to this Agreement by any court or industrial tribunal, or of any adverse finding in any formal investigation by the Commission for Equality and Human Rights the Administering Authority shall inform HART of this finding and shall take appropriate steps to prevent repetition of the unlawful discrimination.
- 20.3 The Administering Authority shall, on request, provide HART with details of any steps taken under **clause 20.2**.
- 20.4 The Administering Authority shall set out its policy on the prevention of unlawful discrimination:
- 20.4.1 in instructions to those concerned with recruitment, training and promotion;
 - 20.4.2 in documents available to its personnel, recognised trade unions or other representative groups of its personnel; and
 - 19.4.3 in recruitment advertisements and other literature.
- 20.5 The Administering Authority shall provide such information as HART may reasonably request for the purpose of assessing the compliance of the Administering Authority with this **clause 20**.
- 20.6 The Administering Authority shall procure that any contractors or sub-contractors (including the contractors and sub-contractors under the Principal Contracts) providing services to HART comply with the obligations set out in **clauses 20.1 and 20.3 to 20.4 (inclusive)**.

21. LOCAL COMMISSIONER

- 21.1 Where any investigation by the Commission for Local Administration in England takes place the Parties shall:
- 21.1.1 provide any information requested in the timescale allotted;
 - 21.1.2 attend any meetings as required and permit their personnel so to attend;
 - 21.1.3 promptly allow access to and investigation of any documents deemed to be relevant;
 - 21.1.4 allow themselves and any employee deemed to be relevant to be interviewed;
 - 21.1.5 allow themselves and any employee to appear as witnesses in any ensuing proceedings; and
 - 21.1.6 co-operate fully and promptly in every way required by the Commission during the course of that investigation.

22. WAIVER AND SEVERABILITY

22.1 Waiver

22.1.1 No term or provision of this Agreement shall be considered as waived by the Parties unless a written waiver is given by that authority.

22.1.2 No waiver under **clause** 22.1.1 shall be a waiver of a past or future default or breach, nor shall it amend, delete or add to the terms, conditions or provisions of this Agreement unless (and then only to the extent) expressly stated in that waiver.

22.2 Severability

If any term, condition or provision of this Agreement shall be held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall not affect the validity, legality and enforceability of the other provisions of or any other documents referred to in this Agreement.

23. NO PARTNERSHIP

23.1 Nothing in this Agreement is to constitute or be deemed a partnership within the meaning of the Partnership Act 1890, the Limited Partnerships Act 1907, the Limited Liability Partnerships Act 2000 or any other legislation concerning partnerships or limited liability partnerships.

23.2 Neither of the Parties shall hold itself out as the agent of the other party or to have any authority to bind the other party except to the extent that this Agreement expressly provides otherwise.

24. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

No term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement.

25. ENTIRE AGREEMENT

Except where expressly provided in this Agreement, this Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings concerning the subject matter of this Agreement.

26. EXTENT OF OBLIGATIONS AND FURTHER ASSURANCE

26.1 Nothing in this Agreement is to require the parties to act in any way that is inconsistent with its obligations or duties as a local authority.

26.2 The Parties undertake (subject to **clause** 26.1) to do all things and execute all further documents that may reasonably be required by either of them to give effect to this Agreement.

27. VARIATIONS

Subject to the express provisions of this Agreement, no variation of this Agreement will be valid or effective unless agreed unanimously by the Parties and recorded in writing.

28. CORRUPTION

28.1 Corrupt gifts and fraud

The Parties warrant that in entering into this Agreement they have not committed any Prohibited Act.

28.2 Termination for corrupt gifts and fraud

28.2.1 If either of the Parties (or anyone employed by or acting on behalf of either of them) or any of their agents commits any Prohibited Act, then either Party shall be entitled to act in accordance with the provisions of this **clause 28**.

28.2.2 Upon discovering that a Prohibited Act has occurred the relevant party may serve notice on the other party of the Prohibited Act that has occurred (a “**Notice of a Prohibited Act**”), such notice to specify the nature of the Prohibited Act and the employee or agent who they believe has committed the Prohibited Act.

28.2.3 Upon receipt of a Notice of a Prohibited Act the party subject to the Prohibited Act shall have 3 months to take such steps and actions as are reasonable and are agreed by the Joint Governance Group taking account of the nature of the Prohibited Act which may include suspending the relevant employee and taking action under the relevant party’s disciplinary procedure.

28.2.4 Where either of the Parties fails to take action in accordance with **clause 28.2.2** the other party may:

- (a) require the Party who the Notice of Prohibited Act was served to remove from performance of this Agreement the employee or agent who committed the Prohibited Act;
- (b) take such other action or steps as are reasonable taking into account the nature of the Prohibited Act and its effect on this Agreement and the Principal Contracts; or
- (c) terminate this Agreement on serving [3] months written notice to other Party, in which case the provisions of **Schedule 7** shall apply.

29. DISPUTE RESOLUTION

29.1 Any dispute arising from the interpretation and operation of this Agreement shall in the first instance be referred to the Joint Governance Group, which shall, acting in good faith, attempt to resolve such dispute.

29.2 Where either the Joint Governance Group is unable to resolve such dispute, or where in the opinion of the Joint Governance Group such dispute might be more effectively resolved in another forum, the Joint Governance Group may refer such dispute to the following bodies/forums (listed in order of referral) until such dispute is resolved:

28.2.1 a meeting of the Chief Executives and/or leaders of the Parties; then

28.2.2 a mediator appointed by the Parties in accordance with **clause 29.3**; then

28.2.3 an arbitrator appointed by the Parties in accordance with **clause 29.4**.

29.3 Mediation

29.3.1 A referral of a dispute to mediation shall be in accordance with the CEDR Model Mediation Procedure.

29.3.2 If the Parties cannot agree on a mediator, they shall appoint a mediator nominated by CEDR.

29.3.3 The Parties shall use their reasonable endeavours to conclude the mediation within 40 Business Days of referral of the dispute to mediation.

29.3.4 The Parties shall each bear their own costs incurred in relation to any mediation.

29.4 Arbitration

29.4.1 If the dispute is not resolved in accordance with **clause 29.3** within 40 Business Days of referral of the dispute to mediation, either of the Parties may (by service of a written notice on the other party within 10 Business Days of expiry of the period for mediation) refer the dispute to an arbitrator who shall be of not less than 10 years standing or qualification.

29.4.2 If the parties cannot agree on an arbitrator within 15 Business Days of service of the written notice referred to in **clause 29.4.1** above, they shall appoint an arbitrator nominated by the President for the time being of the Chartered Institute of Arbitrators.

29.4.3 Any reference to arbitration in accordance with this **clause 29.4** shall be conducted in accordance with the Rules of the London Court of International Arbitration and the arbitration shall be held at a venue agreed by the arbitrator.

29.4.4 The arbitrator's decision shall be final and binding on the parties.

29.4.5 The costs of the arbitration shall be paid as directed by the arbitrator.

30. GOVERNING LAW AND ENFORCEMENT

This Agreement shall be governed by and construed in all respects in accordance with the laws of England and Wales. Subject to **clause 29**, the English courts shall have exclusive jurisdiction to settle any disputes that may arise out of or in connection with this Agreement.

31. NOTICES

31.1 Form and service of notices

All notices under this Agreement shall be in writing and all certificates, notices or written instructions to be given under the terms of this Agreement shall be served by sending the same by first class post, facsimile or by hand, or leaving the same at:

Basingstoke and Deane Borough Council

Civic Offices, London Road,
Basingstoke, Hampshire, RG21 4AH

Hart District Council

Civic Offices, Harlington Way,
Fleet, Hampshire, GU51 4AE

31.2 Provision of information to representatives

Where any information or documentation is to be provided or submitted to a Parties representative, it shall be provided or submitted by sending the same by first class post, facsimile or by hand, or leaving the same at the addresses set out in **clause 30.1** marked for the attention of the relevant Parties representative.

31.3 Change of details

The Parties shall notify any change of its nominated address or facsimile number by prior notice to the other party.

31.4 Notices by post

Notices given by post shall be effective upon the earlier of actual receipt and five Business Days after mailing. Notices delivered by hand shall be effective upon delivery. Notices given by facsimile shall be deemed to have been received where there is confirmation of uninterrupted transmission by a transmission report and there has been no telephonic communication by the recipient to the senders (to be confirmed in writing) that the facsimile has not been received in legible form:

31.4.1 within two hours after sending, if sent on a Business Day between the hours of 9 a.m. and 4 p.m.; or

31.4.2 by 11 a.m. on the next following Business Day, if sent after 4 p.m. on a Business Day but before 9 a.m. on that next following Business Day.

32. COUNTERPARTS

This Agreement may be executed in any number of counterparts, all of which when taken together shall constitute one and the same instrument.

IN WITNESS whereof this Agreement has been duly executed as a deed and has been delivered on the date that appears at the front of this Agreement.

The Common Seal of)
BASINGSTOKE AND DEANE)
BOROUGH COUNCIL)
was hereunto affixed and this document)
thereby executed as a deed in the)
presence of:)

Authorised Signatory

The Common Seal of)
HART DISTRICT COUNCIL)
was hereunto affixed in the presence of:)

Authorised Signatory

SCHEDULE I

Service Level Agreement

[to be inserted]

DRAFT

SCHEDULE 2

Joint Waste Client Team

(Structure)

[to be inserted]

DRAFT

SCHEDULE 3

Switch to Alternate Weekly Collection

1. Where, in accordance with clause 15.6 of this Agreement and clause 5 of the Collection Contract, BASINGSTOKE requires Alternate Weekly Collection of household residual waste to be provided across the BASINGSTOKE district (to align the collection frequency to that carried out across the Hart district) the procedure set out below shall be followed.
2. The Administering Authority shall issue a Change Control Notice in accordance with Part 2 of Schedule 9 (Change Protocol) of the Collection Contract no later than nine months prior to the required date for implementation of Alternate Weekly Collection.
3. The Contractor will review the Change Control Notice and, within 15 Business Days, provide the Administering Authority with details of whether the implementation of Alternate Weekly Collection will require:
 - 3.3.1 the execution of any deed of amendment to this Contract by the Parties, and the Contractor's anticipated costs in respect of the same (to include any costs related to the disposal and/or acquisition of refuse collection vehicles);
 - 3.3.2 any other details of likely third party costs of the Contractor in implementing Alternate Weekly Collection;
 - 3.3.3 the disposal and /or acquisition of any waste collection vehicles, together with associated costs.

Any costs related to implementing Alternative Weekly Collections shall be determined by reference to the Indicative Financial Model set out at Annex B to Schedule 9 (Change Protocol) of the Collection Contract.

4. The Administering Authority will, within 10 Business Days of receipt of the Contractor's response pursuant to paragraph 2, provide a written report to the [Joint Governance Group] [corporate director of BASINGSTOKE] setting out full details of all costs associated with implementing Alternate Weekly Collection and any other service delivery implications.
5. Following consideration by [Joint Governance Group] [corporate director of BASINGSTOKE] of the written report provided pursuant to paragraph 4, [Joint Governance Group] [corporate director of BASINGSTOKE] may make such recommendations as it considers appropriate and the BASINGSTOKE shall then, at its discretion and pursuant to clause 4.6, seek such further internal decisions as are deemed appropriate prior to making any final decision on whether to proceed with implementation of Alternate Weekly Collection.

SCHEDULE 4

Part I

Vehicle Loan Agreement

[to be inserted]

DRAFT

Part I

Basingstoke and Hart Contributions

[to be inserted]

DRAFT

SCHEDULE 5

Annual Budget

(Joint Waste Client Team)

DRAFT

SCHEDULE 6

Budget & Cost Sharing Agreement

1. Cost Sharing Principles

- 1.1 These cost sharing principles are intended to ensure that the costs of the Parties and the relevant services administered by the Administering Authority on behalf of the Parties are shared on a fair and equitable basis.
- 1.2 The general approach adopted is to identify each cost element and to apportion it in the most logical and transparent way possible, being mindful of the need to avoid any one of the Parties subsidising another.

2. Collection Contract

- 2.1 The Collection Contract is a joint contract for the provision of household waste and recycling services for the local authority areas of Basingstoke and Deane and Hart.
- 2.2 The Collection Contractor has provided a completed pricing schedule for the Collection Contract and the split of costs has been agreed between BASINGSTOKE and HART [in appendix xx]. These figures will be used to recharge the contract costs to HART on a regular basis ideally monthly but to be agreed. The Serco submitted pricing schedule [will be split as detailed in appendix xx which] shows the cost attributable to each Party and which BASINGSTOKE should recover from HART.
- 2.3 The Collection Contractor (Serco) will issue a single VAT invoice to the Administering Authority in respect of services delivered in HART only. The Administering Authority will recover 100% of this sum from HART.
- 2.4 The Administering Authority shall be responsible for ensuring the accuracy of the invoices paid to the Collection Contractor.

3. Joint Waste Client Team

- 3.1 The Administering Authority is responsible for paying all costs (the Annual Budget) associated with performance of the client role activities.
- 3.2 The initial division of costs of the Annual Budget between the Parties shall be:
 - 3.2.1 **BASINGSTOKE** - xx%; and
 - 3.2.2 **HART** - xx%such proportions being subject to review and amendment by the Parties at any time in accordance with **clause 16**.

This is based on xx% of the Head of Service's total time being allocated to this Agreement, the cost of all managerial roles (Waste and Recycling Manager and

others as detailed) being shared equally between the Parties and the costs associated with the waste and recycling officer roles being apportioned on property numbers as the Collection Contract is based (xx% HART and xx% to the Administering Authority), albeit that this resource will be used flexibly as required to ensure proper performance of this Agreement.

These costs are based on current property numbers and should be reviewed annually to ensure the correct split is maintained. Any change must be agreed and approved by the Joint Governance Group.

4. Forecast of Annual Budget and Collection Contract Costs

- 4.1 In each Financial Year the Administering Authority, and by no later than 31st October, shall provide HART with the projected Annual Budget and forecast costs for the Collection Contract for the following Financial Year in order that HART may include such sums in its annual budget process for approval.
- 4.2 The Annual Budget shall be a forecast of the costs and income, reflecting the actual costs and income of the previous Financial Year and forecast changes in the costs of the Joint Waste Client Team and the Administering Authority.
- 4.3 The forecast of costs for the Collection Contract shall take account of the price review mechanisms in the Collection Contract.
- 4.4 The Annual Budget and forecast setting process shall take account of any savings targets set by the Joint Governance Group in consultation with the Partner Authorities. In each Financial Year the Joint Governance Group shall be required to assess the Annual Budget forecast of costs for the Collection Contract and performance to drive out inefficiencies. The section 151 officers from each of the Parties shall meet with the Joint Governance Group annually to consider any proposals for savings targets and to share relevant financial information.
- 4.5 The Administering Authority shall follow normal local government conventions and shall ensure that the Annual Budget setting process is transparent and open to scrutiny by the Parties.

5. Payment to Administering Authority

- 5.1 The Administering Authority will request 12 equal monthly payments (including VAT where appropriate) from HART no later than the 5th of each month starting on 8th October 2018. The payments will, as necessary and by agreement of the Parties, be adjusted at the end of each Quarter Month to reflect the actual costs incurred.
- 5.2 The Administering Authority will notify HART of any amounts owed (creditors) by the Hart or owed to HART (debtors) at the end of each financial year (by second week in April). The relevant amounts will be shown in the balance sheets of each Party.

6. Service Credits

Any Service Credits payable by the Collection Contractor to the Administering Authority pursuant to clause 20 and Schedule 3 of the Collection contract shall be apportioned to the Party in whose district the related Service Failure occurred, or if a Service failure relates to the Collection Contract as a whole then the Service Credit will be apportioned based on the actual authority area the credit is for.

7. Recycling Credits, Glass Income Share and Materials Recovery Facility (MRF) Recycling Income

- 7.1 The Administering Authority will on HART's behalf make claims on a quarterly basis for recycling credits from Hampshire County Council in accordance with the procedures.
- 7.2 Details of all claims submitted to Hampshire County Council will be passed to HART's accountants for their records.
- 7.3 Hampshire County Council will make payments directly to the Administering Authority .
- 7.4 The Administering Authority will advise HART on all projected income for the glass income share and MRF recycling income on a monthly basis based on information received from HCC.

SCHEDULE 7

Exit Arrangements

PART I

I. INTRODUCTION

- I.1 In the event of the termination of this Agreement in accordance with **clause 3.2**, this **Schedule 7** describes the duties and responsibilities of the Parties in order to ensure the smooth transition of provision of the Services by BASINGSTOKE to HART and/or Replacement Provider (Exit Arrangements).
- I.2 Definitions used in this **Schedule 7** shall be the same as those set out in the Agreement, with the following additional definitions:

"Administering Authority Obligations"

means the obligations of BASINGSTOKE under this Agreement which for the avoidance of doubt shall include the Collection Contract Obligations;

"Collection Contract Obligations"

means the obligations of the Administering Authority as party to the Principal Contracts;

"Exit Assistance"

means the provision of advice, training, assistance, information, data (and format thereof) and actions as are reasonably requested by the Replacement Administering Authority to effect a smooth transfer (and continued operation) of any of the Administering Authority Obligations from the control and provision of the Outgoing Administering Authority to HART and/or Replacement Provider;

"Exit Plan"

means the agreed plan for the transfer and transition arrangements, setting out the timetable and scope of required activities as set out in this **Schedule 7**, for transferring all or part of the Administering Authority Obligations from the control and provision by BASINGSTOKE to the control and provision of HART and/or Replacement Provider;

PART 2

2. EXIT PLANNING

2.1 Date for provision of Exit Plan

- 2.1.1 BASINGSTOKE shall provide Hart with a draft Exit Plan by the [third] anniversary of the Commencement Date or no later than 20 Business Days from the date of the Parties becoming aware that this Agreement will terminate as a consequence of the operation of clause 3.2.
- 2.1.2 The draft Exit Plan shall specify in detail how and when (having regard to the timescales set out in this **Schedule 7**) Basingstoke will fulfil all the obligations of this **Schedule 7** and any other obligations relating to exit in the Collection Contract.
- 2.1.3 HART shall provide to BASINGSTOKE its reasonable comments on the draft Exit Plan within 20 Business Days of BASINGSTOKE's receipt of the draft Exit Plan. BASINGSTOKE shall incorporate HART's comments and suggestions and shall issue a revised version of the Exit Plan within 10 Business Days of receipt of HART's reasonable comments and suggestions.
- 2.1.4 The Exit Plan shall not be effective until approved by HART and the Joint Governance Group.
- 2.1.5 The Parties shall review and update the Exit Plan in consultation with the Joint Governance Group as appropriate up to and including the date of termination of this Agreement.

