

# Addendum

## Commercial Ventures Executive Sub-Committee

Dear Councillor,

### **Commercial Ventures Executive Sub-Committee - Thursday, 17 November 2022, 6.30 pm**

I enclose, for consideration at the meeting of the Commercial Ventures Executive Sub-Committee to be held on Thursday, 17 November 2022 at 6.30 pm, the following reports which were unavailable when the agenda was published.

**Mari Roberts-Wood**  
Managing Director

**5. Asset Management Plan 2023-2028(Pages 3 - 22)**

To approve the Council's Asset Management Plan 2023-2028.

**6. Future operation of Council-owned cafe premises(Pages 23 - 32)**

To review a report on a phased programme of marketing and re-letting the three Council-owned café premises in Reigate, Redhill and Banstead parks to secure a more sustainable income stream.

**8. Partnership Action - Horley Business Park Development LLP(Pages 33 - 60)**

**For enquiries regarding this addendum;**

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To consider required Partnership Actions as partner representative for Horley Business Park Development LLP for the 2021 accounts and auditor appointment.

# Agenda Item 5



<b>Signed off by</b>	Chief Finance Officer
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<b>To</b>	Commercial Ventures Executive Sub-Committee
<b>Date</b>	17 November 2022
<b>Executive Member</b>	Portfolio Holder for Investment & Companies

<b>Key Decision Required</b>	N
<b>Wards Affected</b>	All

<b>Subject</b>	Asset Management Plan 2023 - 2028
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<b>Recommendations</b>
(i) That the Committee approves the Asset Management Plan 2023 – 2028 to form the Council’s framework for future property asset management and development decisions.
<b>Reasons for Recommendations</b>
Approval of the Asset Management Plan provides a framework for decision making based on a clear set of principles and mechanisms for the future use of assets within the Council’s property portfolio.
<b>Executive Summary</b>
The Council’s property portfolio is diverse and multi-faceted comprising a wide variety of assets. The use of property impacts on every aspect of the Council’s activities and is inherent to delivery of Corporate Plan objectives.  It is important that the Council takes a holistic view of its asset base and adopts co-ordinated approach to asset management to ensure that they are effectively, efficiently and safely managed, are fit for purpose and able to meet the needs of service users while at the same time ensuring that the value and potential of the estate is fully realised.

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The Asset Management Plan is also a key contributor to delivery of the Council's Financial Sustainability Programme

**The Committee has authority to approve the above recommendations.**

## Statutory Powers

1. Section 2 of the Local Government Act 2000 gives Local Authorities a general power of competence to act in the furtherance of the economic, social or environmental wellbeing of their area.
2. As responsible landlord the Council's asset management activities are carried out in compliance with a range of relevant legislation including:
  - Disability Discrimination Act
  - Control of Asbestos Regulations
  - Health and Safety at Work Act
  - Environment Protection Act
  - Control of Substances Hazardous to Health Regulations
  - The Regulatory Reform (Fire Safety) Orders
  - Gas safety and fixed wire testing
  - Fire risk assessments; and
  - Lifts and Lifting Operations Lifting Equipment Regulations.

## Background

3. This Asset Management Plan 2023 – 2028 ('the Plan') replaces the previous Plan that was approved in 2015.

## Key Information

4. The Plan is attached at Annex 1 and sets out:
  - Objectives for the Plan
  - How the Plan links to other Plans and Strategies
  - Information about the current asset portfolio
  - Strategic objectives for use of assets
  - Approach to asset acquisition and disposal
  - Overview of asset management systems and processes
  - How advisory services are used
  - The approach to programme Planned and Reactive Maintenance

- Asset audit and performance management
- Approach to asset risk management; and
- The Plan implementation and review approach.

## Options

5. The options available are set out below:

Option 1: To approve the Asset Management Plan 2023 – 2028 to form the Council’s framework for future property asset management and development decisions.

This the recommended Option.

Option 2: To request changes to the Asset Management Plan and re-submit it for approval.

Option 3: To reject the Asset Management Plan. This is not recommended as it will mean that there is no framework in place for future decision-making.

## Legal Implications

6. The Council’s legal responsibilities are summarised in the Statutory Powers section of this report.

## Financial Implications

7. The Plan supports delivery of Financial Sustainability Programme objectives with regard to managing asset costs and optimising income streams.

8. Decisions on investment in assets are made through the service & financial process each year.

## Equalities Implications

9. The Council has a Public Sector Equality Duty (under the Equality Act 2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between people who share those protected characteristics and people who do not;
- Foster good relations between people who share those characteristics and people who do not.

10. The three parts of the duty applies to the following protected characteristics: age; disability; gender reassignment; pregnancy/maternity; race; religion/faith; sex and sexual orientation. In addition, marriage and civil partnership status applies to the first part of the duty.

11. The Plan will be delivered with due consideration of the Council’s Public Sector Equality Duty as landlord.

## Communication Implications

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12. There are no specific communication implications arising from this report.

## **Environmental Sustainability Implications**

13. The Council has set out a commitment in the Corporate Plan 2025 to seek to reduce waste and emissions (including carbon emissions) and use natural resources more efficiently across our own estate, assets, and activities.

14. The Plan supports delivery of these objectives.

## **Risk Management Considerations**

15. The Plan sets out the approach to managing risks associated with asset management activities and responsibilities.

## **Consultation**

16. The Plan has been prepared in consultation with officers and the responsible Portfolioholder.

## **Policy Framework**

17. The recommendations of this report are consistent with the Council's Policy Framework and support the Council's 5 Year Plan objectives of deriving the continued economic prosperity of the borough, facilitating improved business infrastructure, and confirming the borough's reputation as a great place to do business; and of being a financially self-sustaining Council.

## **Background Papers**

None

Annexes:

1. Asset Management Plan 2023 to 2028



**Reigate & Banstead**  
**BOROUGH COUNCIL**  
Banstead | Horley | Redhill | Reigate

# Asset Management Plan

## 2023 - 2028



Reigate & Banstead Borough Council

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## **Cover Page Photos (Clockwise from top left)**

Pavilion café, Redhill Memorial Park

Aerial view of part of Priory Park Reigate including the Pavilion café

Tadworth Sports and Community Centre

The Town Hall, Reigate



## **Executive Summary**

Reigate & Banstead Borough Council's Asset Management Plan for 2023-2028 sets out how the Council intends to manage its property assets over this period in a structured approach to strategic asset management planning and in accordance with the themes and priorities of its "Reigate & Banstead 2025" five-year plan (the Corporate Plan).

