

# Strategic Investment Board Report

Financial Year 2021/22



## CONTENTS

### Shareholder Board

- Introduction Page 3
- Purpose Page 4
- Governance Page 5
- The Council's shareholdings Page 6
- Strategic Investment Board Decision-making Page 8
- Directors Page 9
- Changes to Funding Page 9

### Company Details

- Halsey Garton Property Page 11
- Halsey Garton Residential Page 14
- Connect2Surrey Page 15
- Hendeca Group Page 17
- Surrey Choices Page 19
- TRICS Consortium Page 22
- Municipal Bonds Agency Page 24

### Glossary Page 25

## The Council has created trading companies and made investments to enhance the financial resilience of the Council



The Council's strategic framework for innovation and investment has supported the development of initiatives to enhance the financial resilience of the Council. The Strategic Investment Board (SIB) monitors the Council's trading activity and its investments in companies to ensure satisfactory performance and effective risk management. The financial returns delivered by trading and investment helps to ensure that we continue to deliver quality services to our residents.

The SIB provides effective over-sight ensuring alignment with the strategic objectives and values of the Council. The SIB safeguards the Council's interests and takes decisions in matters that require the approval of the Council as owner or as a shareholder of a company.

The full year report of the SIB provides an overview of the progress we have made in the year to deliver innovation in service delivery and in enhancing the financial resilience of the Council. The report also gives an update on the companies full year performance for 2021/22 which were in part impacted by the now ended Covid-19 restrictions.



Tim Oliver

Leader of Surrey County Council

## Purpose

The primary and most common purpose behind the creation of a Local Authority Trading Company (LATC) is to enable a Council to participate in commercial trading activities. Many local authorities have created a LATC for this purpose, with the most common reason given being in order to grow income to protect services.

The decision to create a company or invest in shares is now taken by the SIB upon the basis of a business case. Like many other Councils, Surrey County Council (SCC) has created companies to trade and grow income; with profits generated for the Council available to support the delivery of the Council's Medium Term Financial Plan and enhance financial resilience. This is however not the only reason for the creation of a company or investment in shares.

Surrey Choices for example was set up to safeguard the provision of services to people with learning and physical disabilities. Cabinet likewise approved the creation of a Property Company to strengthen the Council's ability to invest in a diversified and balanced portfolio of assets in pursuit of its Investment Strategy. The investment in the UK Municipal Bonds Agency was made to give the Council an alternative source of finance at preferential rates. The establishment of a Recruitment Joint Venture will enable the Council to have flexibility and control of temporary and interim recruitment in a changing market to suit both the needs of the Council and of the workforce.

The Council has created companies and purchased shares in order to –

Deliver services, benefiting from efficiencies driven by operating in a commercial environment

Trade & generate income

Invest in assets to deliver an income

## THE STRATEGIC INVESTMENT BOARD

### Governance

- The SIB was created in June 2019 following the combining of the Shareholder Board and the Investment Board as noted in the 2018/19 report.
- The Board and its role are noted in the constitution of the Council.
- The Board works in accordance with its Terms of Reference which are reviewed on an annual basis.
- Meetings are scheduled to take place monthly.
- A review of the governance of the companies was conducted during 2021/22. The overarching findings were that the existing governance and reporting processes were sound and provided visibility of decision making and of performance.
- However, improvements were identified and have now been implemented. These include an increase in:
  - reporting and oversight by Members and scrutiny; safeguarding against conflicts of interest; communication between company and shareholder; formal Director training

The Strategic Investment Board is comprised of three members of the Council's Cabinet and is supported by senior officers of the Council, including the Section 151 Officer (Executive Director of Resources) and the Monitoring Officer (Director of Law & Governance).

#### Members

- Leader
- Deputy Leader and Cabinet Member for Corporate Support and Resources
- Cabinet Member Property and Waste
- Cabinet Member for Transport, Infrastructure and Economy

#### Advisors

- Chief Executive
- Deputy Chief Executive (Section 151 Officer)
- Director of Law & Governance (Monitoring Officer)

The SIB is further supported by the Asset Strategy Board (ASB) and the Shareholder Investment Panel (SHIP). The roles of both the ASB and the SHIP are detailed on Page 7 of the report.

## Strategic Investment Board & Decision-Making Process

The day-to-day operation of each company is the responsibility of the Directors (of each company) with the SIB being responsible for taking decisions on behalf of the Council where these are of a more strategic nature. The extent of this decision-making will depend upon the Council's shareholding and upon terms included in a company's Articles of Association (matters reserved for the Shareholder) and / or a Shareholders Agreement in relation to Joint Venture companies. The Articles of Association for the Council's wholly owned companies stipulate that the shareholder, that is the SIB on behalf of the Council, are required to approve or make decisions in relation to the following matters summarised in the table below.