2.2 Exit Management Roles

- 2.2.1 Each Party shall appoint a suitable individual to manage the exit process (an "**Exit Manager**").

PART 3

3. EXIT ARRANGEMENTS

3.1 Exit Assistance

- 3.1.1 The obligation to provide the Exit Assistance and fulfil all the obligations of this **Schedule 3** from the relevant date is independent of and not contingent upon the Parties having an agreed form of Exit Plan in place. Where there is an agreed Exit Plan in place, Basingstoke shall provide to HART and to the Joint Governance Group weekly reports of progress against the Exit Plan and of any problems, anticipated problems and delays and of any appropriate actions to be taken by BASINGSTOKE in response.
- 3.1.3 At HART's request, BASINGSTOKE shall continue to provide the Exit Assistance and continue with the implementation of the Exit Plan for a period of up to [three] months from the date of termination of this Agreement.

3.2 Variation and/or Novation of the Collection Contract and any Third Party Contracts

- 3.2.1 Where this Agreement is terminated pursuant to clause 3.2.2, the Collection Contract shall need to be either varied and/or novated, with respect to those parts of the services which the Parties wish the Collection Contractor to continue to provide in respect of their administrative areas, or else will need to be determined in accordance with the provisions of the Collection Contract.
- 3.2.2 BASINGSTOKE shall be required to use reasonable endeavours to vary and/or novate the Collection Contract in accordance with the agreement reached by HART.
- 3.2.3 In the event that HART wishes to continue to have services provided by the Collection Contractor following a variation and/or novation of the Collection Contract, it may be necessary to continue other third party contracts held by BASINGSTOKE, in which case these will also need to be varied and/or novated to HART.
- 3.2.4 Where a third party consent is required to any variation and/or novation, BASINGSTOKE shall use reasonable endeavours to procure such variation and/or novation to HART and do all other things reasonably necessary to obtain such third party consents.
- 3.2.5 Where a third party consents to the variation and/or novation of a third party contract, HART shall pay any fees charged by the third party in association with such variation and/or novation.
- 3.2.6 BASINGSTOKE shall provide HART and/or Replacement Provider with an up-to-date list of existing and/or threatened disputes relating to the

obligations under the Collection Contract, and use its best endeavours to resolve such disputes. Where the dispute affects the interests of HART, BASINGSTOKE shall not settle the dispute or accept any liability without consulting the Joint Governance Group and without the prior consent of HART, such consent not to be unreasonably withheld or delayed.

3.3 **Software**

BASINGSTOKE shall use all reasonable endeavours to procure the right or a licence to use any software required to carry out services substantially similar to the Services performed by BASINGSTOKE under this Agreement at no cost.

3.4 **Intellectual property rights**

- 3.4.1 BASINGSTOKE shall at the reasonable request of Hart promptly execute such documents and take or desist from such action as HART may reasonably require in order to assure to Hart the full benefit of any intellectual property created by BASINGSTOKE pertaining to HART's and/or Replacement Provider's future provision performance of services substantially similar to the Services performed by BASINGSTOKE under this Agreement and to confirm HART's title thereto.
- 3.4.2 To the extent that it is permitted to do so, BASINGSTOKE shall grant to HART a licence to use any third party intellectual property rights used in the performance of the Services and necessary for the provision of future services by HART and/or Replacement Provider. To the extent that BASINGSTOKE is not permitted to grant licences to HART of any third party intellectual property rights, it shall use its reasonable endeavours to assist HART and/or Replacement Provider to procure the necessary rights direct from the relevant third party(ies).

3.5 **Transfer of Joint Waste Client Team Staff**

In the event that any staff comprising the Joint Waste Client Team will transfer to HART following the termination of this Agreement, the Parties agree that the provisions of **Schedule 8** (TUPE) paragraphs 6 and 7 shall apply.

3.6 **Apportionment of Costs**

Any costs, expenses, losses or liabilities of any nature which arise as a consequence of the termination of this Agreement shall be borne in such proportion as shall be agreed by the Parties and in the absence of such agreement the matter shall be determined in accordance with the provisions of paragraph 3.10 of this Schedule.

3.7 **Dispute Resolution**

In the event of the Parties failing to reach agreement on any part of the above Exit arrangements it shall be determined in accordance with **clause 28** (Dispute Resolution).

SCHEDULE 8

TUPE

I. Definitions

In this Schedule, the following definitions shall apply:

Acquired Rights Directive: the Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as it applies in England and Wales from time to time including as retained, amended, extended, re-enacted or otherwise given effect on or after 11 pm on 31 January 2020.

Employee Liabilities: all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation related to employment including in relation to the following:

- (a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;
- (b) unfair, wrongful or constructive dismissal compensation;
- (c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;
- (d) compensation for less favourable treatment of part-time workers or fixed term employees;
- (e) outstanding employment debts and unlawful deduction of wages including any PAYE and national insurance contributions;
- (f) employment claims whether in tort, contract or statute or otherwise;
- (g) any investigation relating to employment matters by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;

Employment Regulations: the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced;

Replacement Services: any services which are the same as or substantially similar to the Services following the expiry or termination of this Agreement, whether those services are provided by the Authority internally and/or by any third party;

Replacement Provider: any third party service provider of Replacement Services appointed by the Authority from time to time (or where HART is providing Replacement Services for its own account);

Relevant Transfer: a transfer of employment to which the Employment Regulations apply;

Relevant Transfer Date: in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place;

Services; the services provided by Basingstoke in accordance with the terms and conditions of this Agreement, including the Service Level Agreement;

Service Transfer: any transfer of the Services (or any part of the Services), for whatever reason, from Basingstoke to a Replacement Provider;

Service Transfer Date: the date of a Service Transfer;

Staffing Information: in relation to all persons identified on Basingstoke's Provisional Staff List or Basingstoke's Final Staff List, as the case may be, such information as HART may reasonably request (subject to all applicable provisions of the Data Protection Legislation), but including in an anonymised format:

- (a) their ages, dates of commencement of employment or engagement and gender;
- (b) details of whether they are employed, self-employed contractors or consultants, agency workers or otherwise;
- (c) the identity of the employer or relevant contracting Party;
- (d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;
- (e) their wages, salaries and profit sharing arrangements as applicable;
- (f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;
- (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- (h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;

- (i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
- (j) any other "employee liability information" as such term is defined in regulation 11 of the Employment Regulations;

Basingstoke's Final Staff List: a list provided by Basingstoke of all Basingstoke Staff who will transfer under the Employment Regulations on the Relevant Transfer Date;

Basingstoke Staff: all officers and employees of Basingstoke engaged in the performance of Basingstoke's obligations under this Agreement;

Basingstoke's Provisional Staff List: a list prepared and updated by Basingstoke of all Basingstoke Staff who are engaged in or wholly or mainly assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by Basingstoke;

Transferring Hart Staff: those employees of HART to whom the Employment Regulations will apply on the Relevant Transfer Date [as contained in Annex B, and accurate as at the date on which this Agreement is signed by both Parties];

Transferring Basingstoke Staff: those employees of Basingstoke to whom the Employment Regulations will apply on the Service Transfer Date.

Transferring Hart Staff at commencement of Services

2. Relevant Transfers

2.1 HART and BASINGSTOKE agree that:

- (a) the commencement of the provision of the Services will be a Relevant Transfer in relation to the Transferring Hart Staff; and
- (b) as a result of the operation of the Employment Regulations, the contracts of employment between HART and the Transferring Hart Staff (except in relation to any terms dis-applied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Relevant Transfer Date as if originally made between Basingstoke and each such Transferring Hart Staff.

2.2 HART shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of the Transferring Hart Staff in respect of the period arising up to (but not including) the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period up to (but not including) the Relevant

Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) HART; and (ii) BASINGSTOKE.

3. HART indemnities

3.1 Subject to **Error! Bookmark not defined.**3.2, HART shall indemnify BASINGSTOKE against any Employee Liabilities in respect of any Transferring Hart Staff (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:

- (a) any act or omission by HART occurring before the Relevant Transfer Date;
- (b) the breach or non-observance by HART before the Relevant Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Hart Staff; and/or
 - (ii) any custom or practice in respect of any Transferring Hart Staff which HART is contractually bound to honour;
- (c) any claim by any trade union or other body or person representing the Transferring Hart Staff arising from or connected with any failure by HART to comply with any legal obligation to such trade union, body or person arising before the Relevant Transfer Date;
- (d) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (i) in relation to any Transferring Hart Staff, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
 - (ii) in relation to any employee who is not Transferring Hart Staff and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from HART to BASINGSTOKE as appropriate, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date.
- (e) a failure of HART to discharge, or procure the discharge of, all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Hart Staff arising before the Relevant Transfer Date;

- (f) any claim made by or in respect of any person employed or formerly employed by HART other than Transferring Hart Staff for whom it is alleged Basingstoke may be liable by virtue of the Employment Regulations and/or the Acquired Rights Directive; and
- (g) any claim made by or in respect of Transferring Hart Staff or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Hart Staff relating to any act or omission of HART in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by Basingstoke to comply with regulation 13(4) of the Employment Regulations.

3.2 If any person who is not identified by HART as being Transferring Hart Staff claims, or it is determined in relation to any person who is not identified by HART as being Transferring Hart Staff, that his/her contract of employment has been transferred from HART to BASINGSTOKE pursuant to the Employment Regulations or the Acquired Rights Directive then:

- (a) BASINGSTOKE shall, within five Working Days of becoming aware of that fact, give notice in writing to HART; and
- (b) HART may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of receipt of the notification by BASINGSTOKE, or take such other reasonable steps as HART considers appropriate to deal with the matter provided always that such steps are in compliance with Law.

3.3 If an offer referred to in paragraph 3.3(b) is accepted, or if the situation has otherwise been resolved by HART, BASINGSTOKE shall immediately release the person from his/her employment or alleged employment.

3.4 If by the end of the 15 Working Day period specified in paragraph 4.3(b):

- (a) no such offer of employment has been made;
- (b) such offer has been made but not accepted; or
- (c) the situation has not otherwise been resolved,

BASINGSTOKE may within five Working Days give notice to terminate the employment or alleged employment of such person.

3.5 Subject to BASINGSTOKE acting in accordance with the provisions of paragraph 3.3 to paragraph and in accordance with all applicable proper employment procedures set out in applicable Law, HART shall indemnify BASINGSTOKE (as appropriate) against all Employee Liabilities arising out of the termination pursuant to the provisions of paragraph 4.5 provided that Basingstoke takes all reasonable steps to minimise any such Employee Liabilities.

- 3.6 If any such person as is referred to in paragraph 4.3 is neither re-employed by HART nor dismissed by BASINGSTOKE within the time scales set out in paragraph 3.4 such person shall be treated as having transferred to BASINGSTOKE and BASINGSTOKE shall comply with such obligations as may be imposed upon it under applicable Law.

4. BASINGSTOKE indemnities and obligations

- 4.1 Subject to paragraph 4.2, BASINGSTOKE shall indemnify HART against any Employee Liabilities in respect of any Transferring Hart Staff (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:
- (a) any act or omission by BASINGSTOKE whether occurring before, on or after the Relevant Transfer Date;
 - (b) the breach or non-observance by BASINGSTOKE on or after the Relevant Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Hart Staff; and/or
 - (ii) any custom or practice in respect of any Transferring Hart Staff which HART is contractually bound to honour;
 - (c) any claim by any trade union or other body or person representing any Transferring Hart Staff arising from or connected with any failure by BASINGSTOKE to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
 - (d) any proposal by BASINGSTOKE made before the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Hart Staff to their material detriment on or after their transfer to BASINGSTOKE on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Hart Staff but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
 - (e) any statement communicated to or action undertaken by BASINGSTOKE to, or in respect of, any Transferring Hart Staff before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with HART in writing;
 - (f) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions;

- (i) in relation to any Transferring Hart Staff, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
 - (ii) in relation to any employee who is not Transferring Hart Staff, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from HART to BASINGSTOKE, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
 - (g) a failure of BASINGSTOKE to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Hart Staff in respect of the period from (and including) the Relevant Transfer Date; and
 - (h) any claim made by or in respect of any Transferring Hart Staff or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Hart Staff relating to any act or omission of the Administering Authority in relation to their obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from HART's failure to comply with its obligations under regulation 13 of the Employment Regulations.
- 4.2 The indemnities in paragraph 4.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of HART whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from HART's failure to comply with its obligations under the Employment Regulations.
- 4.3 BASINGSTOKE shall comply with all its obligations under the Employment Regulations (including its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge all its obligations in respect of the Transferring Hart Staff, from (and including) the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period from and including the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between HART and BASINGSTOKE.
- 4.4 The Parties agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to this paragraph 4, to the extent necessary to ensure that any Replacement Provider shall have the right to enforce the obligations owed to, and indemnities given to, any Replacement Provider by BASINGSTOKE or HART in its own right under section 1(1) of the Contracts (Rights of Third Parties) Act 1999.

- 4.5 Despite paragraph 4.4, it is expressly agreed that the parties may by agreement rescind or vary any terms of this Agreement without the consent of any other person who has the right to enforce its terms or the term in question despite that such rescission or variation may extinguish or alter that person's entitlement under that right.

5. Information

BASINGSTOKE shall promptly provide to HART in writing such information as is necessary to enable HART to carry out its duties under regulation 13 of the Employment Regulations. HART shall promptly provide to BASINGSTOKE in writing such information as is necessary to enable BASINGSTOKE to carry out their respective duties under regulation 13 of the Employment Regulations.

Employment exit provisions

6. Pre-service transfer obligations

- 6.1 BASINGSTOKE agrees that within 20 Working Days of the earliest of:

- (a) 12 months before the expiry of this Agreement or any earlier termination date agreed between the Parties in accordance with clause xx; or
- (b) receipt of a written request of HART at any time (provided that HART shall only be entitled to make one such request in any six month period),

it shall provide in a suitably anonymised format so as to comply with the Data Protection Legislation, Basingstoke's Provisional Staff List, together with the Staffing Information in relation to Basingstoke's Provisional Staff List and it shall provide an updated Basingstoke's Provisional Staff List at such intervals as are reasonably requested by Hart.

- 6.2 At least 28 days prior to the Service Transfer Date, BASINGSTOKE shall provide to Hart:

- (a) Basingstoke's Final Staff List, which shall identify which of the Basingstoke Staff are Transferring Basingstoke Employees; and
- (b) the Staffing Information in relation to Basingstoke's Final Staff List (insofar as such information has not previously been provided).

- 6.3 Basingstoke warrants, for the benefit of HART, that all information provided pursuant to paragraph 6.1 and paragraph shall be true and accurate in all material respects at the time of providing the information.

- 6.4 From the date of the earliest event referred to in **Error! Bookmark not defined.**6.1 (a), **Error! Bookmark not defined.**6.1 (b) and paragraph 6.1 (c), BASINGSTOKE agrees that it shall not assign any person to the provision of the Services who is not listed on Basingstoke's Provisional Staff List and shall not without the approval of HART (not to be unreasonably withheld or delayed):

- (a) replace or re-deploy any Basingstoke Staff listed on Basingstoke's Provisional Staff List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces;
- (b) make, promise, propose or permit any material changes to the terms and conditions of employment of Basingstoke Staff (including any payments connected with the termination of employment);
- (c) increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Basingstoke Staff save for fulfilling assignments and projects previously scheduled and agreed;
- (d) introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on Basingstoke's Provisional Staff List;
- (e) increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or
- (f) terminate or give notice to terminate the employment or contracts of any persons on Basingstoke's Provisional Staff List save by due disciplinary process,

and shall promptly notify HART of any notice to terminate employment given by Basingstoke or received from any persons listed on Basingstoke's Provisional Staff List regardless of when such notice takes effect.

6.5 BASINGSTOKE shall provide all reasonable cooperation and assistance to HART to ensure the smooth transfer of the Transferring Basingstoke Staff on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Basingstoke Staff to be paid as appropriate. Without prejudice to the generality of the foregoing, within five Working Days following the Service Transfer Date, BASINGSTOKE shall provide to HART, in respect of each person on Basingstoke's Final Staff List who is a Transferring Basingstoke Staff:

- (a) the most recent month's copy pay slip data;
- (b) details of cumulative pay for tax and pension purposes;
- (c) details of cumulative tax paid;
- (d) tax code;
- (e) details of any voluntary deductions from pay; and
- (f) bank/building society account details for payroll purposes.

7. Employment regulations exit provisions

- 7.1 HART and BASINGSTOKE acknowledge that the termination of this Agreement in accordance with clause 3 may result in a Relevant Transfer to which the Employment Regulations and/or the Acquired Rights Directive will apply. HART and BASINGSTOKE further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between Basingstoke and the Transferring Basingstoke Staff (except in relation to any contract terms dis-applied through operation of regulation 10(2) of the Employment Regulations) will have effect on the Transfer Date as if originally made between HART and each such Transferring Basingstoke Staff.
- 7.2 BASINGSTOKE shall comply with all its obligations in respect of the Transferring Basingstoke Staff arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge shall perform and discharge, all its obligations in respect of all the Transferring Basingstoke Staff arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) BASINGSTOKE; and (ii) HART and/or Replacement Provider.
- 7.3 Subject to paragraph 7.4, BASINGSTOKE shall indemnify HART against any Employee Liabilities in respect of any Transferring Basingstoke Staff (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:
- (a) any act or omission of BASINGSTOKE whether occurring before, on or after the Service Transfer Date;
 - (b) the breach or non-observance by BASINGSTOKE occurring on or before the Service Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Basingstoke Staff; and/or
 - (ii) any other custom or practice with a trade union or staff association in respect of any Transferring Basingstoke Staff which BASINGSTOKE is contractually bound to honour;
 - (c) any claim by any trade union or other body or person representing any Transferring Basingstoke Staff arising from or connected with any failure by BASINGSTOKE to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;

- (d) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (i) in relation to any Transferring Basingstoke Staff, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and
 - (ii) in relation to any employee who is not a Transferring Basingstoke Staff, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from BASINGSTOKE to HART and/or Replacement Provider, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;
- (e) a failure of BASINGSTOKE to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Basingstoke Staff in respect of the period up to (and including) the Service Transfer Date);
- (f) any claim made by or in respect of any person employed or formerly employed by BASINGSTOKE other than a Transferring Basingstoke Staff for whom it is alleged Hart may be liable by virtue of this Agreement and/or the Employment Regulations and/or the Acquired Rights Directive; and
- (g) any claim made by or in respect of any Transferring Basingstoke Staff or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Basingstoke Staff relating to any act or omission of BASINGSTOKE in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by HART and/or Replacement Provider to comply with regulation 13(4) of the Employment Regulations.

