

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

18 OCTOBER 2022

REPORT OF THE CHIEF OFFICER – LEGAL AND REGULATORY SERVICES, HR AND CORPORATE POLICY

SHARED REGULATORY SERVICES ANNUAL REPORT 2021-22

1. Purpose of report

- 1.1 The purpose of this report is to provide Cabinet with the Shared Regulatory Services Annual Report for 2021-22 for noting.

2. Connection to corporate well-being objectives / other corporate priorities

- 2.1 This report assists in the achievement of the following corporate well-being objectives under the **Well-being of Future Generations (Wales) Act 2015**:

- **Supporting a successful sustainable economy** – taking steps to make the county borough a great place to do business, for people to live, work, study and visit, and to ensure that our schools are focussed on raising the skills, qualifications and ambitions for all people in the county borough.
- **Helping people and communities to be more healthy and resilient** - taking steps to reduce or prevent people from becoming vulnerable or dependent on the Council and its services. Supporting individuals and communities to build resilience, and enable them to develop solutions to have active, healthy and independent lives.

3. Background

- 3.1 In April 2015, Bridgend County Borough Council (BCBC), Cardiff Council and the Vale of Glamorgan Council signed a Joint Working Agreement (JWA) for the provision of regulatory services across the three Council areas. The JWA underpins the work of the Shared Regulatory Service (SRS) and the SRS Joint Committee.
- 3.2 The Cabinet Member for Wellbeing and Future Generations and the Chair of the Licensing Committee are the two Bridgend County Borough Council representatives on the SRS Joint Committee and they have oversight of the Service alongside their counterparts from the other two partner Councils.
- 3.3 In accordance with the Joint Working Agreement, the Shared Service is required to produce an Annual Report that covers the operational and financial performance of the service for the preceding year. In March 2017, the Council ratified the insertion of a new clause into the Agreement to enable each partner authority's Cabinet to receive the SRS Annual Report, for information purposes.

- 3.4 A copy of the report considered and approved by the SRS Joint Committee on 28th June 2022, which incorporates the SRS Annual Report 2021-2022, is attached as **Annex 1**.
- 3.5 The SRS Annual Report 2021-2022 reflects upon the seventh year of operation of the Shared Service. It outlines performance over the course of the 2021-22 financial year, the progress made in achieving the objectives set out in the SRS Business Plan, and the summary revenue account and statement of capital spending.
- 3.6 The management of key operational performance for Shared Regulatory Services in BCBC sits with the Chief Officer Legal and Regulatory Services, Human Resources and Corporate Policy. The Client lead works closely with finance, legal and other service areas to ensure that the delivery of services is to the required level and, where required, improvements are implemented.

4. Current situation/proposal

- 4.1 The key aspects of operational performance across the region from the Annual Report are as follows:
- Overall sickness absence levels for 2021-22 were **10.11 days per FTE person**. This represents an increase on the same measure for 2020-21 when the overall sickness absence rate stood at **6.32 days per FTE person**. It is likely that a number of factors contributed to the lower rate of absence seen in 2020-21 (e.g., social distancing, shielding and almost exclusively homeworking) and these points were set out in the Annual Report presented to the Joint Committee in June 2021. It is encouraging to note on closer examination however, that the number of short-term days lost has barely risen in 2021-2022 compared to 2020-21, and it is the number of days lost through long term absence that has impacted the overall rate for 2021-22 (the Service has had a number of cases of long term illness). The 2021-22 absence figures still compare favourably when viewed in the wider context of comparison against the average sickness rates across the partner Councils.
 - The SRS reported an overall underspend of £363,000 against the 2021-22 gross revenue budget of £8.331m. This is attributable to a number of factors, but chief amongst these is the difficulty experienced in filling certain vacant positions across the Service and the continued secondment of multiple members of staff into COVID related roles (with some associated funding).
 - Consequently, the Annual Report advises on the draft financial outturn position of the Service, and the resulting impact this has for each of the Partner Authorities, appertaining to the provisional outturn position in respect of the 2021-22 financial year. This position has subsequently been confirmed by Audit Wales in September 2022, following its annual audit of the SRS statement of accounts.
 - Operational performance throughout 2021-22 has been reported both to the Joint Committee and to each partner Council through the legacy systems. Normally, performance is gauged against the targets set out in the SRS Business Plan.

