Strategic Investment Board Annual Report 2023/24

Investments Overview

SURREY
COUNTY COUNCIL

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Shareholder Board

Introduction

The Council's strategic framework for innovation and investment has supported the development of initiatives to enhance the financial resilience of the Council. The Council Member-led 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 annual report of the SIB provides an overview of the progress we have made in the year in enhancing the financial resilience of the Council. The report also gives an update on the companies' full year performance for 2023/24.

Tim Oliver OBE

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 Strategy 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, Connect2Surrey, is to 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

Governance

The primary and most common purpose behind the creation of a 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 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; and formal Director training

The SIB 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 Finance and Corporate Services) and the Monitoring Officer (Director of Law & Governance).

Members

- Leader
- Cabinet Member for Finance and Resources
- Cabinet Member for Property and Waste
- Cabinet Member for Communities and Community Protection

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 role of the SHIP is detailed on Page 6 of the report.

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 the 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, being the SHIP or the SIB as appropriate on behalf of the Council, is required to approve or make decisions in relation to the following matters summarised in the table below.

Decision	**Rationale**
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 changes 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
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 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 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	100.0%
Halsey Garton Residential Ltd	100.0%
Surrey First Ltd **	100.0%
Hendeca Group Ltd	100.0%
Surrey Choices Ltd	100.0%
Surrey and Kent Commercial Services LLP *	50.0%
TRIC Consortium Ltd	16.7%
UK Municipal Bonds Agency	3.4%

* trading as Connect2Surrey
** dormant

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 approved to be appointed:

Halsey Garton Property Investments – Tony Orzieri
Halsey Garton Property – Tony Orzieri
Halsey Garton Residential - Tony Orzieri

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 provide 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 prevented Councils taking on additional borrowing to invest purely for commercial gain. Unless seeking external funding, 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 of secondary benefit. Recent powers as part of the Levelling-up & Regeneration Act 2023 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 2024/25 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 has earmarked reserves in place to manage one-off fluctuations in investment income achieved.

Company Details

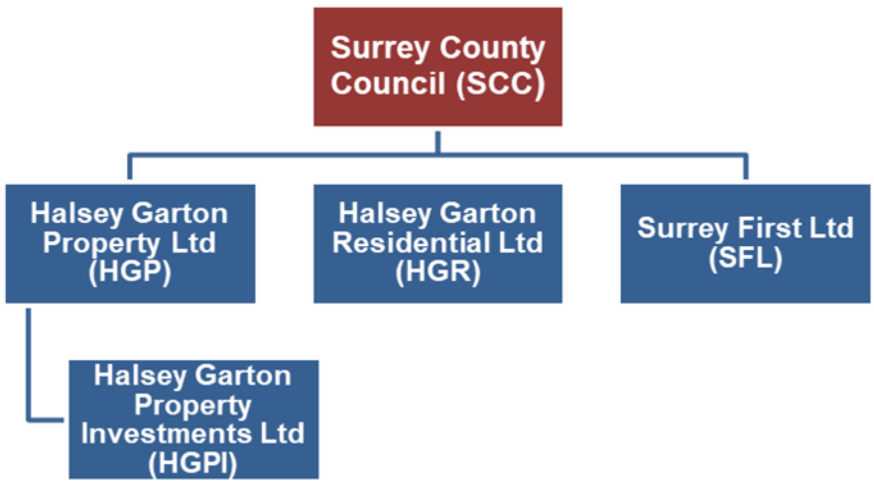
Introduction

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 where appropriate.

Company Profile and Business Case

The Halsey Garton 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, later increased to 80. Surrey First (formerly Halsey Garton Property Developments Ltd) remains dormant.