Reigate & Banstead owns a property portfolio valued at just under £180 million that produced an annual income of just over £5 million in the 2021/22 financial year. Its properties fulfil a number of purposes for the benefit of our communities. They are pivotal to the delivery of services and provision of infrastructure for the residents. Increasingly, income from property also contributes to maintaining the long term financial stability of the Council.

Some of these properties are commercial properties that deliver a regular income that helps to fund front line services, while key buildings such as the Town Hall, the Harlequin Theatre, Priory Park, and the Council's three leisure centres enable residents to access popular facilities and services.

In the Corporate Plan period the Council's Property team will concentrate on actively managing its property assets to enable services to be provided, and to provide buildings and other facilities for the use of residents, business, and the voluntary sector, as well as generating an income stream. This will be in addition to providing a high quality property and facilities management service to support the operational needs of the Council.

The Asset Management Plan will evolve during the plan period and will be reviewed and updated on an annual basis to reflect any changing operational requirements of the organisation or emerging corporate themes.

## **Borough Profile**

The borough of Reigate & Banstead covers 12,914 hectares, of which around 70% is Metropolitan Green Belt. This area is predominantly open countryside and contains part of the Surrey Hills area of outstanding natural beauty, sites of special scientific interest, local nature reserves, conservation areas and listed buildings.

The borough is recognised as a relatively affluent area with a buoyant local economy. Economic activity is concentrated predominantly in the central urban areas of Redhill and Reigate.

Almost 80% of the working age population within the borough is economically active. However, as a result of the economic downturn, unemployment has risen and is currently one of the highest in Surrey. Reigate & Banstead has a well-qualified population with the percentage of residents with no qualifications significantly lower than the national average.

Commuting within the borough is high. According to latest figures, more than 27,000 people commute into the borough and 34,000 of our residents commute out, making Reigate & Banstead a net exporter of labour.

The borough benefits from its location in relation to the M23/A23 corridor linking London to the south coast and proximity to both the M25 and Gatwick Airport. The borough is also part of the Gatwick Diamond economic sub-region.

As a result of this strategic location and the high quality of the local environment, the borough has attracted a number of major national and international companies. In terms of commercial premises, the latest Valuation Office Agency statistics show that there are over 1,200 retail outlets, 800 offices, 350 Industrial and 350 warehouse units in the Borough with a total floorspace of around 900,000 square metres.

## **Asset Management Plan Objectives**

The primary aim of the Asset Management Plan is to make the best use of the Council's assets in order to deliver high quality services and to deliver the priorities in the Corporate Plan. In order to achieve this, our objectives are to:

- Manage assets in a cost effective and sustainable manner;
- Invest in our assets when required to ensure they remain fit for purpose and contribute towards the Council's environmental sustainability objectives;
- Continue to implement a programme of planned maintenance;
- Ensure that assets are managed to meet all regulatory and statutory requirements;
- Minimise the opportunity cost of holding land and buildings and to protect and optimise the value of Council assets;
- Ensure that operational assets contribute towards the process of service improvements;
- Provide the optimum financial return from the commercial property portfolio and from the sale of surplus assets;
- Where possible, and where supported by evidence of need or demand, take the opportunity to diversify the Council's portfolio interests by changing or expanding the use of existing assets.

The Property Services team will be working to achieve these objectives over the period of this Plan.

## **Associated Plans and Strategies**

This Asset Management Plan supports and links to the Council's Corporate Plan, Commercial Strategy, Medium Term Financial Plan, Capital Investment Strategy and Environmental Sustainability Strategy.

The Corporate Plan includes strategic property priorities that are linked to the Council's vision to generate additional income and to build financial resilience so that it can sustain services.

In order to deliver these objectives, the Council has put in place the Commercial Strategy which has been developed in the context of the growing funding gap that has resulted from the impact of the current local government funding regime combined with increased budgetary pressures.

Part 1 of the Commercial Strategy explains about the commercial activity that the Council is proposing to undertake. It sets out the overall direction and parameters for our commercial activity, which includes making best use of our property assets by increasing capital and revenue returns.

Part 2 of the Commercial Strategy provides more detail about implementation, specifically in relation to investment activity. This implementation plan, included as Appendix A of this document, explains the different types of commercial activity that the Council will consider. These include:

- Developing a project pipeline to establish new income streams from asset activity;
- Ensuring that existing income streams are maintained and where possible increased and;
- Ensuring that assets that cost us money are repurposed, redeveloped or disposed of.

The Council's Capital Investment Strategy sits alongside the Commercial Strategy and details the Council's objectives, principles and priorities for capital expenditure and investment in operational and non-operational assets.

The Capital Investment Strategy also sets out the Council's capital expenditure plans for 2022/23 to 2026/27, which include an £11.2 million Property Services capital programme.

A copy of the full Capital Programme is attached as Appendix B to this document.

## **Asset Portfolio**

The current asset base is categorised, in accordance with CIPFA guidelines, as either Property, Plant and Equipment (PPE) or Investment Property.

PPE comprises operational assets and non-operational assets:

- operational assets comprise Council offices, depots, leisure centres, some commercial property and all other (non-investment) land and buildings owned by the authority.
- non-operational assets comprise surplus assets or assets under construction.

Investment Property are assets held solely to earn rentals or for capital appreciation and that make no other contribution to the Council's corporate objectives. These assets are generally let on full repairing and insuring terms with the Council collecting the income, but either having no liability for repairs and maintenance, or recovering the expenditure via a service charge.

