

# West Devon Overview and Scrutiny Committee



West Devon  
Borough  
Council

<b>Title:</b>	<b>Agenda</b>														
<b>Date:</b>	<b>Tuesday, 5th September, 2017</b>														
<b>Time:</b>	<b>2.00 pm</b>														
<b>Venue:</b>	<b>Chamber - Kilworthy Park</b>														
<b>Full Members:</b>	<p style="text-align: center;"><b>Chairman</b> Cllr Yelland <b>Vice Chairman</b> Cllr Cheadle</p> <p><i>Members:</i></p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td>Cllr Baldwin</td> <td>Cllr Musgrave</td> </tr> <tr> <td>Cllr Cloke</td> <td>Cllr Pearce</td> </tr> <tr> <td>Cllr Evans</td> <td>Cllr Ridgers</td> </tr> <tr> <td>Cllr Kimber</td> <td>Cllr Roberts</td> </tr> <tr> <td>Cllr Leech</td> <td>Cllr Sellis</td> </tr> <tr> <td>Cllr McInnes</td> <td>Cllr Sheldon</td> </tr> <tr> <td>Cllr Moyse</td> <td></td> </tr> </table>	Cllr Baldwin	Cllr Musgrave	Cllr Cloke	Cllr Pearce	Cllr Evans	Cllr Ridgers	Cllr Kimber	Cllr Roberts	Cllr Leech	Cllr Sellis	Cllr McInnes	Cllr Sheldon	Cllr Moyse	
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Cllr McInnes	Cllr Sheldon														
Cllr Moyse															
<b>Interests – Declaration and Restriction on Participation:</b>	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.														
<b>Committee administrator:</b>															

**1. Apologies for Absence**

**2. Confirmation of Minutes**

**1 - 6**

**3. Declarations of Interest**

Members are invited to declare any personal or disclosable pecuniary interests, including the nature and extent of such interests they may have in any items to be considered at this meeting.

If Councillors have any questions relating to predetermination, bias or interests in items on this Agenda, then please contact the Monitoring Officer in advance of the meeting.

**4. Items Requiring Urgent Attention**

To consider those items which, in the opinion of the Chairman, should be considered by the Meeting as matters of urgency

**5. Public Forum**

**7 - 8**

A period of up to 15 minutes is available to deal with issues raised by the public.

**6. Hub Committee Forward Plan**

**9 - 14**

If any Member seeks further clarity, or wishes to raise issues regarding any future Hub Committee agenda item, please contact Member Services before **12 Noon on Friday, 1 September 2017** to ensure that the lead officer(s) are aware of this request in advance of the meeting.

**7. Planning Enforcement Service Review**

**15 - 20**

**8. Sickness Absence Monitoring**

**21 - 70**

**9. Quarter 1 Performance Measures**

**71 - 84**

**10. Annual Review of Health & Safety Policy**

**85 - 110**

	<i>Page No</i>
<b>11. Regulations of Investigatory Powers Act 2000 (RIPA) Policy and Update</b>	<b>111 - 148</b>
<b>12. Task and Finish Group Updates (if any):</b>	
(a) <b>Discretionary Grant Funding Review;</b> and	
(b) <b>Performance Measures</b>	
<b>13. Annual Work Programme 2017/18</b>	<b>149 - 150</b>
<b>14. Member Learning and Development Opportunities Arising from this Meeting</b>	

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# Agenda Item 2

At a Meeting of the **OVERVIEW & SCRUTINY COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **11<sup>th</sup>** day of **JULY 2017** at **2.00 pm**.

**Present:**

Cllr J Yelland – Chairman  
Cllr R Baldwin  
Cllr D W Cloke  
Cllr P Kimber  
Cllr J R McInnes  
Cllr C R Musgrave  
Cllr P J Ridgers  
Cllr D K A Sellis  
Cllr R Cheadle  
Cllr J Evans  
Cllr A F Leech  
Cllr D E Moyse  
Cllr T G Pearce  
Cllr A Roberts  
Cllr J Sheldon

Head of Paid Service  
Executive Director (Service Delivery and Commercial Development)  
Group Manager: Business Development Specialist – Assets  
Senior Specialist – Democratic Services

**Also in Attendance:**

Cllrs C Edmonds; N Jory; C Mott; R J Oxborough and P R Sanders

**\*O&S 14 APOLOGIES FOR ABSENCE**

There were no apologies for absence given to this meeting.

**\*O&S 15 CONFIRMATION OF MINUTES**

The minutes of the Meeting of the Overview and Scrutiny Committee held on 6 June 2017 were confirmed and signed by the Chairman as a true and correct record.

**\*O&S 16 DECLARATIONS OF INTEREST**

Members and officers were invited to declare any interests in the items of business to be considered during the course of this meeting, but there were none made.

**O&S 17 COMMITTEE TERMS OF REFERENCE AND PROCEDURE RULES**

At the Annual Council meeting held on 23 May 2017, Members were presented with a report on the Council Constitution (Minute CM 8 refers). As a result of the discussion at that meeting and the previous Overview and Scrutiny Committee meeting held on 6 June 2017 (Minute O&S 05 refers), a revised set of draft Overview and Scrutiny Terms of Reference and Procedure Rules were presented to the Committee for its consideration.

In considering these draft documents, the Committee requested that the following amendments be incorporated:

(a) *Specific Functions Para 2.1(ii)* (page 1 of the published agenda refers) be revised to read:

‘assist the Council in the development of its Budget and *any policies it chooses to adopt.*’

(b) *Scrutiny Para 2.2(ii)* (page 2 of the published agenda refers) to delete the following words:

‘*and Council officers.*’

(c) *Scrutiny Para 6.3* (page 8 of the published agenda refers) be amended to read:

‘Call-in may be exercised only *by* the Overview and Scrutiny Committee.’

(d) *Scrutiny Para 6.3.4* (page 8 of the published agenda refers) be updated to read:

‘Before the expiry of the three working days, the Head of Paid Service shall call-in a decision for scrutiny by the Overview and Scrutiny Committee if so requested by the Chairman, any three Members of the Overview and Scrutiny Committee *or any five non-Hub Committee Members.*’

(e) *Paragraph 7.5* (page 10 of the published agenda refers) be reinstated to read:

‘*Party Whip: Whipping arrangements are not permitted at formal (or informal) meetings of the Overview and Scrutiny Committee.*’

It was then:

**RECOMMENDED:**

That the Hub Committee **RECOMMEND** to Council that, subject to inclusion of the suggested amendments above, the revised Overview and Scrutiny Committee Terms of Reference and Procedure Rules be approved.

\*O&S 18

**PUBLIC FORUM**

There were no issues raised during the Public Forum session at this meeting.

**\*O&S 19 HUB COMMITTEE FORWARD PLAN**

The most recent (published June 2017) Hub Committee Forward Plan was presented for consideration.

In discussion, the following points were raised:-

- (a) In light of the corporate emphasis being given to assets, it was agreed that the title for the 'Lead Member for Environment' should be updated to read the 'Lead Member for Environment and Assets';
- (b) To refresh the wider membership, the Committee requested that all Members be sent the latest version of the roles and responsibilities for each Hub Committee Member;
- (c) For clarity, Members were advised that, in the first instance, the Waste Working Group now reported its findings to the SH/WD Joint Steering Group (JSG).

**\*O&S 20 VILLAGES IN ACTION PRESENTATION**

The Committee received a presentation from the Project Director and Project Manager from Carn to Cove. In so doing, Members were informed that Carn to Cove was Cornwall's performing arts scheme for rural communities in the county.

Following the announcement of Villages In Action (VIA) that they were withdrawing from organising rural touring in Devon and the closure of the office in May 2017, the Committee was advised that Carn to Cove, at the invitation of the Board of Trustees of VIA, had stepped in to run a caretaker season for Autumn 2017 and Spring 2018.

In concluding their presentation, the representatives thanked the Council for its £4,000 grant to VIA and hoped that, in the future, the authority would decide to restore its contribution back to the 2015/16 level of £8,000 per annum.

In the ensuing discussion, reference was made to:-

- (a) funding from other partners and stakeholders. When questioned, the representatives advised that VIA had not received any funding from Devon County Council this year. In addition, a number of Members were of the view that, since they were not subject to capping restrictions, there was significant potential for town and parish councils to financially contribute and work more closely with VIA. In accepting the point, the representatives advised that Carn to Cove made regular representations to town and parish councils in Cornwall. However, support at borough and unitary council level was also considered to be of critical importance;
- (b) revenue from the box office. The Committee was advised that the main financial contributor to VIA was revenue gained through the box office;

- (c) financial accountability. A Member stated her disappointment that the presentation did not provide any evidence regarding how the £4,000 contribution from the Council was being spent. To be minded to support any future funding increases, the Member felt that she would need to see far greater financial accountability and a more detailed budgetary breakdown from the organisation;
- (d) offering a menu of events. The Committee was informed that it was the decision of each village to decide which type of events they held by choosing from a pre-determined menu. It was confirmed that the menu of events included provision for themes including: dance, theatre, music, puppetry, storytelling, poetry and film;
- (e) the future for VIA. Whilst the board of trustees was considering future options for VIA, there was an overriding wish to retain the brand. The Carn to Cove representatives confirmed that their organisation was not looking at taking over long-term responsibility for VIA.

Upon the conclusion of this agenda item, the Committee Chairman thanked the representatives for their attendance, presentation and informative responses to Member questions.

## O&S 21

### **REVIEW OF WDBC COMMUNITY GRANTS SCHEME**

Members were presented with a report that presented them with a review of existing Council Community Grant schemes, including options for streamlining or improving these schemes.

In discussion, the following points were raised:-

- (a) In citing a particular example during which local Ward Members had not agreed on whether or not a Community Grant application was supported, an additional recommendation was **PROPOSED** and **SECONDED** to read as follows:-

*'That, where there is a lack of consensus amongst local Ward Member(s) about whether to support an application, local Ward Members be in receipt of the final decision (and a brief statement outlining the rationale behind this decision) on whether or not an application to the 'Community Grant' scheme has been successful.'*

When put to the vote, this addition was declared **CARRIED**.



- (b) In respect of the Arts Task and Finish Group recommendations specifically relating to Villages In Action and Museum funding, some concerns were raised that, if supported, the Council would be committing monies without seeing the full future budget picture. In reply, assurances were given that the Task and Finish Group was not recommending the commitment of any specific sums of money in these areas at this time;
- (c) A Member felt it to be important that clubs who were applying to obtain a Sports Grant should be registered as 'Community Amateur Sports Clubs' (CASC). As a compromise, other Members highlighted the extent of the changes being proposed to the Community Fund and the consequent need for a Public Relations (PR) exercise to be undertaken. It was therefore requested that specific reference be made in the PR to those registered as CASC being eligible to apply for funding from the refreshed Community Grant scheme.

It was then:

**RESOLVED**

That the Hub Committee **RECOMMEND** to Council that:

1. the Sports Grant be incorporated into a 'Community Grant' scheme, retaining £2,000 as a revenue line to cover 'training/coaching grants';
2. applications to the Community Grant from projects within Dartmoor National Park, which have already received support from the DNPA Sustainable Communities Fund, be excluded;
3. production be supported of a one page summary of grant schemes which officers and Members can use to increase and sustain the level of promotion to local communities;
4. support be given to ongoing officer engagement with DCC to refocus the TAP scheme criteria on its original purpose and reinstate the process that is outlined at paragraph 7.3 of the presented agenda report;
5. the Arts Task & Finish recommendations (as shown in sections 3.3 and 3.4 of the presented agenda report) regarding revenue funding to communities be approved; and
6. where there is a lack of consensus amongst local Ward Member(s) about whether to support an application, local Ward Members be in receipt of the final decision (and a brief statement outlining the rationale behind this decision) on whether or not an application to the 'Community Grant' scheme has been successful.

**\* O&S 22**

**JOINT LOCAL PLAN UPDATE: STANDING AGENDA ITEM**

In providing his update, the Head of Paid Service advised that the team were currently sifting through the consultation responses received during the Regulation 19 stage. Furthermore, officers were in the process of preparing the final document to go forward for submission and they were aiming to achieve this before the end of July 2017.

Finally, the Head of Paid Service repeated his commitment to keep all Members fully informed of progress that was being made on the Joint Local Plan.

**\* O&S 23      SCRUTINY PROPOSAL FORMS**

**(a) Discretionary Grant Funding Review**

The Committee endorsed the request for a Task and Finish Group to be established to review existing sources of discretionary grant funding.

Having endorsed the request, nominations to serve on the Group were sought and it was agreed that the membership would consist of: Cllrs Cloke, Moyse and Yelland.

**(b) Performance Measure**

The Committee proceeded to consider a request to establish a Joint SH/WD Task and Finish Group to review the current set of Council Performance Indicators.

In agreeing to the request, the Committee appointed Cllrs Cheadle and Leech to serve on the Group. Since officers were ideally aiming for three Members of each Council to be appointed to serve on this Group, it was agreed that Members of the Audit and Hub Committees should be invited to express their interest.

**\*O&S 24      ANNUAL WORK PROGRAMME 2017/18**

The Chairman introduced the latest version of the Work Programme for the next 12 months and advised that the Planning Enforcement Service Review report was currently being drafted by officers. In the event of any Members having specific issues that they wished to be included in this report then they were asked to contact officers accordingly.

**\*O&S 25      MEMBER LEARNING AND DEVELOPMENT OPPORTUNITIES ARISING FROM THIS MEETING**

The Chairman reminded the Committee that she had asked for Overview and Scrutiny related training to be arranged for all Members during the autumn.

(The meeting terminated at 3.55 pm)

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Chairman

## **PUBLIC FORUM PROCEDURES**

### **(a) General**

Members of the public may raise issues and ask questions at meetings of the Overview and Scrutiny Committee. This session will last for up to fifteen minutes at the beginning of each meeting, with any individual speaker having a maximum of three minutes to address the Committee.

### **(b) Notice of Questions**

An issue or question may only be raised by a member of the public provided that they have given written notice (which may be by electronic mail) to Darryl White ([darryl.white@swdevon.gov.uk](mailto:darryl.white@swdevon.gov.uk)) by 5.00pm on the Thursday, prior to the relevant meeting.

### **(c) Scope of Questions**

An issue may be rejected by the Monitoring Officer if:

- it relates to a matter within the functions of the Planning and Licensing Committee;
- it is not about a matter for which the local authority has a responsibility or which affects the district;
- it is offensive, frivolous or defamatory;
- it is substantially the same as a question which has previously been put in the past six months; or
- it requires the disclosure of confidential or exempt information.

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## WEST DEVON BOROUGH COUNCIL: HUB COMMITTEE FORWARD PLAN

This is the provisional forward plan for the six months starting 12 September 2017. It provides an indicative date for matters to be considered by the Hub Committee. Where possible, the Hub Committee will keep to the dates shown in the plan. However, it may be necessary for some items to be rescheduled and other items added.

The forward plan is published to publicise consultation dates and enable dialogue between the Hub Committee and all councillors, the public and other stakeholders. It will also assist the Council's Overview and Scrutiny Committees in planning their contribution to policy development and holding the Hub Committee to account.

The Plan is published in hard copy and on the Council's website ([www.westdevon.gov.uk](http://www.westdevon.gov.uk))

**Members of the public are welcome to attend all meetings of the Hub Committee, which are normally held at Kilworthy Park, Tavistock, and normally start at 2.00 pm.**

**If advance notice has been given, questions can be put to the Hub Committee at the beginning of the meeting.**

The Hub Committee consists of nine Councillors. Each has responsibility for a particular area of the Council's work.