7.4 The indemnities in paragraph shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of HART and/or Replacement Provider whether occurring or having its origin before, on or after the Service Transfer Date.

7.5 If any person who is not Transferring Basingstoke Staff, or it is determined in relation to any person who is not Transferring Basingstoke Staff, that his/her contract of employment has been transferred from BASINGSTOKE to HART pursuant to the Employment Regulations or the Acquired Rights Directive, then:

- (a) HART shall give notice in writing to BASINGSTOKE; and

- (b) BASINGSTOKE may offer employment to such person within 15 Working Days of the notification by HART or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.

7.6 If such offer is accepted, or if the situation has otherwise been resolved by BASINGSTOKE, HART shall immediately release or procure the release of the person from his/her employment or alleged employment.

7.7 If after the 15 Working Day period specified in paragraph 17.5(b) has elapsed:

- (a) no such offer of employment has been made;
- (b) such offer has been made but not accepted; or
- (c) the situation has not otherwise been resolved

BASINGSTOKE shall advise HART and/or Replacement Provider that it may within five Working Days give notice to terminate the employment or alleged employment of such person.

7.8 Subject to HART and/or Replacement Provider acting in accordance with the provisions of paragraph 7.5 to paragraph , and in accordance with all applicable proper employment procedures set out in applicable Law, BASINGSTOKE shall indemnify the HART and/or Replacement provider against all Employee Liabilities arising out of the termination pursuant to the provisions of paragraph 7.7 provided that HART takes, or shall procure that the Replacement Provider takes, all reasonable steps to minimise any such Employee Liabilities.

7.9 The indemnity in paragraph 7.8 shall apply only where the notification referred to in paragraph 7.5(a) is made by HART and/or Replacement Provider to BASINGSTOKE within six months of the Service Transfer Date.

7.10 If any such person as is described in paragraph 7.5 is neither re-employed by BASINGSTOKE nor dismissed by HART and/or Replacement Provider within the time scales set out in paragraph to paragraph , such person shall be treated as Transferring Basingstoke Staff and HART and/or Replacement Provider shall comply with such obligations as may be imposed upon it under applicable Law.

7.11 BASINGSTOKE shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of the Transferring Basingstoke Staff before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date).

- 7.12 BASINGSTOKE shall promptly provide to HART and/or Replacement Provider, in writing such information as is necessary to enable HART and/or Replacement Provider to carry out their respective duties under regulation 13 of the Employment Regulations. HART shall promptly provide to BASINGSTOKE in writing such information as is necessary to enable Basingstoke to carry out their duties under regulation 13 of the Employment Regulations.
- 7.13 Subject to paragraph 7.14, HART shall indemnify, and shall procure that and Replacement Provider indemnifies, Basingstoke any Employee Liabilities in respect of each Transferring Basingstoke Staff (or, where applicable any employee representative (as defined in the Employment Regulations) of any Transferring Basingstoke Staff) arising from or as a result of:
- (a) any act or omission of HART and/or Replacement Provider;
 - (b) the breach or non-observance by HART and/or Replacement Provider on or after the Service Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Basingstoke Staff; and/or
 - (ii) any custom or practice in respect of any Transferring Basingstoke Staff which HART and/or Replacement Provider is contractually bound to honour;
 - (c) any claim by any trade union or other body or person representing any Transferring Basingstoke Staff arising from or connected with any failure by HART and/or Replacement Provider to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
 - (d) any proposal by HART and/or Replacement Provider to change the terms and conditions of employment or working conditions of any Transferring Basingstoke Staff on or after their transfer to Hart and/or Replacement Provider on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been Transferring Basingstoke Staff but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
 - (e) any statement communicated to or action undertaken by HART and/or Replacement Provider to, or in respect of, any Transferring Basingstoke Staff on or before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with BASINGSTOKE in writing;

- (f) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (i) in relation to any Transferring Basingstoke Staff, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and
 - (ii) in relation to any employee who is not Transferring Basingstoke Staff, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from Basingstoke to HART and/or Replacement Provider to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;
- (g) a failure of HART and/or Replacement Provider to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Basingstoke Staff in respect of the period from (and including) the Service Transfer Date; and
- (h) any claim made by or in respect of a Transferring Basingstoke Staff or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Basingstoke Staff relating to any act or omission of HART and/or Replacement Provider in relation to obligations under regulation 13 of the Employment Regulations.

7.14 The indemnities in paragraph 7.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of BASINGSTOKE whether occurring or having its origin before, on or after the Relevant Transfer Date, including any Employee Liabilities arising from the failure by BASINGSTOKE to comply with its obligations under the Employment Regulations.

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SCHEDULE 9

Collection Contract

1. ADMINISTRATION OF THE COLLECTION CONTRACT

Unless otherwise defined in this Agreement, terms used in this **Schedule** shall be as defined in the Collection Contract.

2. PARTNER NOTICE OF PROPOSED CHANGE

- 2.1 Either of the Parties may order a change to the Services (including the provision of the Optional Services or any new services) by serving a notice of change (a "**Partner Notice of Proposed Change**") on the other party setting out the required change in the Services in sufficient detail to enable the Collection Contractor to provide an Estimate.
- 2.2 The Parties shall not issue a Partner Notice of Proposed Change which:
- 2.2.1 requires the Services to be performed in a way that infringes legislation;
 - 2.2.2 would cause any Planning Permission or Necessary Consent to be breached and/or revoked;
 - 2.2.3 would materially and adversely affect the health and safety of any person; and/or
 - 2.2.4 would substantially alter the scope of the Services.
- 2.3 Within 10 Business Days of receipt of the Partner Notice of Proposed Change, the Administering Authority shall invite a meeting of the Joint Governance Group to consider the implications of the Partner Notice of Proposed Change and to recommend any changes to the Partner Notice of Proposed Change.
- 2.4 On receipt of any comments from the Joint Governance Group the party issuing the Partner Notice of Proposed Change shall consider at its absolute discretion whether any amendment to the Partner Notice of Proposed Change is required.
- 2.5 The Administering Authority shall serve a Notice of Proposed Change setting out the change in Services requested by the party in the Partner Notice of Proposed Change on the Collection Contractor in accordance with clause 43.2 of the Collection Contract.
- 2.6 The Administering Authority shall within 10 Business Days of receipt of the Estimate given by the Collection Contractor pursuant to clause 43.4 of the

Collection Contract, forward such Estimate to the Joint Governance Group and to the party that requested the change.

- 2.7 Within 25 Business Days of receipt of the Estimate the party which requested the change may in consultation with the Joint Governance Group require the Administering Authority to:
- 2.7.1 confirm in writing the Estimate;
 - 2.7.2 suggest reasonable amendments to the Estimate; or
 - 2.7.3 request the withdrawal of the Notice of Proposed Change.
- 2.8 If a party does not confirm its decision in writing to the Administering Authority in relation to the Estimate within 20 Business Days of the provision of the Estimate, its approval shall be deemed not to have been given and the Notice of Proposed Change will be withdrawn in accordance with clause 43.6 of the Collection Contract.
- 2.9 If the party confirms in writing to the Administering Authority the Estimate, the Administering Authority shall confirm such change to the Collection Contractor and the change in the Services shall be effected as an agreed variation to the Collection Contract.
- 2.10 The party requesting the change in the Services shall meet all additional costs of the Estimate through an adjustment to its contribution to the Annual Budget and in accordance with the principles set out in **Schedule 6** (Budget and Cost Sharing Agreement).
- 2.11 Where any such change in the Services results in any consequential additional costs or liabilities the party requesting the change in the Services shall meet all such additional costs or liabilities of the other party through an adjustment to its contribution to the Annual Budget and in accordance with the principles set out in **Schedule 6** (Budget and Cost Sharing Agreement).
- 2.12 Where any change in the Services results in a reduction in the Services Payment the party requesting the change in the Services shall receive a reduction in its contributions to the Annual Budget in accordance with the principles set out in **Schedule 6** (Budget and Cost Sharing Agreement), provided always that such change has not increased the costs or liabilities of the other party in which case these costs or liabilities shall be taken into account in calculating the reduction in the party's contributions.
- 2.13 Where the Collection Contractor requests that the Administering Authority issues a Notice of Proposed Change pursuant to clause 43.8 of the Collection Contract, the Administering Authority shall request that the Joint Governance Group decides whether or not to issue such a Notice of Proposed Change. A Notice of Proposed Change may only be issued if agreed by the Joint Governance Group.

3. WITHDRAWAL FROM THE COLLECTION CONTRACT

- 3.1 In the event of this Agreement being terminated in accordance with **clause 7.3**, the Administering Authority shall obtain from the Collection Contractor an Estimate of the costs of novating the Collection Contract to the Parties for the remainder of the original contract term or the period any extension as may have been agreed at the point of service of the notice under **paragraph 3.1** of this **Schedule**.
- 3.2 If the Parties agree and accept the Estimate, the Administering Authority shall confirm such change to the Collection Contractor and arrange for the Collection Contract to be novated to the Parties on the basis of the same terms and conditions save only for any amendment to the prices and rates as set out in the Estimate.
- 3.3 The relevant party(ies) shall meet the additional costs of the Estimate in accordance with the principles set out in **Schedule 6** (Budget and Cost Sharing Agreement) and the provisions of **Schedule 7** (Exit arrangements).
- 3.6 The Partner Authorities agree that where this Agreement terminates the Parties agree that the provisions of **Schedule 3** shall apply to the transfer of staff to the HART or Replacement Provider.

4. EXTENSION OF THE COLLECTION CONTRACT

- 4.1 No later than 18 months prior to the expiry of the Collection Contract the Parties shall meet and consider whether or not to extend the term of the Collection Contract (in accordance with clause 2.2 of the Collection Contract).
- 4.2 Where both Parties agree to extend the Collection Contract, the Administering Authority takes all reasonable steps necessary to extend the Collection Contract (in accordance with the terms of that contract).
- 4.3 Where only one party wishes to extend the Collection Contract, the Administering Authority shall not extend the Collection Contract and it shall come to an end in accordance with the terms of that contract.

5. DISPUTES

- 5.1 If a dispute arises in relation to any aspect of the Collection Contract, which cannot be resolved between the Contract Manager and the Contractor's Representative in accordance with clause 36.1.1 of the Collection Contract, the Administering Authority shall promptly notify the Joint Governance Group of the dispute.
- 5.2 In the event that any dispute is referred to mediation or arbitration in accordance with clauses 36.2 and 36.3 of the Collection Contract the

Administering Authority shall promptly notify the Joint Governance Group and shall keep the Joint Governance Group regularly informed of the progress of the dispute referred to mediation or arbitration.

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SCHEDULE 10

Data Processing

1.1 Scope

1.2 Nature

1.3 Purpose of processing

1.4 Duration of processing

2. Types of Personal Data

3. Categories of Data Subject



Basingstoke
and Deane



working together

**SERVICE LEVEL AGREEMENT FOR
PROVISION OF A JOINT WASTE CLIENT TEAM FUNCTION**

Rev.	Date	Amendment	Authorised By: HDC Rep	Authorised By: BDBC Rep
0.1	05.03.2021	David Burrell		

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1. Introduction

1.1 This Service Level Agreement ('SLA') is made between:

- (i) **BASINGSTOKE AND DEANE BOROUGH COUNCIL ('BDBC');** and
- (ii) **HART DISTRICT COUNCIL ('HDC')**

collectively known as 'the Councils'

2. Background

2.1 Following a procurement process carried out in pursuance of public procurement rules, the Councils jointly selected and awarded a contract to Serco Limited to provide household waste and recycling services across both of their districts for a term of 8 years, commencing on 1st October 2018, with the option to extend for a further 8 years ('Serco Contract').

2.2 By virtue of an Inter Authority Agreement dated [date] 2021 made between BDBC (1) and HDC (2) ('IAA'), the Councils agreed that BDBC will perform the role and responsibilities of the Administering Authority pursuant to the Serco Contract, including hosting of the Joint Waste Client Team, and all related contractual arrangements ('Service').

3 Purpose

3.1 The purpose of this SLA is to describe:

- (i) the role and responsibilities of the Councils in relation to how the Joint Waste Client Team will function pursuant to the IAA;
- (ii) the scope and standards of the services to be provided by **BDBC** under this SLA, and the manner and quality of such provision agreed with **HDC**;
- (iii) the responsibilities both Councils will have to make this arrangement successful; and
- (iv) the mechanisms by which success will be measured.

3.2 The SLA can be used by the Joint Client Team staff to clarify how the relationship will function for the duration of the IAA.

4 Conflict

If there is an inconsistency between any of the provisions of this SLA and the provisions of the IAA, the provisions of [this agreement/ the IAA] shall prevail.

5 Future Reviews and Amendments to this Service Level Agreement

This SLA will be reviewed annually, save that the Parties may agree changes any time to respond to prevailing operational needs and/or unforeseen circumstances, and any proposed changes will be agreed and confirmed at the next meeting of the Joint Governance Group.

6 Objectives of Service

6.1 To administer the Serco Contract in line with:

- (a) its terms and conditions and the specification set out therein;
- (b) the guiding principles and objectives of the IAA; and
- (c) all current regulations, agreed policies, accepted professional standards and relevant legislation.

6.2 To carry out the Service in such a way that fosters and strives to achieve continuous improvement in the relationship with Serco to underpin the successful delivery of the services they provide under the Serco Contract.

6.3 To carry out the Service in a manner that enables:

- (a) both Councils to perform and comply with their respective obligations under the IAA; and
- (b) BDBC to perform its obligations under the Serco Contract; and
- (c) BDBC to manage, monitor and, where appropriate, enforce the provisions of the Serco Contract to ensure that the quality and reliability of services delivered to residents is maintained at all times.

6.4 To liaise with and co-ordinate any inter-dependent support services, such as contact centre, communications and IT

6.5 To identify efficiency savings and support the implementation of continuous business improvements to the benefit of the Joint Waste Client Team.

7 Team Contact Details

Name	Role	Tel No	Email

8 Joint Waste Client Team Principal Activities

The Joint Waste Client Team shall carry out the following principal activities:

- (a) monitor and manage the performance of the Serco Contract;
- (b) in conjunction with support provided by BDBC, acting in its capacity as the Administering Authority, to prepare, monitor and control the annual budget (as detailed in the IAA);
- (c) ensure that where any information is received from or requested by Serco under the Serco Contract, the dissemination, collation and provision of information is effected within a timescale which is compatible with any time provisions detailed in the Serco Contract and in any event as soon as is reasonably practicable;
- (d) refer any requests from Serco for a consent or approval to appropriate officers, Joint Governance Group, committee or cabinet as appropriate and then communicate any decision back to Serco under the Serco Contract. Such communications shall be within a timescale which is compatible with any time provisions detailed in the Serco Contract and, in any event, as soon as reasonably practicable;
- (e) prepare a strategic risk register relating to the IAA, this SLA and the performance of the Serco Contract and regularly submit this, together with details of any mitigation actions implemented, to the Joint Governance Group; and
- (f) carry out the day to day responsibilities set out in clause 9 below.

9 Joint Waste Client Team Day to Day Responsibilities

9.1 Waste Strategy

- (a) Produce the Waste Strategy(ies) for the Councils in conjunction with the Project Integra partner authorities.
- (b) Arrange for an appropriate officer to attend Project Integra meetings and support of members at Project Integra meetings as required.
- (c) Set appropriate targets as required.

- (d) Provide technical waste advice to the senior management and members of the Councils as required.
- (e) Produce consultation responses as required.
- (f) Produce robust business continuity plans for the services provided under the Serco Contract.

9.2 Contract Monitoring

- (a) Undertake all requirements of the Serco Contract terms and conditions which the Joint Waste Client Team are required to undertake.
- (b) Manage and supervise Serco under the terms and conditions of the Serco Contract.
- (c) Review and monitor the performance of Serco against the KPI's set out in the Serco Contract.
- (d) Issue Remediation and Default Notices where appropriate.
- (e) Report any significant non-performances by Serco to the Councils.
- (f) Provide monthly reports on the performance of Serco and other activities.
- (g) Process and implement variations to the Serco Contract where required.
- (h) Liaise with Serco as required.
- (i) Monitor Serco's Health & Safety Compliance including receiving details of any accidents, near misses etc.
- (j) Ensure that Serco provides up to date information as required under the Serco Contract, e.g., risk assessments, method statements.
- (k) Undertake Health and Safety audits twice a year across the Serco Contract.
- (l) Attend regular meetings with Serco as agreed and detailed within the Serco Contract.
- (m) Client Team Officers to meet regularly with Serco to discuss any matters / projects or issues which arise on a regular basis at least weekly.
- (n) Prepare reports from Serco's Whitespace system and provide any reports required to the Joint Governance Group.

9.3 Meetings

- (a) [Head of xxxxx (BDBC)] and/or [Waste and Recycling Manager] to attend monthly 1 to 1 meetings with a Joint CX/ corporate director or their nominated deputy of each of the Councils as required.
- (b) [Head of xxxxx (BDBC)] and/or [Waste and Recycling Manager] to attend meetings of the Joint Governance Group.
- (c) [Head of xxxxx (BDBC)] and/or [Waste and Recycling Manager] to attend monthly Portfolio Holder meetings as required.

- (d) Project Integra meetings – attend all meetings as representatives of both Councils as required, including:
- Operations Group
 - Strategy Officers Group
 - Strategic Board
 - Waste Technical Group – Waste & Recycling Manager has been requested as a member of this group
 - RAG – Resource Awareness Group (Waste Prevention Group has now been merged with the RAG)
 - Other ad-hoc meetings as required

Provide updates on all these meetings as part of the monthly client team report.

9.4 Customer Interface

- (a) Deal with communication escalated by the contact centre.
- (b) Deal with complaints in accordance with the Councils' corporate guidelines and systems.
- (c) Respond to letters in accordance with the Councils' corporate standards.
- (d) Meet regularly with the contact centre to discuss any issues/problems new projects to ensure that they are kept up to date on all issues which may arise within the Serco.
- (e) Ensure the contact centre are kept up to date on all Joint Waste Client Team matters.
- (f) Monitor the contact centre in relation to the Serco Contract and discuss as necessary.
- (g) Ensure the contact centre is trained to use Serco's Whitespace IT system and link into each Council's own systems as required.
- (h) Ensure the contact centre has up to date service information.
- (i) Ensure that the contact centre is kept up to date on any improvements to Serco's Whitespace IT system.