The full list of Council assets is published annually, in accordance with the Local Government Transparency Code, on the Council's Website:

## **Strategic Objectives for Assets**

The Council's strategic objectives for its assets are that they should be:

- Able to:
  - allow customers to access council services and any other related services of partners (where co-located) and suitable for staff to deliver these services; or
  - make a positive contribution to the social wellbeing of the community; or
  - contribute to service revenue budgets in terms of rental income at minimum risk and expenditure.<sup>1</sup>
- Suitable and fit for the purpose for which they are being used in terms of size, type, and layout of accommodation, including accessible to people with disabilities.
- Flexible to the extent that they can be adapted economically to adjust to changing needs.
- Able to contribute towards the Council's sustainability objectives whilst maintaining operational viability.
- Maintained in such a way so as to minimise reactive maintenance.

## **Approach to Acquisition and Disposal**

Where it is possible and appropriate to acquire property, the Council will do so in accordance with the CIPFA Prudential Code for Capital Finance in Local Authorities and the CIPFA Code of Practice for Treasury Management.

These codes stipulate that the Council is not allowed to borrow to invest solely for financial return. It is able to borrow in order to generate income if the income stream (or capital gain) is incidental to the primary reason for the investment. This limits the Council's ability to generate income from capital investment to activities such as regeneration and housing.

The Council will therefore focus on asset activities that deliver corporate objectives (such as housing, environmental or place-shaping projects) whilst also maximising opportunities to generate income streams where this does not compromise those objectives. To ensure that investment is consistent with our core responsibility as a local authority to support the local economy, the Council will only invest in property within the borough, or close to the borough border in the event that the investment secures a benefit for borough residents.

Where surplus capacity in property or land is identified, its future use or disposal will be considered in accordance with the Council's priorities and within the planning framework. Where appropriate the opportunity to share assets with partner organisations will also be explored as part of the options appraisal process.

Where property is placed on the disposals schedule for review, consideration will be given to leasehold or freehold disposal and, if the latter, further consideration will be given to the consequences of the piece of land or property not being subject to the Council's control in terms of

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<sup>1</sup> S123 of the Local Government Act 1972 is a statutory requirement that requires the Council, except in limited circumstances, to obtain best consideration for lettings or disposals. Accordingly, all third party lettings are on market terms. If financial assistance is provided it is done so through the Council's rental grant subsidy system and is therefore a transparent means of supporting qualifying organisations.

standard of care, maintenance etc., by the inclusion, where appropriate, of covenants in the contract requiring future owners to maintain the required standards of care.

### **Asset Management Systems and Processes**

The Council's uses TF Facility asset and property management software, which contains details of all the Council's property assets plus related lease, licence, and other property agreement information. Other property-related data is held in a SharePoint database.

Rent reviews, lease renewals, asset valuations, property inspections, asset reviews, suitability surveys, and property purchases and disposals are carried out or procured by the Property Services team. All rent reviews and lease expiries are prioritised according to the potential for rental uplift.

### **Advisory Services**

Specialist advice and services are procured from external consultants as required.

External valuers are contracted to provide annual asset valuations for the Council's Statement of Accounts, normally for a five-year rolling programme of valuations to include separate valuations for buildings insurance purposes.

Specialist valuers are also appointed to check, and where necessary to challenge and appeal, the rateable values of Council-owned property for which business rates are payable.

Additional ad-hoc valuations and advice is obtained in order to inform negotiations for the acquisition or disposal of property and to validate the terms agreed.

External agents are also appointed to advise and represent the Council in the marketing of commercial property and in the negotiation of commercial and specialist property rent reviews and lease renewals in order to ensure that the best terms are agreed.

### **Programmed Planned and Reactive Maintenance**

Management of the Council's property maintenance programme, condition surveys and project management of small to medium size construction projects are carried out by the Property Services team. This team incorporates Facilities Management, which has responsibility for the day to day running of the buildings to support and enable ongoing service delivery.

Compliance with numerous statutory requirements relating to the maintenance and management of property is dealt with in-house, augmented by external consultants when specialist advice is required. Examples of the main legislative areas covered are:

- Disability Discrimination Act;
- Control of Asbestos Regulations;
- Health and Safety at Work Act;
- Environment Protection Act;
- Control of Substances Hazardous to Health Regulations;
- The Regulatory Reform (Fire Safety) Orders;
- Gas safety and fixed wire testing;
- Fire risk assessments; and
- Lifts and Lifting Operations Lifting Equipment Regulations.

A rolling five year programme of condition surveys, regular inspection of the properties and liaison with service managers determines the revenue and capital budgets required over the medium term.

The Property team's aim is to reduce reliance on capital to fund planned and reactive maintenance through continued aggregation of planned maintenance contracts and efficient re-tendering of services that the Council purchases from external contractors.

Budgets for repairs and maintenance are split between planned maintenance and reactive maintenance in order to monitor and measure the progress with improving the proportion of expenditure on the former in order to reduce the latter.

All procurement is undertaken in accordance with the Council's Contract Procedure Rules and making use of the Council's E-Procurement system, "In-Tend" and calling on support from the Council's procurement and legal teams. This approach ensures both compliance with legislation governing public sector procurement and an open and competitive process for securing the most economically advantageous terms.

### **Audit and Performance Monitoring**

Performance monitoring and audit is used to measure, assess, and improve both corporate and service performance.

As an example, an internal audit of non-housing property management & maintenance that reported in June 2022 made recommendations that will result in an improvement in third party contractor performance management.

The audit report noted a risk that poor contractor performance could go unnoticed. As a result, a performance management checklist has been established to enable recording of the outcomes of contract monitoring meetings. It is also intended to introduce a post-completion inspection regime to ensure that a 10% sample in completed works is inspected as a quality check.

The audit also noted the Council did not maintain a central log of reactive (unplanned) repairs. The team has subsequently designed and implemented software system to log key information including repair request dates, request originators and completion dates.

Progress and performance against the action plan contained within the Property service plan is monitored by the Property Services Manager with regular updates to the Portfolio holder for Investment & Companies.

This reviewed on an approximately monthly basis to ensure that the service is on target to achieve outcomes. Performance is reported quarterly to the officer Corporate Governance Group, and to Members of the Commercial Ventures Executive Sub-Committee.

### **Risk Management**

The identification and management of risk is an integral component of the Council's operations. The Council's Strategic and Operational Risk Registers incorporate risks related to this Plan.