<u>Decision</u>	<u>Rationale</u>
Changes to the Articles	Removes all controls
Appoint and remove Directors	To ensure that the company is appropriately managed and that there is satisfactory governance
Material change in the nature or scope of the business	To ensure companies only undertake activities for which approval has been given and to protect the Council's reputation
Purchase of shares or interest in another company. Acquisitions of any business or any shares.	Significant business decision which may involve further financial risk
Borrowing or the raising of finance (except from SCC). The creation of any security interest (except SCC)	To avoid taking on debt that undermines security for SCC debt (excluding de-minimis bank overdrafts) and to avoid incurring further financial risk
Issuing, withdrawal or buy back of shares	To maintain SCC ownership as originally intended

<u>Decision</u>	<u>Rationale</u>
Enter any Joint Venture, consortium or partnership	To ensure companies only undertake activities for which approval has been given in order to protect SCC reputation. To ensure that it is the shareholder that takes decisions that may involve substantial financial risk (rather than the Directors alone)
Selling, transferring, leasing, assigning property or assets (excluding de-minimis and replacement of operational equipment)	To avoid dilution of assets or security in relation to SCC debt
Disposal of any business or any shares	To maintain SCC ownership as originally intended
Entering into an administration order or steps to voluntarily wind up the company	To protect SCC's reputation

The SHIP, an Officer led panel, chaired by the Director of Finance – Corporate Finance and Commercial (Deputy s151), works within delegated authority limits set by the SIB. The Panel's remit is to review and challenge the subsidiaries performance within year and assist with the approvals and operational workings of the respective companies. This enables approvals to be made in a timely manner so that operational effectiveness is not impacted by an elongated approval process. The SHIP also provides governance, as the client, for projects delivered by any of the subsidiaries and acts as the Senior Responsible Owner. Items that fall outside of the approval limits afforded to the SHIP will still be discussed and scrutinised by the Panel before coming forward to the SIB.

The ASB is a Council Member led Board, supported by Officers, which reviews and considers submissions from the Capital Programme Panel (CPP). The CPP's role is to oversee the Council's Capital Programme, considering asset plans, new projects, schemes and overall capital programme delivery. The ASB will monitor the performance of the subsidiary companies, with a particular focus on property related matters. Furthermore, the ASB will challenge to ensure any property related submissions made by the SHIP moving forward to the SIB for approval, are aligned to the strategies which has been approved by the SIB and Cabinet. Submissions received by the ASB from the CPP will move forward to Cabinet for approval.

## THE COUNCIL'S SHAREHOLDINGS

The decision to create a company or to invest in shares is taken by Cabinet, or in accordance with delegated decision-making at the SIB. The decision is made upon the basis of a business case which articulates the financial implications and associated risks for the Council. These proposals are made with realistic and prudent expectations regarding the investment required and the length of time it will take to establish a successful company. The Council recognises that returns will not necessarily be received in the short-term but will contribute to financial resilience in the longer term and, may deliver wider benefits that may supersede financial returns.



Company	Ownership
Halsey Garton Property Ltd	100%
Halsey Garton Residential Ltd	100%
Surrey First Ltd	100%
Hendeca Group Ltd	100%
Surrey Choices Ltd	100%
Connect2Surrey LLP	50%
South Ridge Developments LLP	50%
TRICS Consortium Ltd	16.7%
UK Municipal Bonds Agency	3.4%

The SIB provides oversight for LLPs in a similar way to companies limited by shares. Further information about LLPs is included in the glossary section.

The South Ridge Developments LLP is now closed therefore there is no further update for the company in the sections below.



## Directors

Each company must have at least one person named as a Director – the Council itself cannot act in this capacity. The SHIP has delegated authority from the SIB for appointing (and removing) Directors to act on behalf of the Council. Directors have specific responsibilities in Company Law and

therefore the board or panel making the selection will need to ensure that persons with the appropriate skills are appointed. The name of the person(s) appointed to each company is noted in the next section of the report. In the case of Joint Ventures, the person appointed by the Council to act in respect of its shareholding is noted.

Since the last report the following Directors have been appointed:

Hendeca Group	• Neil Jarvey
Halsey Garton Property Investments	• Verity Royle, Bill Yardley
Halsey Garton Property	• Verity Royle
Halsey Garton Residential	• Verity Royle
Connect2Surrey	• Mike Lea, Matt Johnson

These directors work alongside the other appointed directors, bringing their valuable experience to the board, and will be responsible for delivering the day-to-day activities of the company in accordance with the strategies and business plans agreed by the SIB.

As Directors, their role is not to provide scrutiny, but to be accountable to the SIB, alongside other directors, for the performance of the company and for their own performance as a Director. The SIB will continue to be the subject for scrutiny rather than individual directors.

Directors appointed by the Council receive no additional remuneration and undertake this role as part of their duties as an officer or member of the Council.

## Funding

Changes to the Public Works Loan Board (PWLB) lending rules have stopped Council's taking on borrowing to invest purely for commercial gain. Therefore, loans cannot be taken out by the company via the Council, or other third-party sources, for pure commercial investment. This limits the

companies to work within the current envelope of investment that has been made to date, or alternatively, make investments where commercial returns are a secondary benefit.

Recent proposed powers as part of the draft Levelling Up & Regeneration Bill confirm the Government's long-running concerns that a small number of authorities are taking on very high, disproportionate levels of debt or have become excessively exposed to risk from commercial investment strategies. The government continues to put in place controls to reduce this risk and any changes to future strategies need to be developed in compliance with the Prudential framework. The Council's revenue budget includes an element of income generating investment activity. The Capital, Investment & Treasury Management Strategy 2022/23 set out the extent to which expenditure plans are dependent on achieving the expected net income from investments over the lifecycle of the MTFS, to ensure proportionality. Investment activity is forecast to remain between 2-2.5% of the Council's net revenue budget over this period. Should we fail to achieve the expected return, the Council have earmarked reserves in place to manage one-off fluctuations in investment income achieved.