9.5 Communications and Education

[this section also needs to be reviewed by the Comms teams of both councils]

- (a) Agree branding for all waste communications and education with both Councils and also the contractor to simplify the process and production of all leaflets, bin hangers, stickers etc.
- (b) In conjunction with the communication teams of both Council and Serco, to set up a Communications Strategy for the Serco Contract.
- (c) All communications to be reviewed by each Council's communications team.
- (d) Produce all communications for both Councils to the agreed branding and format.
- (e) Ensure that [four (4)] times a year bin hangers are produced with relevant information on projects, systems or other that the Councils wish to promote to residents i.e. garden waste or reducing contamination. Note – is 4 times per year as per Serco contract?
- (f) All communications will be reviewed annually against the Communications Strategy through the Joint governance Group.
- (g) Produce literature as required.
- (h) [Manage and/or arrange for the management of] the Councils' website content relating to waste.
- (i) Communicate to residents regarding service changes.
- (j) Conduct education campaigns as agreed with the Joint Governance Group or [Portfolio Holder] (as appropriate).
- (k) Liaise with the media and produce press releases as appropriate.

9.6 Civil or Environmental Emergency

- (a) Provide the Councils with contact details of relevant staff who would be responsible for managing any emergency situations
- (b) Liaise and discuss circumstances and issues with:
 - Serco
 - Corporate Directors
 - Portfolio Holders

and, in consultation with such persons, agree a course of action for resolving emergency
- (c) Provide information on agreed course of action to corporate communications teams of both Councils.

9.7 Member Liaison

- (a) Produce reports and attend committees, including Scrutiny committees, as required.
- (b) Answer member queries and complaints as required.

9.8 Administration/Finance

- (a) Produce a monthly report on the Joint Waste Client Team to include details of any contract matters, Health and Safety reports, progress on projects, Project Integra Meetings and any other aspect that is required.
- (b) Attend each Council's Health and Safety committee to report on the Serco Contract.
- (c) Produce Service Plans and Business Continuity Plans as required by both Councils in accordance with their policies.
- (d) Pay invoices received from Serco (or any other suppliers) within HDC timescales (where such timescales are shorter than those of BDBC).
- (e) [Waste and Recycling Manager] to liaise with HDC's Accountant in relation to any payments made on the Serco Contract and to provide regular invoices for payment of any made on HDC's behalf by BDBC.
- (f) Both BDBC and HDC's accountants to meet regularly to discuss any outstanding matters and payments.
- (g) Provide information/data required by both Councils especially HDC for collection of fees and charges.
- (h) Input information to waste data flow and any other performance management systems required on both Councils' behalf.
- (i) Provide information to other partners as required.
- (j) Procure works/goods/services where required.
- (k) Provide budget forecasts for the MTFs in line with HDC timetables.
- (l) Provide monthly forecasts for the Budget monitoring process in line with each of the Councils' timetables.
- (m) Provide explanations for variations to the Budget.
- (n) Provide financial implications for reports.
- (o) Provide financial information for year-end accounting processes in line with each of the Councils' timetables.
- (p) Supply information and working papers.
- (q) Complete any request for statistical returns.

- (r) Agree on an annual basis HDCs performance targets in line with those contained within the Serco Contract, for example:
 - Recycling Rate
 - Other Key Performance Indicators which HDC require
- (s) Liaise with and provide information to auditors (either internal or external) as required.
- (t) Determine any VAT liability in relation to the contributions made by HDC.

In addition, the Joint Waste Client Team will provide HDC with the following information relating to its corporate processes:

(i) Annual Budget and Policy Framework

- Budget Strategy – in [September] each year, provide a figure for unavoidable costs as a result of demographic growth and inflation, including client element.
- Proposals for fees and charges together with an explanation of the rationale between each proposed fee, including benchmarking and an analysis of the cost of service provision and an explanation of the change/assumptions made.
- In [October] each year, provide detailed estimate working papers for waste management and explanations for inclusion in the published budget book.
- Organise the replacement of any equipment owned by the Councils required to fulfil the services to be provided under the IAA of this SLA.

(ii) Budget Monitoring/Planning – Monthly

- A forecast of expenditure up to 31st of March for current financial year.
- Forecasting model to back up the forecast.
- A written explanation of any variation to the latest approved budget – split between price and growth.
- Identify any risk that is included in the forecast e.g. number of bins.
- What action is being taken to correct any forecast overspend – will a budget virement be required.

(iii) Budget Monitoring/Planning - Quarterly

In addition to monthly requirements set out above:

- Additional information that may be required for Portfolio Holder Reports.
- Additional Information that may be required for the Joint Governance Group.

(iv) Annually Final Accounts

In accordance with HDC final accounts timetable and to ensure completeness and accuracy of accounts:

- Scheduled creditors
- Scheduled debtors
- Explanations for budget variations
- Identify future budget implications
- Any other items that are significant and require special treatment

(v) Other Financial Support

- Attendance at Council and committee meetings when required
- Brief Portfolio Holders quarterly and annually
- Support for project teams

10 HDC Responsibilities

10.1 **HDC** shall provide the Joint Waste Client Team with access to all information and data relevant to the provision of the Services.

10.2 **HDC** shall ensure that relevant officers and, where required, HDC members are, pursuant to clause 9.3, available to attend any meetings relating to the provision of the Services and/or the Serco Contract.

10.3 **HDC** shall ensure that suitable accommodation, equipment, electronic systems and support services are available for when it is necessary or expedient for any meetings, either of the JGG, between officers of both Councils or with Serco that are to be held at HDC's offices.

10.4 **HDC** shall [details of expected levels of IT support from Hart to be included].

11 Service Levels/Standards

HDC and **BDBC** have agreed the following service levels:

11.1 Waste Strategy

KPI	Compliance Target	Review period	Method
Produce the Waste Strategy(ies) for the Councils in conjunction with the Project Integra partner authorities	100%	Annually	Audit
Consultation responses are produced on time as may be required	100%	Annually	Tracked via Client Team Report
Produce robust business continuity plans for the services provided under the Serco Contract	100%	Annually	Audit

11.2 Contract Monitoring

KPI	Compliance Target	Review period	Method
Undertake all requirements of the Serco Contract terms and conditions which the JWCT are required to undertake	100%	Quarterly	Audit and Client Team Report
Review and monitor the performance of the Serco against the KPI's set out in the Serco Contract	100%	Monthly	Contractor Report review and Client Team Report
Issue Remediation Notices and Default Notices where appropriate	100%	Quarterly	Audit and Client Team Report
Provide monthly reports on the performance of Serco	100%	Monthly	Contractor Report review and Client Team Report
Process and implement variations to the Serco Contract where required	100%	Quarterly	Audit and Client Team Report
Undertake Health and Safety audits twice a year across the Serco Contract	100%	Bi-Annual	Audit and Client Team Report
Manage and supervise Serco under the terms and conditions of the Serco Contract	100%	Annually	Audit and Client Team Report

Ensure that the Whitespace IT system used by Serco is fully operational within the JWCT for the Contact Centre and that any report requirements are met.	100%	Monthly (or as required)	Audit and Client Team Report
Ensure that the Contract Risk Register is maintained for both Councils and kept under review. Any changes to be updated, presented to and agreed by the Joint Governance Group.	100%	Monthly (or as required)	Audit and Client Team Report
Maintain a formal Contract Management process in respect of the Waste and Recycling service in accordance with the BDBC Contract Management Handbook	100%	Annual	Audit

11.3 **Meetings**

KPI	Compliance Target	Review period	Method
To arrange meetings as may be required by the IAA and to ensure officers relevant to the agenda are included in the dissemination of invitations, agenda, minutes and actions	100%	Monthly (or as required)	Audit and Client Team Report
[Head of xxxx and Waste and Recycling Manager] to attend meetings as may be required; to include but not limited to: monthly 1:1 meetings with the Joint CX/corporate director; Joint Governance Group and other officers; monthly Portfolio Holder meetings; the Partnership Board	100%	Monthly (or as required)	Audit and Client Team Report
Project Integra meetings – attend all meetings as representatives of the Councils as required. Provide updates on all these meetings as part of the monthly JWCT report	100%	Monthly (or as required)	Audit and Client Team Report
To create and circulate minutes (minutes/actions/deliverable dates) for	100%	Monthly (or as required)	Audit and Client Team Report

meetings within 10 working days following the meeting			
Create and maintain action log(s) to track and deliver activities in a timely manner for the parties	100%	Monthly or as required	Audit

11.4 **Customer Interface**

KPI	Compliance Target	Review period	Method
Deal with complaints in accordance with the Councils' corporate guidelines and systems	100%	Monthly	Client Team Report
Meet regularly with the Contact Centre to discuss any issues/problems new projects/JWCT matters to ensure that they are kept up to date on all issues which may arise within the contract	100%	Monthly	Client Team Report
Facilitate meetings between the Contact Centre and Serco to ensure any issues raised by any party can be promptly and efficiently tracked and resolved, preventing adverse service impact	100%	Monthly	Client Team Report
Ensure the Contact Centre is trained to use and kept up to date with the functionality of Serco's Whitespace IT system and link into each Council's own systems as required	100%	Monthly	Client Team Report

11.5 **Communications and Education**

KPI	Compliance Target	Review period	Method
Agree a streamlined branding process for all planned waste communications and education with the Councils and also Serco to simplify the process and production of all leaflets, bin hangers, stickers etc.	100%	Annually	Client Team Report

Set up a communications strategy for the Serco Contract, which will be led by the Councils' Corporate Communications teams and Serco's manager and supported by the JWCT	100%	Annually	Client Team Report
All planned communications will be reviewed annually through the Joint Governance Group	100%	Annually	Client Team Report
Provide technical support to the Councils' Corporate Communications teams as appropriate for reactive waste communication	100%	Monthly	Client Team Report

11.6 **Civil or Environmental Emergency**

KPI	Compliance Target	Review period	Method
Provide the Councils with contact details of relevant staff who would be responsible for managing any emergency situations	100%	Annual	Audit
Liaise and discuss circumstances and issues with: <ul style="list-style-type: none"> • Serco • Joint CX/Corporate Directors • Portfolio Holders and, in consultation with such persons, agree a course of action for resolving the emergency	100%	As may be required	Audit
Provide information on agreed course of action to the Councils' Corporate Communications teams	100%	As may be required	Client Team Report

11.7 **Member and Officer Liaison**

KPI	Compliance Target	Review period	Method
Produce reports and attend scheduled committees and meetings	100%	Quarterly	Client Team Report
Attend unscheduled ad-hoc meetings with other Council officers where reasonable notice, i.e., 2 working days,			

is given, subject to the availability of relevant officers from the JWCT and/or subject to such attendance not otherwise adversely affecting provision of the Services			
Respond to member queries and complaints within the prescribed timescale for each Council	100%	Quarterly	Client Team Report

11.8 Administration/Finance

KPI	Compliance Target	Review period	Method
Produce a monthly report on the JWCT to include details of any contract matters, Health and Safety reports, progress on projects, Project Integra Meetings and any other aspect, as required by the JGG.	100%	Annual	Audit
Attend each Council's Health and Safety committee to report on the Serco Contract	100%	Quarterly	Client Team Report
Produce Service Plans and Business Continuity Plans as required by both Councils in accordance with their policies	100%	Annual	Audit
Pay invoices received from Serco (or any other suppliers) within HDC's timescales (where such timescales are shorter than those of the Administering Authority)	100%	Quarterly	Client Team Report
[Waste and Recycling Officer] to liaise with HDC's Accountant in relation to any payments made on the Serco Contract and to provide regular invoices for payment of any made on HDC's behalf by BDBC.	100%	Quarterly	Client Team Report
Provide information/data required by both authorities, for collection of fees and charges	100%	Quarterly	Client Report

Provide explanations for variations to the Budget	100%	As may be required	Client Team Report
Agree on an annual basis HDC's performance targets in line with those contained within the Serco Contract for example: <ul style="list-style-type: none"> • Recycling Rate • Other Key Performance Indicators which HDC require 	100%	Annual	Audit

11.9 In addition, the JWCT will provide BDBC with the following information relating to its corporate processes

KPI	Compliance Target	Review period	Method
Budget Strategy – in [September] each year, provide a figure for unavoidable costs as a result of demographic growth and inflation, including client element In [October] each year, provide detailed estimate working papers for waste management and explanations for inclusion in the published budget book	100%	Annual	Audit
Organise the replacement of any BDBC owned equipment required to fulfil the services			
Provide timely budget monitoring/planning for Monthly activities	100%	Monthly	Client Team Report
Provide timely budget monitoring/planning for Quarterly activities	100%	Quarterly	Client Team Report
Provide timely budget monitoring/planning for Annual activities	100%	Annually	Client Team Report

- 11.10 Target compliance information will be collated by the [Manager] in liaison with the [xxxxxxx]. All information will be reported to the Joint Governance Group in line with clause xx of the IAA.

12 **Reporting**

- 12.1 To support the agreed service levels, the JWCT will submit reports to **HDC** in the following manner to demonstrate delivery of services against agreed KPIs:

Type of Report	Frequency and Recipient		
	Monthly	Quarterly	Annually
Audit	[BDBC HoS]	[HDC Joint CX / corporate director / JGG]	JGG
Audit and Client Team	[BDBC HoS]	[HDC Joint CX / corporate director / JGG]	JGG
Client Team	[BDBC HoS]	[HDC Joint CX / corporate director / JGG]	JGG
Contractor	[BDBC HoS]	[HDC Joint CX / corporate director / JGG]	JGG

- 12.2 Quarterly and Annual reports will, unless otherwise agreed between the Councils, be made available one week prior to any meeting at which they will be considered / reviewed. This will allow attendees to appraise the information and contribute effectively to the meeting.

13 **Escalation**

- 13.1 If either Council has any issues, concerns or complaints about any matter concerning the operation of this SLA, that Council shall notify the other Council and the [] of both Councils shall then seek to resolve the issue by a process of consultation. If the issue cannot be resolved within a reasonable period of time, the matter shall be escalated to the Joint Governance Group, which shall decide on the appropriate course of action to take.

- 13.2 Where a resolution cannot be reached pursuant to paragraph 12.1, the matter will be escalated in accordance with the dispute resolution process set out in the IAA (clause xx).

14 Governing Law and Jurisdiction

This SLA shall be governed by and construed in accordance with English law and, without affecting the escalation procedure set out in clause 12, each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

SIGNED BY:	Signature here
Name in Capitals:	Name of Authoriser here
for and on behalf of Basingstoke and Deane Borough Council	
SIGNED BY:	Signature here
Name in Capitals:	Name of Authoriser here
For and on behalf of Hart District Council	

Basingstoke & Deane/Hart District Council: Waste & Recycling Services, Review of Management Structure



WYG was engaged by Basingstoke & Deane Borough Council (BDBC) to undertake a review of the management structure (the 'client side', based at Hart District Council – HDC) which oversees its joint waste and recycling contract (and service) with Hart District Council. Following a re-procurement, the contract for these services was awarded to Serco, who commenced operations in October 2018. Prior to then the contract was held by Veolia.

Towards the end of the Veolia contract and during the first six months of the new contract, residents experienced a poorer service than they had been used to / would have reasonably expected in terms of missed collections: and this problem was greater for BDBC than for HDC. The poor level of service and the large number of complaints caused understandable concern amongst the Officers and Members of BDBC that prompted WYG's review, carried out in 2019, our final report sent in September 2019.

It is quite clear to us that in the last months of the Veolia contract as well as in the first six months of the Serco contract, services were not delivered to the required / desired standard. It is also abundantly clear to us that BDBC has been disproportionately affected by this poor level of performance.

We are quite clear that the responsibility for the service failures lies firmly with the contractors. However, it is the client team's function to monitor and measure the contractor's performance and to take action in the case of poor performance in terms of holding them to account. Notwithstanding that deductions have been made from the contractors, the length of time that it has been taken for them to resolve problems and the fact that they have been allowed to take such time asks questions as to the style and strength of the current client structure.

In our view the current client structure is inadequate in terms of resource levels for the work which it currently has to deal with. Given the level of contractor performance over the period studied, it is actually quite remarkable that the current resource has delivered what it has, not only having to manage the day-to-day service but procure and mobilise a new contract and demobilise another.

We believe that the current client structure is too flat: and the Waste & Recycling Manager has too many direct reports. Also (in our view) this officer is dragged into too many day-to-day issues which, though important, means diversion of this key resource from dealing with strategic matters.

We believe that, with the introduction of a new ICT system, a new post should be created within the structure to be responsible for data accuracy as well as some other administrative roles (e.g. scrutiny of KPIs and other reports which come from the system).

We believe that there is not an adequate distinction within the client team between those looking after day-to-day issues and more strategic issues. We propose the introduction of a new post to specifically deal with day-to-day issues, which would engage with the contractor, as well as the public, and hold the contractor to

Basingstoke & Deane/Hart District Council: Waste & Recycling Services, Review of Management Structure



account for service failures: leaving the Waste & Recycling Manager, as well as the Head of Service, to engage with the contractor at a more strategic level.

We believe that the post of Performance and Development Officer is entirely appropriate but should be developed so that it covers projects plus public engagement / communications.

As regards the Waste & Recycling Officers, the numbers have been insufficient and the current standards for responding to customer complaints / enquiries is simply unacceptable. We recommend the introduction, for an initial period, of three full-time equivalents. In the longer term, once the service begins to perform at an acceptable level, the number of Waste & Recycling Officers can be reviewed.

A fundamental query that we have been asked is whether it is (still) appropriate for the waste client team to be based at HDC and for BDBC to continue to be served by that team. In WYG's opinion there is no fundamental reason as to why a team based at, and working for, HDC cannot deliver this service for BDBC. We believe that, provided the appropriate changes are made, as described above, the optimal answer is to continue with one team; and there is no reason why HDC should not continue to host this arrangement (unless it is believed that this would make the changes, as recommended, incapable of implementation). That said, if there was a strong desire for change, it is possible for the recommended structure to be moved from HDC to BDBC.

We believe that there is scope for 'hot-desking' at BDBC offices and for those Waste & Recycling Officers covering the BDBC area to be based there, for say three days per week each. We suggest that team meetings could, with this new structure, be split into sessions so that one of the direct reports to the Waste & Recycling Officer could be freed up at various points in the meeting.