*Cllr Sanders – Leader*

*Cllr Samuel – Deputy Leader*

*Cllr Sampson – Lead Member for Commercial Services*

*Cllr Moody – Lead Member for Health and Wellbeing*

*Cllr Oxborough – Lead Member for Economy*

*Cllr Jory – Lead Member for Environment and Assets*

*Cllr Mott – Lead Member for Customer First*

*Cllr Edmonds - Lead Member for Resources and Performance*

*Cllr Parker – Lead Member for Strategic Planning and Housing*

Further information on the workings of the Hub Committee, including latest information on agenda items, can be obtained by contacting the Member Services Section by e-mail to [member.services@westdevon.gov.uk](mailto:member.services@westdevon.gov.uk)

**All items listed in this Forward Plan will be discussed in public at the relevant meeting, unless otherwise indicated for the reasons shown**

**DECISIONS TO BE TAKEN BY THE HUB COMMITTEE**

Service	Title of Report and summary	Lead Officer and Member	Decision maker	Anticipated date of meeting
Customer First	<b>Request for Grant of a Long Lease *</b>	CB/Cllr Jory	Hub Committee	12 September 2017
Strategy & Commissioning	<b>Housing Position Statement</b>	TJ/Cllr Parker	Council	12 September 2017
Strategy & Commissioning	<b>Productivity Plan Joint Committee</b> – an update on the work being carried out between partners towards the formation of a joint committee who will oversee the delivery of a productivity plan for the area	DA/Cllr Sanders	Council	12 September 2017
	<b>Delivery of Best Value for Money in Front Line Services *</b>	HD/Cllr Sampson	Council	12 September 2017
Customer First	<b>Planning Fees – Update on Position</b>	PW/Cllr Mott	Council	12 September 2017
Strategy & Commissioning	<b>O+S: Draft Terms of Reference and Procedure Rules</b> – to present a report setting out revised terms of reference and procedure rules for the O&S Committee	SJ/Cllr Sanders	Council	12 September 2017
Support Services	<b>Budget update report 2018/9 (if required)</b> – to update Members on any issues affecting the 2018/19 Budget	LB/Cllr Sanders	Council	12 September 2017
Commercial Services	<b>Fleet Update</b> – to update Members on the progress made in the procurement process for the fleet of waste and cleansing vehicles to date	RH/Cllr Sampson	Council	12 September 2017
Commercial Services	<b>Parking Strategy</b>	CA/Cllr Sampson	Council	12 September 2017
SLT	<b>Transformation Programme Closedown</b> – to provide a closedown report of the T18 Transformation Programme	LB/Cllr Sanders	Hub Committee	12 September 2017

Customer First	<b>Street naming and Number Policy</b> – to seek approval of a Joint Street Naming and Number Policy	KH/Cllr Mott	Council	12 September 2017
Support Services	<b>Write Off Report Q2 2017/18</b> – to advise Members of amounts written off and request approval to write off debts in excess of £5,000	LB/Cllr Edmonds	Hub Committee	31 October 2017
SLT	<b>Medium Term Financial Strategy</b> – to bring together all known factors affecting the Council’s financial position and its financial sustainability, to provide a long term financial forecast	LB/Cllr Sanders	Council	31 October 2017
Support Services	<b>Insurance Procurement – Award of Contract</b> – to recommend to Council the award of the Insurance contract	LB/Cllr Edmonds	Hub Committee	31 October 2017
Support Services	<b>Revenue Budget Monitoring to September 2017 (six monthly position)</b> – a revenue budget monitoring report to monitor income and expenditure variations against the approved revenue budget for 2017/18, and to provide a forecast of the year end position	LB/Cllr Edmonds	Hub Committee	28 November 2017
Support Services	<b>Capital Programme Budget Monitoring to September 2017 (six monthly position)</b> – The report advises Members of the progress on individual schemes within the approved capital programme for 2017/18, including an assessment of their financial position	LB/Cllr Edmonds	Hub Committee	28 November 2017
SLT	<b>Draft Revenue Budget Proposals 2018/19</b> – to set out recommendations for the Revenue Budget for 2018/19 (including the council tax level for 2018/19)	LB/Cllr Sanders	Council	28 November 2017
SLT	<b>Draft Capital Budget Proposals 2018/19</b> – to set out recommendations for the Capital Programme budget for 2018/19	LB/Cllr Sanders	Council	28 November 2017

Customer First	<b>Council Tax Reduction Scheme 2018/19</b> – it is an annual requirement for the Council to revisit its existing council tax support scheme	IB/Cllr Moody	Council	28 November 2017
Customer First	<b>Review of Business Rates Relief Policy</b> – to review the discretionary business rate relief policy and to include terms of reference for the rate relief panel	IB/Cllr Oxborough	Council	28 November 2017
Customer First	<b>Direct Lets Scheme</b> – to consider introduction of a Direct Lets Scheme	IB/Cllr Moody	Council	28 November 2017
Customer First	<b>Food Safety Audit</b> - to update Members on the findings of the recent FSA audit of the Council's performance when regulation food safety in businesses in West Devon	IL/Cllr Moody	Hub Committee	28 November 2017
Support Services	<b>ICT Procurement Options</b> – to advise Members of the options in relation to ICT procurement	MW/Cllr Edmonds	Hub Committee	28 November 2017
SLT	<b>Revenue Budget Proposals 2018/19</b> – to set out recommendations for the Revenue Budget for 2018/19 (including the council tax level for 2018/19)	LB/Cllr Sanders	Council	6 February 2018
SLT	<b>Capital Budget Proposals 2018/19</b> – to set out recommendations for the Capital Programme budget for 2018/19	LB/Cllr Sanders	Council	6 February 2018
Support Services	<b>Revenue Budget Monitoring 2017/18 (nine monthly position)</b> – a revenue budget monitoring report to monitor income and expenditure variations against the approved revenue budget for 2017/18, and to provide a forecast of the year end position	LB/Cllr Edmonds	Hub Committee	6 February 2018



Support Services	<b>Capital Programme Budget Monitoring 2017/18 (nine monthly position)</b> – to advise Members of the progress on individual schemes within the approved capital programme, including an assessment of their financial position	LB/Cllr Edmonds	Hub Committee	6 February 2018
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**\* Exempt Item (This means information contained in the report is not available to members of the public)**

SJ – Steve Jordan – Executive Director Strategy and Commissioning and Head of Paid Service

SH – Sophie Hosking – Executive Director Service Delivery and Commercial Development

LB – Lisa Buckle – Finance COP Lead and s151 Officer

HD – Helen Dobby – Group Manager Commercial Services

SM – Steve Mullineaux – Group Manager Support Services

CB – Chris Brook – COP Lead Assets

JS – Jane Savage – Lead Specialist Waste Strategy

IL – Ian Luscombe – COP Lead Environmental Health

CBowen – Catherine Bowen – Monitoring Officer

DA – Darren Arulvasagam – Group Manager Business Development

SLT – Senior Leadership Team

IB – Isabel Blake – COP Lead Housing, Revenues and Benefits

LC – Lesley Crocker – COP Lead Communications

RS – Rob Sekula

RH – Rob Harkness



# Agenda Item 7

Report to: **Overview and Scrutiny Committee**

Date: **5 September 2017**

Title: **PLANNING ENFORCEMENT SERVICE REVIEW**

Portfolio Area: **Customer First**

Wards Affected: **All**

Relevant Scrutiny Committee: **N/A**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken:

Author: **Patrick Whymer** Role: **Community of Practice Lead – Development Management**

Contact: [patrick.whymer@swdevon.gov.uk](mailto:patrick.whymer@swdevon.gov.uk)

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## **RECOMMENDATION**

**That the Overview and Scrutiny Committee support the actions proposed and the ongoing monitoring of the Service by the Community of Practice Lead and the Case Management Manager.**

### **1. EXECUTIVE SUMMARY**

- 1.1** Further to scrutiny of the Planning Enforcement Service taken to Council on 5 April 2016, this report provides an update on the current workload position and revisions to the Service to address the business need.
- 1.2** The report provides performance figures for current open cases, cases closed since March 2016, and data regarding open cases that were received before March 2016.
- 1.3** Revisions to the Service are proposed including the recruitment of an additional permanent enforcement specialist, the provision of a formal mechanism for Members to receive feedback from the service and to review decisions made to seek learning opportunities.

## **2. BACKGROUND**

- 2.1** Pressure to improve the performance in determining planning applications during 2015 meant that specialist and case management resources were not focussed on enforcement and in February 2016 the number of open cases had risen to in excess of 500 open cases in South Hams and over 200 open cases in West Devon.
- 2.2** In February 2016 the Council's agreed that a dedicated, temporary team be set up to deal with the backlog of cases and allow the post T18 model to deal with all new cases. The backlog team of 2.6 temporary enforcement officers and case management support was put in place to deal with all open cases that were received prior to 1 March 2016. When the team started the total cases across the two Councils amounted to 773 (213 in West Devon and 560 in South Hams).
- 2.3** The backlog team was funded for 12 months. The residual cases are now being dealt with as part of the rest of the caseload that was received after 1 March 2016. As set out above the backlog team took on 773 cases and as of the 12 July 2017 there are 153 of these cases still open (64 in West Devon and 89 in South Hams). The table below indicates the progress which has been made.

	South Hams	West Devon
Not Started Yet		
Ongoing	28	22
Planning Application Invited	19	18
Planning Application Submitted	11	13
Remedial Action required	9	
Formal Enforcement Notice Required	12	7
Enforcement Notice Served awaiting Compliance	7	3
Prosecution/Injunction Required	2	1
Breach Resolved awaiting Closure	1	

- 2.4** The backlog team was successful and did clear over 80% of cases that had been received prior to 1<sup>st</sup> March 2016. All cases have been reviewed and progress has been made on the majority of the cases that remain open.
- 2.5** Whilst there are no Government targets for planning enforcement complaints, there are legal timescales for taking planning enforcement action. Depending on the specifics of the case, an enforcement notice must be served within 4 years (operational development) or 10 years (change of use) from the date of the original breach after which the Council is unable to take enforcement action.

- 2.6** Issues have been raised by Members relating to the interaction of the enforcement service with Members and quality control of decisions made.

### **3. PERFORMANCE UPDATE**

- 3.1** With the establishment of the backlog team to progress all cases received before 1<sup>st</sup> March 2016, all work on new cases received from that date across both Councils has been led by a focussed Senior Case Manager.
- 3.2** The enforcement workload across the two Councils since March 2016 has remained high with a total of 851 cases being received (246 in West Devon and 605 in South Hams). This equates to just over 50 cases per month/600 cases per year.
- 3.3** Of the 851 cases that have been received since 1 March last year 399 have been closed and 452 remain open. When the residual cases from the backlog team are added, as of the 12 July there are 605 open enforcement cases. (200 in West Devon and 405 in South Hams).
- 3.4** In any planning enforcement regime it would be expected to have open cases in the region of the number of cases that are received in a 3-4 month period. As such it would be reasonably expected to have in the region of 150-200 open cases across both councils, which is significantly less than the level of open cases that we have.
- 3.5** The overall level of caseload (600 per year) is high compared to neighbouring authorities with Torridge having some 220 cases per year, Torbay 290 cases, Teignbridge 441 cases and Plymouth 380 cases.
- 3.6** It is clear that the volume of cases being received is greater than can be dealt with by a single focussed Senior Case Manager. Across neighbouring Councils the average enforcement case load per Enforcement Officer is 180-200 cases.
- 3.7** In response to the issue and in recognition that the level of work is too much for a single Senior Case Manager, a second full time permanent Senior Case Manager has been employed and started in that role on 18<sup>th</sup> April 2017.

### **4. PROPOSED ACTIONS**

- 4.1** Following a more recent assessment of the service and in response to concerns raised by Members, it is recognised that further

resource is required to provide an effective enforcement service. Following a review of demand across Specialists within Customer First it has been agreed that an existing vacancy will be filled with a L5 Specialist dedicated to Enforcement, primarily across planning, but with transferable skills to other areas as and when necessary. This will provide a resource of three dedicated planning enforcement roles and should be sufficient to deal with the level of cases that are normally received.

- 4.2** In addition to increasing the dedicated resource to enforcement work, recruitment of the Specialist will have numerous benefits including; increasing the high level technical knowledge within the service, reducing the demand on Development Management and providing technical supervision for the Case Management Officers.
- 4.3** However it is accepted that the present caseload is not simply dealing with recently received cases but includes a significant number of older cases as well. Once the enforcement specialist is in post a further review will be required to establish what additional actions are required to ensure that an efficient and effective service is provided.
- 4.4** A Local Enforcement Plan is to be drafted for consultation with Members by the end of this year. The plan will set out service standards, including re-visiting the prioritisation of work, performance indicators and targets and monitoring. The prioritisation of work will indicate three categories; High, Medium and Low the details of which will be set out in the Enforcement Plan.
- 4.5** Service level targets for response times will be initiated and monitored and will be set out in the Local Enforcement Plan. The Targets could include:  
Register all complaints with 5 working days and provide an acknowledgement and reference number with a point of contact.  
Respond to 90% of cases within the following target response times:  
High Priority – Investigation to commence within one day.  
Medium Priority – Investigation to commence within one month.  
Low Priority – Investigation to commence within three months.
- 4.6** There should be better interaction between the team and Members, particularly regarding updates on open cases. At a time when more cases are received than we are currently closing it would be too time consuming to provide full written status updates on all open cases. We are currently investigating on whether we can make changes to the IT systems to provide members with more information on the status of enforcement cases. However if any Member would like a verbal update of the open cases and an opportunity to discuss cases in their Ward this will be arranged if the CoP lead or Enforcement Team are contacted.

**4.7** Members have raised some concerns regarding the decisions made on a small number of Enforcement Cases. The provision of more dialogue between Members and the Enforcement Team as set out in 4.6 above will help to explain decisions made. However, following any enforcement decisions made, if a Ward Member is concerned this can be brought to the attention of the CoP Lead and whilst the decision will not be altered it can be considered by one of the Senior Development Management Specialists to see if there are any learning opportunities arising from the decision.

## **5. CONSIDERATION OF RISK**

**5.1** The absence of an effective and efficient Enforcement Service has a number of risks. If the Council fails to take appropriate enforcement action within a specified timescale, the result is that the breach becomes unenforceable and undermines the Planning System.

**5.2** If the Council fails to take action on planning enforcement matters there is a significant risk to the reputation of the local planning authority, loss of confidence in the general public and a perception that unauthorised works can happen in the District with no action being taken. Some breaches of planning regulations are prosecutable offence/criminal acts and the LPA should take action against these offences

## **6. IMPLICATIONS**

<b>Implications</b>	<b>Relevant to proposals Y/N</b>	<b>Details and proposed measures to address</b>
Legal/Governance	Y	Paragraph 207 of the National Planning Policy Framework states "effective enforcement is an important as a means of maintain public confidence in the planning system."
Financial	N	There are no direct financial implications of the contents of the report.
Risk	Y	As outlined in section 5.0 of the report
<b>Comprehensive Impact Assessment Implications</b>		
Equality and Diversity	N	
Safeguarding	N	
Community Safety, Crime and Disorder	Y	Planning enforcement officers work closely the police and other bodies
Health, Safety and Wellbeing	Y	Planning enforcement can have a high impact on individuals and communities
Other implications	N	

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Report to: **Overview and Scrutiny**  
Date: **5 September 2017**  
Title: **Sickness Absence Monitoring**  
Portfolio Area: **Support Services**

Wards Affected: **All**

Relevant Scrutiny Committee:

Urgent Decision: **N** Approval and clearance obtained: **N/A**

Author: **Andy Wilson** Role: **Lead HR Specialist**

Contact: **01803 861154: andy.wilson@swdevon.gov.uk**

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**Recommendations:**

**That the Council continues to proactively manage and monitor short and long term absence, and that the HR Lead Specialist continues to report to Senior Leadership Team each month.**

**1. Executive summary**

- 1.1 The report sets out the level of sickness absence amongst Council employees and the measures in place to manage and monitor short and long term absence.
- 1.2 The report provides an analysis of sickness absence during the first quarter of 2017/18 and draws a comparison with absence levels in the same quarter over the past four years.
- 1.3 The main finding of the analysis is that short term absence rates remain constant but the increase in overall absence rates is attributable to an increase in long term absence.
- 1.4 The report also provides a summary of the measures taken by the Council to manage short and long term absence.

## **2. Background**

- 2.1 The Labour Force Survey 2016 provides the most recent data and analysis of absence rates in the wider economy. The Survey estimated that 137.3 million working days were lost due to sickness or injury in the UK in 2016. This is equivalent to 4.3 days per worker.
- 2.2 Minor illnesses (such as coughs and colds) were the most common reason for sickness absence in 2016, accounting for approximately 24.8% of the total days lost. This was followed by musculoskeletal problems (including back pain, neck and upper limb problems) at 22.4%. After 'other' conditions, mental health issues (including stress, depression, anxiety, and serious conditions) were the next most common reason for sickness absence at 11.5%.
- 2.3 In Local Government, an average of 2.7% of all working hours was lost to sickness absence in 2016. However, it should be noted that comparisons drawn from national or sector surveys or from other organisations can be misleading as they often calculate absence rates differently. It should also be noted that the figures used in this report are the latest figures and may be different from previously reported as they will include all absences that occurred in the period, even where the absence was reported after the quarterly statistics are compiled.

## **3. Overall absenteeism at West Devon**

- 3.1 The total number of days lost to absence during the quarter April to June 2017 was 125. This equates to 2.3% of total working days and is the equivalent of 1.48 working days per employee in quarter 1, or 5.92 days per annum days if projected over 12 months.