## Company Details

The following pages contain information about each company, including a description of activities and purpose, Cabinet approval and date of incorporation and progress made to date. Financial information has been included where this is generally publicly available (e.g. from the statutory accounts of each company) or not commercially sensitive. However information that is commercially sensitive, such as the future business plans, have been excluded.



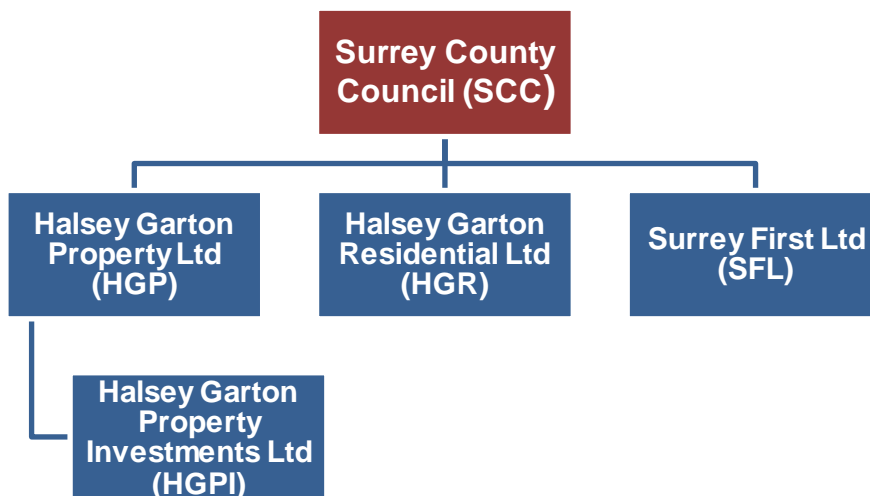
## Company's Profile & Business Case

The Halsey Garton group of companies were incorporated in June 2014. The initial remit for the companies related to Halsey Garton Property Ltd which was incorporated to fully implement the recommendations of the Investment Strategy approved by Cabinet in July 2013 via Halsey Garton Property Investments Ltd. Halsey Garton Residential Ltd was dormant until August 2020 when it became active following the long lease purchase of 23 properties, now increased to 80. Surrey First (formally Halsey Garton Property Developments Ltd) remains dormant.

The Halsey Garton companies are named after people associated with the history of Surrey County Council.

Halsey was the first Chairman of the Council (1893) and Garton was the High Sheriff of Surrey in 1913.

## Company Structure





Cabinet Approval	May 2014
Ownership	100%
Date of Incorporation	June 2014
	Commenced trade in November 2015
Council Investment	Share Capital £93m Loans of £234m
Return on Investment	2016/17 - 2018/19 the company proposed and paid dividends of £3.9m.  2019/20 - 2021/22 the company did not propose a dividend.  Interest payments to the Council in 2021/22 of £14.3m (2020/21 £14.3m).
Directors	Nicola O'Connor (resigned June '22), Diane Wilding, Verity Royle, Bill Yardley

## Council Investment

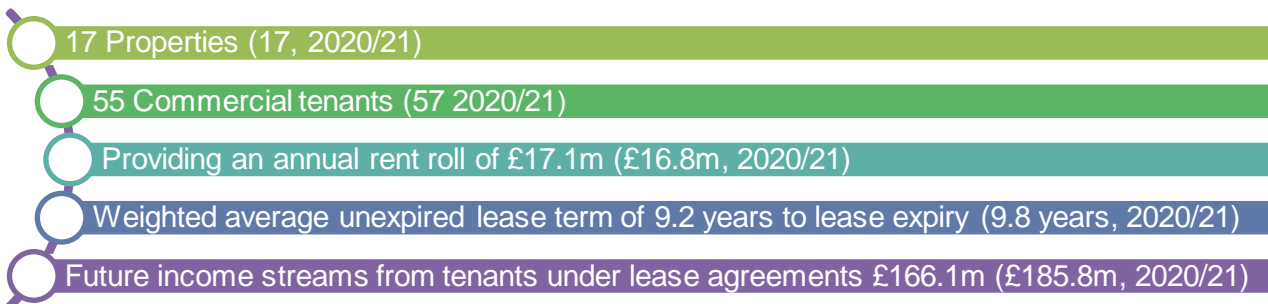
The strategy of the company was revised in 2019 with no further investment to take place outside of County borders. Therefore, the existing portfolio of 17 assets was to be managed and held to deliver ongoing revenue returns to the Council. The 2019 strategy was reviewed and re-approved by the SIB in February 2022, with a recommendation to employ a dedicated Managing Director to assist in shaping the strategy of the company going forward given the changes to market conditions and funding constraints in recent years. Following this recommendation Charles Maxlow-Tomlinson was appointed in April 2022 and is working with the Board to develop a future strategy proposal for consideration by the shareholder.

## Changes to funding rules

The aforementioned PWLB funding rules changes, and those which may be made as part of the draft Levelling Up & Regeneration Bill will need to be considered and factored into any future investment, or strategy of the Company going forward.

## Progress Report

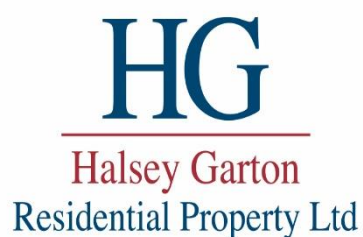
The company purchased its first asset in November 2015. The company now owns investment assets with a value of £295 (£251m, 2020/21) – with the following key indicators.



The company did not propose a dividend in 2021/22 following the continued impact of the Covid-19 pandemic and general market uncertainty in the financial year.