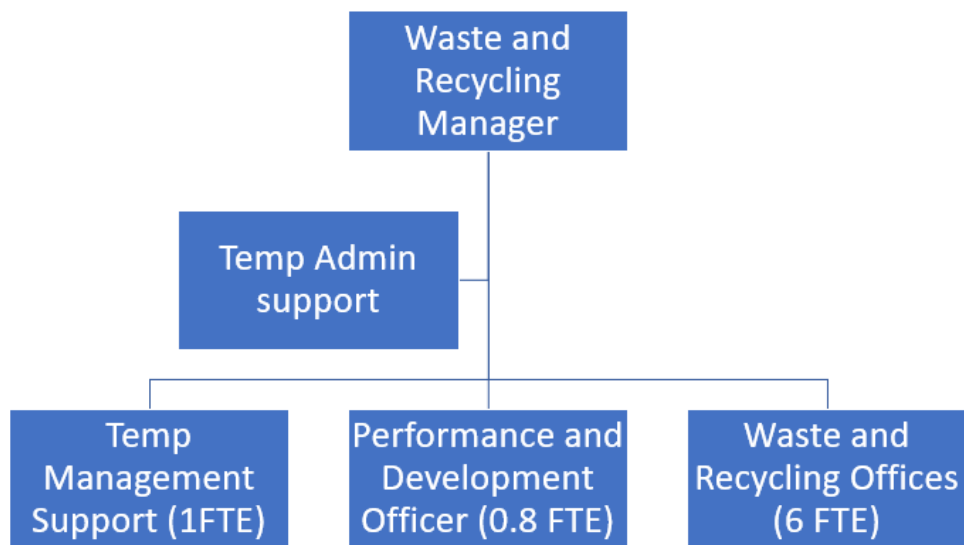
We believe that there should be cover at a senior level (Waste & Recycling Manager, Waste Service Manager, Performance & Development Officer, Admin Manager) plus at least two Waste & Recycling Officers during all of the hours that the contact centre is open. An additional consideration might be in relation to some presence during Bank Holidays on which the waste and recycling services are delivered.

Perhaps more importantly than the physical changes to the structure that we have recommended, we believe that the focus of the team needs to shift. We have noted that the failures in service are caused by the contractor not performing: and it is our contention that the client team is often too sympathetic to the contractor.

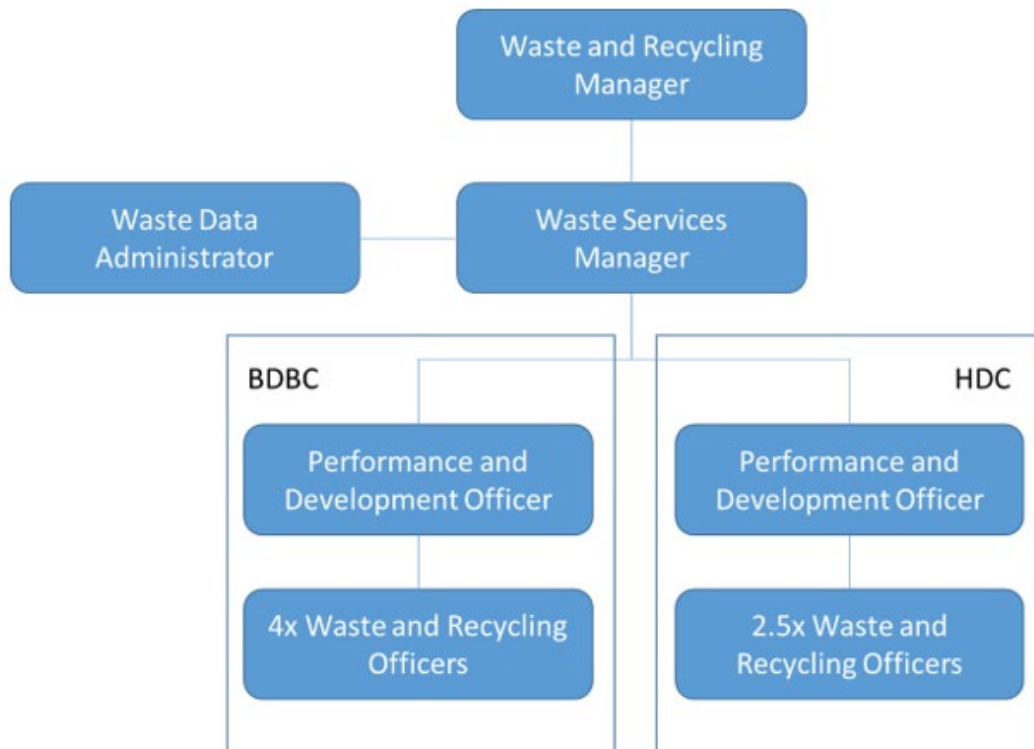
Appendix D

Current Structure and Original Proposed Structure created by Joint Governance Group

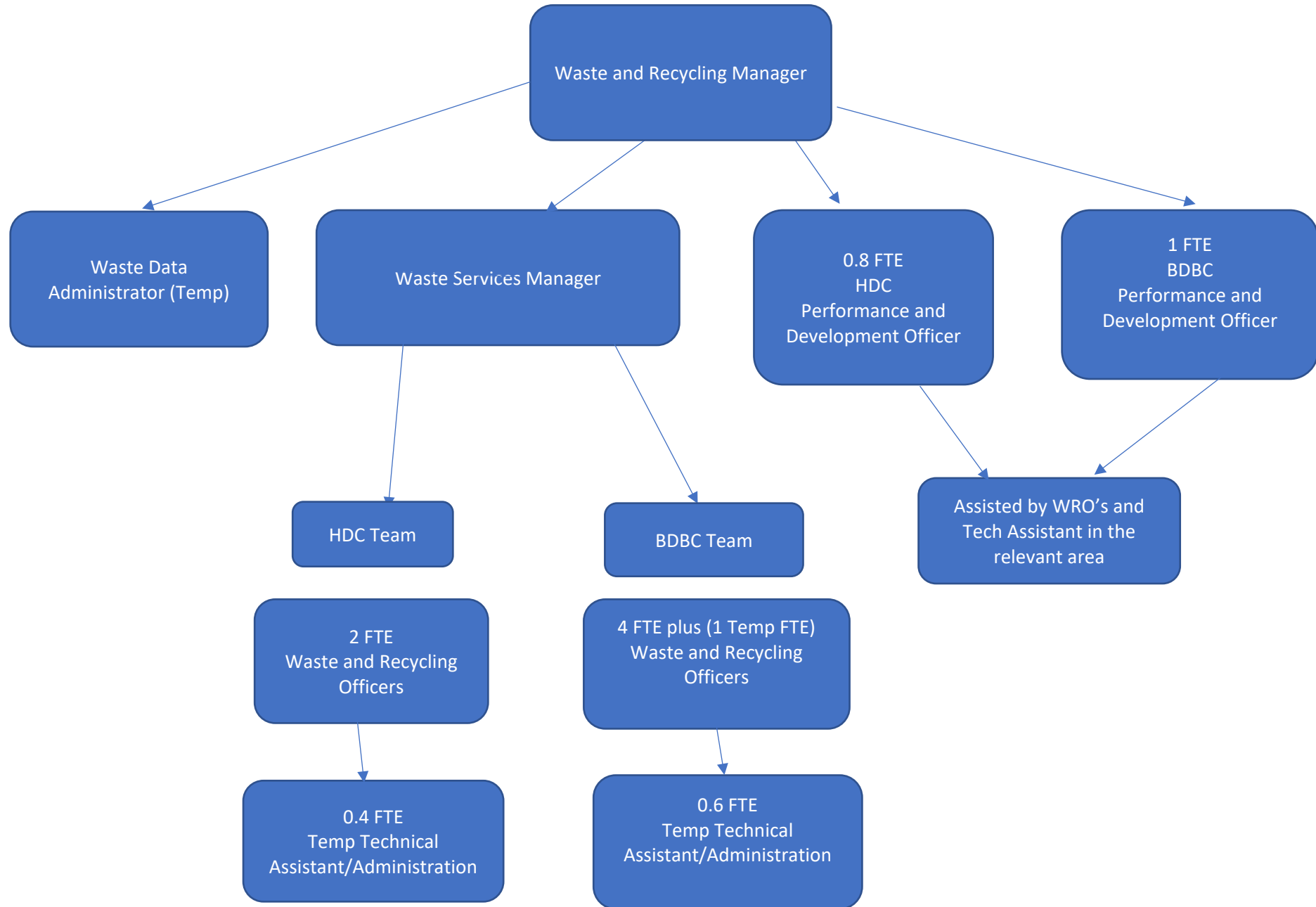
Current Structure – 7.8 FTE plus 2 temporary roles



Proposed Structure agreed by JGG for consultation with Joint Waste Client Team (Oct 20) – 11.5 FTE



Adopted structure for staff consultation (based on JWCT counter proposal) – (12.8 FTE (increase on BDBC side))



Project Plan for transfer of Joint Waste Client Team

	Dates	Action
1	17 December 20	Consideration of proposal by Hart Staffing Committee.
2	18th - 24th December 20	Subject to Staffing Committee approval: Preparation of consultation letters and arrangement of consultation interviews (including consultation with Unison).
3	Early – Mid January 21	Commencement of staff consultation - HDC consultation interviews with all affected members of staff.
4	12 March	Initial consultation responses collated for feedback to Cabinet.
5	1 April	Cabinet considers the implications of the potential transfer of the Joint Waste Client Team
6	Early April	Formal confirmation to all affected staff members of the intended transition of staff to Basingstoke and Deane Borough Council and 1-1 meetings scheduled with affected staff.
7	Early May	Staff transfer to Basingstoke and Deane

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Exempt from Publication

OVERVIEW AND SCRUTINY COMMITTEE

DATE OF MEETING: 20 APRIL 2021

TITLE OF REPORT: HART HOUSING PROPERTY MANAGEMENT
COMPANY LTD: INITIAL DRAFT BUSINESS
PLAN

CABINET PORTFOLIOS FINANCE/CORPORATE SERVICES AND
COMMERCIALISATION

Report of: JOINT CHIEF EXECUTIVE

1 PURPOSE

- 1.1 The Council has agreed to set up a wholly owned company limited by shares to hold and maintain residential assets procured by the Council for commercial return purposes. This report deals with the draft business case and seeks Committee's input.

2 RECOMMENDATION

- 2.1 Committee is invited to consider the draft Business Plan attached at Appendix 1 and to forward its views to Cabinet. The areas specifically highlighted in yellow in the business plan are particularly recommend for discussion.

3 BACKGROUND

- 3.1 In 2018 the Council agreed a strategic business case for progressing a Commercialisation project across the Council. Three key themes were agreed one of which was to increase income from asset-based investments.
- 3.2 The Company vehicle is required to protect the Council's housing assets because Local Authorities cannot, except in rare circumstances, otherwise grant residential Assured Shorthold Tenancies.
- 3.3 Council agreed in January 2021 that Company is to be incorporated on the following basis:
- The Purposes of the Company is solely as a property management/maintenance company holding assets on behalf of the Council. It is to fulfil the following functions: management, letting, legal, finance and external audit only;
 - The Council would be the sole shareholder of the Company;
 - The Board of Directors would comprise a minimum of three individuals.
 - District Councillors would not be entitled to be members of the Board
 - Cabinet is delegated the authority from Council to approve membership of the Board of Directors, subject to conflicts of interest checks by the Council's S151 and the Monitoring Officer; and

- The Board of Directors would be in day-to-day operational control of the Company and be answerable to the sole shareholder (i.e. the Council).
- 3.4 In May 2021 the Council will take possession of 41 apartments for affordable rent at Edenbrook, Fleet.

4 COMMENTARY

- 4.1 In line with the requirements of Local Government Act 2003 a full business must be approved before trading commences. This is the final stage in getting the Company operational. Attached (at Appendix 1) is a draft of the proposed Business case which it is intended will be considered by to Cabinet at the beginning of June 2021. The areas specifically highlighted in yellow in the business Plan are particularly recommend for discussion.
- 4.2 The overarching objective of the Company is to ensure maximum commercial return through the management of Council procured assets. Broadly, the Business Plan reflects this and addresses the following:
- The context and background to the Company.
 - The longer- term growth strategy of the business.
 - The plan for pipeline schemes and scaling of the Company.
 - The projected profit and loss, balance sheet and cashflow of the Company for the next five years.
- 4.3 The Business case is centered on the initial opportunity to create 41 properties for use as affordable rent primarily for 'key workers'. The financial assumptions and projections for this initial opportunity is detailed in ANNEX C and D.
- 4.4 The Company will have more properties added to its portfolio once suitable properties have been identified and purchased by the Council. The Company will not otherwise seek to procure or develop property or land itself.

5 FINANCIAL IMPLICATIONS

- 5.1 There are no immediate financial implications arising from this report.

6 ACTION

- 6.1 Any views expressed by Committee will be addressed in the final report to Cabinet.

Background Paper: Exempt report to Council January 2021

Attachment: Appendix 1 - draft Business Case

Contacts

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HART HOUSING PROPERTY MANAGEMENT COMPANY LIMITED

Draft INITIAL BUSINESS PLAN

APRIL 2021

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1. EXECUTIVE SUMMARY

- 1.1 This document sets out the Business Plan for Hart Housing Property Management Company Ltd (HHPMC – the Company) for the immediate future with an emphasis on the next five years. The Company has been set up by Hart District Council (HDC – the Council) and this document provides the Company's vision and broad strategic objectives, as well as the financial forecasts that sit behind the Business Plan.
- 1.2 Broadly, the Business Plan sets out:
- The context and background to the Company.
 - The longer- term growth strategy of the business.
 - The plan for pipeline schemes and scaling of the Company.
 - The projected profit and loss, balance sheet and cashflow of the Company for the next five years.
- 1.3 The overarching objective of the Company is to ensure maximum commercial return through the management of the Council procured assets.
- 1.4 The Company has identified an initial opportunity to create 41 properties for use as affordable accommodation primarily for 'key workers' which has formed the basis of this initial Business Plan.
- 1.5 The financial assumptions and projections for this initial opportunity is detailed in ANNEX C and D.
- 1.6 The Company intends to add more property to its portfolio once suitable properties have been identified and purchased by the Council. The Company will not otherwise seek to procure or develop property itself.

2 INTRODUCTION

- 2.1 The Company has been created by the Council as a dedicated and wholly owned housing management company. The aim is to develop a Council acquired housing portfolio that is available primarily to rent within both the affordable and private rental markets, within the geographic boundary of the Hart district.
- 2.2 It is to provide a special purpose vehicle to manage Council acquired residential properties. The Company will hold assets on behalf of the Council with the overarching objective of maximising a commercial return.
- 2.3 Initially, the provision of properties at affordable rents for 'key workers' is a priority. This will provide sustainable long-term income and a solid asset base alongside private rented sector (PRS) units. Consideration will be given to the provision of other types of accommodation as the Company develops e.g., shared ownership.

3 BACKGROUND

- 3.1 Hart District is primarily rural, covering c. 21,500 hectares (83 sq. miles) and is situated in north–east Hampshire, bordering both Surrey and Berkshire. The main centers of population (i.e., Fleet, Yateley and Blackwater/Hawley) are in the north and east of the District and form part of a larger ‘Blackwater Valley’ urban area with other nearby towns including Farnborough, Aldershot, Camberley and Sandhurst.
- 3.2 The District is bisected by the main line railway from Waterloo to Southampton and east to west by the M3. These enable good access to London, Southampton and other key employment areas such as Basingstoke, Camberley and Farnborough.
- 3.3 The District is regularly named as one of the best places to live as it benefits from low unemployment, low crime rates and good schools. It has a healthy, active population with high participation in sports and leisure. Due to its good connectivity and popularity, property values are very high.
- 3.4 As part of its long-term strategic vision, the Council recognises that to build and sustain a vibrant local economy it needs to ensure that the supporting social infrastructure in terms of housing is in place to support it. Increasing property values have made it more difficult to attract and retain those ‘key workers’ such as teachers and social workers that are necessary to support the community.
- 3.5 The Local Plan Review of 2020 identified that there is a significant need for additional affordable housing within the District. Affordable housing includes affordable homes for rent for key workers whose needs are not met by the market, and which meet the Government’s definition in Annex 2 of the National Planning Policy Framework. The cost must be low enough for eligible households to afford based on local incomes and house prices. The homes should be restricted for use by future eligible households. The only way we can ensure that these homes are restricted for use by future eligible households is to offer short term assured tenancy agreements which cannot be done through the Local Authority’s Housing Revenue Account.
- 3.6 As well as helping to meet the housing need in Hart, Council intervention in the market is likely to increase overall economic activity, supporting the delivery of investment in new homes. This has a multiplier effect in the local economy with residents working in local businesses and spending in local shops and on local services. It also provides an opportunity to adopt key worker policies to encourage key workers in health, education, social care and other public services to remain in or move to the area.
- 3.7 As a result of new developments in the District, the Council receives funds from developers (S106) to be used for affordable housing.

4 MISSION

- 4.1 The Council is seeking to support affordable and private rented accommodation for key workers and others seeking housing in the District. At the same time it must secure a commercial revenue stream for the Council so that it can be re- invested in other services for residents.

5 OBJECTIVES AND TARGETS

- 5.1 The objectives of the Company are:
- 5.1.1 To maintain good quality affordable and private rented housing throughout the District for the use of key workers and others seeking housing.
- 5.1.2 To adopt a commercial approach to maximising revenue so that the Company contributes to the Council's general fund through surpluses generated from housing rents received that can be re-invested in services to residents.
- 5.1.3 To remain financially viable and operate efficiently to ensure it receives sufficient rental income to meet all of its costs including financing, housing management, property maintenance and administration.

6 COMPANY STRUCTURE AND GOVERNANCE ARRANGEMENTS

- 6.1 Legal guidance has been taken in establishing the Company and its associated legal documentation.
- 6.2 The development of an arm's length wholly owned property management company allows for a more flexible and commercial response in the delivery of housing supply. The Council is entitled to rely on section 1 of the Localism Act 2011 in establishing the company for such purposes.
- 6.3 Section 1 of the Localism Act permits local authorities to do anything an individual may do, subject to several limitations. This is referred to as the "general power of competence" which an authority may exercise for its own purpose, for a commercial purpose and/or for the benefit of others. In exercising this power, it is still subject to its general duties (such as the fiduciary duties it owes to its rate and local taxpayers) and to public law requirements to exercise its power for a proper purpose.
- 6.4 The Company is limited by shares (CLS) which is considered the most appropriate form of vehicle.
- 6.5 The Council is the sole shareholder of the Company and has ultimate control of its business activities. Shareholder control of the Company will be exercised through the Council's Cabinet.