## **4. Comparison with previous years**

- 4.1 The table below shows the total number, and average number, per employee, of days lost to absence in the corresponding first quarter of the last four years. It also identifies the total number of days lost to short and long term absence.
- 4.2 For the purposes of recording and reporting staff absence, we use the standard distinction that an absence is considered to be long term if it exceeds 20 working days.

4.3 The table below shows the incidences of short and long absence in the first quarter in each of the last years.

	14/15	15/16	16/17	17/18
Total days lost in Quarter 1	166.5	173	100.5	125
% of total days lost in Q1	2.4%	1.53%	1.88%	2.3%
Average days lost per employee in Q1	1.58	1.84	1.22	1.48
Total days lost to short term absence in Q1	135.5	30	35	34
Average days lost per employee to short term absence in Q1	1.29	0.32	0.42	0.4
Total days lost to long term absence in Q1	31	143	65	91
Average days lost per employee to long term absence in Q1	0.29	1.52	0.79	1.08
Ratio of days lost: short term to long term	4.8 : 1	1 : 4.8	1 : 1.8	1 : 2.7

4.4 The figures show a consistent pattern of absence in the three years to June 2016. The figures for the current year show an increase in both short term and long term absence, with an increase in the percentage of overall days lost to 2.3%.

## 5. Absence by reason

5.1 The table below shows the number of days lost to absence in the first quarter of the last 4 years by sickness category. The categories used are the standard ones commonly used in the wider economy.

Reason for absence	2014/15	2015/16	2016/17	2017/18
Back & Neck	34.5	2	0	0
Musculo-Skeletal	0	35	0	4
Stress & Depression	10	68	15	96
Infections	50	1	0	5
Neurological	40	0	0	2
Genito-urinary	0	0	0	0
Pregnancy related	0	0	0	0

Stomach, liver, kidney digestion	3	1	74	0
Heart, blood pressure	0	0	0	0
Chest respiratory	22	3	3	14
Eyes, ear, nose, dental	0	2.5	4	3
Others	7	60.5	4.5	1
<b>Total</b>	<b>166.5</b>	<b>173</b>	<b>100.5</b>	<b>125</b>

## **6. Analysis of absence data**

- 6.1 The overall increase in absence in the first quarter of 2017/18 compared to the same period in 2016/17 is attributable to long term absence.
- 6.2 The number of days lost to short term absence remained static, whilst the number of days lost to long term absence increased by 26. This is also reflected in the small increase in the ratio between short term and long term absence, with 2.7 days lost to long term absence for every day lost to short term absence in 2017/18, up from 1.8 days in the corresponding quarter in 2016/17.
- 6.2 The increase in absence is largely attributable to two cases of long term absence due to stress and depression. This is balanced by a reduction in days lost to stomach, liver, kidney and digestion complaints following the return to work of one individual following a period of long term absence.
- 6.3 Of the 96 days lost to stress and depression, two employees accounted for 91 days as part of long term absence. Of those, one member of staff has successfully returned to work after receiving specialised counselling for post-traumatic stress syndrome that was commissioned and paid for by the Council. The remaining employee remains absent from work and the Council is working with its occupational health provider to try and facilitate a return to work.
- 6.6 An analysis of the data therefore reveals that the increase in overall absence is largely due to the long term absence of 2 employees, whilst there is no increase in the incidence of short term absence.

## **7. Short term absenteeism**

- 7.1 During the quarter April to June 2017, the total number of days lost due to short term absence was 34 days.
- 7.2 The average period of short term absence per employee for the quarter was 0.4 days.

- 7.3 Over a 12 month period, this gives an annual average number of days lost to short term absence of 1.6 days per employee. This compares with 1.68 days lost in 2016/17, 1.28 days lost in 2015/16 and 5.16 days lost in 2014/15. There is no significant factor that contributed to the spike in short term absence in 2014/15.
- 7.4 The data reveals that short term absence is consistent since the spike in 2014/15.

## **8. Managing short term absenteeism**

- 8.1 The Council's approach to managing short term absenteeism is captured in the Managing Attendance Policy. The policy includes a number of measures designed to help understand the reasons for absence and to enable relevant intervention to prevent further occurrences of absence.
- 8.2 An employee who is unfit for work must contact their line manager in person. The line manager should seek to find out the reason for the absence, the likely duration, and whether there are any work commitments that need managing during the absence.
- 8.3 If the absence persists, the employee should keep in contact with their manager. If the absence goes beyond 7 days, the employee is required to attend their GP and send in a Fit Note.
- 8.4 On return to work, the line manager will conduct a return to work interview. This is a critical stage in managing absence as it provides the opportunity for the line manager to gain an understanding of the nature of the absence, identify any emerging patterns of absence, and, where appropriate, initiate close monitoring of future attendance.
- 8.5 The line manager records the absence in W2 and keeps the record updated. It is possible to track all absences through W2 and it allows oversight on whether the measures discussed above are being carried out.
- 8.6 Line managers receive monthly reports from HR showing all absences within their team. The report also shows the 'Bradford Factor' for each individual. The Bradford Factor is a widely accepted tool that calculates a score based on the number of absences and the number of days absent. It is therefore an effective tool for identifying individuals who have regular short periods of absence.
- 8.7 Where the Bradford Factor score is above the threshold set by the Council, the line manager is prompted to consider the reasons for the absences and to take appropriate action where necessary.
- 8.8 Where attendance is unsatisfactory, an individual can be placed under a period of close monitoring during which their attendance is kept under review. Where there is no improvement in attendance,

the individual will be placed under a further period of close monitoring and, if attendance remains at an unacceptable level, the Council will consider dismissal on the grounds of capability.

- 8.9 A proposal to shorten the periods during which attendance is monitored in the Managing Attendance Policy is currently subject to consultation with the Trade Unions.

## **9. Long Term Absenteeism**

- 9.1 During the quarter April to June 2017, the total number of days lost due to long term absence was 91 days. The average period of long term absence per employee for the quarter was 1.08 days.
- 9.2 Over a 12 month period, this gives an annual average number of days lost to long term absence of 4.32 days per employee.
- 9.3 The figures for long term absence are higher than for short term absence, due in part to the impact the two long term absences have on reported absence in a small organisation.

## **10. Managing Long Term Absenteeism**

- 10.1 Long term absence is closely managed by line managers with the support of HR Business Partners.
- 10.2 Where appropriate, referrals are made to Occupational Health to understand the nature of the condition, the likely duration of the absence, and any measures we can take to facilitate an early return to work. Since April 2016, we have engaged a new occupational health provider, IMASS, and they provide a robust and efficient service.
- 10.3 Where possible, reasonable adjustments are agreed to facilitate an early return to work.
- 10.4 Where there is no prospect of a return to work, the Council can dismiss the employee on the grounds of capability. However, it is important that the Council acts reasonably if it moves to dismiss and may be liable for a claim of unfair dismissal and/or discrimination on the grounds of disability.

## **11. Ill-health retirement**

- 11.1 Where an employee may not be able to return to work due to ill health we consider whether they are eligible for ill-health early retirement.
- 11.2 The Council takes a considered opinion, based on the eligibility criteria in the Local Government Pension Scheme (LGPS) and informed by an Independent Medical Practitioner's opinion.

11.3 Where we are able to support ill health early retirement, an employee who is a member of the LGPS will have their pension benefits released early. The level of benefit is dependent on the nature of the illness and the prospects of a return to paid employment in the future. For the most severe cases, the pension benefits are calculated based on an employee's normal retirement age. The Council does not incur a pension strain cost in such circumstances.

## 12. Staff Survey

12.1 The survey had an excellent response with 85% of the non-manual workforce completing the questionnaire. Such a good return means that we have a really credible set of results to show how the organisation is doing. As far as was possible the questions replicated the questions which we asked staff 12 months ago so we have been able to show where there has been an improved position. All questions bar one showed an improvement, some by 20 percentage points.

12.2 The questionnaire also covered some new areas – for example wellbeing and the role of the extended leadership team – both in response to the last survey and as we have moved to a period of greater stability.

12.3 The survey looked at the following key areas:

- Change
- Wellbeing/welfare
- My Job
- My role
- Leadership

A sample of the results compared with the 2016 survey are shown in the table 12.4. A full copy of the survey results and comparison (where applicable) with the 2016 survey is detailed in Appendix A.

12.4 Table showing a sample of the survey responses

	2016	2017
I believe I am coping well with all of the change that is happening at work.	Positive 72% Negative 28%	Positive 81% Negative 19%
It feels better working here now than it did 12 months ago.		Positive 62% Negative 38%

I am comfortable with the level of pressure placed upon me at work.	Positive 53% Negative 47%	Positive 56% Negative 44%
I think morale is good with the people I work with.	Positive 37% Negative 63%	Positive 48% Negative 52%
I enjoy my job.	Positive 76% Negative 24%	Positive 84% Negative 16%
I feel supported to do my job.	Positive 57% Negative 43%	Positive 73% Negative 27%
There are enough people to get the job done.	Positive 24% Negative 76%	Positive 21% Negative 79%
I feel I am able to speak up and challenge the way things are done at the Council.	Positive 63% Negative 37%	Positive 75% Negative 25%
I would recommend working here to a friend.	Positive 50% Negative 50%	Positive 68% Negative 32%
I believe that actions are taken as a result of staff surveys in this organisation.	Positive 49% Negative 51%	Positive 72% Negative 28%

### 13. Proposed Way Forward

#### 13.1 Health and Wellbeing

13.1.1 Following concerns raised in the recent staff surveys, a Health and Well-Being Strategy was developed and adopted in summer 2017.

13.1.2 The strategy identifies both what the Council is currently doing to support employee well-being and also initiatives that can be introduced to provide further support. A work plan has been developed and is driven by the Health and Well Being Community of Practice.

13.1.3 To date, we have put on training courses on issues such as Mindfulness and Managing Stress, and the Council will continue to offer similar opportunities.

13.1.4 Other initiatives included the offer of a 'health check' in the office carried out by our Leisure partners, regular 'walk and talk' sessions designed to encourage people to exercise and socialise during lunchtimes, and social activities organised by the Staff Forum.

13.1.5 Future initiatives are planned to encourage greater participation in sporting and leisure activities, and to raise awareness of issues such as mental health and improved diet.

13.1.6 The strategy is ambitious and flexible to respond to demand and staff suggestions. A copy of the strategy is attached for information as Appendix B.

#### 13.2 Frontline Managers Development Programme



- 13.2.1 The Chartered Institute of Personnel and Development (CIPD) recognise that a significant component in the well-being of employees is how effectively they are managed.
- 13.2.2 The Health and Well-Being Strategy acknowledges this and a new development programme is being launched in September 2017 to provide all front line managers across the Council (team leaders, supervisors, and others with direct day to day line management responsibilities) with the tools to manage people more effectively.
- 13.2.3 A key part of the programme will be to equip managers to manage attendance fairly and robustly, and to identify and address stress at work.
- 13.3 Stress at work
- 13.3.1 The Council recognises the potential for work to impact on people's health, particularly in a time of considerable change.
- 13.3.2 During the T18 Transformation programme, the Council provided workshops for staff to help them manage change and to develop coping mechanisms.
- 13.3.3 Employees also have access to a confidential counselling service through our occupational health provider and, where appropriate, access to bespoke counselling services, such as a specialist provider of support for Post-Traumatic Stress Syndrome.

## 14. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The Council has a 'duty of care' to employees which means they should take all steps which are reasonable possible to ensure their health, safety and wellbeing.
Financial	Y	In some circumstances, the work carried out by an employee absent through sickness will need to be covered by a temporary resource and the financial cost would potentially increase if the level of sickness absence significantly increased.
Risk	Y	Customer satisfaction and performance may be affected by staff absence and the risk will increase if sickness absence levels increased significantly.
Comprehensive Impact Assessment Implications		

Equality and Diversity	Y	Consideration is given to managing the absence of an employee with a disability in accordance with the Equality Act and best practice guidance.
Safeguarding	N	There are no Safeguarding implications.
Community Safety, Crime and Disorder	N	There are no Community Safety, Crime and Disorder implications.
Health, Safety and Wellbeing	Y	The Health, Safety and Wellbeing implications for staff are addressed in section 13 of the report
Other implications	N	