The company delivered a pre-tax operating profit of £1,584k, well-above budget of £399k due to an increase in rental income and unrequired budgeted bad debt provision. Despite the market conditions, no significant new bad debt provisions were made in relation to arrears owed by tenants at year end.

Rent collection rates have continued to be strong following the Covid-19 closure period with 95% off all rents due in 2021/22 collected. The company continues to actively manage void units and the impact of tenants under CVA's (company voluntary arrangement's) within the portfolio. The company's property managing agents have stated the rent collections are an above average performance when compared to similar portfolios. The company is forecasted to be profitable before taxation for the year 2022/23 and the medium-term.



Cabinet Approval	May 2014
Ownership	100%
Date of Incorporation	June 2014
	Commenced trade in August 2020
Council Investment	Share Capital £4.1m
	Loans of £7.1m
	(as at 31 <sup>st</sup> March 2022)
Return on Investment	£Nil
Directors	Nicola O'Connor (resigned June '22), Diane Wilding, Verity Royle

## Council Investment

The Council has provided debt and equity funding for the purchase of 80 residential properties totalling £11.2m to date.

## Progress Report

The company held 80 properties on long-term leases at the end of the financial year 2021/22. A small loss of £30k was made during 2020/21, representing 8 months of trading which included start-up costs. In 2021/22, the first full year of trading, the company made a pre-tax operating profit of £191k.

The company does not have any formal plans to purchase or develop any additional assets. Any future strategy decisions for the company will need to consider the current review on 'Right to Buy' legislation by the Government.

The forecast for 2022/23 is for the company to make an improved profit compared with prior year. The improvement in the business performance is driven from the continued transition out of the initial start-up phase, an increase in revenue relating to a full year of holding the full portfolio, plus the letting of assets which have had their respective refurbishment work complete.

# Connect2Surrey

SIB Approval	July 2021
Ownership	50%
Date of Incorporation	September 2021
	Commenced trade in February 2022
Council Investment	Loans of £153k
Return on Investment	£Nil
Directors	Mike Lea (SCC), Matt Johnson (Commercial Services Kent Ltd)

### Council Investment

The Council has provided debt funding of £153k, together with a further £153k from Commercial Services Kent Ltd (CSKL), in order to invest in the start-up infrastructure required for a Temporary Resource Recruitment joint venture with CSKL.

### Business Case

Previously Temporary Resource has been acquired through various Master Vendor agreements with large private sector companies.

It has been an ambition of SCC for some time to set up its own Temporary Resource solution but this was always hampered by lack of expertise, inadequate systems and cost of set up.

Following the expiration of the contract with Adecco in January 2022 SCC created a partnership with a neighbouring public sector organisation (Commercial Services Kent) in order to provide the best solution and key drivers for this were:

- To regain control of our Agency worker spend.
- To have our own Agency which can work with hiring managers to understand what the requirements are and how they are changing in a challenging market.
- To have a more Surrey-focused solution in terms of 'what is best of SCC', rather than work with a large Master Vendor where we are competing with other Local Authorities.

- To shift the focus of the market into Surrey and increase the value to Surrey residents, both from a recruitment point of view (hiring Surrey residents, school & college leavers etc) and to improve the representation of Surrey based agencies.
- To improve the diversity of our workforce through working with local faith, charitable and disability-focused organisations to improve the hire rate in the temporary market and thereby provide a pipeline into permanent recruitment.
- To provide revenue streams for SCC through further commercial opportunities to offer services wider across Surrey County's businesses that have similar recruitment needs and challenges

## Progress Report

The company has begun trading in line with the business case submitted to the SIB, with regular reporting in place to both the SHIP and the SIB to provide updates on the company's performance. The 3<sup>rd</sup> party supply chain has been successfully migrated across from the previous Master Vendor supplier, and the company will submit extended first year accounts at the end of 2022/23 to Companies House.



## Hendeca Group

Cabinet Approval	March 2013
Ownership	100%
Date of Incorporation	June 2013
	Commenced Trade in December 2013
Council Investment	£100 Share Capital
Return on Investment	The company has paid (*proposed) the following dividends-
	2014/15: £400,000      2015/16      £400,000
	2016/17: £440,000      2017/18      £400,000
	2018/19: £500,000      2019/20      £400,000
	2020/21: £200,000      2021/22      £340,000*
Directors	Janine Lewis, Lynne Hobbs, Neil Jarvey, Paul Forrester (resigned June '22)

### Company Profile

Hendeca commenced trade in December 2013 following Cabinet approval as part of the New Models of Delivery strategy in March 2013. The company was known as S.E.Business Ltd, changing name to Hendeca Group Ltd during 2019/20. The company provides business to business (B2B) professional, technical, training and contingency services, enabling the Council to trade in those functions in which it has particular expertise and capacity.

### Progress Report

In 2021/22 the company delivered pre-tax profits of £836k, which was significantly above those expected in the approved Annual Business Plan. These profits have been delivered in the main through the contracts held in the fire aviation contingency market. The company also delivered IT services to a private sector organisation operating in the health sector which is not due to be renewed. Further profit was delivered through the company's Training services which continue to expand. The dividend proposed by the company for 2021/22 of £340k, reflects the continued policy to retain some profit for investment into the company to assist with seeking new

opportunities, and offers some financial protection due to fluctuating market conditions as the impact of the Covid-19 pandemic becomes better understood.