Company Structure



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Halsey Garton Property Ltd

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 - 2017/18 the company proposed and paid dividends of £2.35m. 2018/19 to 2023/24 – nil dividend Interest payments to the Council in 2023/24 of £14.3m (2022/23 £14.3m).
Directors	Diane Wilding*, Verity Royle* (resigned – date pending), Bill Yardley, Charles Maxlow-Tomlinson, Tony Orzieri* (appointment pending) *Council appointed Officer

Company Profile

The company purchased 17 commercial property assets between November 2015 and December 2018. The portfolio consists of assets in a balance of sectors and is geographically across England. The portfolio remained unchanged up until May 2023 when it disposed of one its assets.

The strategy of the company was revised in 2023 where it was agreed that the Company will:

- Retain a clear and dedicated focus on long term revenue return.
- Adopt a portfolio approach by developing an Annual Company Business Plan.
- Retain existing assets forecast to deliver long term, secure income with minimum volatility.
- If necessary, divest underperforming assets to maximise optimum portfolio performance and recycle capital proceeds to ensure a diversified portfolio which delivers revenue benefits.
- Ensure that a primary consideration when assessing acquisitions is commercial revenue.
- Protect the capital investment as far as possible.
- Identify the availability of short-term loan facilities to leverage opportunities.

- Build up cash reserves to enable delivery of revenue enhancing initiatives of existing assets through capital investment and support, to the extent possible, the Shareholder's wider agenda of Net Zero emissions by 2030.

Progress Update

The company delivered an unaudited pre-tax operating profit of £1,284k in 2023/24 (£1,941k in 2022/23). The drop in profit vs prior year is due to £521k net impact of the disposal of a property (including loss of rent) and £399k greater release of bad debt provision in 2022/23, partly offset by £263k lower void costs. The property was disposed of for a profit. Despite the market conditions, no significant new bad debt provisions were made in relation to arrears owed by tenants at year end.

Key operational highlights over the last year include onboarding new external property managers and bringing asset management in-house. There was a disposal of one property at a capital profit, and completion of 7 new lettings and 6 lease renewals resulting in 100% occupancy within the portfolio, save for one property which is currently undergoing redevelopment.

Rent collection rates have continued to be strong. The company continues to actively manage voids within the portfolio. The company's property managing agents have stated that the rent collections are performing above average when compared to similar portfolios. The company is forecasted to be remain profitable before taxation for the year 2023/24, however, due to general market trends, no dividend is anticipated to be paid from the 2023/24 trading year.

The company owns investment assets with a value of £229m (£235m in 2022/23 on a like for like basis; £248m in 2022/23 including a property disposed during 2023/24). The drop in value is reflective of the changes in market conditions over the year.

Cabinet Approval	**May 2014**
Ownership	100%
Date of Incorporation	June 2014 Commenced trade in August 2020
Council Investment	Share Capital £4.1m Loans of £7.0m (as at 31st March 2024)
Return on Investment	No dividends to date Interest payments to the Council in 2023/24 of £0.4m (2022/23 £0.4m).
Directors	Diane Wilding*, Verity Royle* (resigned – date pending), Charles Maxlow-Tomlinson, Tony Orzieri* (appointment pending) *Council appointed Officer

Company Profile

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

The strategy of the company was revised in 2023 where the following principles were approved by SIB:

1. Not renew existing occupational tenancy agreements when they come to expiry.
2. Divest assets that do not deliver Surrey County Council Policy (SCC).
3. Retain and repurpose existing assets forecast to deliver SCC policy.

The revised strategy was driven by a desire to align subsidiary assets with the principal that they should either meet a service need or provide a compelling commercial return. In considering the future strategic principles for the Company, the Board has reviewed the historic financial performance of the Company and taken into account pending legislation changes which are considered to be a significant risk.

Progress Update

The company continues to deliver profits in line with the business case. The unaudited pre-tax profit in 2023/24 was £193k (£215k in 2022/23). Year on year there are no material changes.

The company does not have any plans to purchase or develop any additional assets. There continues to be high demand for the properties. However, in cases where individual properties are not considered to be financially viable, the decision has been made to sell some of the assets on the open market. At 31 March 2024, 11 of the properties were vacant, mostly due to preparing for disposal.

