

Meeting of:	CABINET
Date of Meeting:	19 SEPTEMBER 2023
Report Title:	SHARED REGULATORY SERVICES ANNUAL REPORT 2022-23
Report Owner / Corporate Director:	CHIEF OFFICER – LEGAL AND REGULATORY SERVICES, HUMAN RESOURCES AND CORPORATE POLICY
Responsible Officer:	HELEN PICTON HEAD OF SHARED REGULATORY SERVICES
Policy Framework and Procedure Rules:	This report content has no direct effect upon the policy framework and procedure rules.
Executive Summary:	<p>The purpose of this report is to ensure that Cabinet is sighted on the Shared Regulatory Services Annual Report for 2022-23. It provides an overview of the creation of the Shared Regulatory Service for the purpose of providing the Environmental Health, Trading Standards and Licensing functions for Bridgend County Borough Council and two other partner authorities.</p> <p>The Annual Report and the SRS Business Plan are presented to the Joint Committee at its annual general meeting in June of each year, and the Joint Working Agreement between the partner authorities makes provision for the Cabinet of each of the three authorities to receive these reports for information purposes.</p> <p>A number of achievements and challenges during the year are highlighted in the body of this report, and a summary of key performance and budgetary data is provided. The report concludes with an overview of some significant areas of work for the the Service in the current financial year, as set out in the SRS Business Plan for 2023-24.</p>

1. Purpose of Report

- 1.1 The purpose of this report is to provide Cabinet with the Shared Regulatory Services Annual Report for 2022-23 for noting.

2. Background

- 2.1 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.
- 2.2 The Cabinet Member for Housing, Planning and Regeneration 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.
- 2.3 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.
- 2.4 A copy of the report considered and approved by the SRS Joint Committee on 21st June 2023, which incorporates the SRS Annual Report 2022-2023, is attached as **Annex 1**. The SRS Annual Report itself includes three appendices.
- 2.5 The SRS Annual Report 2022-2023 reflects upon the eighth year of operation of the Shared Service. It outlines performance over the course of the 2022-23 financial year, the progress made in achieving the objectives set out in the SRS Business Plan, and the summary revenue account and the financial outturn position.
- 2.6 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.

3. Current situation / proposal

- 3.1 The key aspects of operational performance across the region from the Annual Report are as follows:
 - Overall sickness absence levels for 2022-23 were **10.47 days per FTE person**. This represents a slight increase on the same measure for 2021-22 when the overall sickness absence rate stood at **10.11 days per FTE person**. Within this overall figure there was an increase, compared to the previous year in the days lost through short term sickness absence per FTE person which stood at 2.78 (compared to 1.95). While this was due to a number of factors, greater use of the SRS office spaces, and changes to the way in which COVID-related absences are recorded will have played a part. It is encouraging to note that there has been some reduction in the number of days lost through long term sickness absence. Unfortunately the Service has had a number of cases of long term staff illness, but these have since been resolved and

moving forward the figure is set to improve significantly. That said, the 2022-23 absence figures still compare favourably when viewed in the wider context of comparison against the average sickness rates across the partner Councils.

- At the start of 2022-23, the over-riding challenge facing the Service was in balancing the need to respond to any resurgence of COVID-19 with the need to respond to other emerging global events (such as the cost of living crisis and the war in Ukraine), while at the same time resuming fully its 'normal' programmes of work.
- 2022-23 was also a challenging year financially. When the SRS budget was set in December 2021 it included an assumed pay award of 2%. As the final pay award was significantly greater than 2%, inevitably there was a salary shortfall in year, and this amounted to £268k. While this was to some extent offset by vacancies and other underspends, as at the 31st March 2023, the Shared Service achieved an unaudited outturn deficit of £63k against the 2022-23 budget of £8.331m.
- 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. Full details are provided in **Appendix 3** to the 2022-23 Annual Report. This position is due to be confirmed by Audit Wales through its annual audit of the SRS statement of accounts.
- Operational performance throughout 2022-23 has been reported both to the Joint Committee and to each partner Council through the legacy systems. The detail of performance against all the agreed performance indicators is set out in **Appendix 1** to the Annual Report. The transition from COVID-19 response to 'business as usual' meant that again, the traditional inspection programme was to some extent impacted in 2022-23.
- Specifically in relation to the Food inspection programme, the Service continued to follow the Food Standards Agency's COVID-19 Local Authority Recovery Plan which recognised the significant pressure faced by local authorities (given the secondment of key members of staff to COVID-19 response roles over a period of more than two years). The purpose of the Recovery Plan was to provide a risk-based pathway towards resumption of planned interventions, in accordance with the Food Law Code of Practice, while dealing with the COVID-related inspection backlogs that inevitably built up in the system. A number of other factors have emerged, post pandemic which add to the challenges faced in delivering the Food programme, namely
 - The significant increase in enforcement action necessary at food premises post pandemic, and the increase in the incidence of pests, all of which impacts on officers' ability to carry out inspections and programmed work.
 - Many cases where previously high scoring premises under the Food Hygiene Rating Scheme are scoring lower, post pandemic.