Moving forward into 2022/23, Hendeca's focus is to continue to remove the reliance on the contingent contracts currently held. The company has financial security over the short to medium-term, which will allow continued investment into identified business opportunities to help deliver this aim.

The main business opportunities identified currently being targeted are further expansion into the contingent services market together with further growth in the B2B Training market.

The Training market compliments the skill set held within the company currently and is a service which is beginning to grow organically. To expediate this growth the company are exploring the feasibility of partnering with, or acquiring, other organisations. The Hendeca website (<https://www.hendecagroup.com/>) outlines that the company's "training and support services are designed to help all businesses, industry and institutions mitigate risk and keep their staff and property safe."

Following the work undertaken to improve the branding and website of the company to take services to market, Hendeca now has an active social media presence on LinkedIn, Twitter, Instagram and Facebook. All of the team are encouraged to Like and Share on the various platforms and to contribute suitable copy in order to promote the company and its available services.

Hendeca employs staff as required to deliver confirmed contracts, and engages appropriate contractors, advisors and service providers to undertake the activities of the company. Hendeca utilises as many SCC resources and services as possible to deliver the business operation. The Council makes an appropriate charge to the company for any services provided, ensuring that the full cost of the activity is recovered.



Cabinet Approval	December 2013
Ownership	100%
Date of Incorporation	March 2014
	Commenced Trade in August 2014
Council Investment	£100 Share Capital Loans of £2.8m
Directors	Jane Earl (Chair), Mette Le Jakobsen (Managing Director), Rachel Wigley, Stefan Nahajski (NEDs)

## Company Profile

Surrey Choices Ltd commenced trade in August 2014, following Cabinet approval of the business case in December 2013. The company provides people with learning and physical disabilities and autistic people with a range of services in a variety of settings. The service offer includes day services and support for people who wish to seek employment or become engaged in work, volunteering, or training opportunities, as well as a short breaks services which support family carers. In addition, the Shared Lives service matches carers who provide support in a family home environment to people with disabilities. The commissioning contract to supply services to the Council triggered the transfer of 246 employees from the Council to the company under TUPE regulations in August 2014, of whom 64 are still employed as at 31 March 2021. Today the company has a turnover of ca. £13m and employs ca. 320 people.

## Progress Report

The company delivers services to the Council under a commissioning contract; this is currently primarily a block arrangement meaning that the risk of any volume increase rests with the company rather than with the Council, however the Short Breaks and Shared Lives services are now paid for on a spot basis. In the first 18 months of operation the Council increased the number of new referrals, and this led to deteriorating financial situation for the company and losses for the first two years of operation, however since then there has been a significant turn-around in the success of the company. Pre-tax profits of £397k were delivered in 2017/18, £734k in 2018/19, £658k in 2019/20, £343k in 2020/21, and £258k (N.B. statutory accounts not yet finalised) for the year to 31 March 2022 (all figures are quoted prior to the actuarial gain or loss on the defined benefit pension scheme).

The current MD, Mette Le Jakobsen, has now been in post since November 2018 and continues to make significant and positive impact, building resilience with a strong senior management team and a strengthened company board which now includes two independent Non-Executive Directors.

The forward looking five-year strategic business plan for 2022/23 and beyond, approved by the Shareholder Board in 2019, was co-designed with the Council's ASC senior team. It continues to focus on delivering transformational shifts in service delivery and was jointly reviewed and re-endorsed in November 2021. Surrey Choices will develop all its current portfolio of services, with a primary focus on day service modernisation, the expansion and development of employment services, vocational opportunities and flexible community-based support, a new SCC ASC funded service which started in July 2021. In addition Surrey Choices has also expanded the Shared Lives service, which has proved not only cost effective, but delivers excellent outcomes for the individuals in the services, and it has become the default option for Adult LD&A Teams looking for new placements. For 2022/23 the Supported Employment contract has been increased in order for SCC to respond to the increasing demand for the award winning service. In addition, the Flexi-Choices flexible breaks scheme has been commissioned as an ongoing service from a pilot in response to the pandemic. The company continues to develop its offer to young people with Special Educational Needs and Disabilities through the Future Choices 5-day programme, supported internships and independent travel training, along with a new service called PREP (Personal Resilience and Engagement Programme) for those young people who are not quite ready for a five day a week service and who need bespoke support in order to engage.

Surrey Choices is registered with the Care Quality Commission for two of its services; both are rated 'Good'. During the course of 2021/22 the company surveyed all its customers; 83% of those who responded rated their service 'good' or 'very good', and 85% said they would recommend their service to a family member or friend.

The company continues its focus on the Changing Days programme, which is developing inclusive models of support that enables people with disabilities and autistic people to develop independence, choice and control. Progress to date has been achieved most recently against a backdrop of the Covid-19 pandemic and an extremely challenging recruitment environment, however good progress has been made. As well as the change in operating model towards more person centred support, the Changing Days programme seeks to reduce reliance on commissioned transport and to end segregated day care centres in favour of community hubs which are integrated within local communities. To date, this has led to a reduction in the footprint occupied of 25% with a target reduction over three years of 50%.

Due to the challenging efficiency expectations of the Council (£3.5m over three years to 2023/24), the profit before tax forecast for 2021/22 was lower than previous years as forecasted. The continuation of efficiencies required from the company are expected to reduce this further in 2022/23. The company is currently working closely with the senior ASC team to meet the

challenges in the most effective and efficient way to try and minimise any impact to service delivery.