Unfortunately, the on-going coronavirus response meant that a number of the targets and actions identified in the 2021-22 Plan were not achieved. While all the statutory documents were published on time, the service was unable to complete certain planned activities, due in large part to the continued secondment of key staff into COVID response roles. In anticipation of the Service now returning to much more of a 'business as usual' rhythm, a number of these planned activities were rolled forward into the current SRS Business Plan for 2022-23.

- The detail of performance against all the agreed performance indicators is set out in **Appendix 1** to the Annual Report. The continuing COVID 19 pandemic, associated restrictions and fast changing enforcement demands of the Coronavirus Restrictions Regulations meant that once again, the traditional inspection programme was badly impacted in 2021-22. Specifically in relation to the Food inspection programme, and recognising the significant pressure faced by local authorities (given the inevitable secondment of key members of staff over the last two years), the Food Standards Agency has implemented a four nations approach to recovering 'lost ground' through the Recovery Plan shown below.

FSA COVID-19 Local Authority Recovery Plan



- Further recognising that many of the traditional SRS performance metrics were impacted by coronavirus response work, an additional set of performance indicators was created during the pandemic. The infograph included as **Appendix 2** to the Annual Report provides a flavour of the broad range of COVID related enforcement and advice work carried out by SRS during 2021-22.
- The Shared Service may, through the relevant participative Council, prosecute breaches of legislation, particularly in respect of those who flout the law or who act irresponsibly, or where there is an immediate risk to health and safety. In the period, the service has been successful in challenging a range of unfair practices, many of which attracted media attention. The time and work required investigating these

matters, and the impact on officers' ability to carry out day to day work whilst these matters are ongoing, is significant.

- **Appendix 3** to the Annual Report sets out the successful prosecutions that concluded in court during the 2021-22 financial year.

4.2 The key operational implications for Bridgend County Borough Council are as follows:

Public Accountability Measures

- *PAM 023 – Food establishments - broadly compliant (%)*.

This measure provides an indication of how well a food business complies with food hygiene legislation. The food industry is responsible for producing and distributing safe food. The Shared Regulatory Service, as the enforcement agency, conducts inspections, ensuring that standards are met through a robust enforcement programme to deal with those who do not comply with standards. Additionally, the business support regimes introduced into the SRS structure play a part in promoting an increase in hygiene standards. Premises are deemed to be broadly compliant if specified risk scores are achieved for cleanliness, structural issues, and confidence in the management of the business. The proportion of premises in the County Borough that are broadly compliant with food hygiene requirements, i.e. scoring a 3* food hygiene rating or above, is above the UK average of 95%, and is consistent with that seen in previous years, i.e.

Percentage of food establishments in the County Borough 'broadly compliant'

Year	Percentage 'broadly compliant'
2021/22	97.38%
2020/21	97.24%
2019/20	97.49%

- *PAM 013 and PAM 045*

PAM 013 measures the *percentage of empty private properties brought back into use*, while PAM 045 measures *the number of new homes created as a result of bringing empty properties back into use*. These indicators have as their core purpose the aim of indicating the reduction in the number of empty properties as a consequence of action by the Councils. The current performance measure guidance sets out the categories of direct action that local authorities can take to bring a property back into use, including

- Grants, loans or other financial assistance
- Enforcement action including statutory notices, and

- Dialogue between the owner and the local authority where progress to restore the use of the property is evident.

Officers from the Shared Regulatory Service contribute a dedicated resource to bringing empty properties back into beneficial use within the county borough. During 2021-22 this included Officers responding to 245 new service requests from members of the public, empty property owners and others, requesting advice and support in relation to empty properties.