These risk registers are monitored quarterly and reported to the Audit Committee and Executive.

## **Implementation and Review**

The implementation of the Plan is enabled by a combination of formal Executive approvals and delegated authorities to the Managing Director, Chief Finance Officer, and the Property Services Manager.

The delegations that are vested in the above officers are set out in the Officer Scheme of Delegation that forms part of the Council's Constitution. This can be viewed on the Council's website: <http://www.reigate-banstead.gov.uk/downloads/file/608/constitution>.

These delegations do not override the requirement for Key Decisions in respect of significant expenditure or contracts in excess of £250,000 or the requirements for 28 Day Notices, decisions in public and a public record of these decisions.

In implementing the Plan, Property Services works closely with the Legal Services team, who provide advice and support on all property related matters, and the Finance team, who ensure that property related expenditure and income, including projected capital receipts, are reported in the Revenue Budget, Capital Programme and Medium Term Financial Plan.

In order to maintain this Asset Management Plan up to date, it will be subject to annual review. This review will be led by the Portfolio Holder for Investment and Companies and members of the Commercial Ventures Executive Sub Committee.

## Commercial Strategy Part 2 Summary: 'Plan on a page'

### The context:

1. The impact of the **current local government funding regime** along with **increased budgetary pressures** means that the Council is facing a **growing funding gap**.
2. This means that the Council itself will need to **generate income in order to continue to fund services**.
3. At the same time a **tighter local government borrowing regime** is placing **restrictions on investing purely for yield**.
4. Together this means that we need to **review and evolve our commercial approach**.

### Our proposed commercial approach:

1. A **project pipeline** to establish **new income streams** from asset activity while also **delivering broader corporate objectives**.
2. Ensure that **existing income streams** we already rely on from our assets are **maintained and where possible increased**; and that we **repurpose, redevelop or dispose** of those assets that cost us money.
3. **Invest in new assets** to secure income or deliver savings whilst also delivering corporate priorities.
4. Continue to **sell or trade services where we already do this**; and **look to introduce new trading activity** where this aligns with our local government remit and areas of expertise.
5. Take a **more commercial approach to fees and charges**.

### Ensuring robust and transparent decisions:

1. Take an **evidence based approach** and apply our **established project management framework**, including risk management, benefits tracking and 'lessons learned' and an enhanced approach to **financial business cases**.
2. Take account of **overall asset portfolio balance** and the need to **manage the impact of trading activity** on core services and activities.
3. Use the **Commercial Ventures Executive Sub-Committee** to take formal decisions about commercial investment, and continue to use the **Commercial Governance Framework**.
4. Quarterly **commercial income reporting** to Overview & Scrutiny, continued provision of **project dashboards** to members, and quarterly **updates on portfolio performance** to CVESC.

### Funding commercial activity:

1. **Revenue funding** agreed annually via budget process or via earmarked reserves
2. **Project feasibility funding** available from the Feasibility Studies Reserve
3. **Capital funding** via the annual Capital Programme and in agreement with the CVESC



## CAPITAL PROGRAMME 2022/23 to 2026/27

CAPITAL PROGRAMME 2022 to 2027 - DETAILS							
	2021/22 Bfwd	2022/23	2023/24	2024/25	2025/26	2026/27	Total
	£m	£m	£m	£m	£m	£m	£m
<b>ORGANISATION SERVICES</b>							
<b>PROPERTY SERVICES</b>							
<b>Rolling Property Maintenance Programmes</b>							
Forum House, Brighton Road Redhill	0.170	0.100	0.150	0.150	-	0.100	<b>0.670</b>
Beech House, London Road, Reigate	3.000	-	-	-	-	-	<b>3.000</b>
Unit 61E Albert Road North	0.062	0.200	0.012	0.012	-	0.075	<b>0.360</b>
Regent House, 1-3 Queensway Redhill	0.075	0.100	0.090	0.090	-	0.090	<b>0.445</b>
Linden House, 51B High Street Reigate	0.028	0.029	0.012	0.012	-	0.015	<b>0.095</b>
Units 1-5 Redhill Distribution Centre Salfords	0.057	0.058	0.017	0.017	-	0.025	<b>0.174</b>
Crown House	0.210	0.075	0.075	0.075	-	0.075	<b>0.510</b>
Tenanted Properties	0.100	0.100	0.100	0.100	-	0.100	<b>0.500</b>
Tenanted Property Assets	0.060	0.076	0.076	0.076	-	0.076	<b>0.364</b>
Operational Buildings	0.260	0.110	0.095	0.080	-	0.080	<b>0.625</b>
Priory Park	0.213	0.010	0.010	0.030	-	0.050	<b>0.313</b>
Public Conveniences	0.017	0.004	0.004	0.020	-	0.095	<b>0.140</b>

<b>CAPITAL PROGRAMME 2022 to 2027 - DETAILS</b>							
	2021/22 Bfwd	2022/23	2023/24	2024/25	2025/26	2026/27	Total
	£m	£m	£m	£m	£m	£m	£m
Infra-structure (walls)	0.026	0.060	0.010	0.060	-	0.020	<b>0.176</b>
Allotments	0.030	0.012	0.012	0.022	-	0.012	<b>0.088</b>
Cemeteries & Chapel	0.060	0.020	0.020	0.040	-	0.020	<b>0.160</b>
Pavilion Replacement – Woodmansterne	0.020	-	-	-	-	-	<b>0.020</b>
Leisure Centre Maintenance	0.017	0.210	0.190	0.030	-	0.175	<b>0.622</b>
Existing Pavilions Programme	0.168	0.050	0.050	0.050	-	0.150	<b>0.468</b>
Car Parks Capital Works Programme	0.358	0.190	0.195	0.170	-	0.075	<b>0.988</b>
Earlswood Depot/Park Farm Depot	0.052	0.020	0.020	0.020	-	0.050	<b>0.162</b>
Community Centres Programme	0.034	0.075	0.067	0.065	-	0.125	<b>0.366</b>
Harlequin Property Maintenance	0.206	0.110	0.120	0.100	-	0.100	<b>0.636</b>
Building Maintenance - Capitalised Staff Costs	-	0.028	0.028	0.028	0.028	0.028	<b>0.140</b>
Massetts Road – Property Rolling Programme	-	0.021	0.021	0.021	0.021	0.021	<b>0.105</b>
Housing Temp/Emergency Repairs	-	-	-	-	-	<b>0.037</b>	<b>0.037</b>
<b>Total</b>	<b>5.223</b>	<b>1.657</b>	<b>1.373</b>	<b>1.267</b>	<b>0.049</b>	<b>1.594</b>	<b>11.164</b>
<b>IT SERVICES</b>							
<b>Rolling Investment Programmes:</b>							
ICT Replacement Programme	0.224	0.200	0.200	0.250	0.200	0.200	<b>1.274</b>
Replacement Photocopiers/ Printers	-	-	0.060	-	-	-	<b>0.060</b>
<b>Total</b>	<b>0.224</b>	<b>0.200</b>	<b>0.260</b>	<b>0.250</b>	<b>0.200</b>	<b>0.200</b>	<b>1.334</b>