### **Supporting Information**

#### **Appendix A:**

2017 Staff Survey results

#### **Appendix B:**

Health and Well Being Strategy

# Staff Survey

## THE RESULTS

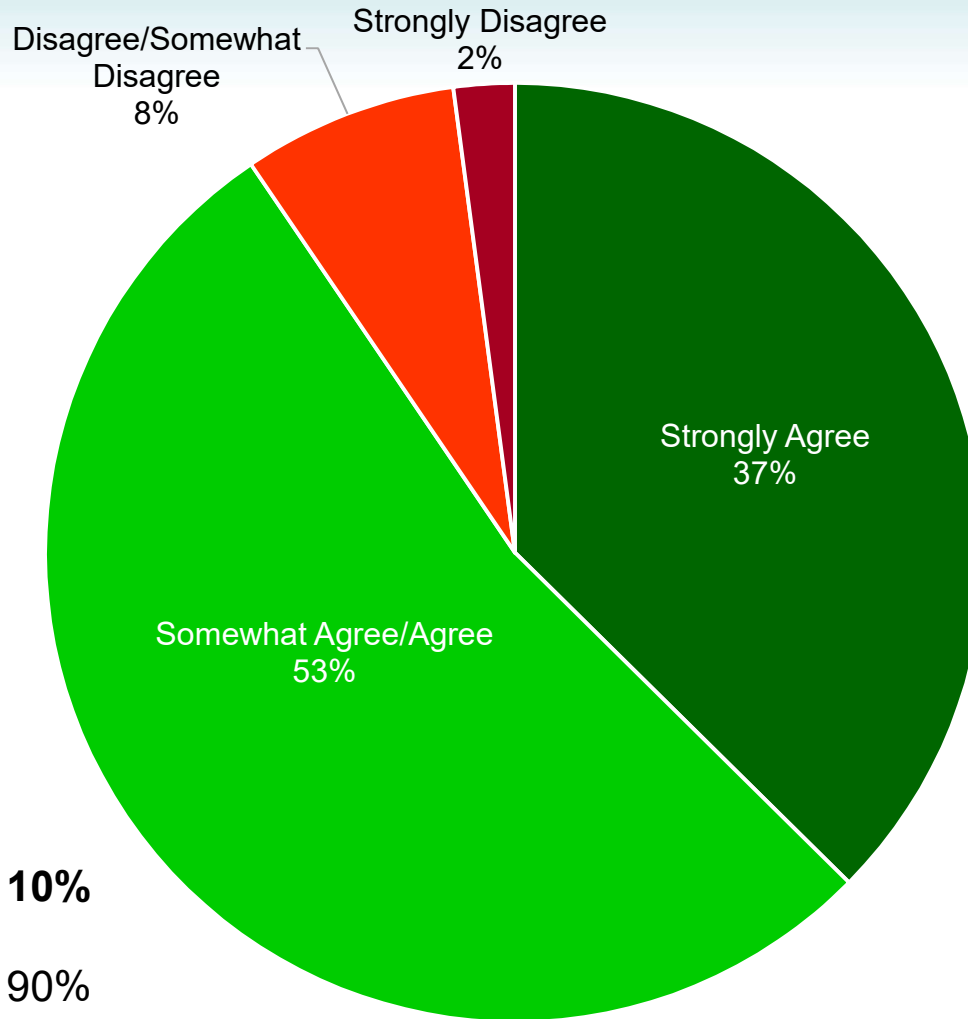


# 245 Responses across the organisation

**85%** Response Rate

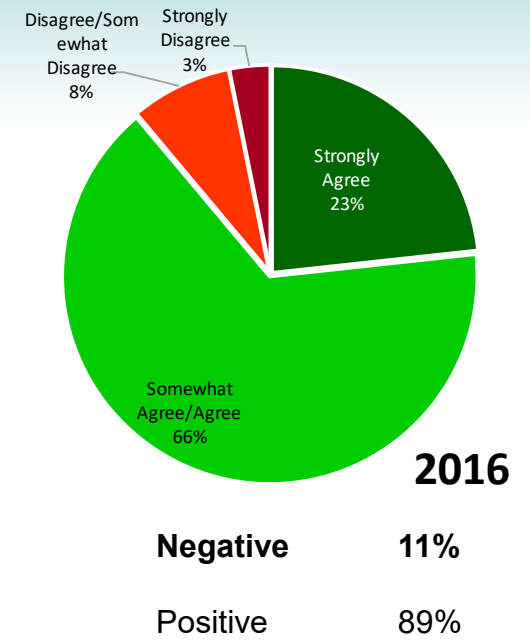


# Q1. I understand why we are going through so much change at work.

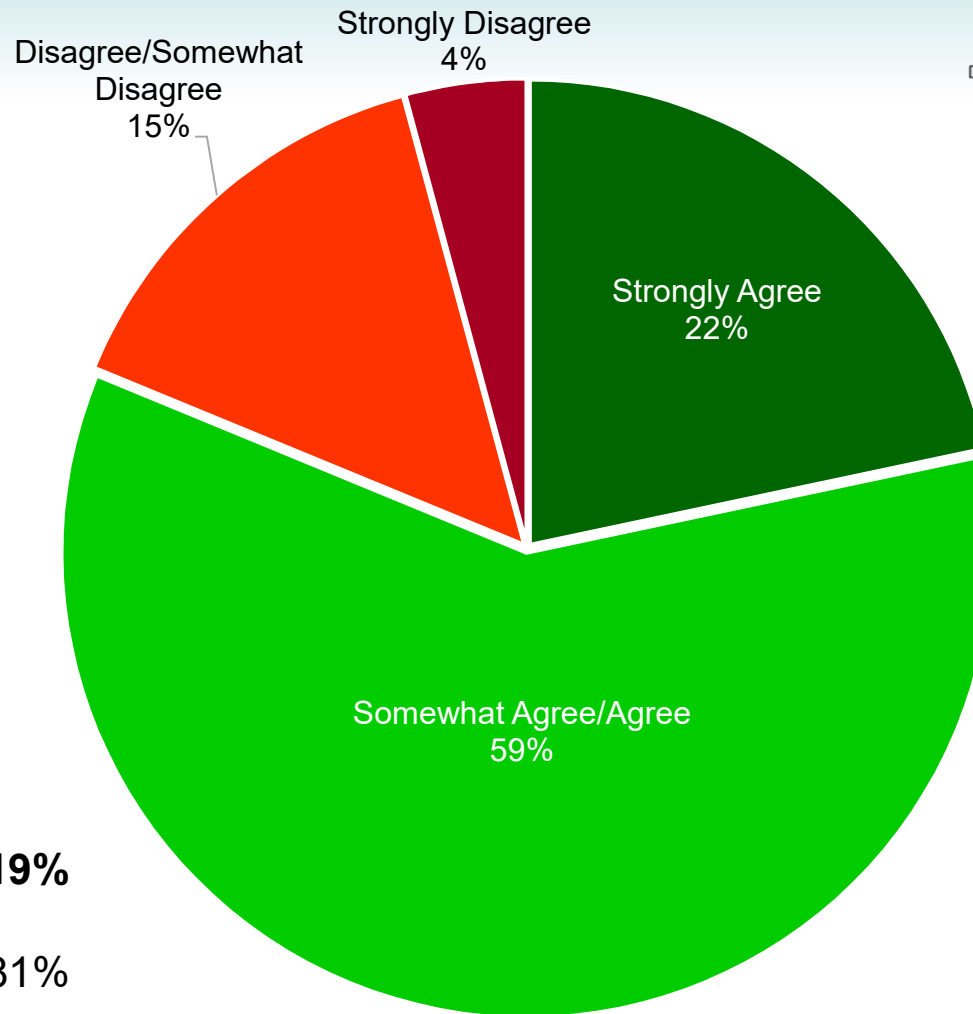


**Negative 10%**

**Positive 90%**

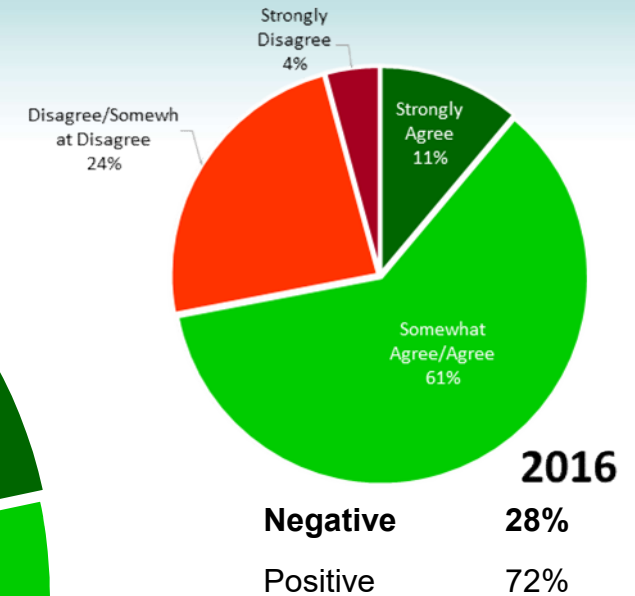


## Q2. I believe I am coping well with all of the change that is happening at work.

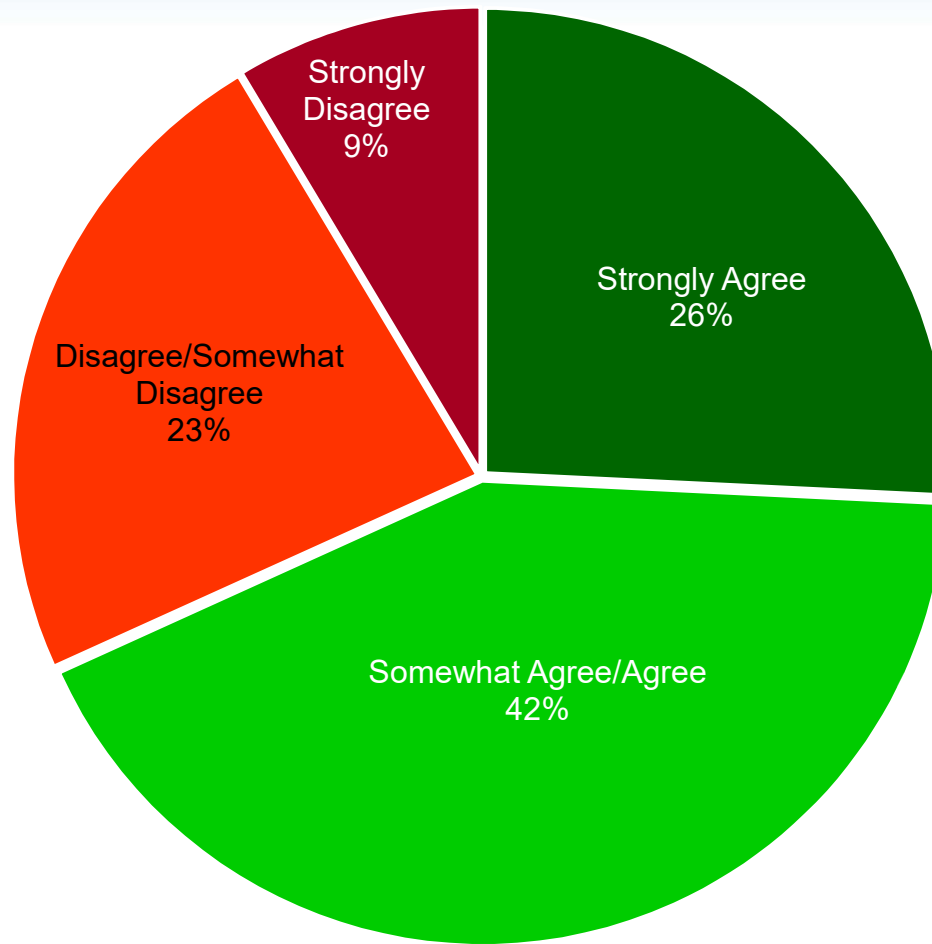


**Negative 19%**

**Positive 81%**

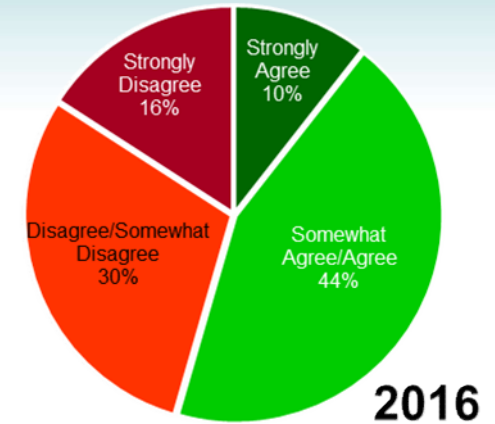


### Q3. The new agile ways of working are helping me to work more efficiently.



**Negative 32%**

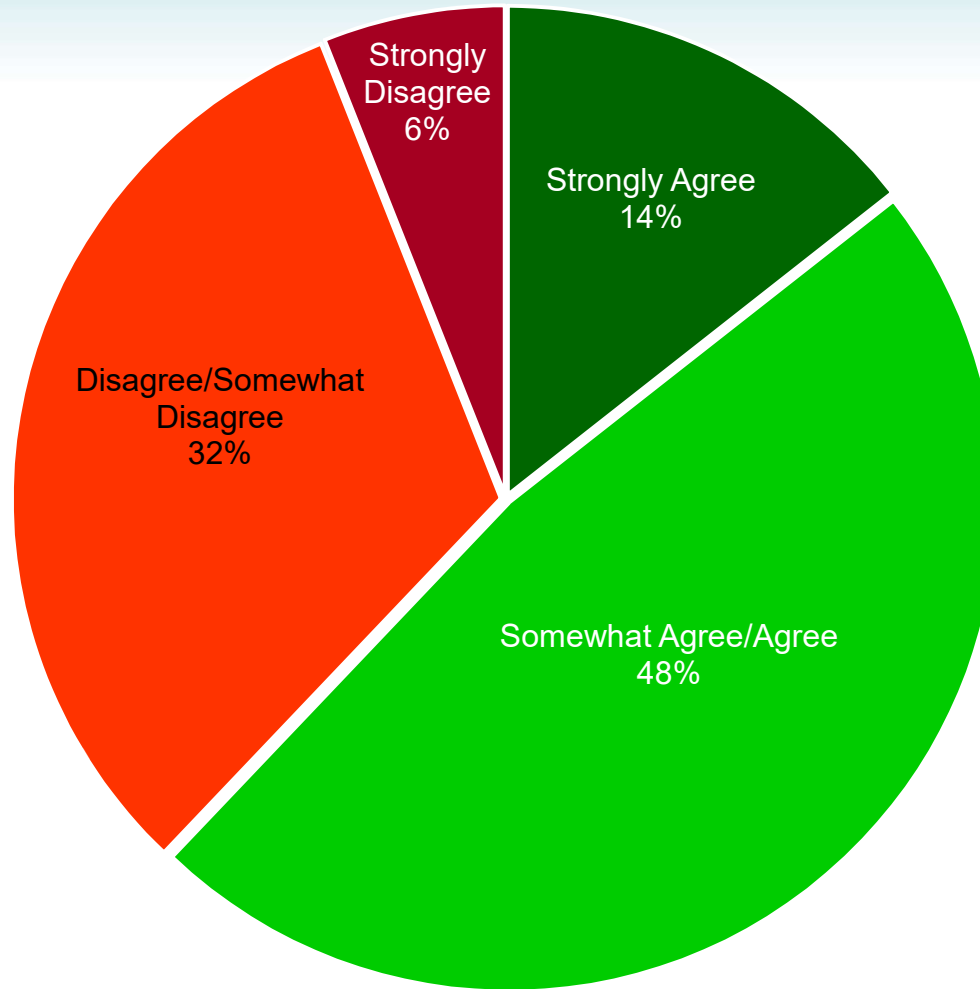