As well as the Changing Days Programme developing the primary model of support to be more inclusive and outcomes based, Surrey Choices is also focusing on growing non-SCC income. This has been hampered by the pandemic and in 2021/22 only 4% (c£500k) of turnover was from other local authorities and non-SCC funding sources. Currently in the Joint Strategic plan this is anticipated to grow to 10% (c£2.1m), however this will be continually reviewed in order to maximise the Teckal Exemption (20% of turnover).

### **Recruitment and Vacancies**

Recruitment and retention is currently the greatest risk faced by the Company, alongside the care sector a whole, with a vacancy rate at the end of March 2022 of 18% (56 full time equivalent posts). Significant resources were invested in recruitment through 2021/22; Surrey Choices received £170k of 'Work Force' funding from SCC as part of a Government initiative to support the adult social care sector, and this was deployed across a number of initiatives to boost recruitment and retention. However, with an average staff turnover rate of 22%, the overall vacancy rate remains stubbornly high, negatively impacting rates of growth. For 2022/23 recruitment efforts will continue and a new pay award targeted at the lowest paid posts in the organisation has improved hourly rates and made salaries more competitive, enabling Surrey Choices to become a 'Real Living Wage' employer.

### **2022/23 Financial Forecast**

The current forecast profit for 2022/23 has reduced from this year's surplus to only £100k, primarily due to the planned £1.25m efficiency savings, representing the year 2 total of the £3.5m 3-year savings programme.



Cabinet Approval	July 2014
Ownership	16.67%
Date of Incorporation	October 2014
	Commenced trade in January 2015
Council Investment	£37,500 Share Capital
Return on Investment	The company has provided the following dividends- 2015: £81,347 2016: £83,821 2017: £80,219 2018: £93,040 2019: £90,291 2020: £98,667 2021: To be declared
Surrey County Council Director	Mike Green

## Company Profile

TRICS Consortium Ltd commenced trade in January 2015, following Cabinet approval in July 2014. The Company provides a service to the transport planning and property development customer community by providing access to a comprehensive database of travel patterns known as trip rates. Trip rate data is used by planning consultants in support of planning applications in order to demonstrate the impact of major developments on local traffic. The database is recognised in national planning policy and is widely used by the planning profession and its use has been given due weight by Inspectors at Planning Inquiries.

The company is a Joint Venture (JV) with five other local authorities, Dorset Council, East Sussex County Council, Hampshire County Council, Kent County Council, and West Sussex County Council. These Councils held the rights to the database under a long-standing partnership arrangement and therefore became the shareholders of the company. The company now owns all Intellectual Property Rights in relation to the database and the brand.

## Business Case

The creation of the company ensures that the commercial activities of the consortium Councils is being undertaken in an appropriate manner and will enable the growth potential of the database into other territories to be fully exploited.

## Council Investment

The Council, together with the other five local authority shareholders, invested equity funds to provide for working capital and set-up expenses. The funds provided were from balances held by the consortium, created from surpluses from previous activity.

## Progress Report

The Company commenced trading on 1<sup>st</sup> January 2015 when it took over the operation of the database from the incumbent supplier. The company comprises of the Managing Director, recruited to deliver the day-to-day operation of the company, three employees that TUPE transferred from the previous supplier and two further employees recruited to support its recent growth. The company is benefiting from increased memberships with user activity on the increase particularly from the residential development sector. 2021 saw a further increase in members of 2% on 2020, which considering the impact of Covid upon businesses is higher than expected, membership numbers have risen each year since inception.

TRICS has now become a truly international company, with its Australasian Database being released in September 2018. The second phase of this region's database being released in September 2019, with the improved TRICS Surveys being added from this date. It is anticipated that TRICS commissioned surveys can start within the region in 2023, as Covid has made undertaking surveys in these regions very difficult.

The company continues to deliver profits in excess of expectations and has distributed a dividend to its shareholders each year since its creation, thereby delivering a significant return on investment within a short timeframe.



## MUNICIPAL BONDS AGENCY

Cabinet Approval	Decision taken under delegated approval in September 2015
Ownership	3.4%
Date of Incorporation	September 2014
Council Investment	£450,000 share capital

### Company Profile

The UK Municipal Bond Agency's (UKMBA) objective is to provide an alternative to the Public Works Loans Board (PWLB) as a cheaper source of borrowing for local authorities from the issuing of bonds. The agency, developed by the Local Government Association (LGA), raised equity funds from 56 Councils to provide for operating costs and capital against risks.

### Business Case & Council Investment

The agency aims to provide access to all local authorities to raise external borrowing provided that they meet the criteria set, and at the time of SCC's investment, preferential terms were expected to be provided to those Councils that are also shareholders in the company. It is uncertain whether this commitment will stand in the future.

### Progress Report

UKMBA distributed a framework agreement which set out the terms upon which local authorities will be able to borrow from them. Authorities were expected agree to a joint guarantee that would operate if a local authority defaulted on its part of a joint borrowing. Requirement to provide the guarantee has been removed, however an approval of a credit check to borrow is required.

The PWLB's reduction of its borrowing rates by 1% in 2020 introduced a new borrowing benchmark for local authorities and made the lending market more competitive. UKMBA sees market opportunities to issue bonds for councils inside the new PWLB rate and, therefore, continues to receive an increased interest from prospective borrowers. The LGA continues to financially support the agency.