CAPITAL PROGRAMME 2022 to 2027 - DETAILS							
	2021/22 Bfwd	2022/23	2023/24	2024/25	2025/26	2026/27	Total
	£m	£m	£m	£m	£m	£m	£m
<b>ORGANISATIONAL DEVELOPMENT</b>							
Workplace Facilities: Estate/Asset Development	0.452	0.250	0.250	0.250	-	-	<b>1.202</b>
<b>Environmental Strategy Delivery</b>							
Environmental Strategy Delivery	0.250	-	-	-	-	-	<b>0.250</b>
<b>PEOPLE SERVICES</b>							
<b>HOUSING</b>							
<b>Grant-Funded Schemes</b>							
Disabled Facilities Grant	-	1.134	1.134	1.134	1.134	1.134	<b>5.670</b>
Home Improvement Agency (Part Grant Funded)	-	0.120	0.120	0.120	0.120	0.120	<b>0.600</b>
Handy Person Scheme (Housing Assistance Programme)	-	0.050	0.050	0.050	0.050	0.050	<b>0.250</b>
Lee Street Bungalows	0.327	-	-	-	-	-	<b>0.327</b>
Cromwell Road Development	0.150	-	-	-	-	-	<b>0.150</b>
Pitwood Park Development, Tadworth	0.043	-	-	-	-	-	<b>0.043</b>
<b>Total</b>	<b>0.519</b>	<b>1.304</b>	<b>1.304</b>	<b>1.304</b>	<b>1.304</b>	<b>1.304</b>	<b>7.039</b>
<b>LEISURE &amp; INTERVENTION</b>							
Harlequin - Service Development	0.172	0.100	0.100	0.100	0.100	0.100	<b>0.672</b>
<b>COMMUNITY PARTNERSHIPS</b>							

<b>CAPITAL PROGRAMME 2022 to 2027 - DETAILS</b>							
	2021/22 Bfwd	2022/23	2023/24	2024/25	2025/26	2026/27	Total
	£m	£m	£m	£m	£m	£m	£m
<b>Rolling Maintenance Programmes</b>							
CCTV	0.075	0.030	-	-	-	-	<b>0.105</b>
<b>PLACE SERVICES</b>							
<b>NEIGHBOURHOOD OPERATIONS</b>							
<b>Rolling Maintenance/Investment programmes</b>							
Vehicle Wash Bay Replacement	0.350	-	-	-	-	-	<b>0.350</b>
Vehicles & Plant	0.182	1.056	0.448	0.565	0.578	0.562	<b>3.391</b>
Play Areas Improvement	-	0.230	0.230	0.230	0.230	0.230	<b>1.150</b>
Air Quality Monitoring Equipment	-	0.040	0.040	0.040	0.065	0.065	<b>0.250</b>
Parks & Countryside – Infrastructure & Fencing	-	0.045	0.045	0.045	0.045	0.045	<b>0.225</b>
Workshop Refurbishment	-	0.160	-	-	-	-	<b>0.160</b>
Contribution to Surrey Transit Site	0.127	-	-	-	-	-	<b>0.127</b>
Land Flood Prevention	-	0.011	0.011	0.011	0.011	0.011	<b>0.053</b>
<b>Total</b>	<b>0.659</b>	<b>1.542</b>	<b>0.774</b>	<b>0.891</b>	<b>0.929</b>	<b>0.913</b>	<b>5.708</b>
<b>PLACE DELIVERY</b>							
Marketfield Way (The Rise) Redevelopment	6.986	15.100	-	-	-	-	<b>22.086</b>
Horley Public Realm Improvements - Phase 4	0.575	-	-	-	-	-	<b>0.575</b>
Merstham Recreation Ground	1.419	-	-	-	-	-	<b>1.419</b>

CAPITAL PROGRAMME 2022 to 2027 - DETAILS							
	2021/22 Bfwd	2022/23	2023/24	2024/25	2025/26	2026/27	Total
	£m	£m	£m	£m	£m	£m	£m
Redhill Public Realm Improvements	0.030						<b>0.030</b>
Pay on Exit Car Parking, Horley	0.052	-	-	-	-	-	<b>0.052</b>
Preston – Parking Improvements	0.348	-	-	-	-	-	<b>0.348</b>
<b>Total</b>	<b>9.410</b>	<b>15,100</b>	-	-	-	-	<b>24.510</b>
Economic Prosperity - Vibrant towns & villages	-	0.100	0.100	0.100	-	-	<b>0.300</b>
<b>TOTAL APPROVED CAPITAL PROGRAMME</b>	<b>16.983</b>	<b>20.283</b>	<b>4.161</b>	<b>4.162</b>	<b>2.581</b>	<b>4.110</b>	<b>52.280</b>

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# Agenda Item 6



<b>SIGNED OFF BY</b>	Chief Finance Officer
<b>AUTHOR</b>	Daniel Jones, Property Services Manager
<b>TELEPHONE</b>	Tel: 01737276872
<b>EMAIL</b>	Daniel.Jones@reigate-banstead.gov.uk
<b>TO</b>	Commercial Ventures Executive Sub Committee
<b>DATE</b>	17 November 2022
<b>EXECUTIVE MEMBER</b>	Portfolio Holder for Investment and Companies

<b>KEY DECISION REQUIRED</b>	N
<b>WARDS AFFECTED</b>	Banstead Village, Reigate, Redhill East & Redhill West.

