

**Surrey Heath Borough Council**  
**Audit, Standards and Risk Committee**  
**26 March 2024**

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**Annual Standards Report from the Monitoring Officer**

**Portfolio Holder:** Leader of the Council  
**Head of Service:** Gavin Ramtohal – Monitoring Officer  
**Report Authors:** Gavin Ramtohal – Monitoring Officer  
Rebecca Batten – Deputy Monitoring Officer  
**Key Decision:** No  
**Date Portfolio Holder signed off the report:** N/A  
**Wards Affected:** N/A

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**Summary and purpose**

To update the Audit, Standards and Risk Committee on any standards issues and matters on which the Monitoring Officer considers should be brought to the attention of the Committee. The Monitoring Officer has an obligation to report to the Committee annually to provide details of complaints made against Cllrs and standards issues. The Monitoring Officer also has an obligation to report on waivers authorised by the Council and the use of powers under the Regulation of Investigatory Powers Act 2000.

The Monitoring Officer's annual report is usually brought to the Committee in November of each year. However due to resourcing issues, particularly within legal services, this report has been delayed. This report still covers the period November 2022 to November 2023.

**Recommendation**

The Committee is advised to RESOLVE to note the contents of this report.

**1. Matters for the Committee to note**

**Code of Conduct Complaints**

- 1.1 The number of complaints alleging breaches of the Members' Code of Conduct have decreased significantly compared to the period November 2021 to November 2022. For the period November 2022 to November 2023 there were 11 complaints against Cllrs. 3 Complaints related to Parish Councillors and 8 complaints related to Borough Councillors. No complaints progressed to

formal investigation and all were either resolved informally or deemed to not merit formal investigation.

- 1.2 It can't be said with any certainty why the number of complaints has decreased and it is too early to extrapolate any meaningful trends. In preparation for the election of new Councillors in May 2023, the Code of Conduct training was reviewed and this may be one factor that has assisted Councillors to better understand the Code and its application. The Code of Conduct training placed greater emphasis on the boundaries of political speech and expression and how the law has struck a balance between these legal rights and the conduct of Councillors.
- 1.3 It is fair to say that, in general, Councillors do have a good awareness of the standards expected of them and are mindful of the requirements of the Code of Conduct. There has also been an increase in the number of informal enquiries and request for advice and guidance prior on potential complaints. Hence to some extent it appears Councillors are self-regulating the number of complaints progressing formally through the complaints process. This could be another factor in the reduced number of formal complaints.

#### **Other matters of concern reported to the Committee**

- 1.4 Whilst there are no matters of concern to report in relation to internal governance, at this stage the Committee should be aware that I am exploring the need for additional governance arrangements regarding the management and oversight of the Council's waste collection contract with Amey LG Limited.
- 1.5 The contractor appears to be escalating its efforts to maximise returns from the services it provides without due regard to contractual requirements and obligations. Legal Services is working with Joint Waste Solutions to ensure the Council, and its partner Councils, maintain a robust approach to contract management and cost.

#### **Regulation of Investigatory Powers Act 2000.**

- 1.6 No authorisations have been granted under the Regulation of Investigatory Powers Act 2000 and accordingly the Council has not used the powers under this Act to undertake any form of covert surveillance.
- 1.7 The annual return to the Investigatory Powers Commissioner's Office, providing statistics on the use of powers under the Act for the calendar year 2023, was submitted in December 2023.

#### **Waivers**

It is essential that the Monitoring Officer and the s151 Officer ensure that every waiver of the contract standing orders, for contracts between £5,000 and up to the applicable EU threshold, is appropriate and justified. In exercising this judgment, officers take into account and balance factors such

as best value, risk, market conditions, timescales and the Council's best interests.