- 6.6 The Company has been established in accordance with the Companies Act 2006 including the appointment of a Board for the Company. The Memorandum and Articles of Association is in a standard form.
- 6.7 An appropriate governance structure is required to ensure sound and robust management of the Company alongside protection of the Council's financial and reputational investment in the Company. See Annex A for details.
- 6.8 As sole shareholder the Council will appoint the directors, approve the Business Plan and other key decisions beyond those agreed in the Business Plan.
- 6.9 These decisions will be taken by the Council's in line with a formal shareholders agreement with the Company. The Shareholders' Agreement is attached in ANNEX H.
- 6.10 Annex A gives an overview of the governance arrangements for the Company Annex G is a copy of the Company's Memorandum and Articles of Association.
- 6.11 The Council will control the company at a strategic level with three Directors tasked with managing the property company within a framework and through delegated authority as set out in the shareholder's agreement.
- 6.12 The Directors will have no other executive powers other than those set by the shareholder and will serve for a period of two years unless otherwise determined by the shareholder. Each director has the same voting powers; and a Consultative Committee of Accountancy Bodies (CCAB) qualified accountant will be appointed amongst these directors to act in the role of Finance Director. Two Directors will be Hart District Council employees; the third will be a lay individual appointed by the shareholder due to their knowledge and skill in property management. The Chairman shall be nominated annually by the shareholder. No Council Officer will receive any remuneration for their role on the company.
- 6.13 The Company will have no access to any Council resources unless first agreed by the shareholder.
- 6.14 In addition, the Company will be governed via a Business Plan, approved annually by the shareholder.
- 6.14.1 A Business Plan will cover a rolling 5-year period of investment and activity. The Business Plan will be reviewed annually and cover the following:
- a) Company objectives
 - b) Governance arrangements
 - c) Operational plans
 - d) Financial models and assumptions
 - e) Rents

- f) Approved additional housing
- g) Operational expenses
- h) Funding profile
- i) Profit and loss, balance sheet and cash flows Together with operational policies relating to:
 - i. Rent setting
 - ii. Letting policy
 - iii. Rent arrears
 - iv. Other general policies

7 OPERATIONS

- 7.1 The staffing structure, roles and responsibilities is included at Annex B.
- 7.2 As the Company grows the staffing requirements will be kept under constant review and further staff will be added if appropriate and where first approved by the shareholder.

8 FINANCING THE COMPANY

- 8.1 The business case is predicated on the basis that the property management company is funded in part by S106 monies where the asset is to be used for affordable housing purposes and loans obtained via the Council for all other forms of residential use.
- 8.2 Financial modelling for the Company has been predicated on there being no overall cost to the Council over the life of the Business Plan and for profits and dividends to be generated.
- 8.3 A portion of the principal amount of any loans will be repaid annually and for the loan to be repaid in full. The term of all loans will be set to ensure that this is achievable and allows the Company sufficient 'headroom' in its cash management to make a profit and to pay out dividends.
- 8.4 The loan interest rate charged by the Council must consider the need to ensure it is a commercial rate and therefore avoid any potential state aid provisions being triggered.
- 8.5 To ensure that the Company's business is sustainable, the financial projections in the Business Plan will be closely and regularly monitored. There are a set of core assumptions applied to the model which are based upon prevailing market conditions, judgements based on comparators and industry wide standards or norms.
- 8.6 Details of the assumptions for the initial housing investment is detailed in ANNEX C.

9 REFURBISHMENT COSTS

- 9.1 Assumptions have been made for the maintenance and refurbishment costs based on industry benchmarks.
- 9.2 Allowances for fees including legal, and other specialist services are included in the estimated costs.

10 TAX AND FINANCIAL SUPPORT

- 10.1 The Company will be subject to various different taxation regimes, including Stamp Duty Land Tax (SDLT), Corporation Tax and Value Added Tax (VAT).
- 10.2 SDLT has been built into the model based on current thresholds and chargeable on relevant acquisitions at the appropriate rate. As the Council is a Local Authority, group relief should be available on the purchase of land. This means that no SDLT is charged whether land was sold or gifted.
- 10.3 Corporation Tax has also been included in the model at the current rate and is chargeable on relevant surpluses after deducting allowable costs including loan interest.
- 10.4 No provision has been made for capital gains tax as it is not envisaged that this will apply as the Company does not intend to dispose of assets.
- 10.5 Although it is the intention to register the Company for VAT it is not envisaged that the Company will be able to recover all of the VAT that it incurs on the purchase of goods and services. An allowance has been made for VAT payments and receipts within the cash flow model.
- 10.6 The Company will obtain appropriate external advice with regard to its tax affairs.
- 10.7 The Company will be self-sufficient and supporting with its own distinct bank account and locally appointed auditors and accountants.

11 DIVIDENDS

- 11.1 It is envisaged that any surplus funds/profits will be paid to the shareholder using Dividends.
- 11.2 Any cash sums available for Dividends will be affected by any loan repayments and taxation and the amount of cash to be retained by the Company for ongoing business requirements and re-investment. The Council as shareholder will give the Company a steer in terms of their aspirations for dividends. The Company will annually recommend to the shareholder the divided

12 CASH RETENTION

- 12.1 To ensure that the Company has sufficient funds in place to meet its day-to-day obligations, a minimum amount of cash equivalent to 10% of post-tax profits, will be retained at all times after the initial two-year period. In addition, the allowance for any repair/refurbishment costs will be held in a separate reserve account and used as required.

13 ASSET VALUATIONS

- 13.1 All the identified Council owned properties as shown in Annex E will be transferred to the Company at a 'peppercorn value' and subsequently revalued at market rates to reflect the enhanced value because of the refurbishment and representing their investment income potential.
- 13.2 Revaluations of the asset base will be undertaken at market rates on an annual cycle to reflect market conditions or more frequently depending on cost.

14 PROFIT AND LOSS, BALANCE SHEET AND CASHFLOW PROJECTION

- 14.1 Financial projections over the medium term (5 years) have been provided at Annex E reflecting the assumptions made within this Business Plan.
- 14.2 The financial models show that based on the assumptions used, the business is profitable, has a high asset value and that the cash flow can be sustained and provides for payment of all operational costs, taxes and dividends.

15 KEY FINANCIAL PERFORMANCE MEASURES

- 15.1 It is proposed to use a variety of measures to measure the financial health of the Company, namely:
- Return on Investment (ROI) takes into consideration the amount of profit that is made against the investment in the property.
 - Rental yield of which there are two typical measures, gross and net. The latter takes out expenses (management and maintenance costs, debt charges). Net yield being calculated as $\text{rent} - \text{expenses} / \text{house price}$. Given the fact that the initial estate is being rented primarily on an affordable basis (i.e., below market rents) the yields will be lower than typical industry norms. The anticipated net yield for the Company will be in the region of not less than 4%.
 - Return on capital employed which looks at the profit against the combined equity and debt capital invested in the Company. This is regarded as a

good measure of the business as it looks at how effectively debt is being used and is calculated as earnings before interest and tax (debit) / Assets – Liabilities (non-current) with a **target of 15% plus by year 5.**

- Price to earnings ratio, which is a commonly used measure in commercial finance in relation to share value which is relation to rented housing is calculated as the increase of the yield calculated as: House price / rent-expenses which theoretically indicates how much investors should be willing to pay per pound of earnings.
- Profitability (profit on cost – POC) which demonstrates the profit of the business over its cost.
- Investor Dividend per Share – which will provide the shareholder value per share and demonstrate its growth value.

16 RISK MANAGEMENT

16.1 Key risks and opportunities are outlined below.

Risk	Mitigation	Opportunity
PROPERTY		
Property values fall	The business plan recognises that short-term fluctuations in the market are inevitable, but the outturn is positive over the term of the plan.	
Insufficient demand	Each development will be subject to its own business case which will identify a suitable mix of tenure reflecting current demands in the market.	Evidence demonstrates that there is a consistent demand for sub-market rented housing.
TIME		
Company not established in time to support specific initiatives	Resources are in place to ensure that the company is incorporated in June 2021.	
Property not available in time to meet budget targets.	Regular assessment and management of development	

Risk	Mitigation	Opportunity
	timetable.	
FINANCIAL		
The Company is not profitable and is unable to pay dividends to the Council and/or defaults on loan interest and repayments, resulting in the Council's Investment not achieving the projected return.	Cabinet will require detailed financial modelling by the housing company, including sensitivity analysis, to ensure careful selection of investment options that excludes those that fall short of the necessary viability criteria.	Long-term tenants are retained, voids/bad debts are minimized and consequently dividends to the Council are maximised.
LEGAL		
Council acting outside of relevant powers	External specialist legal advice obtained and followed.	
Personal risk arising from the duties and liabilities of company directors	Appropriate insurance will be obtained	
REPUTATION		
Reputational impact to the Council	The Company Directors will act in a professional manner at all times to contribute to a positive view of the Council's services	Local Letting and Management company will be engaged to provide an arm's length service.
Reputational damage in the event of the company's failure	Risks reviewed and evaluated on a regular basis as part of corporate risk management process	

16.2 Opportunities

- increase of affordable housing within the District, for key works who may otherwise not be able to access the local housing market
- Income generation for the General Fund.
- Increased resilience for the Medium Term Financial Strategy
- Support for local people to rent or buy a home.
- Increase in the value of the Council's asset base

16.3 Overall, it is considered that the Company is well positioned over the next 5 years and can manage any significant market downturn in that it:

- has a relatively low borrowing requirement.
- has a high value asset base;
- has a low fixed cost management structure.
- has a high projected level of profitability;
- can fix interest rates for longer term loans.

and so will give sufficient protection against marked changes in rental income or occupation

17 CONCLUSION

17.1 The Company provides an additional route to improve the local housing position within the District. This Business Plan sets out the framework that will provide the Council the opportunity to support housing availability within the District, particularly for 'keyworkers' and secure additional income in the medium to longer term from dividends that the Council can use to invest in services to residents.

17.2 It is acknowledged however, that although the base case for the next 5 years is sound there is no certainty that the environment will remain static. The Company will need to monitor all factors and risks including changes in government policy on housing, the local property market and wider economic changes in interest rates and inflation.

ANNEX A – GOVERNANCE STRUCTURE

GOVERNANCE STRUCTURE

- 1.1 The governance structure of the property management company will comprise two delegations acting to oversee the business plan and overall strategic direction of the company. These two delegations act as the Board of Directors and a specific Company Scrutiny Panel drawn for Members of the Council's Overview and Scrutiny Committee.
- 1.2 The Company Scrutiny Panel is a sub-committee of the Council's Overview and Scrutiny Committee and will comprise three members appointed annually by the Overview and Scrutiny Committee. It will meet twice a year to oversee company activity, provide strategic guidance and advise the Council in its capacity as shareholder. The Terms of Reference for the panel will require approval by Cabinet in consultation with Overview and Scrutiny Committee.
- 1.3 In accordance with the Companies Act 2006 there is no necessity for a named company secretary. The responsibilities must still be discharged, but become by default, the directors. They include ensuring compliance with corporate governance and other financial and legal regulations; arranging directors' and shareholder meetings; and the filing of returns with Companies House. This role will be supported by the Council's Legal Services and Finance teams. Any administrative support will be procured at commercial rates from the Council.
- 1.4 It is proposed that the Board of Directors consist of two Council employees plus an independent layperson who has specialist knowledge and experience of local letting and property management experience. The Director's should have a range of skills, qualifications and experience including governance and finance.
- 1.5 Once appointed, a director has several duties and liabilities under general company law:
 - A fiduciary duty to act honestly, in good faith and in the interests of the company
 - A general duty to take reasonable care and skill, and to exercise independent judgement when dealing with the company's affairs
 - A duty to avoid conflict of interest, not make a private profit from the position, and to ensure that the legislation contained in the Companies Acts is complied with
 - Personal liability if the company acts outside its powers with the prior knowledge of the director
 - Liability for breach of trust
 - Liability for losses sustained if a director abuses their position; and/or fails to act in the best interest of the company; and/or fails to exercise the requisite level of skill and care
 - Liability to contribute to the company's assets if a director knows or ought to know that there is no reasonable prospect of the company avoiding liquidation
 - Liability for fraudulent trading

ANNEX A – GOVERNANCE STRUCTURE

- Liability for a fine and/or making good losses where cheques and other documents do not bear the company's name
 - Liability for damages arising from the unauthorised activities of a director.
- 1.6 The Council's own insurance does not provide cover for officers acting as directors. However, the company will be able to obtain insurance for its directors against claims for negligence, breach of trust etc. Directors will also be provided with an appropriate level of training, to be sourced externally.
- 1.7 The Council through the appointment of directors with appropriate skills and experience, is delegating the day-to-day commercial operation of the business and the delivery of the Business Plan to those individuals within a framework agreed by the Council. This will include:
- Rent setting.
 - Letting policy.
 - Marketing strategy and property lets.
 - Management and maintenance arrangements in relation to the properties.
 - Rent arrears and debt recovery.
- 1.8 Management of the property in the Company's portfolio will require on going management, maintenance and a range of landlord services. These services will be procured, in line with Council procurement policies as required. The Company's procurement requirements will include:
- Letting/Management agents.
 - Professional services – including legal and tax
 - Contractors - for example property maintenance.
- 1.9 The Company is subject to the public contract regulations in relation to procurement where applicable.
- 1.10 A summary of the governance structure is provided below:

Function	
Sole Shareholder	Council taking decisions reserved for the shareholder in the company's articles of association and shareholder agreement. This would include approval of the annual company budget and business plan.
Company Scrutiny Panel	Three elected members appointed by the shareholder to oversee company activity and provide strategic guidance. Officers will attend panel meetings as required.
Board of Directors	Two Council employees' officers plus an independent person appointed by the shareholder and legally responsible for the company's performance, accounts and records.
Company Secretary	Duties will be administered by the Council's shared Legal Services team in accordance with the requirements of the Board of Directors.

ANNEX A – GOVERNANCE STRUCTURE

Landlord Services	Identified by the Board of Directors and responsible for the discharge of any duties and responsibilities delegated by the Board of Directors.
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BOARD SKILLS REVIEW

- 1.11 The Company shall prepare in respect of each financial year a report that analyses the skills of the Directors who comprise the Board against the requirements of the proposed business plan for the following year and considers any skills gaps or duplication and sets out a strategy for filling any gaps.
- 1.12 The Board will contain three Directors; these directors between them must demonstrate the following skills and experiences before appointment:
- A. Property Management and letting
 - B. Strategic Governance
 - C. Qualified CCAB Accountancy
- 1.13 The lay member of the Board must have local property letting and management experience.
- 1.14 The Board will be supported by the Company's solicitor and the appointed property letting and management company.

ANNEX B- COMPANY ASSETS (JUNE 2021)

COMPANY ASSETS

Property ID	Availability Date	# of Dwellings	Current Balance Sheet Value	Type	Source of Funds	Comments
Edenbrook Flats	May 2021	41 apartments	£7.46M	Affordable Rent	Initially through Internal borrowing Public Works Loan Board S106 for affordable housing	Completion due May 2021

ANNEX C - EDENBROOK FLATS: FINANCIAL PROJECTIONS

FINANCIAL APPRAISAL

Summary Table

Property	16 x 1 bed; 25 x 2 bed
Purchase Price	£7,000,000
Stamp Duty Land Tax	£247,500
Other Acquisition Fees	£212,500
Property	16 x 1 bed; 25 x 2 bed
Rent (80% Market Rent)	Mean value £932.28 pcm.
Refurbishment provision	£25,000 p.a. (£610 per apartment)
Void/Bad Debt	5%
Management/Letting fee	12.5% gross rent

Financial Projections

- 1.1 The financial model forecasts that the business will generate profits before tax in its first year. The first tenants are expected by end of June 2021.
- 1.2 90% of the profit after interest and tax will be returned to the Council from Year 1. The Council will also receive interest payments on the loan provided.
- 1.3 The Company will need to maintain a cash reserve of c.10% of gross income to meet its day-to-day obligations.
- 1.4 Income Statement, Balance Sheet and Cash Flow projections are provided in ANNEX D.

2 Funding

- 2.1 The funding provided by the Council to the Housing Company requires the use of internal borrowing, Public Works Loan Broad and ultimate a contribution from S106 monies allocated for the delivery of affordable homes (the Loans).
- 2.2 The Loans will be spread over a 50-year period. This enables cash flows to be forecast over the long term, but focus will initially be on the first 5-year development period.
- 2.3 The rate of interest is fixed for the term of the Loan at 2.8%. This provides a rate of return for the Council at 0.8% over the PWLB published rate of 2.00%. Capital costs will be repaid on a straight-line basis over a 50-year period.

3 Assumptions – further information

- 3.1 Voids / bad debts losses – this has been assumed at 5% which is in line with other affordable housing schemes in the south-east England.
- 3.2 Management and lettings administration costs have been assumed as 12.5% of total rental costs in line with market rates.

ANNEX C - EDENBROOK FLATS: FINANCIAL PROJECTIONS

- 3.3 Refurbishment\maintenance allowances are assumed at £610 per dwelling per annum (inclusive of VAT). This covers day to day and cyclical maintenance costs such as redecoration. Major refurbishments are expected to be required for each property in year 6/7 after construction. In practice, some of these funds may not be needed initially so the equivalent sum will be set aside in an appropriate repairs reserve.
- 3.4 Insurance costs – allowance has been made within the model for building insurance to cover rebuild costs.
- 3.5 Rent assumptions: The Company will principally be focused on provided homes for 'key workers. The dwellings at Edenbrook consist of 16 one bedroom and 25 two-bedroom apartments. Current market rents are set out in the table below:

Type	Market Rent pcm	Affordable Rent pcm
1 bed	£950	£760
2 bed	£1,200	£960

- 3.6 The current assumption is that affordable rents will be set at 80% of the market rent and that the average unit rental will be in the range £760 - £1000 pcm. The Company would grant tenancies under the Assured Tenancy Regime of the Housing Act 1988. These will take the form of either periodic ('rolling') tenancies or assured short hold tenancies (which are for a fixed term i.e., a minimum of six months), or such other longer periods as agreed by the landlord and tenant. Secure tenancies under the Housing Act 1988 cannot be granted by the Company.
- 3.7 Rent increases will be in line with Government Guidelines: they can only be raised when the fixed term ends and must be fair and realistic – i.e., in line with reasonable rents in the open market.