<b>SUBJECT</b>	Future operation of Council-owned café premises.
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<b>RECOMMENDATIONS</b>
(i) That the Commercial Ventures Executive Sub-Committee approve a phased programme of marketing and re-letting of the three Council-owned cafe premises at Priory Park, Reigate, Memorial Park in Redhill and the Lady Neville Recreation Ground in Banstead in order to secure a more sustainable income stream.
<b>REASONS FOR RECOMMENDATIONS</b>
The Council owns three café premises at Priory Park in Reigate, Memorial Park in Redhill and at the Lady Neville Recreation Ground in Banstead that have been operating on a catering contract basis since 2014. Whilst there are some potential advantages to operating them on a contract basis, as compared to leasing out the premises, the originally expected benefits of the contract are not being achieved. It is now considered that a move to operating them on a lease basis to align them with the Council's financial and corporate objectives.
<b>EXECUTIVE SUMMARY</b>
This report seeks approval to enter into a phased programme of marketing and re-letting for the café premises at Priory Park in Reigate, Memorial Park in Redhill, and the Lady Neville Recreation Ground in Banstead.

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**The Commercial Ventures Executive Sub-Committee has authority to approve the above recommendations.**

## **STATUTORY POWERS**

1. Section 1 of the Localism Act 2011 gives local authorities a general power of competence that enables them to do anything that a private individual is entitled to do, as long as it is not expressly prohibited by other legislation.

## **BACKGROUND**

2. In 2014 the Council let a catering contract to Pistachios in the Park, who currently operate the cafés in Priory Park in Reigate, the Memorial Park in Redhill, and the Lady Neville Recreation Ground in Banstead. That contract ended in October 2021.
3. It was originally intended to re-tender the contract allowing a period of closedown between contracts to carry out necessary works to the premises. However, it was not feasible to undertake the retendering during the COVID-19 pandemic and the existing contracts remain in place.
4. Pistachios in the Park is, currently in occupation of the cafés under short leases pending a decision about their future operation.
5. This report sets out options and recommendations for the future operation of the three cafés.

## **KEY INFORMATION**

### Priory Park Pavilion Café

6. This is the most well used and popular of the three cafés due to its location adjacent to the play area in the Council's largest and busiest park. It generates significantly more turnover, and therefore more income to the Council, than the other two cafés.
7. However, the café has continuously suffered from operational issues since its original opening. These are in part due to the layout of the kitchen area and a lack of stock storage, both of which are unsuitable to cater for the volume of customers that this popular and busy café generates.
8. Now that the previous contract has come to an end, there is an opportunity to carry out internal alterations to address these issues along with associated maintenance and improvement work that could not be carried out while the café was trading.
9. It will be important to obtain advice and input from either a sector specialist consultant or other food business operator to ensure that the alterations to the kitchen and storage areas are suitable and fit for purpose.
10. It is important that the future tenant at Priory Park is an experienced food business operator. Preferably, they will have experience of operating in parks, where footfall and product-type demand are much more volatile and weather-related than high street locations. These factors may require the operator to operate with varying staff levels at relatively short notice and also to adapt their food and beverage offer according to the weather.



## Redhill Memorial Park and Lady Neville Recreation Ground

11. These premises are smaller buildings and also less busy, consequently producing less income than the Priory Park premises.
12. Whilst both of these cafés are subject to the same weather-related volatility issues, these are on a much smaller scale than at Priory Park.
13. Redhill Memorial Park café is a relatively new building that is in good condition and requires no significant work.
14. The conversion of the Lady Neville pavilion to a café was completed in 2010 and those premises now require some maintenance prior to re-letting.

### **Review of Catering Contract Arrangement**

15. One of the perceived original expected benefits of operating the cafés under contract, rather than leasing them to an operator to run their own business, was that the Council would have greater control over their operation, including the range and quality of the food and beverage offer.
16. However, insufficient consideration was given to the contract management implications. Monthly inspections, Key Performance Indicator (KPI) monitoring and contractor meetings are required to effectively manage the contract and achieve the necessary level of control.
17. In hindsight, it is clear that the Property team does not have sufficient resource or industry knowledge to undertake this monitoring and, as a consequence, operational problems arise that might have been anticipated and avoided with more effective contract management and monitoring.
18. It had also been expected that, as the cafés were operated under contract instead of as tenancies, the Council would have more control over customer service and quality issues. However, in practice, this has not been feasible.
19. Of the relatively few customer complaints dealt with by the Council during the contract, most were linked to the operator's difficulty in adapting to high levels of demand, exacerbated by the building-design issue, which led to queueing and delays in food production. Others were customer-service or occasional food-quality and hygiene issues that were related to the contractor's staff training and operational shortcomings, rather than contract management matters.
20. A further issue that was a known, but initially unquantifiable, consequence of the contract arrangement relates to the cost of building maintenance. The contractor occupies the café premises for the purpose of fulfilling the contract but is responsible for only limited premises maintenance costs, mainly in respect of equipment.
21. The Council is responsible for all significant building-maintenance costs and, at Priory Park, in particular, this has resulted in the Council incurring significant expenditure, in part due to the high levels of use of the building. These costs have significantly reduced the Council's annual net income from the contract.
22. For these reasons it is considered that the catering contract basis does not offer any significant benefits to the Council compared to a lease-out arrangement.