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
Board Members	Shella-Marie Smith (SCC)*, Helen Lock (Commercial Services Kent Ltd) *Council appointed Officer

Company Profile

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.

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 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.

Progress Update

Relationships have been developed with SCC Workforce Teams through ongoing meetings and interactions, and greater adoption of mutual recruitment activities, and there is ongoing engagement at Executive level to provide strategic input with regards to Qualified Social Care hiring. Regular 'agency and supplier' forums are held to ensure maximum engagement of QSW Suppliers to support fulfilment of Surrey CC's demand.

Interim recruitment is now managed via Connect2Surrey, having been added to the services during 2023/24.

The 2023/24 financial performance of £139k net profit (2022/23: £128k loss) was £130k ahead of the original business case. The business case included a gradual growth in profitability as the business became established. The year-on-year improvement was due to an increase in revenue, as well as the benefit of interest on cash at bank.

In 2024/25 there will be a continued focus on improving the proportion of vacancies that are filled directly by Connect2Surrey, as opposed to via third party agencies.

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 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 2022/23: Nil 2023/24: Not yet declared
Directors	Lynne Read, Neil Jarvey*, Pamela Vick, Tony Barry *Council appointed Officer

Company Profile

Hendeca commenced trading 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 fire contingency, training and data hosting services, enabling the Council to trade in those functions in which it has particular expertise and capacity. Hendeca had historically gained significant income from providing IT services, but this income stream ceased in 2020/21.

Progress Update

In 2023/24 the company had a pre-tax loss of £241k. This was a significant drop on the prior year profit of £184k, primarily due to increased staffing and other costs in attempting to grow the training business, as well as one-off costs. The majority of income is derived through the contracts held in the aviation fire contingency market. The decision to not pay a dividend for 2022/23 reflected the policy to retain some profit for potential investment into the company to assist with seeking new opportunities.

The business plan refreshed in 2024 continued to focus on the drive to diversify Hendeca's income streams and customer base.

Cabinet Approval	**December 2013**
Ownership	100%
Date of Incorporation	March 2014 Commenced Trade in August 2014
Council Investment	£100 Share Capital Loans of £1.65m (reduced from £2.8m)
Return on Investment	Nil dividends
Directors	Jane Earl (Chair), Martin Farrow (Managing Director), Rachel Wigley*, Stefan Nahajski (NEDs), Riasat Khan (resigned May 2024)** *Council appointed Officer **Council appointed Member

Company Profile

Surrey Choices Ltd commenced trade in August 2014, following Cabinet approval of the business case in December 2013. The company provides a range of services in a variety of settings for people with learning and physical disabilities and for autistic people. 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 respite service which supports 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 51 are still employed as of 31 May 2024. Today the company has a turnover of c.£15m and employs c.330 people.

In the first three years of operation until 2017/18, the company suffered heavy losses, partly due to absorbing higher than expected volumes under a commissioning contract with the Council, resulting in it requiring a loan from the Council to provide financial stability. Since then, the financial situation has improved to deliver profits and then significant efficiency savings to the Council. The debt to the Council has reduced from £2.8m to £1.65m.

Progress Update

The unaudited profit before tax for 2023/24 is £59k (2022/23: £32k). The low profit level is primarily due to the last £1m tranche of the £3.5m 3-year savings programme being deducted from the block contract with the Council, exacerbated by delays to achieving savings from changes to the property portfolio. As part of the transformation of the service and efficiency savings achieved to date, in Q1 of 2023 the largest Surrey Choices service, Lockwood Day Centre in Guildford, closed. In 2024 the company closed its service at Bletchingley and is working to reduce the footprint at its last remaining older segregated properties, Fernleigh, in Walton on Thames.

Another aspect of the efficiency savings programme is the home-to-service transport facility, which was brought in house in 2023, utilising the existing vehicle fleet, changing from the previous arrangements with community transport providers. This project will save c.£300k annually.