**Positive 68%**



**Negative 46%**

**Positive 54%**

## Q4. It feels better working here now than it did 12 months ago.



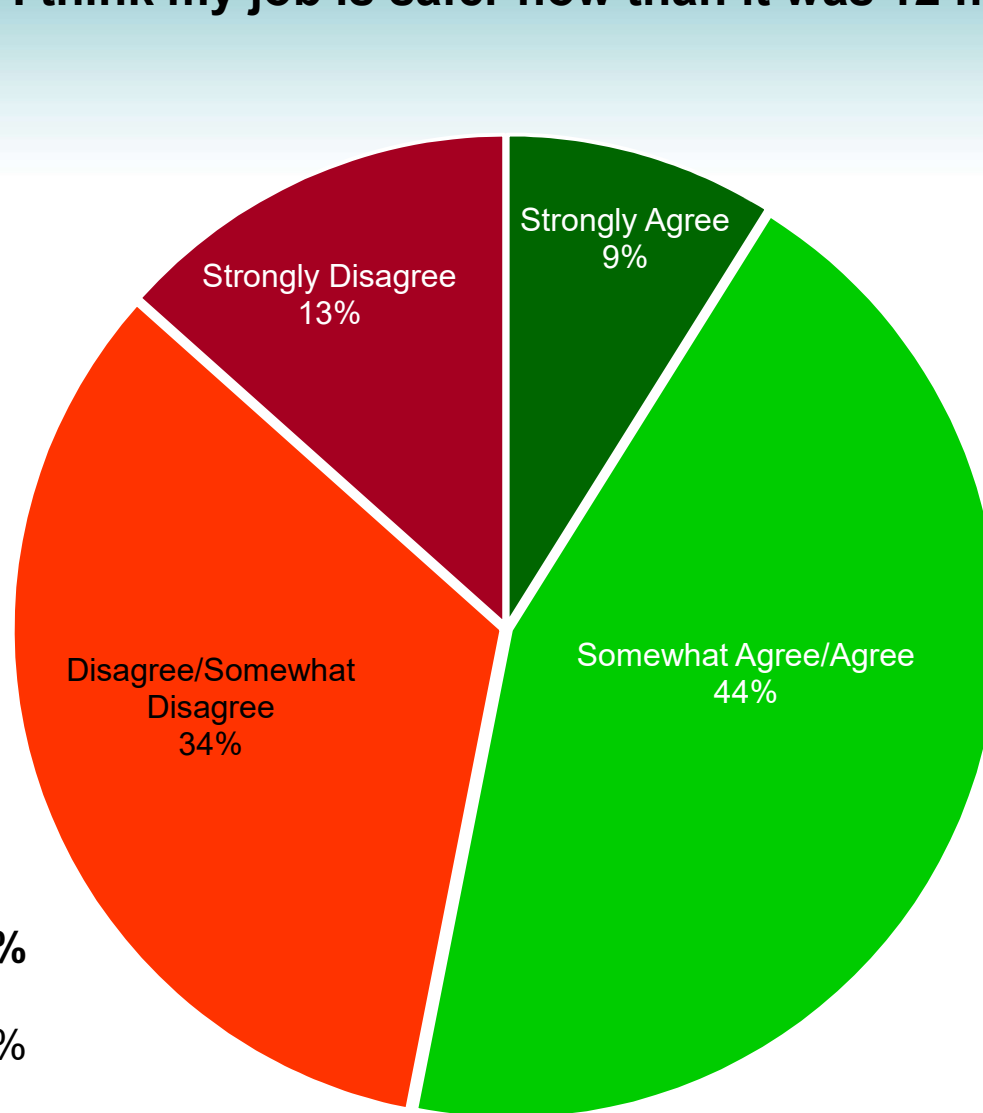
**Negative** 38%

**Positive** 62%

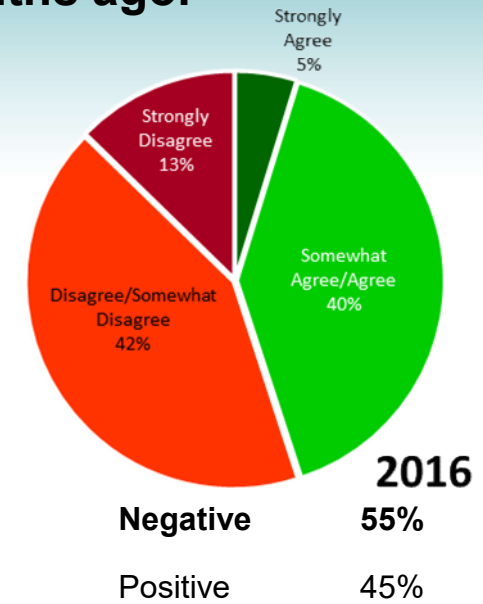




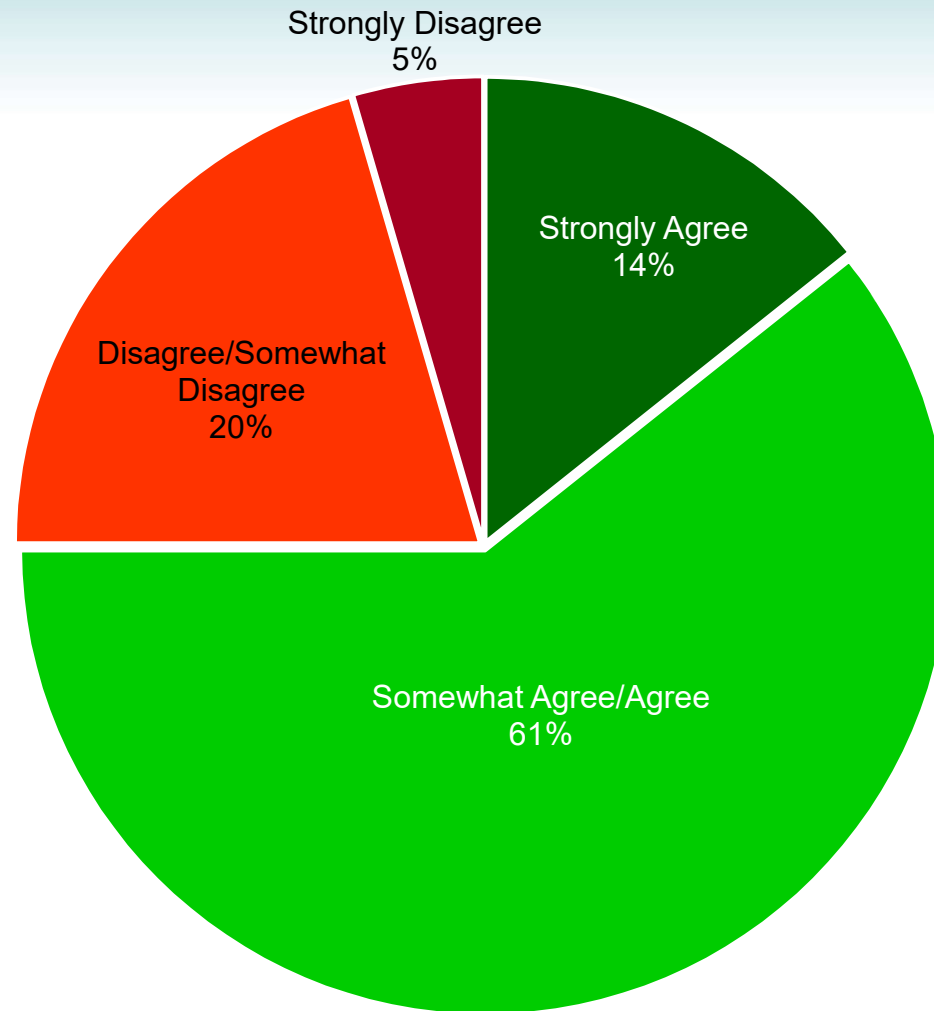
# Q5. I think my job is safer now than it was 12 months ago.



**Negative** 47%  
**Positive** 53%



## Q6. I am happy with the amount of information I receive about changes happening in the organisation.

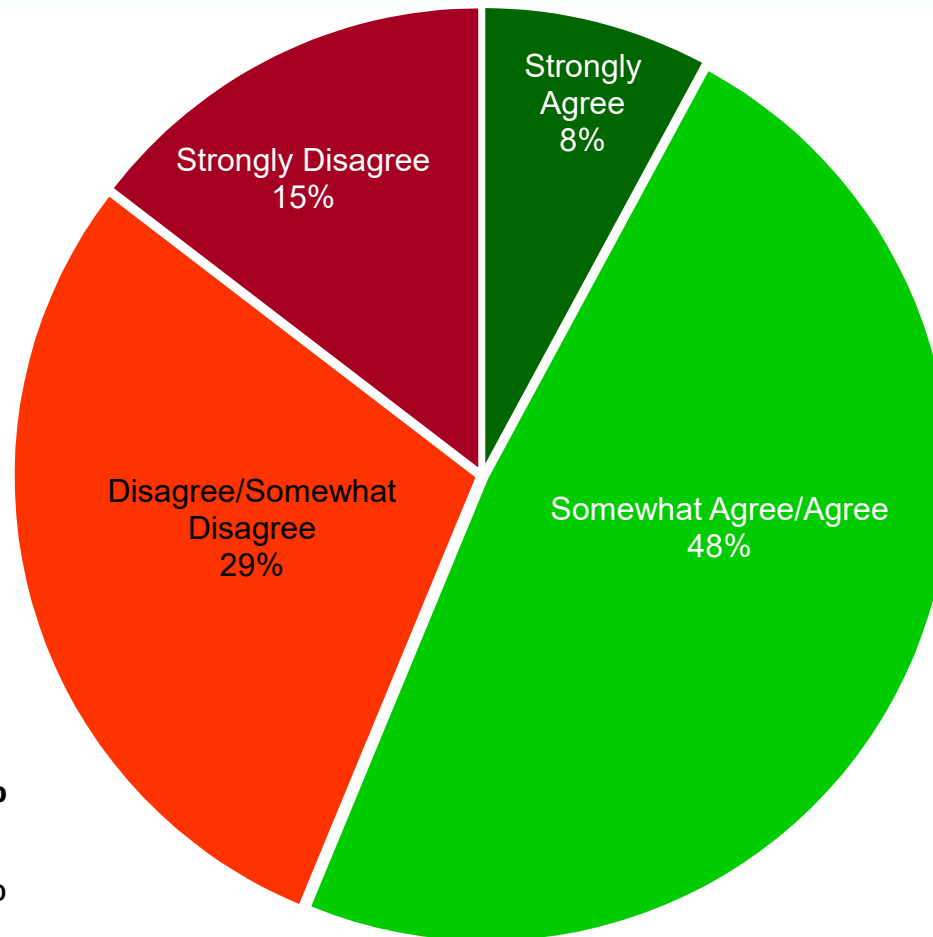


**Negative**      **25%**

**Positive**      **75%**

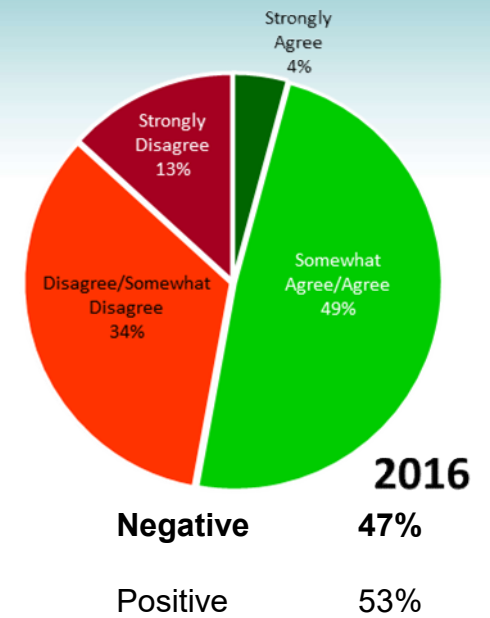


## Q7. I am comfortable with the level of pressure placed upon me at work.

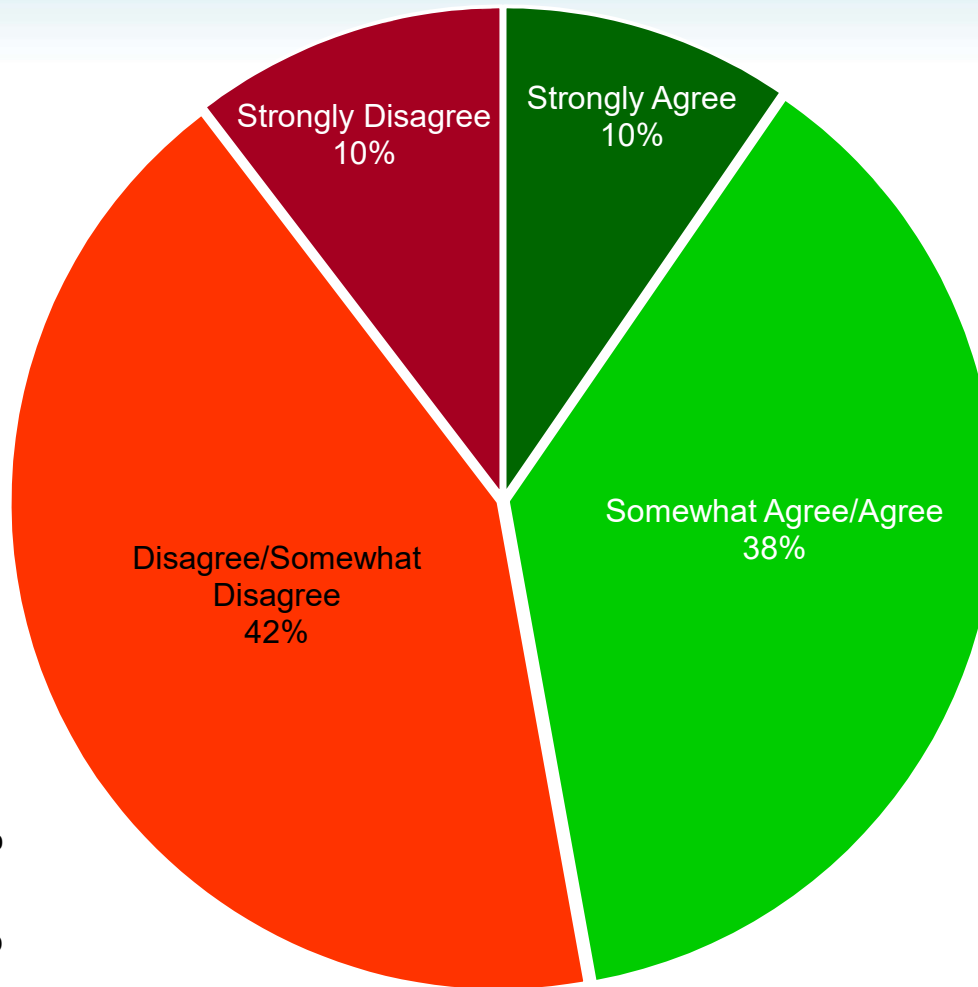


**Negative 44%**

**Positive 56%**

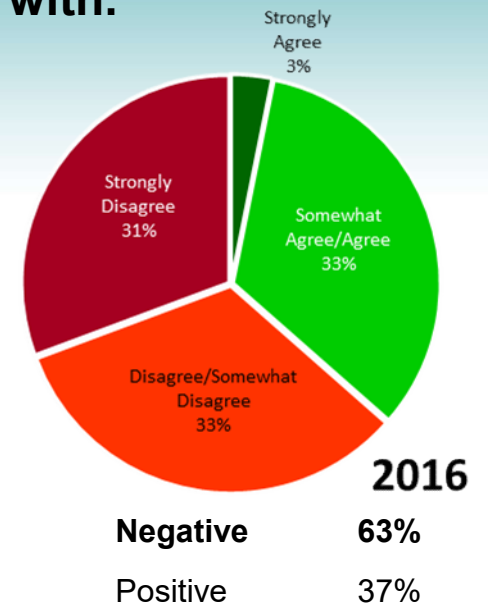


## Q8. I think morale is good with the people I work with.

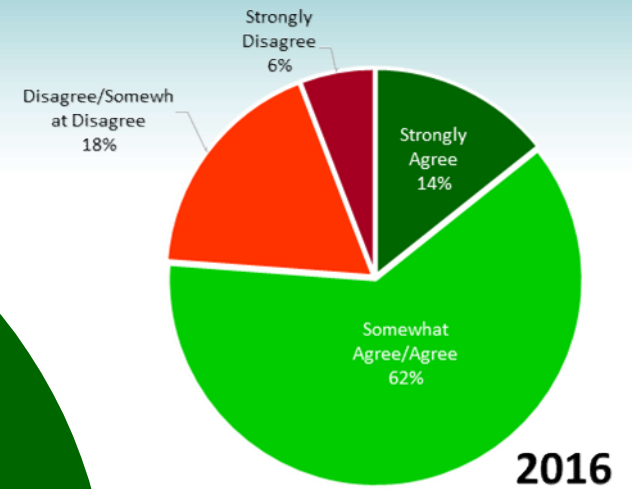
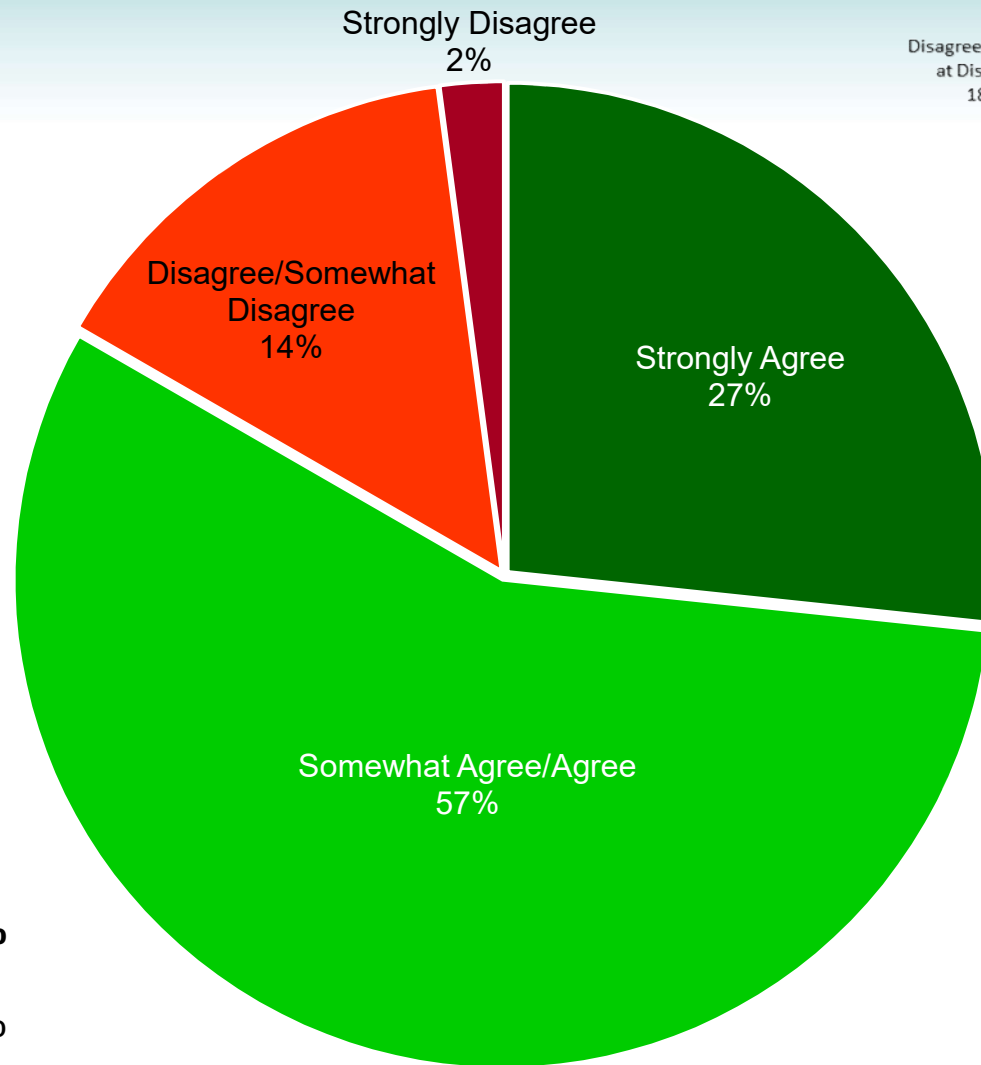