ANNEX C - EDENBROOK FLATS: FINANCIAL PROJECTIONS

PROJECTED INCOME STATEMENT

ANNEX C - EDENBROOK FLATS: FINANCIAL PROJECTIONS

£	2021_22	2022_23	2023_24	2024_25	2025_26
Rent	245,600	449,984	473,334	487,534	502,160
Service Charge	4,100	5,002	5,149	5,304	5,463
Voids	-12,485	-22,749	-23,924	-24,642	-25,381
Total Income	237,215	432,237	454,559	468,195	482,241
Salaries	0	0	0	0	-25,000
Refurbishment	-20,833	-25,418	-26,165	-26,950	-27,758
Management/Letting Fee	-32,227	-53,996	-56,314	-58,004	-59,744
VAT Reclaim	10,090	14,354	14,894	15,341	15,801
Other costs	-10,000	-10,300	-10,609	-10,927	-11,255
Profit before Interest & Tax	184,244	356,877	376,365	387,655	374,285
Interest	-57,389	-88,201	-89,965	-91,764	-93,600
MRP Provision	-59,680	-59,221	-58,515	-57,796	-57,061
Taxation	0	-19,709	-51,725	-55,420	-57,553
Profit after Interest & Tax	67,175	189,746	176,159	182,675	166,071
Dividend	-60,457	-170,772	-158,543	-164,408	-149,464
Retained Income	6,717	18,975	17,616	18,268	16,607

Assumes:

- § Voids at 5%
- § All salary costs years 1-4 capitalised
- § Refurbishment costs will be accrued until required.
- § Inflation inbuilt at 3% pa on cost and income from April 2022
- § Other costs includes buildings insurance and accounting fees
- § Dividend @ 90% apart from year 1
- § Corporation Tax 19%

ANNEX C - EDENBROOK FLATS: FINANCIAL PROJECTIONS

PROJECTED BALANCE SHEET

£	Opening	2021_22	2022_23	2023_24	2024_25	2025_26
Fixed Assets	7,460,000	7,460,000	7,460,000	7,460,000	7,460,000	7,460,000
Current Assets:						
Cash	1,000	26,551	60,693	94,224	129,191	113,557
Total Assets	7,461,000	7,486,551	7,520,693	7,554,224	7,589,191	7,573,557
Long-term Debt	7,460,000	7,342,931	7,312,578	7,311,520	7,310,440	7,309,339
Refurbishment Liability		18,833	34,001	49,916	66,616	34,374
Current Liabilities		117,069	147,422	148,480	149,560	150,661
Share Capital	1,000	1,000	1,000	1,000	1,000	1,000
Retained Earnings		6,717	25,692	43,308	61,576	78,183
	7,461,000	7,486,551	7,520,693	7,554,224	7,589,191	7,573,557

Assumes:

- § Loan £7.46M - Edenbrook Flats
- § Loan Term: 50 years
- § Interest Rate 2.8% reducing balance
- § Refurbishment allowance £25K p.a. - major repairs expected year 7/8.

ANNEX C - EDENBROOK FLATS: FINANCIAL PROJECTIONS

PROJECTED CASH FLOW

£	2021_22	2022_23	2023_24	2024_25	2025_26
Balance b/fwd	1,000	26,551	60,693	94,224	129,191
Lettings Income	237,215	432,237	454,559	468,195	482,241
Cash In Flow	238,215	458,788	515,252	562,419	611,433
Capital					
Interest	-117,069	-147,422	-148,480	-149,560	-150,661
Operating Costs	-32,137	-49,942	-52,029	-53,590	-80,198
Refurbishment	-2,000	-10,250	-10,250	-10,250	-60,000
Tax	0	-19,709	-51,725	-55,420	-57,553
Dividends	-60,457	-170,772	-158,543	-164,408	-149,464
Cash Out flow	-211,664	-398,095	-421,028	-433,228	-497,876
Bal c/fwd	26,551	60,693	94,224	129,191	113,557

ANNEX D - POTENTIAL FUTURE OPPORTUNITY

Property ID	Availability Date	# of Dwellings	Current Balance Sheet Value	Development Cost	Value after Development	Type	Source of Funds	Comments
The Swan	unknown	unknown	£1	unknown	unknown			Grade 2 listed derelict pub – potential for redevelopment.

ANNEX E - PROPOSED COMPANY SCRUTINY PANEL – TERMS OF REFERENCE

COMPANY SCRUTINY PANEL – DRAFT TERMS OF REFERENCE

1. Purpose of the Housing Property Management Company Scrutiny Panel

- 1.1. The purpose of the Housing Property Management Company Scrutiny Panel (the Panel) is to provide strategic guidance to the directors of the Company, including informing the Company of priorities of the Shareholder (the Council) that are pertinent to the operation and future development of the company.
- 1.2. The Panel will review the Company's business plan at least annually and advise Cabinet of its views
- 1.3. The meetings of the Panel will provide an opportunity for the Company to bring to the Shareholder's attention emerging issues or perhaps opportunities for new business ventures.

2. Membership and meetings of the Company Scrutiny Panel

- 2.1. The Panel is an integral part of the governance arrangements for the Company.
- 2.2. The Panel will comprise three members of Hart District Council's Overview and Scrutiny Committee.
- 2.3. Members of the Panel may invite officers of the Council to attend meetings to provide performance updates.
- 2.4. The Panel is not a constituted committee of Hart District Council. There is no requirement to maintain political balance nor to meet in public or publish any notes or minutes.
- 2.5. Members of the Panel will treat information shared by the Company as being commercially sensitive and therefore it will not be shared beyond the Panel without the permission of the Company's directors.
- 2.6. A Panel meeting will be held no less than twice a year. The Board of Directors will report to the Panel at each Panel meeting on the following items:
 - Financial performance in the previous quarter and year-to-date against the annual budget and latest business plan
 - Performance against agreed key performance indicators
 - Any matters previously agreed between the Company and the Shareholder
 - Other matters that arise from time-to-time.
- 2.1. A meeting of the Panel will only be quorate if at least two Panel members are present.
- 2.2. Unless otherwise agreed by a majority of members, not less than five clear

ANNEX E - PROPOSED COMPANY SCRUTINY PANEL – TERMS OF REFERENCE

working days' notice shall be given to each of the members of the Panel, and to the Directors of the Company, for a meeting to be held. An agenda will be issued in advance of any meeting indicating the matters to be discussed, together with any relevant papers for discussion.

- 2.3. In addition, the Company will supply the members of the Panel with all information and data reasonably requested by the Panel to enable it to reach an informed judgment on any matter put before it.
- 2.4. The Company will ensure that at least one director who is qualified to address the issues included on the agenda attends each meeting of the Panel.
- 2.5. The Panel will hold an advisory role to the Shareholder, that is Cabinet, when it is making decisions on matters reserved for the Shareholder (or the Shareholder Representative if and when deemed appropriate by the Shareholder).
- 2.6. Chairing of each meeting of the Panel will be determined by the members of the Panel present at that meeting.
- 2.7. If a Panel member works for, is commissioned by or has any interest in the Company, the member shall declare this to the Panel immediately.

3. Review of these Terms of Reference

- 3.1. The Terms of Reference will be reviewed by the Panel and the Company's representatives on an annual basis.
- 3.2. Amendments may be agreed by the Panel (in consultation with Overview and Scrutiny Committee) and the Company representatives, so long as no amendment contradicts the Shareholder Agreement.
- 3.3. Amendments to the Shareholder Agreement may be determined by the Shareholder, that is, through a meeting of Cabinet

**ARTICLES OF ASSOCIATION - TO BE ADDED ONCE AGREED AND
COMPLETE**

SHAREHOLDER AGREEMENT - TO BE ADDED ONCE AGREED AND
COMPLETE

OVERVIEW AND SCRUTINY COMMITTEE

DATE OF MEETING: 20 APRIL 2021

TITLE OF REPORT: TO UPDATE ON THE IMPLEMENTATION OF MODERN.GOV

PORTFOLIO DIGITAL

Report of: Joint Chief Executive

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to update Committee of the ongoing implementation and bringing into use the new committee management system (Modern.gov).

2. RECOMMENDATION

- 2.1 This report contains no recommendation as the report is an update for information only.

3. BACKGROUND

- 3.1 In adopting the Digital Strategy in 2019 the Council made a commitment that by the end of 2020 it will have modernised its Committee and meeting management process through the procurement and implementation of [Modern.gov](#). The main objectives being to establish more efficient ways of working; maximise quality and accuracy in terms of data management; reduce printing and circulation costs; and use new technologies to support governance activities and deliver wider benefits.
- 3.2 [Modern.gov](#) itself is software that is used widely across the local authority family. It is used by 76% of councils in England and Wales, including Hampshire County Council and all our surrounding authorities as well as the Hampshire Police and Crime Commissioner's Office. It delivers an effective, efficient, and completely paperless solution for governance & meeting management. It replaces the current process whereby Members have to manually download individual reports and agenda from our web site.
- 3.3 It is a hosted off-site web-based environment in accordance with the objectives of the Digital Strategy.

4. COMMENTARY

- 4.1 The Modern.gov software has been successfully installed and has gone live. The first Step of the implementation Plan is active.

- 4.2 Several 'volunteer' Members have already successfully tested the implementation of [Modern.gov](#) over the past three months., They have found it to be an effective 'plug and play' solution which is easy to use. The benefits it brings force members are
- It takes the stress out of manually coordinating and collating the documents that Members need, from agendas and minutes to registers of interests
 - It controls access to restricted items and track issues by automatically linking to agenda items
 - Members will be able to securely view, annotate and download the latest documents
 - Meeting organisers will be quickly able to make last minute changes to agendas.
- 4.3 There are further benefits to the Council. It not only allows us simply to create and publish agendas, reports, and minutes of Council meetings but it also allows us to manage and monitor
- Committee memberships and attendance
 - the Cabinet Forward Plan
 - the calendar of meetings
 - the Members' Register of Interests
 - outside bodies
 - e-petitions

5. FINANCIAL IMPLICATIONS

- 5.1 The result of implementing Modern.gov is that it will save the Council £60k over the next three years in paper and printing costs while improving efficiency. This will enable further efficiencies savings to be captured in later years as the App is developed further. Some of these efficiencies are already reflected in the approved 2021/2022 budget.

6. ACTION

- 6.1 To gain full functionality all Members now need to download the Modern.gov app. The app itself went live on 1 April and is available for iPad, Android, and Windows devices. Once downloaded, the app will appear on the screen and will automatically download any committee documents whenever the user opens it. It allows users to highlight sections of the pack and make notes just as one would with a paper copy. Document navigation is made quick and simple via bookmarking and intuitive controls. Finally, it allows authorised users to have automatic access to exempt sections of agendas via password protected access to the "restricted app" area.
- 6.2 Many Members have already attended training and have downloaded the app. We would like however, to **encourage those Members who have not yet come forward for training** to contact Steve Bennett, Change & Digital Manager (email steve.bennett@hart.gov.uk). Steve will provide an overview of the functionality and help members load the app onto their respective PCs, laptops, tablets, and other mobile device that they wish to use. Users can

have the app loaded onto multiple devices. The Council will also be able to support those Members (in lieu of the normal Members IT allowance) who do not currently have a suitable table or mobile device.

Contact:

Daryl Phillips, Joint Chief Executive: daryl.phillips@hart.gov.uk

Steve Bennett, Change & Digital Manager: steve.bennett@hart.gov.uk

OVERVIEW AND SCRUTINY COMMITTEE

DATE OF MEETING: 20 APRIL 2021

TITLE OF REPORT: REVIEW OF THE WORK OF OVERVIEW AND SCRUTINY COMMITTEE OVER THE PAST YEAR 2020/21

Report of: Chairman of the Overview & Scrutiny Committee

1 PURPOSE OF REPORT

- 1.1** To review the work of Overview and Scrutiny Committee over the past year 2020/21.

2 OFFICER RECOMMENDATION

- 2.1** That Members note the report and the subsequent actions taken.

3 WHAT IS OVERVIEW AND SCRUTINY?

- 3.1** Every local authority operating a Cabinet and Scrutiny model has a Cabinet made up of the Leader of the Council and up to nine other members. All executive decisions (i.e. those needed to implement the Policy Framework and Budget approved by the Council) are taken by the Cabinet.

- 3.2** Overview and Scrutiny bodies are not “decision making” bodies, but are bodies which monitor and influence those that are. The Overview and Scrutiny role, carried out by non-Cabinet members, is designed to support the work of the Council in the following ways:

- Reviewing and scrutinising decisions taken by the Cabinet (acting as a “critical friend”)
- Considering aspects of the Council’s performance
- Assisting in research, policy review and development
- Involving itself with external organisations operating in the District to ensure that the interests of local people are enhanced by collaborative working
- Providing a means of involving the communities in the Council’s work

The Committee also reviews and scrutinises decisions made, or actions proposed in connection with the Council functions, including that of budget monitoring and service delivery.

4 REVIEW OF 2020/21 AND THE ACTIONS TAKEN

This year, despite the challenging constraints of the Coronavirus pandemic, has been an active period for the Overview and Scrutiny committee with support from Cabinet Members and Officers. The committee met in June 2020 after two meetings had to be cancelled due to the first lockdown of the

pandemic. It was the first committee of the Council to meet during Covid-19 restrictions; all meetings since then have been held virtually.

Members held a mid-year review in January 2021 to track the progress of the committee and enlist Members' views on how meetings could either be improved or facilitate the introduction of new initiatives to facilitate more insightful scrutiny.

At the mid-year review, it was agreed that future agendas should include an informative external presentation each month on a subject of interest to the Council. The first of these, about the Census 2021, was presented at the March meeting and open to all Councillors.

Four members of Overview and Scrutiny volunteered to join a cross party working group to monitor the action plan for the Planning Performance Peer Review. Due to the acknowledged collaborative success of this approach, it was agreed that opportunities for other cross party working groups should be further explored.

Membership of the Overview and Scrutiny Committee provides an excellent introduction for newly elected Councillors to gain an understanding of the policies and procedures of local government, enabling them to contribute effectively in debate and decision – making.

4.1 Regular reports -

The Committee received quarterly monitoring reports on the following

- Service performance relative to Service Plan and Key Performance Indicators
- Budget monitoring to ensure that the Council is on track to meet and stay within Council agreed budget parameters
- The use of RIPA authorisations
- Civic Enforcement Officer use of handheld CCTV
- Hart Flood Forum

4.2 Regular annual one-off reports -

The Committee also received:

- prior to consideration by Cabinet the draft Treasury Management Statement; 2019/20 Outturn Position, the Medium-Term Financial Statement (MTFS), the draft 2021/2022 Budget, and draft Service Plans,
- Corporate Risk Register update
- Local Government Ombudsman Annual Review Letter.

4.3 Heads of Services

Heads of Services rotated each month to attend and present Service updates relative to Service Plans.

4.4 Individual Items of Note

4.4.1 June 2020

COUNCIL RESPONSE TO COVID-19 AND NEXT STEPS

Members reviewed the speed and effectiveness of the Council's COVID-19 pandemic response and decisions made, in particular, in relation to Business Grants.

4.4.2 July 2020

COMMUNITY INFRASTRUCTURE LEVY (CIL)

The Committee welcomed the proposal to introduce CIL and asked to review the draft CIL Charging Schedule before it is consulted upon.

COMMERCIALISATION STRATEGY – REVIEW OF ASSETS-BASED PROCUREMENT PROCESS

The Committee reviewed the processes for the procurement of assets-based investment and expressed the view that it was a good example of a Commercialisation Strategy. The database framework was complimented.

PLANNING DEVELOPMENT MANAGEMENT PEER REVIEW AND ACTION PLAN

The Committee received a Peer Review report on the Council's Planning Development Management service and agreed to set up Member Working Group comprising four members: Councillors Farmer, Makepeace-Browne, Smith and Wildsmith to review the Plan.

4.4.3 August 2020

THE ESTABLISHMENT OF A CORPORATE VEHICLE FOR PROPERTY HOLDING PURPOSES

Members were asked to consider a report by the Joint Chief Executive recommending, in principle, the creation of a local authority company to allow commercial trading in property. The Officer recommendation to support the creation of the Company was supported.

4.4.4 September 2020

FUTURE PROVISION OF CCTV SERVICE

This paper sought Members' views on Runnymede Borough Council monitoring CCTV in the future, on behalf of Hart District Council. Members could not support Officer recommendations in its totality due to lack of information, but agreed that further information would be circulated and that this information together with this Committee's concerns, be addressed at Cabinet.

5 COUNCILS (5Cs) CONTRACT (Exempt Report)

Members discussed the alterations to the contract for Corporate Services and agreed the recommendations contained with the report.

4.4.5 October 2020

UPDATED FINANCIAL REGULATIONS AND CONTRACT STANDING ORDERS

Subject to some minor adjustments, the Committee supported the draft Revised Financial Regulations and draft update to Contract Standing Orders.

CORPORATE RISK REGISTER REPORT

The Corporate Risk Register was reviewed with assurance that appropriate arrangements were in place to mitigate identified risks.

CIVIC QUARTER REGENERATION UPDATE

Members received an update from Councillor Quarterman on the regeneration of the Civic Quarter.

4.4.6 November 2020

FLEET ROAD PEDESTRIANISATION UPDATE

Councillor Cockarill gave an oral update to confirm his decision to seek the removal of the Fleet Road pedestrianisation scheme.

NATIONAL COVID-19 RESTRICTIONS FROM 5 NOVEMBER 2020

The Joint Chief Executive gave an oral update to Committee on the implications for the delivery of Council services from 5 November 2020 arising from new national COVID-19 restrictions.

COMMERCIALISATION STRATEGY PRESENTATION – DIGITALISATION

Councillor Ambler and the Digital Manager gave a presentation on the impending launch of Mod.Gov (digitalisation of the Committee Services).

DEVELOPMENT MANAGEMENT SERVICE ACTION PLAN

Members of the Overview & Scrutiny Committee Working Group on the Planning Peer Review reported back on the final version of the Development Management Service Action Plan and recommended to Cabinet that it should be approved.

IT SECURITY AND ACCEPTABLE USE POLICY

Members were asked to consider the draft Policy and recommend to Cabinet that it be adopted.

4.4.7 December 2020

COMMUNITY INFRASTRUCTURE LEVY

The Head of Place provided an update on setting a Community Infrastructure Levy (CIL) Charging Schedule in Hart and confirmed that the Committee will be consulted on draft CIL charging schedule in mid-year 2021.

COMMUNITY SAFETY TRANSITION

The Head of Community updated Members on the transition of the shared Community Safety Service which returned to Hart in October 2020. Members requested targets and budgets to be brought through Overview & Scrutiny as part of the process of commenting on the Community Services' Service Plan 2021/2022.

CRIME AND DISORDER COMMITTEE

Councillor Axam updated the Committee on the progression of the scrutiny work of this joint Committee.

CLIMATE CHANGE WORKING GROUP

Councillor Oliver gave an update on the interface between the Climate Change Working Group and the Overview & Scrutiny Committee and explained the changed action plan, work programme and delivery times of the working group, which had been delayed by 6 months due to COVID restrictions.

COVID-19 PANDEMIC UPDATE

The Joint Chief Executive updated the Committee on the implications for the delivery of Council services arising from the new national COVID-19 Lockdown 2.0

CONFIDENTIALITY OF INTERNAL COUNCIL COMMUNICATIONS

The Joint Chief Executive provided Members and Officers with an update on the approach to confidentiality with respect to internal communications within the Council.

2020-21 BUDGET MONITORING – POSITION STATEMENT AT 31 OCTOBER 2020 FOLLOWING LOCKDOWN 2.0

Members were advised of the position on revenue expenditure following Lockdown 2.0.

UPDATE ON BUSINESS RATES GRANTS SCHEMES LOCKDOWN 2.0

Members were updated on the process and performance regarding the two Lockdown 2.0 Business Rate Grant Schemes that the Government had introduced.