- The Service has also seen a significant increase in new and different cuisines being offered at food businesses. This requires Officers to research and understand these new approaches so that through their interaction with the businesses concerned, appropriate advice can be given, and action taken as required.
- 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 2** to the Annual Report sets out the successful prosecutions that concluded in court during the 2022-23 financial year.

3.2 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'
2022-23	98.00%

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 2022-23, Officers worked on 121 active residential cases and 6 commercial cases of empty properties. Resources are targeted towards the top 20 worst cases, and, of these, 3 are now occupied, 2 are sold and undergoing renovation, 1 property is up for sale, and another 2 are progressing through probate to be sold at the earliest opportunity.

There are 6 properties subject to ongoing enforcement action, all of these being subject to enforcement notices. Of these cases, two have resulted in successful prosecutions with one further prosecution pending. In addition, one case has resulted in work in default being completed and further work pending, and in another, a Compulsory Purchase Order (CPO) is pending. Work also continues on properties outside the top 20 utilising the 5 stage escalation letter process. We have also established links with a registered social landlord to explore opportunities to work closer together in bringing properties back into use.

3.3 The SRS Business Plan is aligned to the Council's Corporate Plan enabling the Service to support corporate priorities and challenges. The SRS activities below summarise just a few examples in this regard delivered over the course of 2022-23:

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

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.
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- *Air Quality*

During the year, SRS ensured that Bridgend County Borough Council met its statutory obligation under the Environment Act by producing the 2022 Air Quality Annual Progress Report (APR) which was considered by Cabinet in September 2022.

The 2022 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.

A 12-week consultation took place on the updated Park Street AQMA Action Plan. This ran from 29th of August to 21st of November 2022, with the purpose of seeking the views of the residents, businesses and other interested parties on the proposed measures set out to reduce NO₂ concentrations on Park Street. The results of the public consultation were positive and in general supportive of the key priority areas of intervention and air quality actions developed in the AQAP.

The draft Air Quality Action Plan for the Park Street AQMA has been updated following the consultation and following technical feedback from Welsh Government. Arrangements are being made for it to be brought to Cabinet for consideration and approval before being submitted to Welsh Government.

- *Homes for Ukraine*

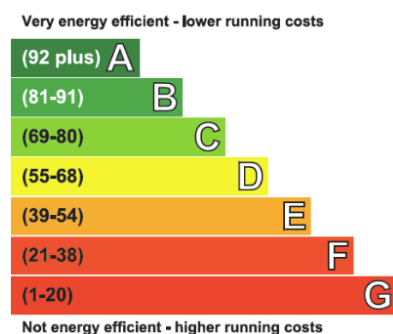
During the 2022-23 financial year, the Shared Service brought its expertise to the table to support significant challenges as they arose. In this context, SRS Officers conducted checks on the suitability of accommodation offered by residents of the three local authorities under the Homes for Ukraine scheme. During the 2022-23 timeframe, over 500 such checks were carried out, thereby enabling Ukrainians displaced by the war to settle in suitable host accommodation across the SRS region.

- *Climate change agenda*

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations introduced minimum energy efficiency standards (MEES) for domestic private rented properties. The regulations are designed to increase the energy efficiency of the worst performing dwellings, reduce fuel poverty, and improve housing standards. The Regulations require that domestic property let out under all new *and existing* tenancies must have an EPC rating of E or above. F or G rated properties cannot be let unless there is a bona fide, properly registered, exemption.

During 2022/23, the Shared Service developed the necessary materials for a targeted programme of work to contact the owners, agents and landlords of private rented properties to remind them of their duties under the legislation and to signpost them to opportunities for funding streams that may be available to assist in improving the rating of their property. Interventions initially will focus on those properties appearing to fall into the forbidden F and G energy efficiency ratings, together with those for which there is no published rating.

Energy Performance Score Rating of Properties



SRS will report key data into the partner Councils, demonstrating the impact of this new area of work, both in terms of climate change but also crucially on the cost of living crisis, i.e.