**Negative 52%**

**Positive 48%**



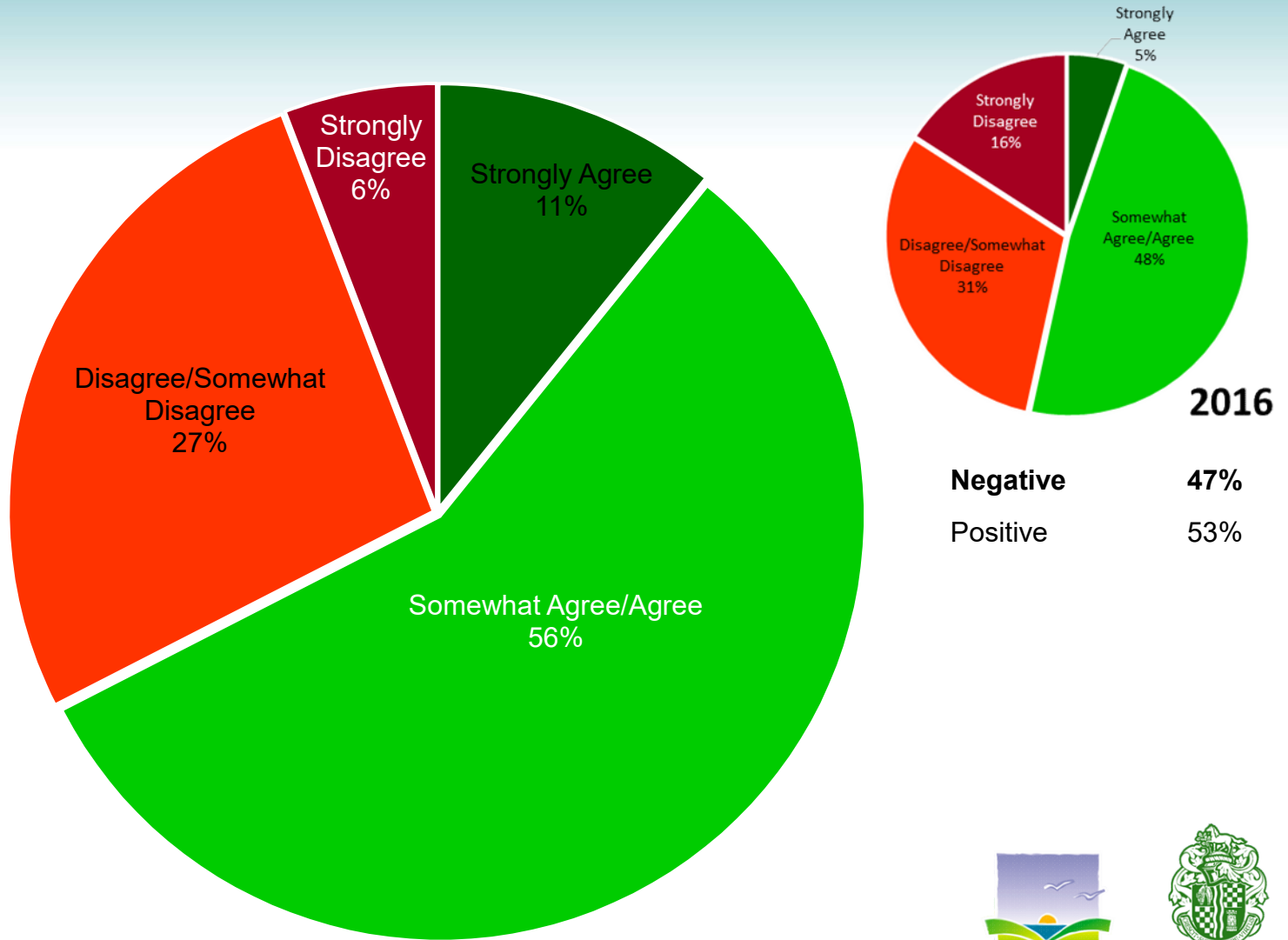
# Q9. I enjoy my job.



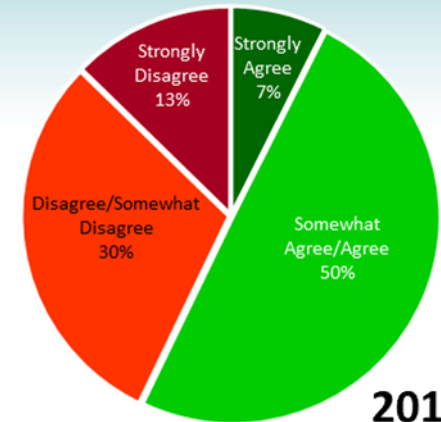
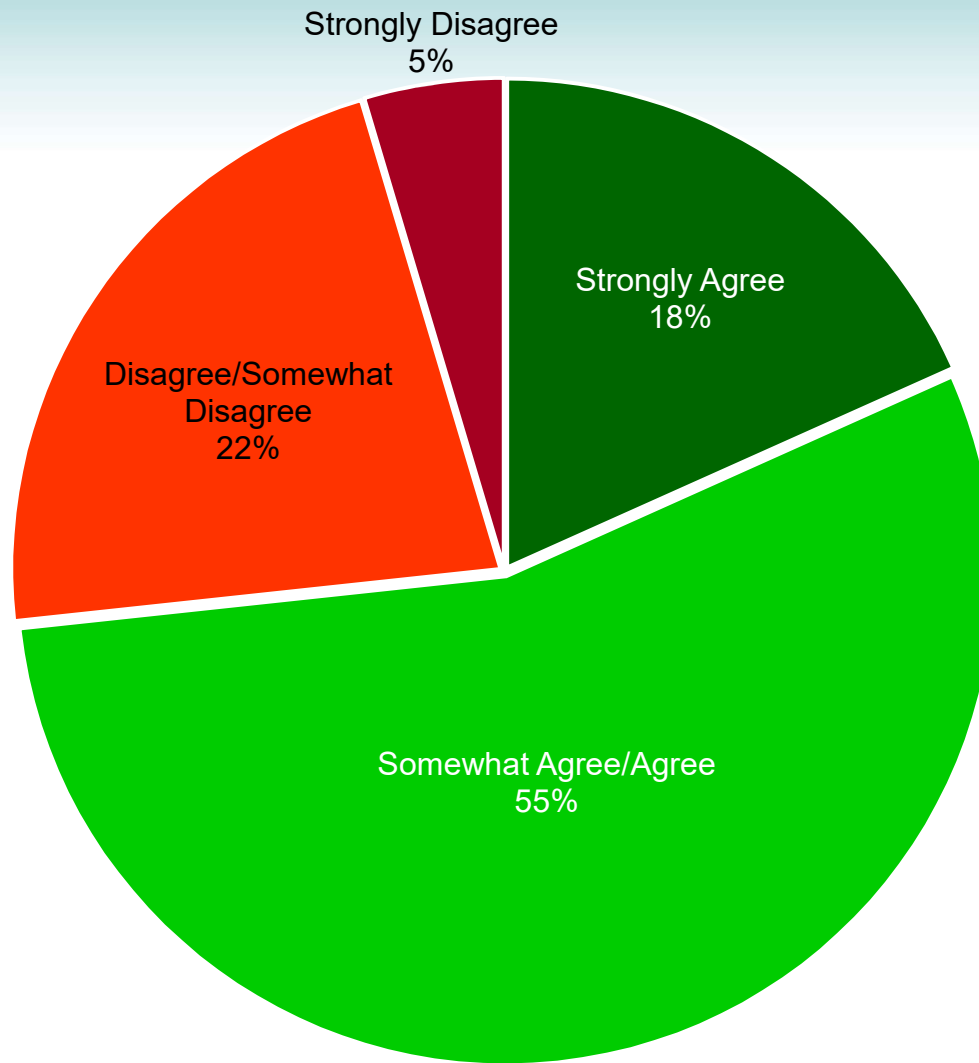
**2016**  
**Negative** 24%  
**Positive** 76%

**Negative** 16%  
**Positive** 84%

# Q10. I get regular feedback about my work.



# Q11. I feel supported to do my job.



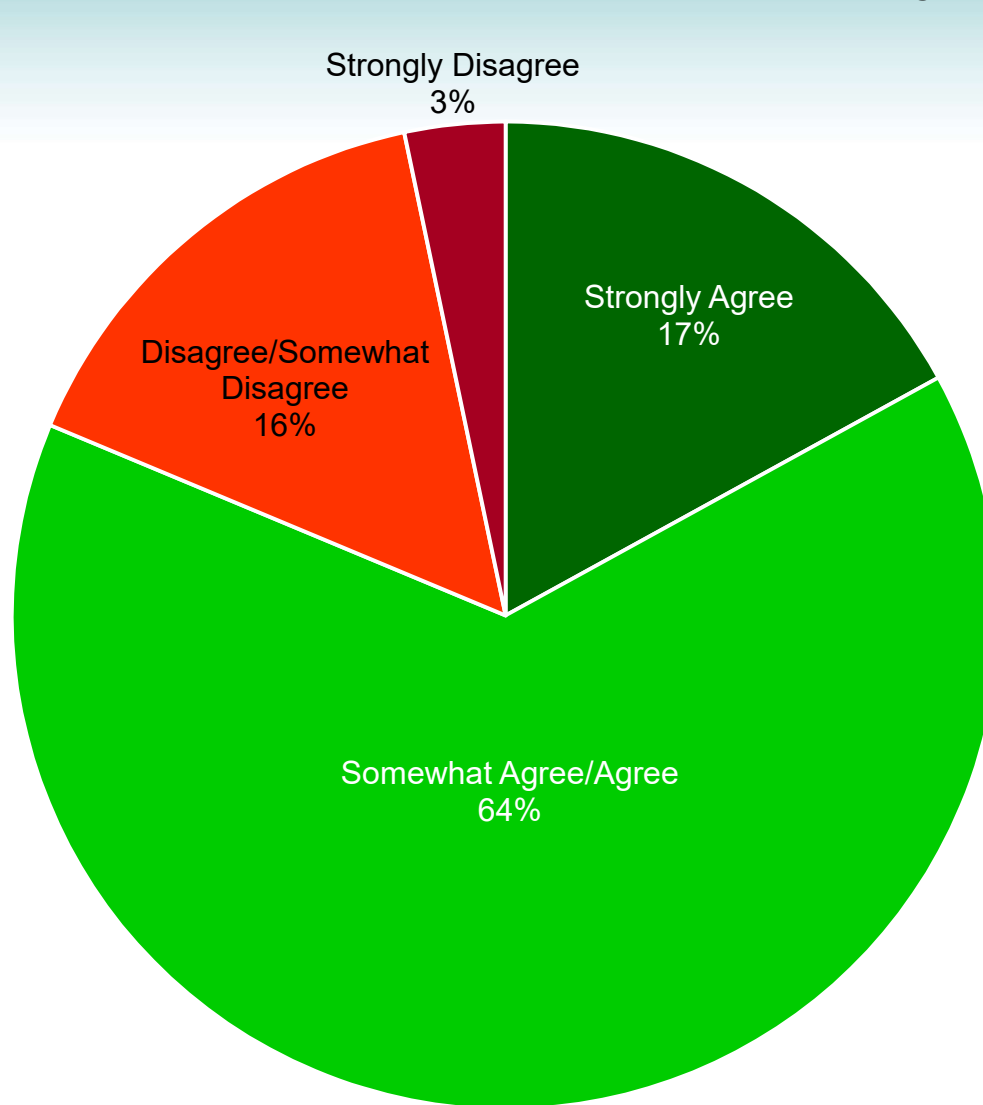
**2016**

**Negative 43%**  
**Positive 57%**

**Negative 27%**

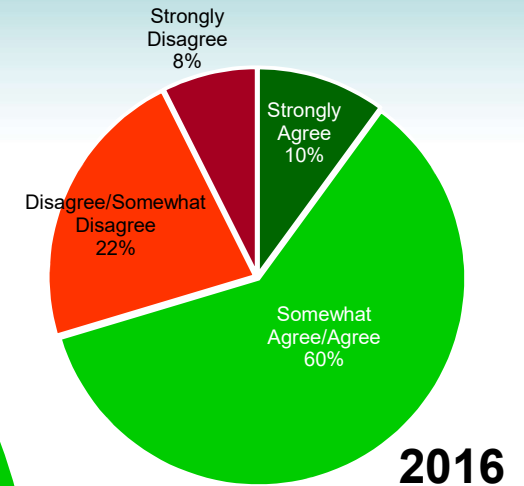
**Positive 73%**

## Q12. I am treated with respect and fairness by the Council.



**Negative** 19%

**Positive** 81%



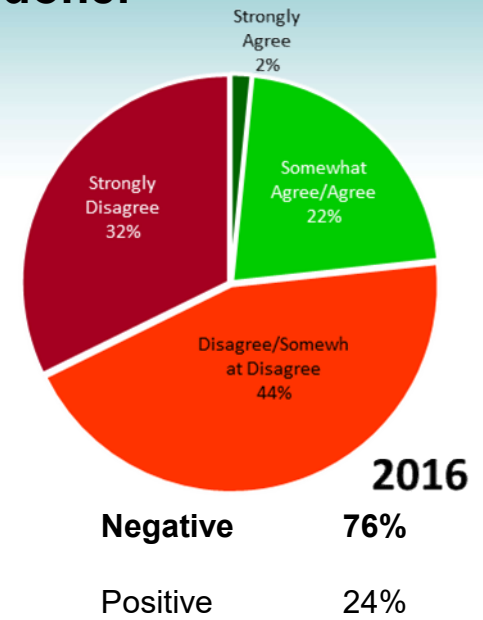
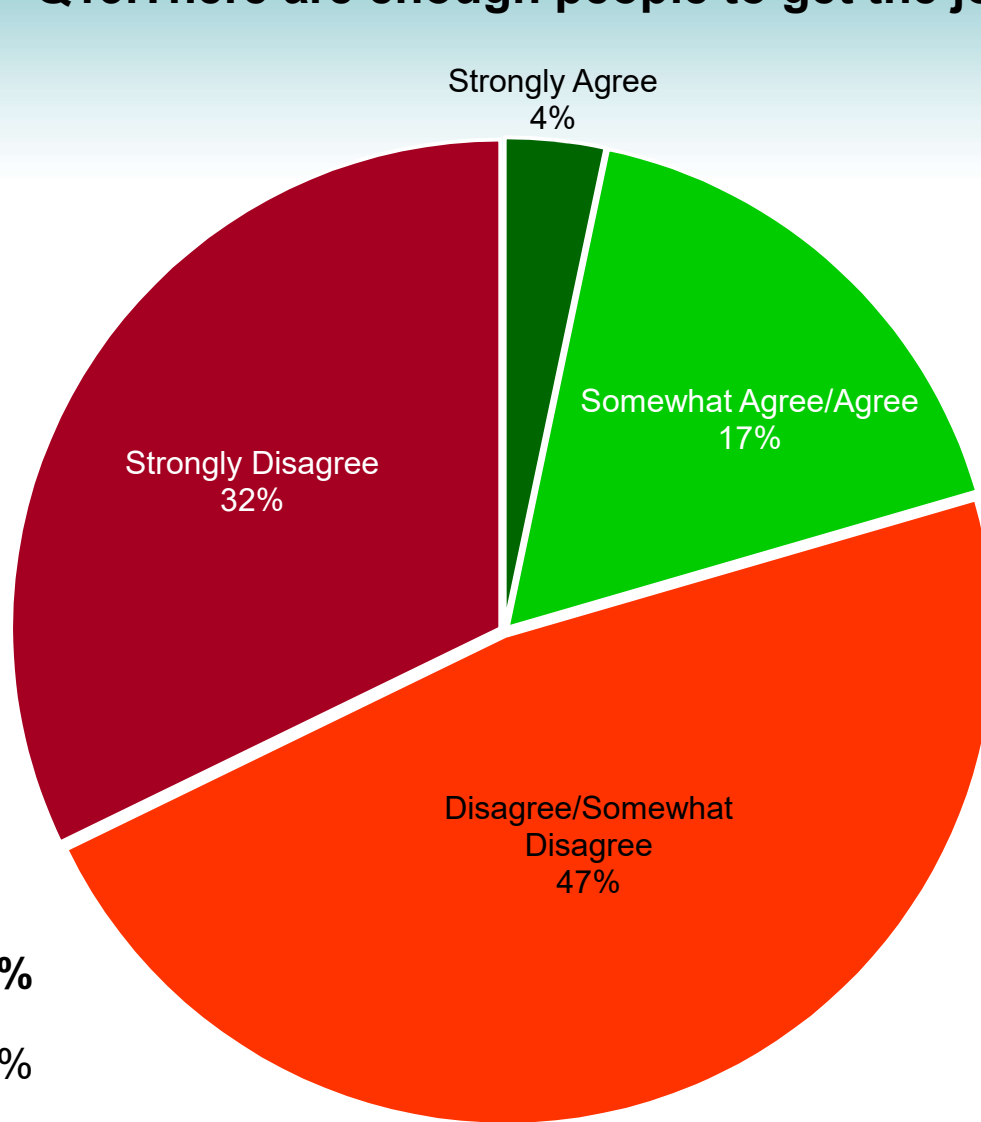
**2016**