Considerable progress was achieved over the course of the year in respect of 17 longer term empty properties in the county borough. The owners of these properties have received assistance mainly using the 5-stage letter process and on occasions may have been subject to the service of an enforcement notice. This has resulted in properties being marketed for sale, in change of ownership, and in renovation works commencing. A total of 115 properties have now been risk assessed and action has been targeted in relation to the 'Top 20' properties for Bridgend. Of these, planning permission for renovation work has been obtained in respect of two, while a further six properties are subject to formal enforcement action and a grant application has been submitted in respect of another.

4.3 The SRS Business Plan is also aligned to the Council Corporate Plan and in 2021-22, some of the notable activities for the county borough included:

- *Working with landlords to return empty properties back into use helping to increase the availability of affordable housing for sale or rent in Bridgend and Cardiff*

Officers from SRS in conjunction with Bridgend CBC aim to identify long-term vacant properties and encourage owners and landlords to bring their properties back into use through the provision of advice, support and encouragement. The process entails sending a series of letters to the owners to encourage them to take positive steps to bring the property back into occupation. Owners are provided with 'A property owners guide to empty homes' brochure which outlines the options available and the services on offer. Where there is a threat to public health and/ or a lack of cooperation from the owners, consideration will be given to the use of enforcement action to improve the condition of the empty property and secure its occupation. The service offers empty property owners the opportunity to access the following services:

- Financial assistance in the form of grants and loans
 - The provision of information to access a VAT reduction on renovation costs
 - The provision of information and advice on how to sell or rent the property including legal requirements
 - Access to potential developers in the area seeking to purchase empty properties to renovate or re-develop
 - Access to housing associations who have the potential to acquire or assist with leasing long term vacant properties.
- *Air Quality*

During the year, SRS ensured that Bridgend County Borough Council met its statutory obligation under the Environment Act by producing the 2021 Air Quality Annual Progress Report (APR) which was considered by Cabinet in November 2021.

The 2021 APR highlighted continued non-compliance of the annual average air quality objective for nitrogen dioxide (NO₂) at a number of locations within the Park Street Air Quality Management Area (AQMA). Work has continued in terms of assessing measures outlined in the Draft Air Quality Action Plan (AQAP) to pursue mitigation that will manage and improve traffic flows through the Park Street AQMA in order to reduce NO₂ concentrations in line with air quality objectives. In March 2022, Cabinet was presented with the preliminary results of the assessment of the key options for Park Street. The modelling results indicate that NO₂ concentrations at the majority of locations will achieve compliance with the annual average air quality objective for NO₂ of 40 µg/m³ by the end of 2023, including all currently monitored locations within the AQMA. A public consultation on the updated AQAP is currently underway to help finalise the Action Plan which will then be reported to Cabinet for approval prior to submission to Welsh Government.

- *Prosecutions*

Officers will always seek to advise and guide businesses to achieve compliance, however there are occasions where unfortunately, the only appropriate outcome to an investigation is prosecution. The summaries below provide examples of prosecution cases arising in the county borough and which concluded in court the 2021-22 financial year.

Case 1

The defendant in this rogue trader case pleaded guilty to eleven charges under the Fraud Act 2006 and ten further charges under the Consumer Protection from Unfair Trading Regulations 2008. The case involved multiple victims who had lost a significant amount of money for building work not completed or in some cases work that was never started.

Customers had been taken in by the defendant's 'professional looking' business Facebook page. They were told to pay the defendant an upfront deposit to 'secure a slot' for the work to be done, thereby creating the impression that he was in demand. Attendance of the defendant at the residents' homes was sporadic, and he would often say that he had to leave a property as he was having to collect materials or to deal with a family emergency. When victims had had enough of the excuses and contacted the defendant for a refund, he would often become aggressive and abusive. Victim impact statements provided by victims were read out to the court, explaining how dealing with the defendant had impacted their lives.