The recent Bank of England base rate rise and the war in Ukraine have also impacted the financial markets. The sterling debt market has been affected with a sharp increase in volatility which contributed to the delays of the Company's planned pipeline of bond transactions in 2021. However, the demand for fixed income securities of various maturities remains strong and UKMBA expects to resume marketing its new bonds in the second quarter of 2022.

While interest remains from local authorities which could result in further bond issues, the lack of activity after the initial bond issue has led to the auditors of UKMBA to continue to state that there is material uncertainty related to going concern. As a result, SCC continue to carry the value of the investment at £nil. Should the performance of the company recover the investment value can be reinstated. However, the treatment adopted removes any future risk relating to the company for the Council.



## GLOSSARY

### **Articles of Association**

A company's Articles of Association set the rules (the constitution) for the company. The Articles are filed as part of the incorporation process and are publicly available documents. The objects of the company describe what the company will do. The objects of a company are now deemed to be unlimited, unless the Articles limit them.

The Articles may restrict the decision-making powers of the Directors – these are described as Reserved Matters. The Articles may be changed at any time by a special resolution of the members (the shareholders) of the company.

Companies created by the Council follow the model articles with the exception of the introduction of reserve powers in matters of strategic importance and one or two other minor exceptions.

### **Assets**

A Council owned company may purchase assets from the Council. In disposing of assets, the Council must ensure that it receives appropriate market value and the company in turn will be required to purchase at market value in order to ensure that there is no financial subsidy or advantage that may be deemed as state aid.

The Council will retain property assets unless there is a financial advantage to transfer (for example, where the purpose of the trading company relates to property activities). Market rents will be charged for occupancy of property assets – rents are a pre-tax expense making this arrangement tax efficient and this also ensures that the Council's balance sheet remains strong and is not diluted.

Surrey Choices Ltd purchased operational assets, such as vehicles and musical equipment, at appropriate market values from the Council and this formed part of the initial set-up costs for the company.

### **Debt Financing**

Debt financing provides the funds required to run a business. A company may borrow the money required to grow and develop the business.

Interest on debt is a business expense, and therefore deducted before tax.

Companies created by the Council, such as Hendeca Group and Surrey Choices have been set-up with limited equity funds. Funding for growth and working capital requirements has been provided by the Council under an agreed loan facility. The Council provides loans to enable Halsey Garton Property to buy investment assets.

## GLOSSARY

### **Directors Duties**

The SHIP are responsible for appointing (and removing) Directors to act on its behalf in relation to companies in which the Council holds shares. Directors duties are described in the Companies Act 2006 and include a responsibility to promote the success of the company, exercise independent judgement and exercise reasonable care, skill and diligence.

Directors appointed by the Shareholder Board do not receive additional remuneration for their role and are covered by indemnities provided by the Council in respect of financial loss (an extension of the indemnities provided by the Council to staff and members as agreed by Cabinet in March 2013). This does not and cannot extend to negligence, default, breach of duty or breach of trust.

The Council's legal team brief Directors so that they understand their duties.

### **Group Companies**

Companies form a Group if one is a subsidiary of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same person. Companies within a Group can take advantage of Group Tax relief. In tax legislation, the Council is a body corporate that can perform the link between LATCs and therefore the losses of one company can be offset against profits of another.

This group status in tax law also provides the Council with the ability to be exempt from stamp duty which would ordinarily apply to property transactions (including the entering into lease arrangements) between group companies).

The Council is required to produce Group Accounting statements which mean that the financial results of its LATC's will be included together with the financial results of the Council. The Council will continue to also produce detailed Annual Statements of Accounts on a single entity basis.

### **Joint Venture**

A Joint Venture company is one that is owned by more than one shareholder, where the shareholders concerned are corporate bodies in their own right. The term Joint Venture is not one that is legally defined and is often used in respect of other arrangements that do not necessarily involve a limited company. For example a Joint Venture may also be a Limited Liability Partnership or may be used to describe an arrangement between public bodies.

## GLOSSARY

### **LATC (Local Authority Trading Company)**

The terminology “LATC” is often used to describe a company that is owned by a Local Authority (i.e. Local Authority Trading Company). It is not a different form of company and most companies described as LATC’s are companies limited by shares, with the shares and therefore the company being wholly owned by the local authority.

Companies created by SCC are most likely to be limited by shares, as this structure ensures that profits can be returned to the shareholder (the Council) in the form of dividend payments, and provides the possibility for future sale. It is the most suitable structure for trading activity and enables the Council to create a tax group.

It is possible that other company structures may be applicable in certain circumstances; however these structures tend to involve the removal of Council control or would mean an inability to return profits-examples are companies that are limited by guarantee.

### **Limited Liability Partnership (LLP)**

A Limited Liability Partnership is an alternative legal structure that is similar to a traditional partnership (e.g. as used by a firm of solicitors) but it limits financial risk whilst still being able to benefit from flexibility of structure, tax, profit distribution and the rights and duties of the partners. A partner of an LLP is called a member and is similar to a degree to a shareholder. A partnership agreement will usually be put in place to set out the rights, responsibilities and liabilities of each member and will specify the way in which the LLP will be managed.

LLPs do not have to pay Corporation Tax – it is “transparent” for tax. This means that each member is taxed in accordance with its own tax status. This is beneficial for the Council as it means that Corporation Tax is not payable on its share of the profits. A LLP however can only be set-up by a Council in certain circumstances and cannot be established where the purpose of the LLP is purely to trade or deliver an income.