**Negative** 32%

**Positive** 68%



# Q13. There are enough people to get the job done.



**2016**

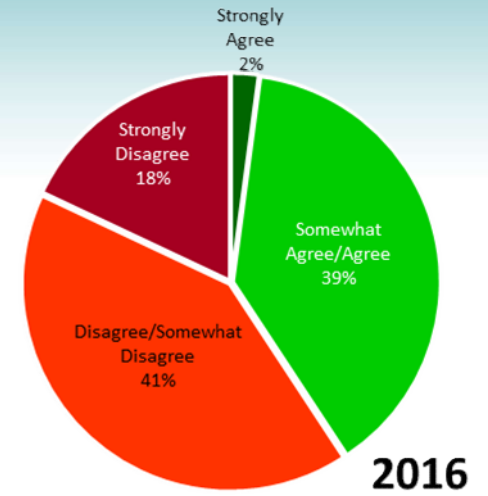
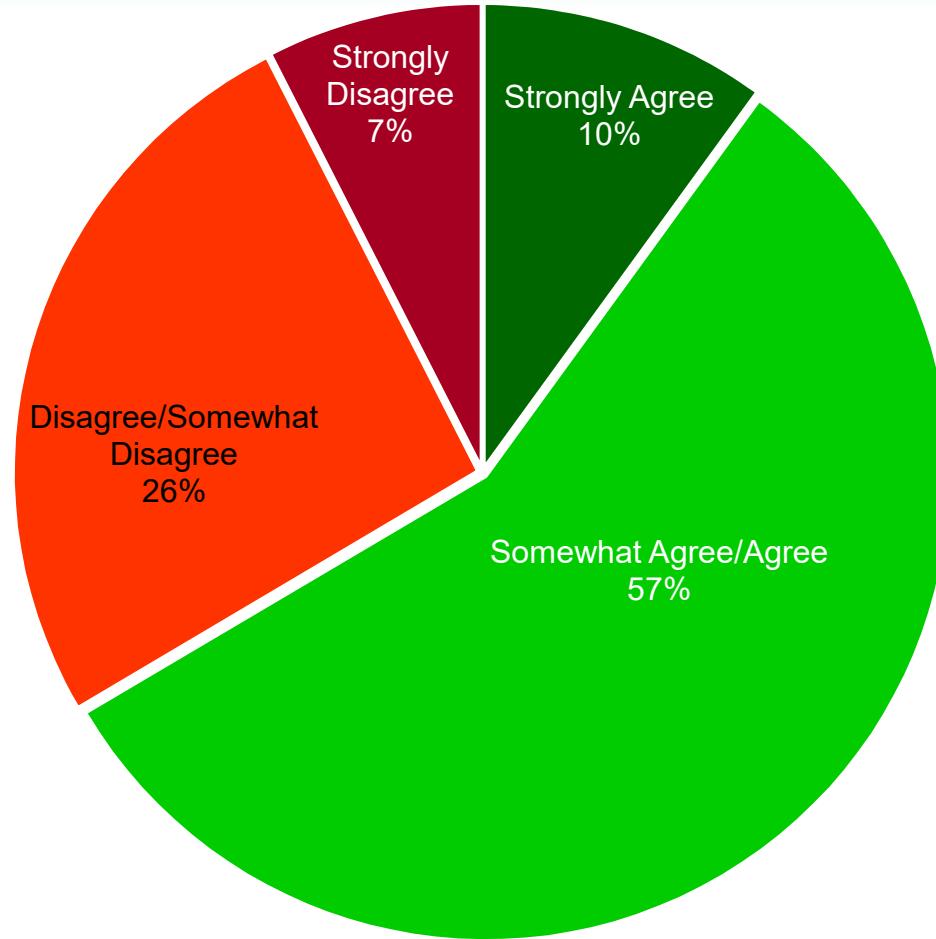
**Negative 76%**

**Positive 24%**

**Negative 79%**

**Positive 21%**

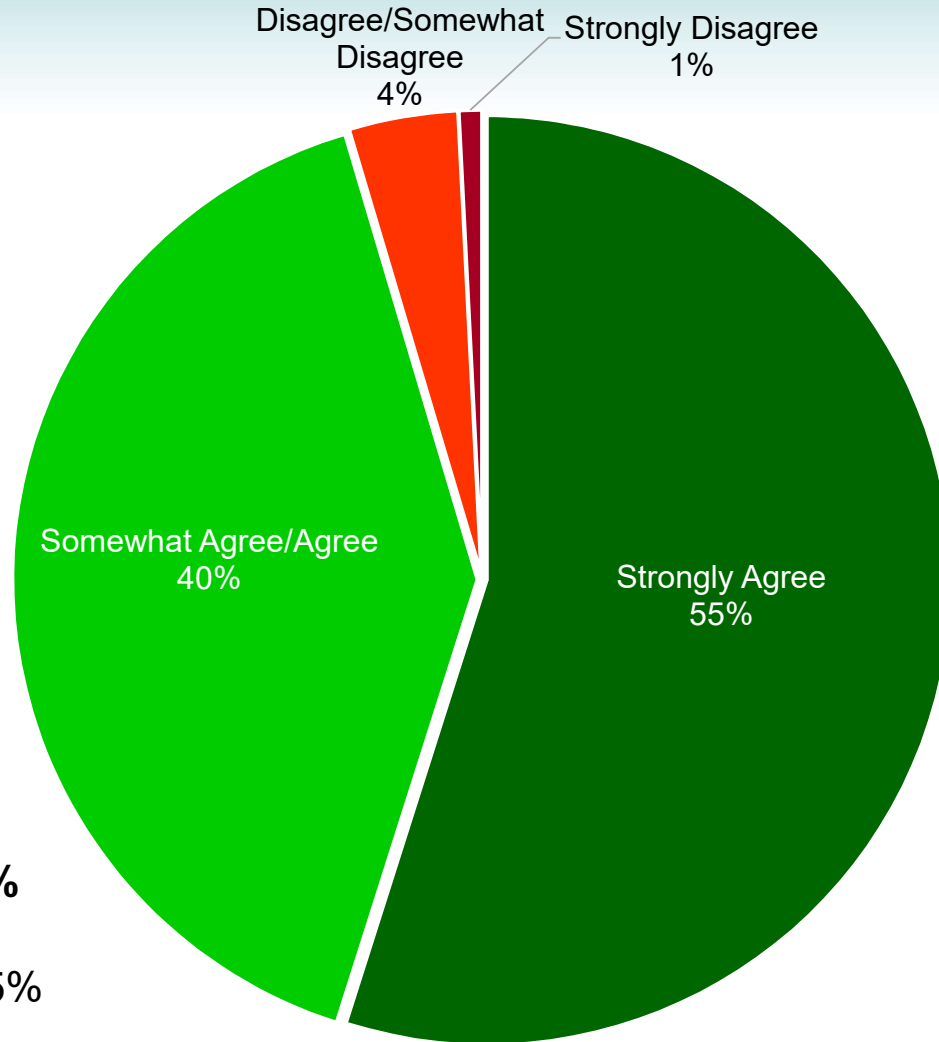
# Q14. There are enough tools and equipment to enable me to do my job.



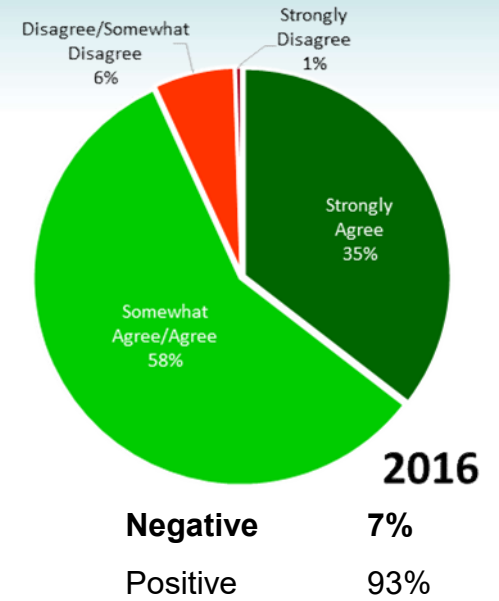
**2016**  
**Negative** 59%  
**Positive** 41%

**Negative** 33%  
**Positive** 67%

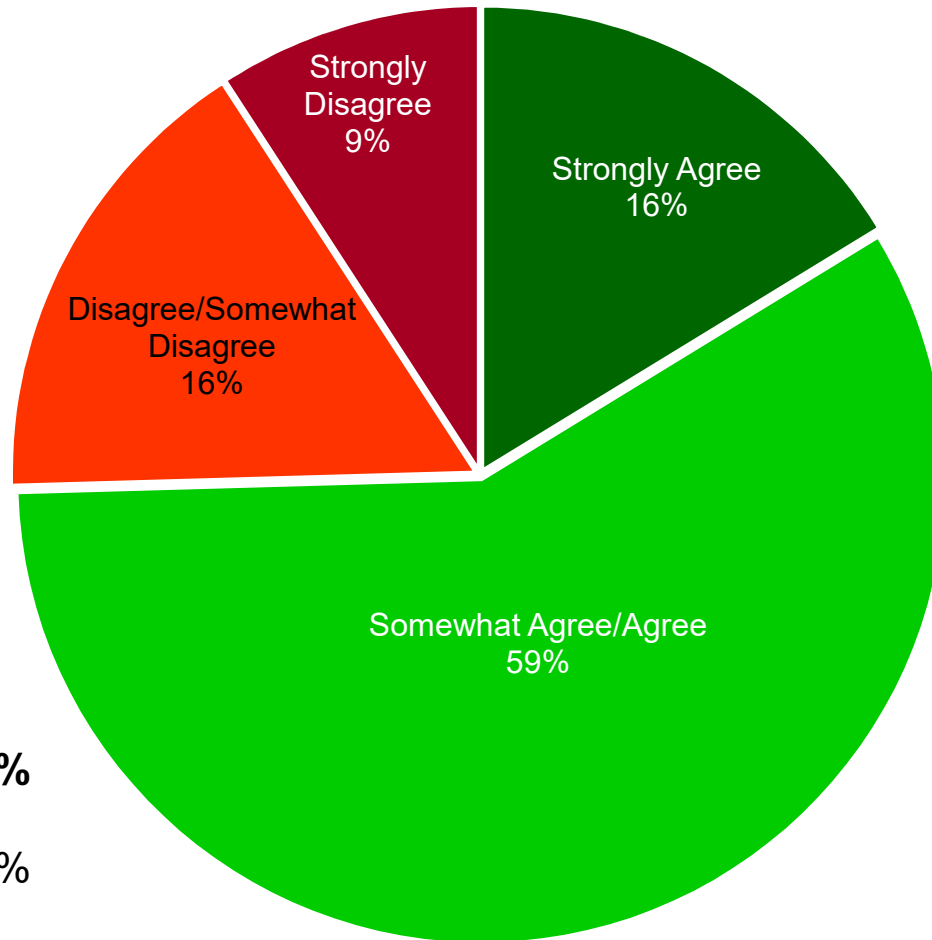
# Q15. The people I work with are committed to providing excellent customer service.