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## Proposed Future Approach

23. Whilst the oversight and control that might be enabled by a well-managed contract does have some benefits, in hindsight it is considered that these benefits no longer offer any significant advantages to the Council compared to a lease-out arrangement with more certainty of rental income.
24. A traditional full repairing and insuring (FRI) lease with an appropriate user clause and other provisions will offer sufficient control over the use of the property and has the additional benefit of transferring repair and maintenance liability to the tenant and is therefore likely to maximise the income potential.
25. The FRI lease arrangement does not require the Council to control operational decisions or practices, such as the food and beverage offer, but the food offer and quality could still form part of the tenant selection process. Environmental Health would be consulted regarding potential tenants to confirm their food safety performance.
26. Furthermore, the FRI lease arrangement allows the Council to maximise the income potential from all three cafés by offering them individually rather than as a package. Experience of the previous catering contract tender process was that some potential bidders were less interested in taking on all three cafés and therefore did not bid.
27. Letting individual leases will allow the Council to select the best offer, based on financial and quality factors, for each café.
28. It is therefore proposed to appoint GCW property consultants. GCW were approached because of their extensive experience in hospitality and catering. They are currently appointed to let the restaurant premises forming part of “The Rise” development in Redhill and are dealing with multiple local and national restaurant operators.
29. In order to minimise consecutive void periods and loss of rent/rent-free periods, it is proposed to stagger the lettings, beginning with the marketing, and letting of Priory Park café and continuing with the interim lease arrangements for the cafes at Memorial Park and Lady Neville Recreation Ground until that letting has been concluded.

## OPTIONS

30. The options available are set out below:

Option 1: To undertake a phased programme of marketing and re-letting as proposed in this report. This is the recommended option as it is expected to maximise the income that the Council can generate from the premises, through a competitive open marketing exercise and minimise the Council’s revenue expenditure obligations.

Option 2: To re-tender a catering contract opportunity for all three premises. This is not the recommended option, for the reasons set out in this report.

Option 3: Do nothing and allow the current temporary leases to be renewed with the existing tenant and former catering contractor. This is not the recommended option as it will not maximise the income-generating potential of the premises.

## **LEGAL IMPLICATIONS**

31. As identified in the Statutory Powers section of this report, the Council has the power to act in the furtherance of the economic, social, or environmental wellbeing of the area.
32. There is no legal duty to consult the public on any commercial terms of the proposal. These are matters for the authority. The Council is entitled to determine them at its discretion.

## **FINANCIAL IMPLICATIONS**

33. The financial implications of the proposals in this report are set out in the Exempt Part 2 report on this agenda.

## **COMMUNICATIONS IMPLICATIONS**

34. Customer service, food quality, food hygiene, and cleanliness issues at restaurant and café premises owned by the Council have the potential to generate social media and press interest whether they are operated by a third party lessee or on behalf of the Council.

35. A change of operator will undoubtedly generate both positive and negative social media comments.

## **ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

36. The Council has set out a commitment in the Corporate Plan 2025 to seek to reduce waste and emissions (including carbon emissions) and use natural resources more efficiently across our own estate, assets, and activities.

37. There are no direct environmental sustainability implications as a result of the recommendations of this report.

## **RISK MANAGEMENT CONSIDERATIONS**

38. All commercial activities carry an inherent level of risk, including non-payment of rent tenant insolvency and tenant failure to observe lease covenants such as repairing obligations.

39. However, all usual and appropriate due diligence will be carried out when selecting a tenant and the lease will include all of the standard clauses intended to protect the landlord from incurring unrecoverable costs as a result of tenant default.

40. The proposals and recommendations in respect of these three cafés do not carry any higher risk than other letting activity carried out by the Council.

## **CONSULTATION**

41. At this stage, no consultation has been carried out.

## **POLICY FRAMEWORK**

42. The recommendations of this report are consistent with the Council's Policy Framework and support the Council's 5 Year Plan objectives of deriving the continued economic prosperity of the borough, facilitating improved business infrastructure, and confirming the borough's reputation as a great place to do business; and of being a financially self-sustaining Council.

## **BACKGROUND PAPERS**

43. None

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<b>Signed off by</b>	Head of Legal and Governance
<b>Author</b>	Kirsty Jane Hill, Democratic Services Officer
<b>Telephone</b>	Tel: 01737 276749
<b>Email</b>	Kirsty.J.Hill@reigate-banstead.gov.uk
<b>To</b>	Commercial Ventures Executive Sub-Committee
<b>Date</b>	Monday 26 September 2022
<b>Executive Member</b>	Portfolio Holder for Investment and Companies

<b>Key Decision Required</b>	N
<b>Wards Affected</b>	(All Wards);

<b>Subject</b>	Partnership Actions - 17 November 2022: Horley Business Park Development LLP
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<b>Recommendations</b>
<p><b>The Commercial Ventures Executive Sub-Committee, as Partner Representative for Horley Business Park Development LLP ('the Company'), is requested to:</b></p> <ol style="list-style-type: none"> <li><b>1. Receive and review the Company's Annual Report and Financial Statements for the year ended 31 December 2021 as set out in the exempt, Annex 1, at Part 2 of this agenda and direct the Council's Board Representatives to approve them;</b></li> <li><b>2. Authorise the Council's Board Representatives to the Company to approve the re-appointment of Moore Kingston Smith LLP as auditor for the Company for the year to 31 December 2022; and</b></li> <li><b>3. Authorise the Council's Board Representatives to the Company to fix the auditors' remuneration for the year to 31 December 2022, as set out in the exempt, Annex 2, Part 2 of this agenda.</b></li> </ol>
<b>Reasons for Recommendations</b>
<ol style="list-style-type: none"> <li>1. The Commercial Ventures Executive Sub-Committee, as the Council's Partner Representative, is asked to acknowledge receipt of the Horley Business Park</li> </ol>

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Development LLP's Annual Report and Financial Statements for the year ended 31 December 2021 as required by the Members Agreement dated 24 March 2016.

In accordance with the Members Agreement, all Board Representatives to the Company should approve the Company's Annual Report and Financial Statements. As the Partner Representative for the Council, the Commercial Ventures Executive Sub-Committee is required to direct the Council's Board Representatives to the Company to approve the Annual Report and Financial Statements for the year to 31 December 2021;

Following approval of recommendation (1) above, the Company's Annual Report and Financial Statements for the year to 31 December 2021 can be lodged with Companies House, subject to approval being received from the other Partners.