- Reduction in carbon tonnage
- Reduction in energy use at improved properties in kWh

- Reduction in energy use at improved properties as money saved on energy
- *Ensuring Animal Health and Welfare*

The Animal Health and Welfare Team has been extremely busy once again with a number of investigations ongoing. In 2022, the Team was recognised under the RSPCA PawPrint Awards Scheme for their work in animal related licensing, stray dog provision and kennelling. It was particularly pleasing to see that for the first time the Service achieved the gold standard for animal related licensing, not only improving on previous performance in this category, but becoming the only service in Wales in 2022 to achieve the gold standard in animal licensing. A further gold award was received for stray dog provision and a bronze award for kennelling.

At the time of writing, the Service has just been notified that the RSPCA has again recognised the hard work of our Animal Wardens and Animal Health and Welfare Officers in 2023, but this time with a clean sweep of three gold awards, i.e.

- **Animal-related Licensing: Gold Award**
- **Stray Dog provision: Gold Award**
- **Kennelling: Gold Award**

The aim of the RSPCA in giving these annual PawPrint awards is to shine a light on organisations that have 'gone the extra mile' for animals, often in difficult conditions. The decision of the external panel of animal welfare experts means that in 2023, SRS is the *only service in the UK* to achieve the Gold standard in all three categories.

- *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 during the the 2022-23 financial year. Full details are provided in **Appendix 2** to the SRS Annual Report.

Case 1 – Failure to display food hygiene rating

This case was brought against a limited company as the Food Business Operator of a Bridgend restaurant, as well as against the company's sole Director. When an officer of the Shared Service inspected the restaurant in January 2022, the business was awarded a food hygiene rating of 1 (Major Improvement Necessary). A visit by

officers in May 2022 revealed that the company had failed to display the food hygiene rating sticker in the location and manner prescribed by the legislation. To make matters worse, the company director misled officers by claiming that the business had changed hands when it had not.

The director did not attend court for the case hearing and there was no one else present to represent the company. Application was sought to prove the matters in absence as effective service of papers had been achieved. The company was found guilty of two offences under the Food Hygiene Rating (Wales) Act 2013. The first of these was for failing to display the food hygiene rating sticker and the second was for obstructing the officers in their enquiries. The company director was found guilty on the one charge against him, that of obstruction.

The company was fined a total of £1500, ordered to pay costs of £1277 and a court surcharge of £150. The company director was fined £750, ordered to pay costs of £796 and a court surcharge of £75.

Cases 2 and 3 – Food on sale after its ‘use-by’ date

Two businesses in the county borough were prosecuted after officers found perishable foods on display after the ‘use by’ dates marked on the packaging. Both cases arose from poor trading practices in small shops leading to inadequate stock rotation and durability date checks.

In the first of these cases, the business had been prosecuted for similar offences some years ago. Nevertheless the inspecting officer found a range of 5 products on sale some days after the relevant ‘use by’ dates. While acknowledging the defendant’s early guilty plea, the Magistrates imposed a fine totalling £440 and ordered that costs of £502 and a victim surcharge of £44 be paid.

In the second case, the officer conducting the inspection found five different items of food on display after the relevant ‘use by’ dates, some of which had passed weeks before and one of which had passed 28 days before the inspection. The District Judge fined the defendant £350 for the first offence and £100 for each of the remaining 4 offences giving a total fine of £750. The defendant was also ordered to costs in the amount of £2000 and pay a victim surcharge of £75.

Case 4 – Enforcement action in respect of empty properties

In October 2021 enforcement notices were served on the defendant under Section 79(1) of the Building Act 1984, in respect of two neighbouring properties in a ruinous and dilapidated state. The Investigating Officer had offered the owner of the properties every possible opportunity to address their condition, both before and after service of the notices, providing support and guidance at every step of the way. Nevertheless, the defendant, who had owned both properties for 20 years, chose to follow none of the options available to him, i.e., he failed to carry out the necessary repairs to the properties, he failed to sell them, and he failed to demolish them.

In short, despite assuring the Investigating Officer that he was dealing with the problem, even suggesting that he had a local builder lined up to purchase the properties, the defendant did nothing, leaving the properties simply to decay.

The notices required completion of the work no later than 13th April 2022. A visit to the properties on 14th April 2022 revealed that the notices had not been complied with and there was no change in the condition of the premises. Written and verbal reminders were given in the months that followed, but the necessary work was not carried out.

The defendant did not attend court, so the case was heard in his absence. He was found guilty of two offences under the Building Act 1984. The defendant was fined £440 for each of the two offences making a total fine of £880. He was also ordered to pay costs of £433 and a Victim surcharge of £88.