From November 2022 to November 2023, there have been 15 waiver applications granted which is comparable to the previous year, with the total expenditure being £572,526.58 also being comparable to the previous year. Of this expenditure, the breakdown between departments is as follows and a more detailed breakdown appears in Annex 1 to this report:

ICT	£10,220.00
FINANCE	£80,705.00
CORPORATE ENFORCEMENT	£40,996.08
LEGAL SERVICES	£324,000.00
JWS	£25,062.50
PLANNING POLICY AND CONSERVATION	£91,543.00
	£572,526.58

The legal services expenditure is significant at £324,000 however this includes the Council's anticipated full legal costs in the matter of SHBC & Others v AMEY LG Limited. These costs will eventually be split between the four partner Authorities under the arrangements for the shared waste collection contract but only to the extent that they are not recovered via the Court.

The Procurement Act 2023 received royal consent in October 2023 and yet it is not expected to come into effect until October 2024. It will make it easier for businesses to enter UK public sector contracts. This is broadly in line with the old EU procurement regime, however the value of contracts is now calculated as inclusive of VAT.

In addition, the changes to the Public Procurement (Agreement on Government Procurement) (Thresholds) (Amendment) Regulations 2023 will update the UK Public Procurement thresholds to make it more accessible to small businesses and enterprises, with some minor uplift in the values, however the transition arrangements mean the regulations will not apply to procurement processes that commenced prior to 1 January 2024.

It is not thought that the legislative changes will have a significant impact on the number and or expenditure for the Council in terms of contract waivers. However, the Council's contract standing orders will need to be reviewed to ensure that the criteria for granting waivers is in accordance.

## **2. Reasons for Recommendation**

- 2.1 The Monitoring Officer is required to report annually to the Committee on standards, use of powers under the Regulation of Investigatory Powers Act 2000 and use of waivers.

### **3. Proposal and Alternative Options**

3.1 N/A

### **4. Contribution to the Council's Five Year Strategy**

4.1 N/A

### **5. Resource Implications**

5.1 There are no resources implications for this report.

### **6. Section 151 Officer Comments:**

6.1 The Council's Section 151 Officer and Monitoring Officer are required to approve all waivers to Contract Standing Orders. This ensures the approval of waivers is acceptable from a financial and governance perspective.

### **7. Legal and Governance Issues**

7.1 The Committee's terms of reference include the following which are relevant to this report.

(a) To receive an annual report from the Monitoring Officer on Standards issues.

(b) To receive an annual report from the Monitoring Officer in respect of authorisations granted during the municipal year pursuant to the Regulation of Investigatory Powers Act 2000.

### **8. Monitoring Officer Comments:**

8.1 No matters arising.

### **9. Other Considerations and Impacts**

#### **Environment and Climate Change**

9.1 N/A

#### **Equalities and Human Rights**

9.2 N/A

#### **Risk Management**

9.3 No matters arising.

## **Community Engagement**

9.4 N/A

## Annex 1

Row Labels	Sum of Waiver Value
<b>CORPORATE ENFORCEMENT</b>	<b>40,996.08</b>
Counsel for Planning enforcement	15,000
Expert Legal planning	10,000
Main Square Car Park SSE Network	15,996.08
<b>FINANCE</b>	<b>80,705</b>
Credit Protection Agency	1,455
National Westminster Bank	79,250
<b>ICT</b>	<b>10,220</b>
Wagstaff Furniture	10,220
<b>JWS</b>	<b>25,062.5</b>
LATCo Contingency Plan	10,062.5
Stuart Faulkes JWS Waiver	15,000
<b>LEGAL SERVICES</b>	<b>324,000</b>
Counsel - Litigation Amey	300,000
Expert Legal planning for Planning enforcement Notice	24,000
<b>PLANNING POLICY AND CONSERVATION</b>	<b>91,543</b>
Aecom Sustainability Appraisal work	18,000
BNG Survey Work	15,300
Further Viability Assesment work by 3D	19,488
Gypsy and Traveller site Identification	19,165
Housing Needs Assesment Waiver	19,590
<b>Grand Total</b>	<b>572,526.60</b>