2. The Partner Representative is asked to authorise the Council's Board Representatives to the Company to approve the re-appointment of Moore Kingston Smith LLP as auditor for the Company for the year to 31 December 2022. Section 485 of the Companies Act 2006, as applied by Regulation 36 of the Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008, requires the Members to appoint or re-appoint an auditor.
3. For the auditor appointed to the Company, the Partner Representative is also asked to authorise the Board Representatives to the Company to fix the auditors' remuneration for the year to 31 December 2022. Section 492 of the Companies Act 2006, as applied by Regulation 37 of the Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008, requires the remuneration of an auditor appointed by the Company to be fixed by the Members of the Company.

## **Executive Summary**

The Commercial Ventures Executive Sub-Committee is required to consider the actions set out in the recommendations above in its capacity as Partner Representative for Horley Business Park Development LLP in order that the Company meets its statutory obligations under the Companies Act 2006, the Limited Liability Partnerships Act 2000 and its constitutional obligations in respect of the annual report and accounts, and appointment and remuneration of auditors.

**Commercial Ventures Executive Sub-Committee has authority to approve the above recommendations**

## **Statutory Powers**

1. Section 1 of the Localism Act 2011 gives local authorities a general power of competence to do anything that individuals generally may do, where this is not prohibited by other legislation. This includes the power to set up alternative delivery vehicles to exercise its powers and duties.
2. Section 4 of the Localism Act 2011 stipulates that where in the exercise of the general power a local authority acts for a purely commercial purpose, the authority must do so through a company.
3. Companies and LLPs are governed by the Companies Act 2006; The Limited Liability Partnerships Act 2000; and The Limited Liability Partnerships Regulations 2001 (as

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amended principally by the Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009.

## Background

4. At its meeting on 15 October 2015, the Executive authorised the formation of a Joint Venture Limited Liability Partnership (Horley Business Park Development LLP).
5. At its meeting on 30 May 2019, the Executive authorised the creation of a Commercial Ventures Executive Sub-Committee for the purpose of monitoring the performance of, and take decisions on, the Council's existing and potential commercial ventures and other investments. This included undertaking all functions of the Council as a shareholder under the Companies Act 2006 in relation to those companies or partnerships owned, or part owned, by the Council.

## Options

Commercial Ventures Executive Sub-Committee has three options:

- Option 1: Approve all the required actions set out in Recommendations above in order the Company meets the requirements of the Companies Act 2006 in respect of their annual report and accounts; appointment of auditors; and auditors' remuneration; and meet the requirements of the Company's constitution. This is the recommended option to ensure the Company is governed correctly and meets its statutory requirements.
- Option 2: If after reviewing the required actions and supporting documentation, adjustments are required, the Committee should request the necessary adjustments be made and approve the actions subject to those adjustments, in order the Company is governed correctly and meets its statutory requirements.
- Option 3: Do not approve the required actions. This is not the recommended option as the Members of the Council's part-owned commercial entity will not be able to carry out its' statutory duties and will be in breach of the Companies Act 2006 and the Company's constitution. The Members can be fined and the company struck off the Register of Companies if accounts are not lodged with Companies House.

## Legal Implications

6. The Board Representatives can be fined and the company struck off the Register of Companies if accounts are not lodged with Companies House.
7. Late filing of accounts may give rise to personal liability for the LLP's designated members who are responsible for compliance with filing requirements.
8. Failure to deliver accounts on time is a criminal offence for which the designated members serving when the deadline is missed may be prosecuted and subject personally to a fine of up to £5,000 and, for continued contravention, a daily default fine of £500. There are also powers for the court to order them to comply with their filing duties.

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9. The Registrar may also take steps to strike the company off the public record if these documents are delivered late.
10. Section 1 of the Localism Act 2011 provides local authorities with the power to do anything an individual may do, subject to a number of limitations. This is referred to as the 'general power of competence'. A local authority may exercise the general power of competence for its own purpose, for a commercial purpose and/or for the benefit of others; i.e. this includes the setting up of companies as alternative delivery vehicles to exercise its powers and duties. In exercising this power, a local authority is still subject to its general duties (such as the fiduciary duty it owes to its rate and local taxpayers and to the public law requirements to exercise the general power of competence for a proper purpose).

## Financial Implications

11. This report does not have any direct financial implications for the Council. The Council's company investments are reported in its annual statement of accounts.
12. The Company's Annual Report and Financial Statements for the year ended 31 December 2021 must be approved and lodged with the Registrar of Companies ordinarily before 30 September 2022 extended to 30 December 2022 in order to avoid late filing penalties as set out below.

<b>Length of period</b>	<b>Private company penalty</b> (measured from the date the accounts are due)
Not more than 1 month	£ 150
More than 1 month but not more than 3 months	£ 375
More than 3 months but not more than 6 months	£ 750
More than 6 months	£1,500

## Equalities Implications

13. The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:
  - Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
  - Advance equality of opportunity between people who share those protected characteristics and people who do not;
  - Foster good relations between people who share those characteristics and people who do not.

The Commercial Ventures Executive Sub-Committee should therefore ensure that it has regard for these duties by considering them through the course of its work.

## Communication Implications

14. There are no direct communication implications arising from the recommendations of this report. As identified in the Commercial Governance Framework, the Commercial Ventures Executive Sub-Committee should have regard for the Local



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Authorities (Companies) Order 1995, which sets out the rights for authorities and individual Members to receive company-specific information.

## **Environmental Sustainability Implications**

15. The Council is committed to taking action to address environmental sustainability and climate change issues. There are no environmental sustainability implications for this report.

## **Risk Management Considerations**

16. All commercial ventures and investment activities contain an element of risk, and the Commercial Ventures Executive Sub-Committee should consider these as part of the decision-making process for any decisions relating to commercial ventures and investment activities.
17. If the Company's accounts are not lodged with the Registrar of Companies on time, late filing fees are imposed.
18. Failure to file accounts is a criminal offence which can result in designated members being fined personally in the criminal courts. Failure to pay the late filing penalty can result in enforcement proceedings. Any criminal proceedings taken as a result of non-filing of accounts is separate from, and in addition to, any late filing penalty imposed against the company for filing accounts late. The Registrar may also take steps to strike the company off the public record if these documents are delivered late.

## **Human Resources**

19. Where Council Officers are appointed as Board Representatives, this has capacity implications.

## **Background Papers**

None

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