3.3 Following approval of the 2022-23 Annual Report by the Joint Committee in June 2023, it was shared among the Chief Executives of the three partner Councils, along with the SRS Business Plan for 2023-24. The Business Plan, attached as **Annex 2** to this report, was also approved by the Joint Committee at its Annual General Meeting in June. As well as highlighting the successes of the Service in 2022-23, the Business Plan sets out the actions planned for the Service during the course of 2023-24. These reflect how the Service will improve health and wellbeing, safeguard the vulnerable, support the local economy, protect the environment and make best use of resources across the SRS region. The following summarises just a few of the challenges and emerging themes for the Service, detailed in the 2023-24 Business Plan:

- The need to further recover 'lost ground' due to the COVID pandemic (including in respect of inspections, investigations and paid for services).
- Addressing difficulties in recruitment and retention of staff in certain roles and the need to develop a workforce strategy embracing new ideas, including regulatory apprenticeships.
- The rapid expansion of the 'vapes' market leading to concerns around underage sales, marketing and presentation, illegal vapes and product safety, and environmental concerns in terms of disposal. SRS represents Directors of Public Protection Wales on the recently formed Vaping in Children and Young Persons Incident Response Group.
- The demand for puppies continues to drive complaints about illegal, unlicensed dog breeding. Unfortunately, this is an industry that has attracted a rogue element, keen to make quick profits, often with little thought for animal welfare, and in an environment where they perceive there to be a low risk of being caught and punished. The Service is determined to take a firm line against illegal breeding to protect not only unsuspecting purchasers, but to safeguard the

welfare of dogs and their puppies, and at the same time create a 'level playing field' for legitimate, properly licensed breeders.

- The need to stay one step ahead of rogue traders, doorstep criminals and illegal money lenders (loan sharks) as they exploit the difficulties many residents will continue to find themselves in as a result of the cost of living crisis.
- A range of new legislation / enforcement regimes for which the Service will be responsible, and for which no additional funding is being made available. One example of this is the current preparation for the new Welsh Government *Special Procedures* regimen for the effective licensing of practitioners in tattooing, piercing, acupuncture and electrolysis. On a positive note, SRS is one of only a few accredited training centres for delivery of the qualification required of all practitioners under the new Special Procedures system.

4. Equality implications (including Socio-economic Duty and Welsh Language)

- 4.1 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.

5. Well-being of Future Generations implications and connection to Corporate Well-being Objectives

- 5.1 This report assists in the achievement of the corporate well-being objectives, in particular:
- **A County Borough where we protect our most vulnerable** – the work of the Shared Service seeks to protect the vulnerable in our communities through for example swift action being against rogue traders and doorstep criminals, ensuring safe taxi provision and preventing the supply of age restricted goods to the under 18s.
 - **A County Borough with fair work, skilled, high quality jobs and thriving towns** – the work of the Shared Service seeks to ensure a fair and safe market place where legitimate businesses are supported and action is taken against rogue traders and others who undermine the local economy.

- **A County Borough that is responding to the climate and nature emergency** – the Shared Service enforces a range of environmental legislation covering areas of work such as air quality, private water supplies, animal health and welfare, and minimum energy efficiency standards.
- **A County Borough where we support people to live healthy and happy lives** – the work of the Shared Service seeks to improve health and wellbeing by ensuring the safety of food and other consumer goods and services, through enforcing health and safety requirements in the workplace, and through the provision of safe housing. In addition, work to tackle rogue traders and doorstep criminals as well as loan sharks can contribute positively to the mental health of residents.

5.2 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 (see **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.

5.3 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.

6. Climate Change Implications

6.1 One of the key strategic themes for the Shared Regulatory Service is *Protecting the Local Environment*.

6.2 The SRS Business Plan articulates the work carried out under this theme to deliver on the corporate priorities for the participant Councils, including their ambitions to minimise climate change and impacts on the natural environment.

6.3 In this context, the Joint Committee is regularly updated on the contribution of SRS to this agenda, for example through its work in the areas of animal health and welfare, air quality, contaminated land, energy efficiency in the private rented sector and investigating greenwashing claims or environmental fraud.

7. Safeguarding and Corporate Parent Implications

7.1 There are no safeguarding or corporate parent implications arising from this report.

8. Financial Implications

8.1 There are no financial implications arising from the report.

9. Recommendation(s)

Cabinet is requested to:

9.1 Note the Shared Regulatory Services Annual Report for 2022-23

Background documents

None