4.4.8 January 2021

CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced that a summary of the discussions held at the mid-year Overview & Scrutiny review on 6 January 2021 was to be circulated

CLIMATE CHANGE WORKING GROUP

Councillor Oliver updated members on the progress made by the Climate Change Working Group and outlined the three ways of how this cross-party working group can work together with the Overview & Scrutiny Committee.

CAR PARKING CHARGES

Members were updated by Councillor Oliver on the current situation on the car parking charges review, which concluded in November 2019, and on the proposals sent to all Parishes who have an HDC Public Car Park, to include the proposals HDC intended to implement in May 2021.

CIVIC REGENERATION WORKING GROUP

Councillor Quarterman and the Commercialisation Manager updated Members on the progress made with the Civic Quarter regeneration project, work undertaken, findings and recommendations for next steps. Members

considered and confirmed that the Working Group will continue to investigate possible opportunities for potential redevelopment alongside its position with the town and any potential impact on Fleet town as a whole and were happy with the balance of questions and level of detail.

TREASURY MANAGEMENT STRATEGY STATEMENT AND ANNUAL INVESTMENT STRATEGY

Members were presented with the draft Treasury Management Strategy Statement for 2021/22, which incorporated the Annual Investment Strategy and Prudential and Treasury Indicators and recommended to Cabinet that it be agreed.

DRAFT BUDGET 2021/2022

This report provided a summary of the revenue and capital budget proposals for 2021/2022 and the Committee was invited to forward its comments on the proposed draft budget and Council Tax levels to Cabinet.

4.4.9 February 2021

MEMBER TRAINING – A REVIEW

The Joint Chief Executive provided Members with an overview of the Council's Member training and discussed the support and requirements for Members moving forwards. It was recognised that not all Members would require all areas of training offered, but importance of clarity is required on mandatory topics and discretionary events.

DRAFT BUSINESS CASE FOR HOUSING COMPANY

The Committee were presented with the Business Case to set up a new Company limited by shares as a vehicle to hold the Council owned Edenbrook development of 41 apartments. Members were advised of the two reasons for this business case, these being to secure more affordable housing for residents and to generate long term steady revenue for the Council. The Committee supported the proposals and forwarded its more detailed comments to Cabinet.

DRAFT BUDGET 2021/2022

Members considered the report which provided a summary of the revenue and capital budget proposals for 2021/2022 approved by Cabinet and recommended to Council. The report included the statutory statement of the Head of Corporate Services (Section 151 Officer) to Council on the robustness of the estimates and adequacy of reserves.

The Chairman advised Members that no additional papers had been received since the last meeting of the committee and the Budget Book would be available before going to the next full Council. Members were advised that all questions should be forwarded to the S151 Officer, who would respond within 24 hours.

NOMINATIONS FOR IMPLEMENTATION OF PLANNING IMPROVEMENT ACTION PLAN MONITORING

Members nominated were Councillors Farmer, Makepeace-Brown, Smith and Wildsmith to join a cross party working group to monitor the action plan for

the Planning Performance Peer Review. The Chairman commended the working group on the tremendous job they did last year, and the Monitoring Officer requested the working group also include looking at performance and complaint handling.

4.4.10 March 2021

PRESENTATION BY THE 2021 CENSUS TEAM

Jeremy May, the Census Engagement Manager from the Office of National Statistics, presented the implementation of the 2021 Census. The presentation explained how the Census is a snapshot of a time in society and covers housing, healthcare, education, and transport, with 2021 being the first year that the Census is done digitally. Members were advised how the Office of National Statistics has been raising awareness of the Census using local news, radio and local authorities covering deadlines, support centres and field staff help that is available.

TO NOTE SECTION 4 OF THE MINUTES OF 2ND MARCH CLIMATE CHANGE WORKING GROUP MEETING – UPDATE ON CLIMATE CHANGE ACTION PLAN

Councillor Oliver updated the Committee on the action plan from the Climate Change Working Group and the Council's corporate objective to build pathways to net zero omissions. As there is no budget at present for funding the actions and it was suggested that the action plan is incorporated as a consideration into service plans. The Working Group was working on making conscious decisions on how best to achieve carbon efficiencies and on its long term plan. Members asked for clarification on:

- Energy efficient waste vehicles being trialled by Serco in urban areas.
- Working closely with Everyone Active to minimise emissions.
- Specific targets with firm dates.

FLEET ROAD PEDESTRIANISATION: COSTS

Members noted the costs incurred by the Council in implementing and then securing the removal of the Fleet Road pedestrianisation scheme. The Joint Chief Executive explained that the report is a factual statement of costs incurred. The report was not intended to be a commentary on the merits of the scheme or how it was implemented and then removed. The report was for noting only.

DRAFT SERVICE PLANS 2021/2022

The Committee considered the draft Service Plans for 2021/22 and recommended to Cabinet that, subject to more detailed information being provided in the resourcing charts for both Place and Environmental & Technical Services, the draft Service Plans 2021/2022 be adopted.

DRAFT ENVIRONMENTAL HEALTH & LICENSING ENFORCEMENT PLAN

The Committee considered and reviewed the draft Environmental Health & Licensing Enforcement Plan and endorsed the Plan for adoption by Cabinet.

EQUALITY OBJECTIVES 2021 - 2023

Members were presented with highlights of the progress made against the Council's Equality Objectives 2017-2021 and comments were requested on

the proposed Equality Objectives for 2021-23. The Committee supported and endorsed the objectives and recommended to Cabinet that the Equality Objectives for the period 2021-2023 be adopted.

QUARTER 3 PERFORMANCE REPORT - 2020/21

Members were updated on the Council's performance indicator results for the third quarter of 2020/2021 (1 October 2020 – 31 December 2020); the report was for noting only. It was agreed that a small informal cross party working group of Committee be set up to review the number and purpose of KPIs.

CORPORATE RISK REGISTER

Members were asked to review the Corporate Risk Register which is reviewed by management on a regular basis and reported to members to provide assurance that appropriate arrangements are in place to mitigate identified risks. The report was for noting only.

Contact Details: Councillor Dr Jane Worlock, Chairman of Overview and Scrutiny Committee

CABINET

KEY DECISIONS/ WORK PROGRAMME, AND EXECUTIVE DECISIONS MADE

June 2021

Cabinet is required to publish its Key Decisions and forward work programme to inform the public of issues on which it intends to make policy or decisions. The Overview and Scrutiny Committee also notes the Programme, which is subject to regular revision.

Report Title	Date item agreed for report	Outline/Reason for Report/Comments	Original Due Date	Revised Due Date	Key Decision Y? Note 1	Cabinet Member (Note 2)	Service (Note 3)	* This item may contain Exempt Information
Outside Bodies	Annual	Post consideration by Overview & Scrutiny of the effectiveness of the Council's involvement with outside bodies	Jun 21			DN	JCX	
Hart Housing Property Management Company Ltd: Initial Draft Business Plan	Mar 21	Post consideration by Overview & Scrutiny Committee, to consider the business case for the Corporate Property Holding Company	Jun 21			JR	F	
Budget Monitoring	Quarterly	Post consideration by Overview & Scrutiny Committee, to consider a report on Quarterly Budget Monitoring	Jun 21 Sep 21 Dec 21			JR	F	

Report Title	Date item agreed for report	Outline/Reason for Report/Comments	Original Due Date	Revised Due Date	Key Decision Y? Note 1	Cabinet Member (Note 2)	Service (Note 3)	* This item may contain Exempt Information
Updated Commercialisation Strategy	Jun 21	Post consideration by Overview & Scrutiny Committee, to consider and updated Commercialisation Strategy	Jun 21			RQ	CS	
Debt Recovery Policy	Nov 20	Post consideration by Overview & Scrutiny to update Cabinet on the Debt Recovery policy	Jun 21	July 21		JR	F	
Urgent COVID Recovery Decisions Update	Jul 21	To note updated urgent COVID Recovery decisions made since April	Jul 21			JR	JCX	
Regulatory Services Enforcement Policy	Apr 21	Post consideration by Overview & Scrutiny Committee, to consider the adoption of an enforcement policy as recommended by the Government	Jul 21			SK	P	
Shared Licensing Service	Mar 21	Approval required for new deed for the shared Licensing Service with Basingstoke and Deane which expires July 21	Jul 21			SK	P	

Report Title	Date item agreed for report	Outline/Reason for Report/Comments	Original Due Date	Revised Due Date	Key Decision Y? Note 1	Cabinet Member (Note 2)	Service (Note 3)	* This item may contain Exempt Information
Food and Health and Safety Service Plan	Annual	Recommend to Council that the annual Food Safety Plan be adopted	Jul 21			SK	P	
Car Boot Sales	Sep 20	To update Cabinet on car boot sales	Jan 21	Jul 21		RQ	JCX	
Revenue and Capital Outturn 2020/2021	Annual	Post consideration by Overview & Scrutiny Committee, to consider the Annual report on outturn	Aug 21			JR	F	
Treasury Management 2020/2021 (Annual Report)	Annual	Post consideration by Overview & Scrutiny Committee, to consider the Annual report on Treasury Management Activities 2020/21	Aug 21			JR	F	
Revised Safeguarding Policy & Procedure	Apr 21	Post consideration by Overview & Scrutiny to update Cabinet on the Safeguarding Policy & Procedure be adopted	Aug 21			JR	CSF	

Report Title	Date item agreed for report	Outline/Reason for Report/Comments	Original Due Date	Revised Due Date	Key Decision Y? Note 1	Cabinet Member (Note 2)	Service (Note 3)	* This item may contain Exempt Information
Treasury Management 2021/22 (Half Year Report)	Annual	Post consideration by Overview & Scrutiny Committee, to consider a Half Year review report on Treasury Management Strategy 2020/21	Dec 21			JR	F	
Budget and Medium Term Financial Strategy	Annual	To give an early consideration of the emerging budget for 2021/22 and the MTFS	Dec 21			JR	F	
Draft 2021/22 Revenue Budget, Capital Programme and Council Tax Proposals	Annual	Post consideration by Overview & Scrutiny Committee, to agree to recommend to Council the 2021/22 Revenue Budget, Capital Programme and Council Tax Proposals	Feb 22			JR	F	
Draft 2021/22 Capital Strategy, Treasury Management Strategy Statement and Asset Management Plan	Annual	Post consideration by Overview & Scrutiny Committee, to agree to recommend to Council the 2021/22 draft Capital Strategy, the 2021/22 Treasury Management Strategy Statement and Asset Management Plan	Feb 22			JR	F	

Report Title	Date item agreed for report	Outline/Reason for Report/Comments	Original Due Date	Revised Due Date	Key Decision Y? Note 1	Cabinet Member (Note 2)	Service (Note 3)	* This item may contain Exempt Information
Service Plans	Annual	Post consideration by Overview & Scrutiny Committee, agree the 2021/22 Service Plans	Apr 22			DN	ALL	

Note 1

A “key decision” means an executive decision which, is likely to -

- result in Council incurring expenditure or the making of savings which amount to £30,000 or 25% (whichever is the larger) of the budget for the service or function to which the decision relates; or
- be significant in terms of its effects on communities living or working in an area comprising two or more wards within the area of the district of Hart.

Note 2

Cabinet Members

DN	Leader	SA	Digital	RQ	Commercialisation (Cn)	SB	Community (Cy)
SK	Regulatory	AO	Environment	JR	Finance and Corporate Services	GC	Place

Note 3

Service:

JCX	Joint Chief Executive	CS	Corporate Services	P	Place Services
CSF	Community Safety	PP	Planning Policy	TS	Environmental & Technical Services
F	Finance	H	Community Services		
SLS	Shared Legal Services	MO	Monitoring Officer		

Note 4

*** This item may contain Exempt Information** - Regulation 5 of the Local Authority (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

EXECUTIVE DECISIONS

OVERVIEW AND SCRUTINY COMMITTEE WORK PROGRAMME – April 2021						
Issue and Description of Topic	Current Position Objective	Original Due Date	Revised Due Date	Resources Required	Contact	*This item may contain Exempt Information
Recovery for Re-engagement of Members	To discuss how to encourage and re-engage Members.	May 21		Discussion	Joint Chief Executive and Chairman	
Commercialisation Strategy Review	To give Overview & Scrutiny a opportunity to review an updated Commercialisation Strategy.	May 21		Report	Head of Corporate Services/Commercialisation Portfolio Holder	
Debt Recovery Policy	To update Overview & Scrutiny on the Debt Recovery Policy prior to consideration by Cabinet.	Apr 21	Jun 21	Report	Head of Corporate Services	
Quarterly Budget Monitoring	Quarterly update on budget position.	Jun 21 Oct 21 Feb 22		Report	Head of Corporate Services	
Revised Safeguarding Policy & Procedure	To scrutinise the proposed reviewed and updated Safeguarding Policy & Procedure prior to consideration for adoption by Cabinet in August.	Jul 21		Report	Head of Community Services	

Community Safety Team Update	To provide an insight to the focus, priorities and aims of the Community Safety team, how it works and what tools it has available to enforce when necessary.	Jul 21		Presentation	Head of Community Services	
Treasury Management 2020/21	To consider a Half Year review report on Treasury Management Strategy 2020/21 prior to consideration by Cabinet.	Annual		Report	Head of Corporate Services	
Medium Term Financial Strategy and Capital Strategy, Treasury Management Strategy Statement and Asset Management Plan	To comment on the annual reports setting out the Council's Medium-Term Financial Strategy position and future Capital Strategy, Treasury Management Strategy Statement and Asset Management Plan, prior to consideration by Cabinet.	Annual		Report	Head of Corporate Services	
Draft Budget	To make comments on the draft 2022/23 Budget prior to consideration by Cabinet.	Annual		Report	Head of Corporate Services	
Heads of Service Attendance	Once a quarter the respective Heads of Service (in rotation) each be invited to attend Committee to update on performance, targets, and delivery against Service Plans. Apr – Head of Place	Monthly		Oral	Heads of Service	

<u>JANUARY 2021</u>	<u>COMPLETED</u>					
Climate Change Working Group	The Portfolio Holder to update on the proposed interface between the Climate Change Working Group and Overview and Scrutiny.	Jan 21		Update	Portfolio Holder	
Civic Regeneration Working Group	To update on the Civic Regeneration Working Group.	Jan 21		Report	Portfolio Holder for Commercialisation and Commercialisation Manager	
Car Parking Charges	The Portfolio Holder for Technical Services to be invited to update Committee on progress to agree with parish and town councils any localisation of car park charges.	Jan 21		Update	Portfolio Holder	
Draft Budget 2021/2022	To discuss the framework and structural position of the budget for 2021/22 prior to consideration by Cabinet.	Jan 21		Report	Head of Corporate Services	
Treasury Management Strategy Statement and Annual Investment Strategy	To present the draft Treasury Management Strategy Statement for 2021/22 which incorporates the Annual Investment Strategy and Prudential and Treasury Indicators.	Jan 21		Report	Head of Corporate Services	
Overview of Member Training	To discuss training required for Members and outstanding subjects and courses already attended.	Jan 21	Feb 21	Report	Joint Chief Executive	

Draft Budget 2021/2022	To scrutinise cabinets recommendations to council on the draft budget for 2021/2022.	Feb 21		Report	Head of Corporate Services	
Quarterly Budget Monitoring	Quarterly update on budget position.	Feb 21 Jun 21 Oct 21		Report	Head of Corporate Services	
Corporate Vehicle for Property Holding Purposes	To consider the draft business case prior to consideration by Cabinet.	Feb 21		Report	Head of Corporate Services	
<u>FEBRUARY 2021</u>	<u>COMPLETED</u>					
Overview of Member Training	To discuss training required for Members and outstanding subjects and courses already attended.	Jan 21	Feb 21	Report	Joint Chief Executive	
Draft Budget 2021/2022	To scrutinise Cabinet's recommendations to Council on the draft budget for 2021/2022.	Feb 21		Report	Head of Corporate Services	
Quarterly Budget Monitoring	Quarterly update on budget position.	Feb 21 Jun 21 Oct 21		Report	Head of Corporate Services	
Corporate Vehicle for Property Holding Purposes	To consider the draft business case prior to consideration by Cabinet.	Feb 21		Report	Head of Corporate Services	

Nominations for implementation of Planning Improvement Action Plan monitoring	To confirm nominations to join a cross party working group to monitor the action plan for the Planning Performance Peer Review.	Feb 21		Oral	Members	
<u>MARCH 2021</u>	<u>COMPLETED</u>					
Fleet Road Pedestrianisation	Scrutiny review of the implementation monitoring and reporting of the scheme to pedestrianise Fleet Road.	Mar 21		Report	Audit Manager	
Performance Monitoring	Quarterly Highlights report.	Mar 21 Jul 21 Nov 21		Report	Contracts and Performance Manager	
Regulatory Services Enforcement Policy	To consider the adoption of an enforcement policy as recommended by the Government.	Mar 21		Report	Head of Place	
Corporate Risk Register	Half-yearly update on corporate risk profile.	Mar 21 Sep 21		Report	Audit Manager	
Equality Objectives 2021-2023	To update and consider Hart's equality objectives for 2021-2023 prior to consideration by Cabinet.	Mar 21		Report	Health & Policy Project Officer	
Presentation by the 2021 Census team	Presentation on the implementation of the 2021 Census which will begin at the end of March.	Mar 21		Presentation	Communications Team	

Service Planning Review	To make recommendations to draft 2021/22 Service Plans prior to consideration by Cabinet.	Annual	Mar 21	Report	Joint Chief Executive	
<u>APRIL 2021</u>	<u>COMPLETED</u>					
Housing & Management Company Business Plan	To scrutinise the proposed Housing Company Business Plan prior to consideration by Cabinet in June.	Apr 21		Report	Head of Corporate Services	
Modern.Gov	To update on the implementation of Modern.Gov.	Apr 21		Report	Joint Chief Executive	
Flooding	Update from twice yearly meeting of multi-agencies.	Apr 21		Minutes of meeting only	Chairman of Overview & Scrutiny Committee	
Chairman's Annual Review of the Work of the Committee.	To consider the Chairman's draft report to Annual Council on a review of the work carried out in the past year by Overview and Scrutiny Committee.	Annual	Apr 21	Report	Chairman of Overview & Scrutiny Committee	
Presentation on Employment and Skills Work by St Edwards at Hartland Village	St Edward to update the Committee on their work at Hartland Village to support jobs, Apprenticeships and career opportunities.	Apr 21		Presentation	Liza Smith, Employment and Skills Manager	
Waste Management Contract	To discuss changes to the contract post consideration by Cabinet.	Apr 21		Oral Update	Portfolio Holder	