An LLP is permissible for the creation of the “JV” with Places for People since this entity is being established for the purpose of creating a model to deliver benefits to residents from the development of housing and mixed used schemes utilising the Council’s vacant sites. As this is an activity that the Council can undertake in its own right (rather than requiring a company to be set-up) a LLP is an appropriate structure.

## GLOSSARY

### **Reserved Matters**

Reserved matters are important decisions for which the Directors are required to seek and gain Shareholder Approval. These decisions are written in the Company's articles of association which set the constitution or the rules for the running of the company.

The Shareholder Board has delegated authority to perform these functions on behalf of the Council. The reserved matters of SCC's companies have been written to ensure that the Shareholder Board is responsible for consideration of issues of strategic importance, take decisions that may involve changes to financial risks or may have an impact on the Council's reputation.

### **Share Capital (Equity)**

Equity or shares in a company represent the ownership interests. The Equity invested is the amount of funds contributed by the owners to the financial requirements of the company. In a limited liability company, the owners / shareholders lose no more than the amount invested. Equity invested at start-up is evaluated on the basis of assets owned and/or earnings potential.

Financial returns to the shareholders are made in the form of dividend payments. Dividends are not a business expense and are paid from post-tax profits.

### **Shareholders**

The Shareholders (the owners of a company) and directors have different roles in a company. The Shareholders own the company and the directors manage it. The Directors must obtain shareholder approval for decisions where the shareholder has restricted the powers of the Directors – these are called reserved matters. The Shareholder Board has delegated authority to perform these functions on behalf of the Council.

### **Shareholders Agreement**

These are agreements between shareholders which are private documents. These agreements set out how the shareholders interact with each other and can define what happens in the event of dispute. A shareholder agreement is only relevant when there is more than one shareholder and is recommended practice for Joint Ventures.

SCC has entered into a shareholder agreement for TRICS Consortium Ltd and in relation to the investment in FutureGov Ltd (in this instance it is called an Investment Agreement but is essentially the same thing).

## GLOSSARY

### **Support Services**

The 2003 Local Government Act provides the ability for the Council to enter into agreements for the supply of goods and services, by and to a LATC. The supply of goods, services and financial assistance must be made without subsidy. The legislation guides the Council to apply CIPFA definitions of total cost in calculating the cost of supplies made to a Trading company. This provides the ability to recover all costs in the organisation, including a proportion of all central overheads, depreciation, capital costs and pension back-funding. This wide definition allows significant overhead recovery in the provision of services to an LATC. The supply of goods and services calculated on this basis will be compliant with state aid legislation.

The arrangements for LATCs should seek to ensure that the overall cost base of the Group is not unnecessarily duplicated or increased as a result of any new arrangements. Therefore SCC will provide services to an LATC where it is in a position to do so, where these services are fit for purpose for the business and support its strategy and can be supplied at a cost that is competitive. This is particularly important from a Group perspective where costs are relatively fixed, for example in the provision of payroll services where a substantial portion of the cost relates to the system.

### **TUPE**

The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) protects employees when a business changes to a new owner and apply to “relevant transfers” which may occur in many situations, including service provision or contract changes. In these situations, the employment transfers, employment terms and conditions transfer and continuity of employment is maintained.

The new employer is therefore required to provide the same terms and conditions to the staff concerned. Alternate provision can be made, e.g. a cash alternative to a lease car, but this alternate provision must be acceptable to the employee.

SCC is required to follow the provisions of the TUPE act. This will apply where a service is being transferred to a trading company, as occurred with the award of the commissioning contract for services to Surrey Choices. A LATC will additionally be required to follow TUPE provisions when taking over a service contract from another supplier – for example, as in the case for Hendeca Group in the provision of IT managed services previously supplied to the customer by another provider.

## GLOSSARY

### **Teckal**

Procurement complications arise where the Local Authority creates a company to supply services that the LA wishes to continue to purchase – be those that were previously in-house or previously provided externally. The Council is not permitted to automatically purchase from a LATC company outside of normal EU procurement rules. The LATC is required to tender alongside other private sector suppliers.

Procurement issues in relation to the purchase of goods and services from a LATC were evaluated in the Teckal case. According to the 1999 Teckal judgement, public procurement rules do not apply to contracts if the control exercised by the contracting authority over the entity awarded the contract is similar to that which it exercises over its own departments and, if at the same time that entity carries out the essential part of its activities with the controlling authority. This judgement has now been codified into a new EU Directive and in UK Law by the Public Contract Regulations 2015.

SCC will need to ensure that arrangements comply when considering transferring activities to a trading company, assuming that the Council wishes to continue to purchase the services. The arrangements for Surrey Choices comply with these considerations.

A LATC falling within the Teckal exemptions will itself be required to comply with the EU public procurement rules, and therefore Surrey Choices is subject these procurement regulations.

### **Transfer Pricing / State Aid**

Transfer Pricing refers to the price at which divisions of a company or a group of companies transact with each other – the terminology relates to all aspects of inter-company financial arrangements. These arrangements have potential implications for the tax authorities since they can be used by multi-national corporations to move profits to countries with lower taxes. The UK has adopted principles of “arm’s length” in tax laws.

State Aid issues would apply where a LATC is established, or provided with goods and services and financial assistance at a subsidy.

SCC will need to ensure that it steers an appropriate path or middle ground between issues of transfer pricing (in relation to tax) and those in relation to State Aid. The cost of goods and services and financial assistance (e.g. loans) supplied by the Council to an LATC will therefore be tested against the market to ensure that prices / rates can be justified on an arm’s length basis.