For 2024/25 the company is expected to continue to make a profit and repay some of the loan to the Council. Prioritisation is being given to winning new central government funded contracts which focus on Surrey residents, and funding has been awarded for several employment service initiatives which started in April 2024, with a total value over 2 years of c.£1m.

Surrey Choices is developing its current portfolio of services, with a primary focus on community inclusion, the expansion and development of employment services, vocational opportunities and flexible community-based support.

The company continues to develop inclusive models of support which enable people with disabilities and autistic people to develop independence, choice and control. This 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 programme has led to a reduction in the building footprint occupied by Surrey Choices of 50%, with an overall target reduction of 75%.

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: £96,179	2022: £89,758
	2023: £21,826	
Surrey County Council Director	Mike Green	

Company Profile

TRICS Consortium Ltd commenced trading 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.

Progress Update

The pre-tax profit in the year to December 2023 was £532k, (£745k in 2024). The reduction was due to an increase in cost of sale including some costs relating to a prior year. 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 three further employees recruited to support its recent growth. The company is benefiting from increased memberships and increased user activity, particularly from the residential development sector. 2023 saw a further increase in members of 1%. Membership numbers have risen each year since inception.

The TRICS TDB Australasian Database (Phase 1) was released in September 2018. However, due a lack of commitment by a partner organisation, TRICS made the decision to terminate the agreement, and the TRICS TDB systems will cease to exist from 1st January 2025.

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.

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.

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 Update

The company currently has Net Liabilities of £1,321k (as at November 2023) and a £24k loss before tax in the trading year to November 2023 (2022: £156k loss). In order to continue operating as a going concern, the company will require continued external support, in particular from the LGA. Moreover, the company will need to facilitate further bond issuances from its pipeline to earn future revenue and justify the continued support.

Further issues are expected in 2024, and subject to the principal risks and uncertainties described in the Directors' report, the company expects to be able to generate positive cash flows from subsequent offerings on its own account in the short-medium term. New issues are not yet guaranteed, and therefore until new issues have been implemented, the company will be reliant on external support for its continued operations as described below.

The LGA, the company's service providers and local authority shareholders, have been supportive of the Company and, as the largest and founding shareholder, the LGA has issued a non-binding Letter of Comfort to the Board in January 2018. In this letter they set out an offer of ongoing financial and operational support, with the exception of financing liabilities which will benefit from a separate guarantee, for a period of 10 years with the aim of ensuring the business continuity of the company.

In line with this commitment, the LGA has arranged for a convertible loan facility to ensure the company has access to sufficient funds required for its initial bonds' issues. In 2021 the LGA Board agreed in principle to provide an additional loan facility of up to £400,000 to ensure availability of funds to the company should the need for bridging finance arise when working on its pipeline of bonds.

At the date of approval of these financial statements, the LGA has been honouring its commitment and has taken on the cost of accommodation of the company through the provision of a convertible loan facility on commercial terms, plus office space, and financial administration and company secretarial functions, at no cost to the company until March 2020, after which these services were provided on a paid for basis.

The recent Bank of England base rate rises and the war in Ukraine have adversely impacted the financial markets. The sterling debt market has been affected with a sharp increase in volatility which has contributed to the delays of the company's planned pipeline of bond transactions in 2023. In the year to 30 November 2023 there has been a further delay due to market conditions being poor, such that the UKMBA has been unable to offer issues at competitive rates below PWLB. However, the underlying demand for fixed income securities of various maturities, and other instruments, remains strong.

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 of the material uncertainty related to going concern, 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/Subsidy Control.

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.

Directors' Duties

The SHIP is 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.

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 provide 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. An 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) an LLP is an appropriate structure.

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 defines how the company operates.

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.

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/Subsidy Control 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 TUPE. 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.

Teckal

The Public Contracts Regulations 2015 deals with public contracts between entities within the public sector.

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

Transfer Pricing / State Aid / Subsidy Control

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/Subsidy Control could arise where a LATC is established or provided with goods and services and financial assistance at a subsidy.

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.