On sentencing the defendant to 16 months in prison, the Judge described him as being calculated, manipulative and sometimes aggressive. He had been paid to complete work that at best, was substandard or faulty but mostly that money had

been taken and no work done at all. He had defrauded unconnected people including single mothers, NHS workers and a widow, causing a loss of approximately £50,000. These people had not just lost money to him but then had had to pay more money to get the work rectified or completed. The defendant had screamed at a single mother taunting her that 'he would burn her money in her face' and had made a malicious and false complaint about a member of the police force hoping that this would deter her from continuing her complaint with Trading Standards. He has not repaid any of the victims and as a direct result of his actions, people were left in debt, lost money they had inherited, or which they had taken from their pension funds.

Case 2

This case followed a visit by Shared Regulatory Services to a take-away food business. The officers' inspection identified a number of food hygiene failings including

- failure to ensure the premises were kept clean
- failure to implement and maintain procedures based on Hazard Analysis and Critical Control Point (HACCP) principles
- failure to provide sufficient washbasins and
- failure to ensure that food, cooking utensils and raw materials were kept clean to avoid cross contamination.

The defendant subsequently pleaded guilty to 8 offences under the Food Hygiene (Wales) Regulations 2006. In sentencing, the Magistrates confirmed that they gave the defendant full credit for the early guilty plea and accepted that the premises had since been improved. However, they were clear that these were very serious incidents and presented a serious risk to people's lives and health. The defendant was fined a total of £1,760 and ordered to pay costs of £1,100 as well as a victim surcharge of £176.

Case 3

In March 2020, officers visited the defendant's mobile food vehicle to carry out a food hygiene inspection. Following the inspection, the defendant's food business was issued with a food hygiene rating of 1, indicating that improvement was necessary. On a return visit in May 2020, officers discovered that the defendant had failed to display the food hygiene rating of 1 and was in fact displaying an invalid food hygiene rating of 3. The defendant was given the opportunity to discharge his liability for the offence by being offered a fixed penalty notice, but he declined.

The defendant failed to attend court for the trial so the case was proved in his absence, with him being found guilty of both offences under the Food Hygiene Rating (Wales) Act 2013. He was fined £400 for failing to display the correct Food Hygiene rating of 1 and a further £500 fine was imposed for displaying the invalid Food

Hygiene rating of 3. He was also ordered to pay costs of £650 and a victim surcharge of £90.

5. Effect upon policy framework and procedure rules

- 5.1 The report content has no direct effect upon the policy framework and procedure rules.

6. Equality Act 2010 implications

The protected characteristics identified within the Equality Act, Socio-economic Duty and the impact on the use of the Welsh language have been considered in the preparation of this report. As a public body in Wales, the Council must consider the impact of strategic decisions, such as the development or the review of policies, strategies, services and functions. This is an information report, therefore it is not necessary to carry out an Equality Impact Assessment in the production of this report. It is considered that there will be no significant or unacceptable equality impacts as a result of this report.

7. Well-being of Future Generations (Wales) Act 2015 implications

- 7.1 The SRS Annual report illustrates how the Council's regulatory function contributes to the national Well-being Goals through the delivery of the well-being objectives contained in the SRS Business Plan (the 2022-23 Business Plan is attached for information as **Annex 2**) . The SRS operates in accordance with the five ways of working which are also reflected in the content of the plan. There is a strong emphasis on collaboration as the SRS recognises the need to work with partners to deliver services and improve local well-being.

- 7.2 The Annual report reflects the importance of prevention and this has been a strong theme in much of the activities to date, but also recognises that many of the issues are longer term matters, e.g. deprivation, climate change, an ageing population and physical and mental well-being. The involvement of partners and stakeholders in the development and delivery of the SRS functions is critical to its success as is the need to work in a more integrated way, recognising the connections across Council services and with other partners.

8. Financial implications

- 8.1 There are no financial implications arising from the report.

9. Recommendations

Cabinet is requested to:

- 9.1 Note the Shared Regulatory Services Annual Report for 2021-22

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Background documents:

None