**Negative** 5%  
**Positive** 95%

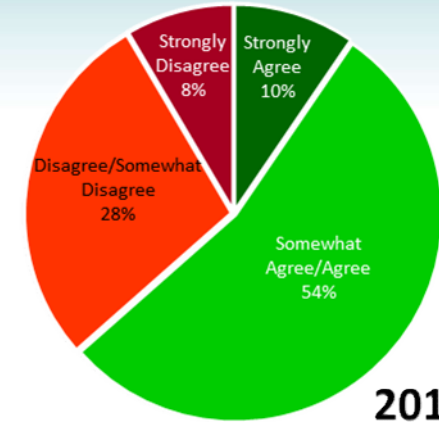


# Q16. I feel I am able to speak up and challenge the way things are done at the Council.



**Negative 25%**

**Positive 75%**

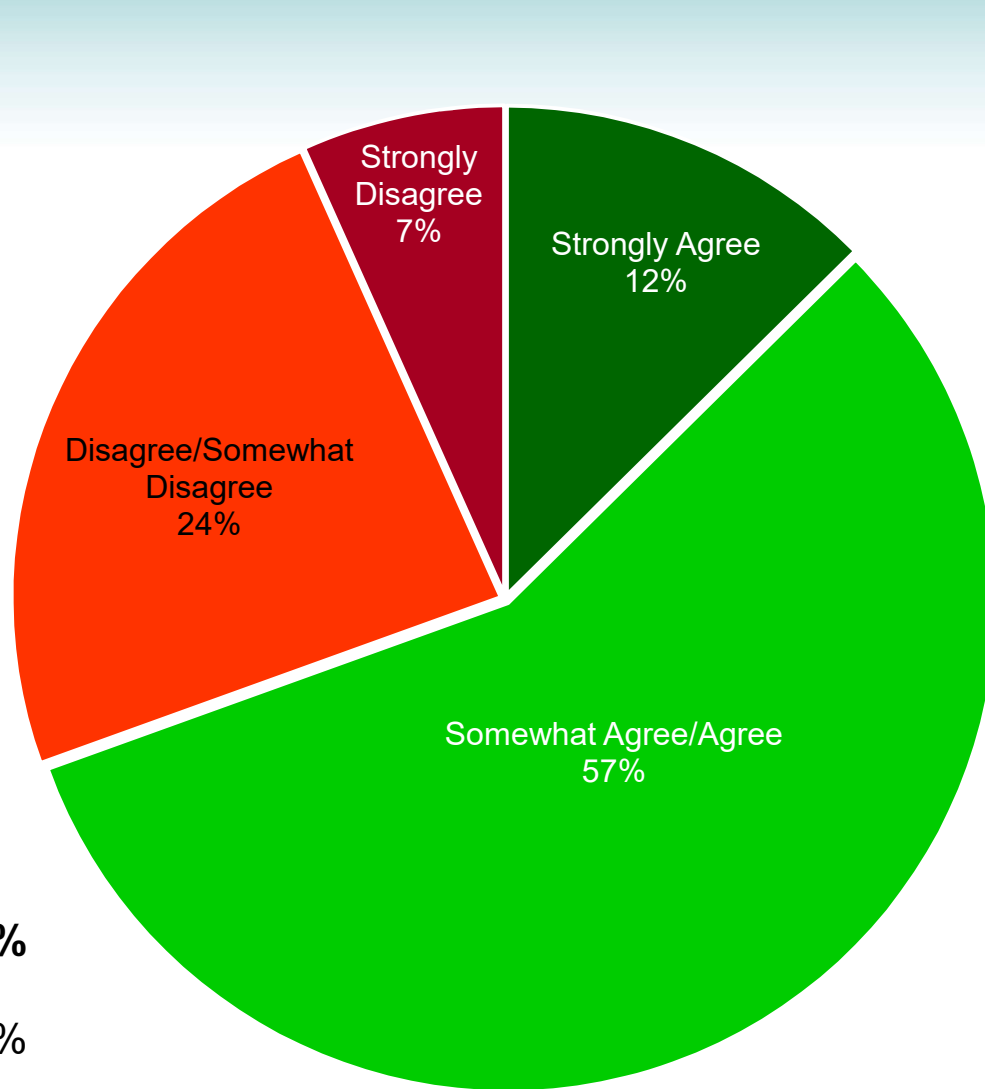


**2016**

**Negative 37%**

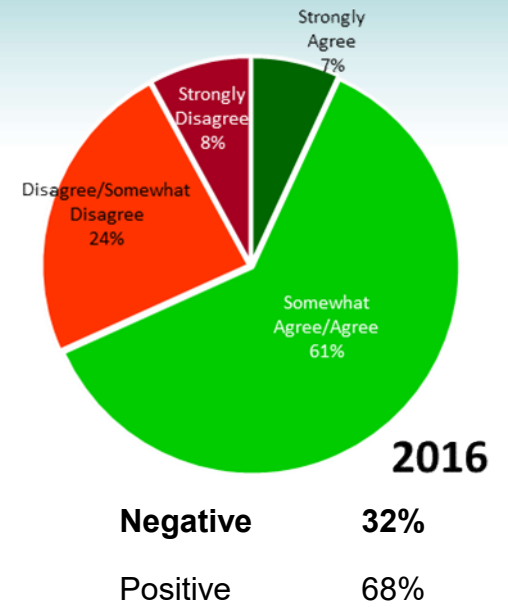
**Positive 63%**

# Q17. I have the opportunity to do the training I need to do my job.

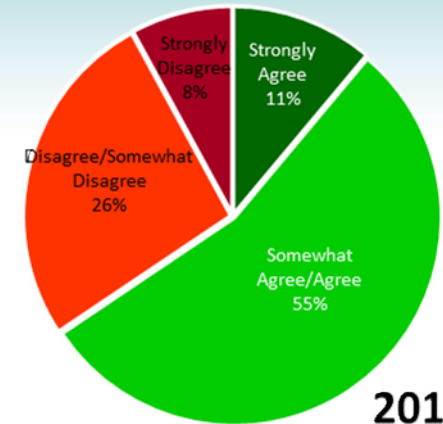
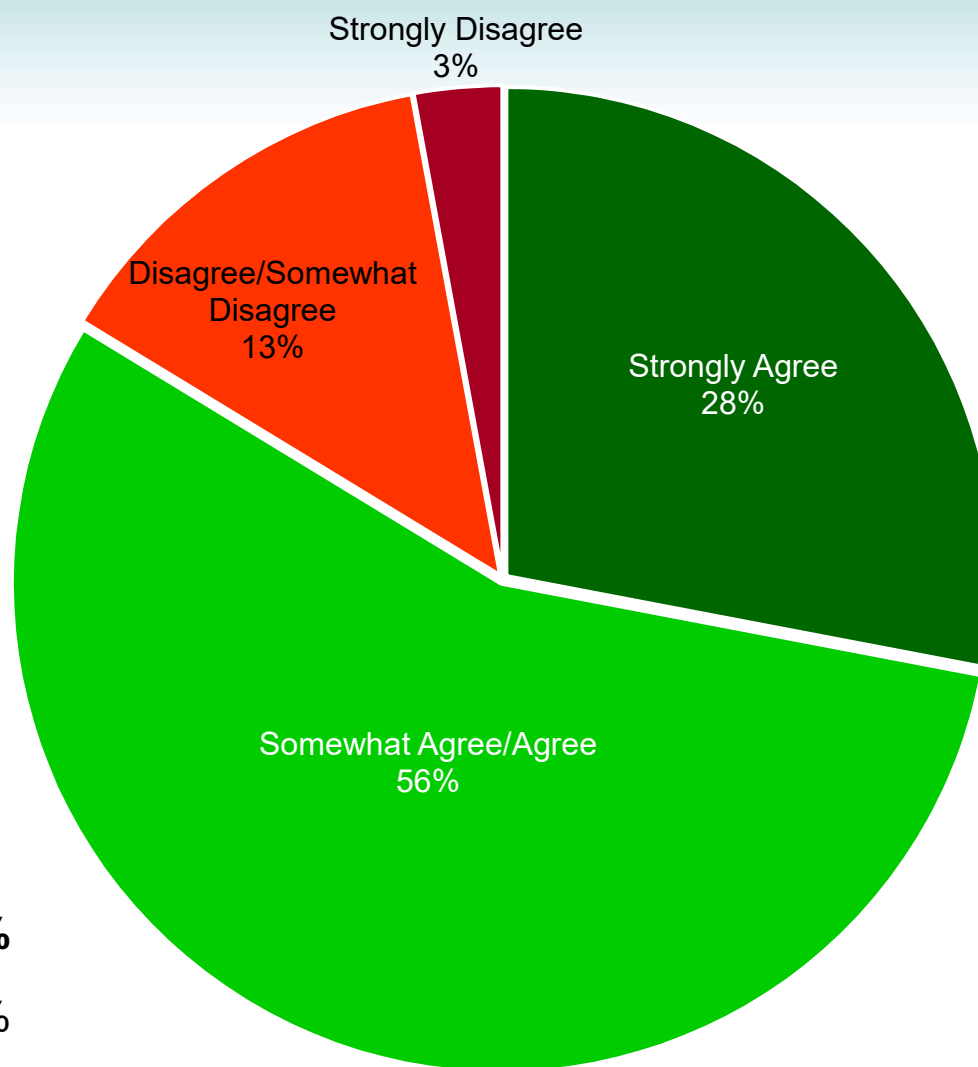


**Negative 31%**

**Positive 69%**



## Q18. I am clear about my role and responsibilities.



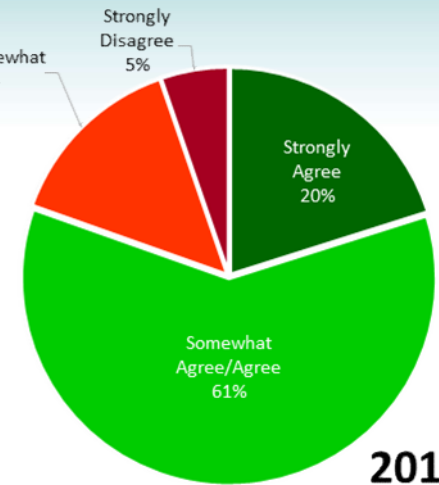
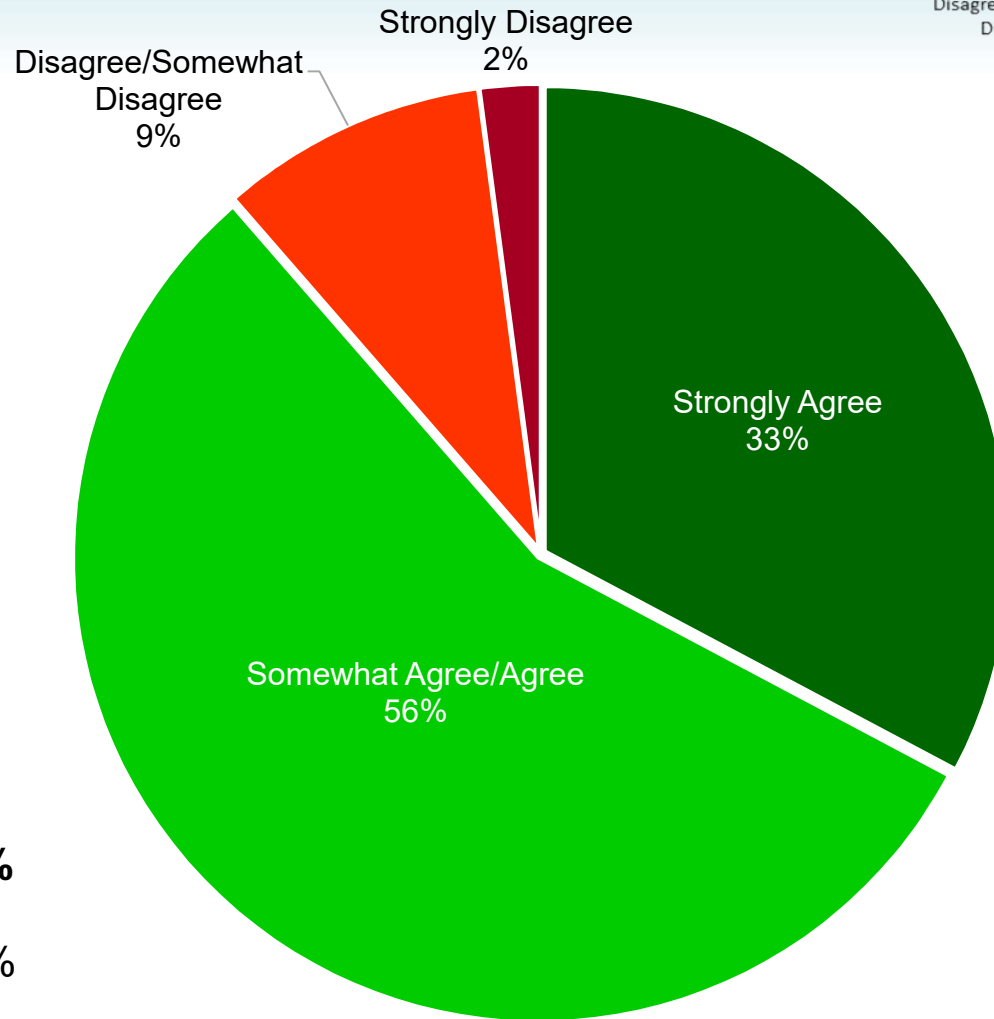
2016

**Negative** 34%  
**Positive** 66%

**Negative** 16%

**Positive** 84%

# Q19. I am encouraged to suggest improvements in the way I do my work.

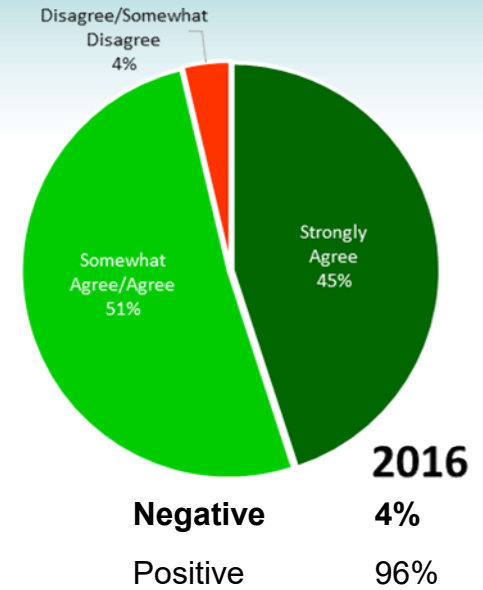
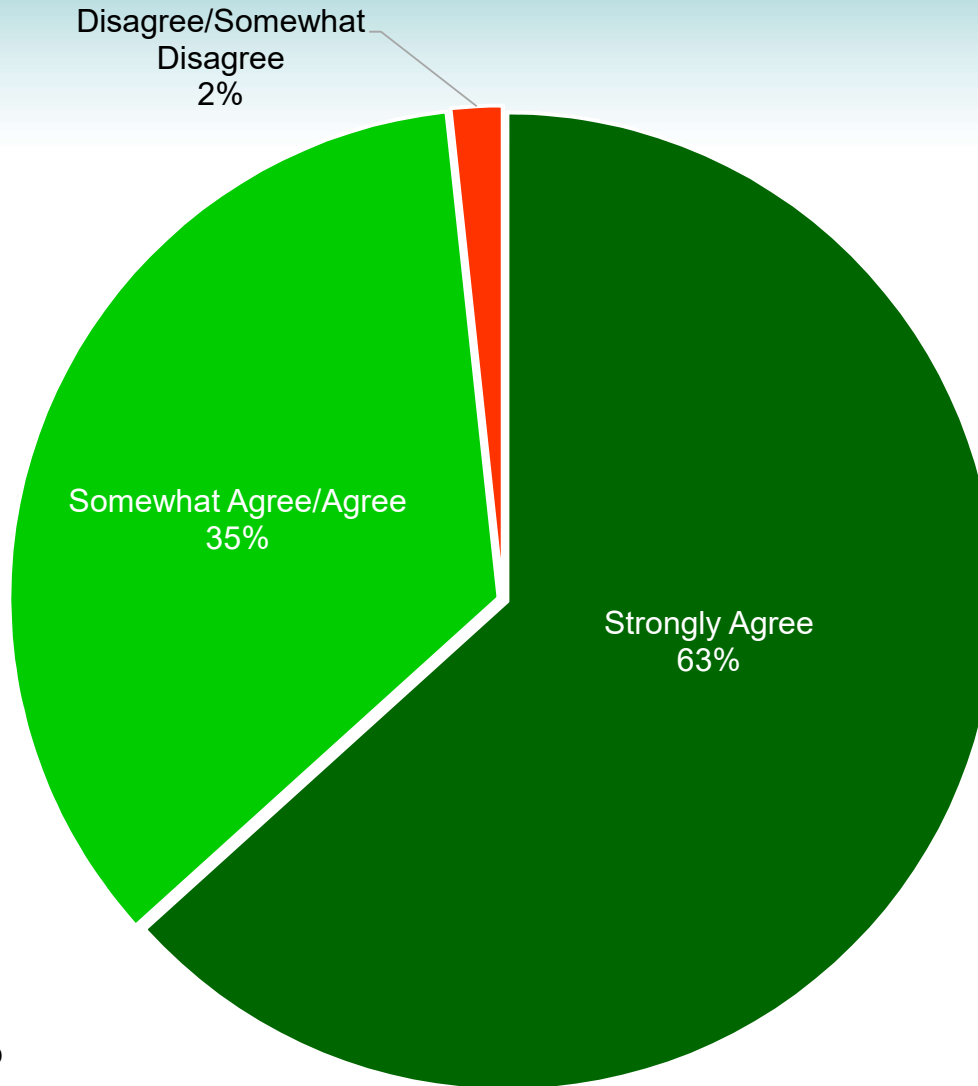


**2016**  
**Negative** 19%  
**Positive** 81%

**Negative** 11%

**Positive** 89%

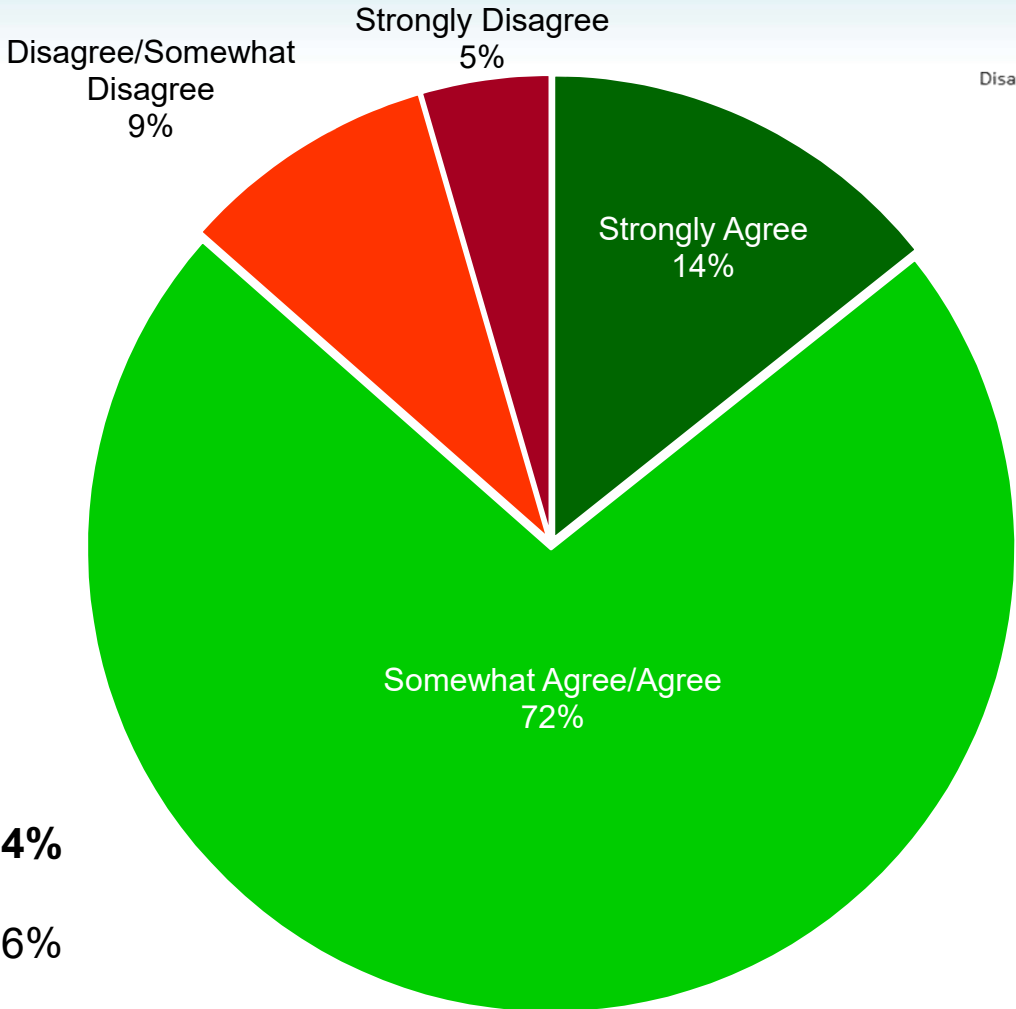
## Q20. I have a good working relationship with my colleagues.



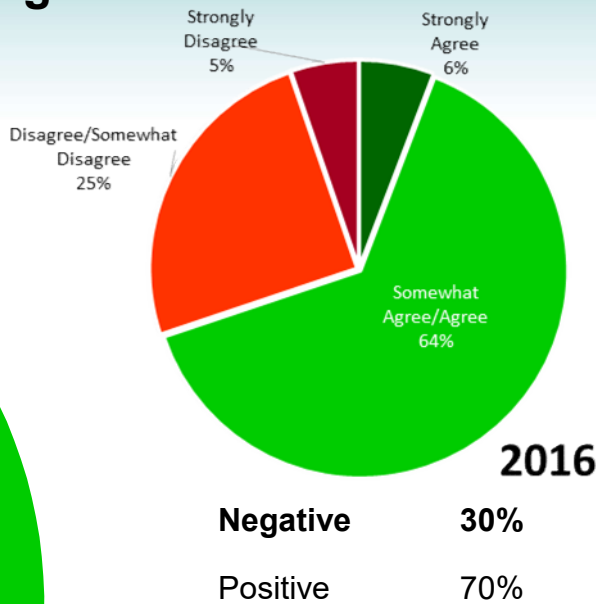
<b>Negative</b>	<b>2%</b>
<b>Positive</b>	<b>98%</b>



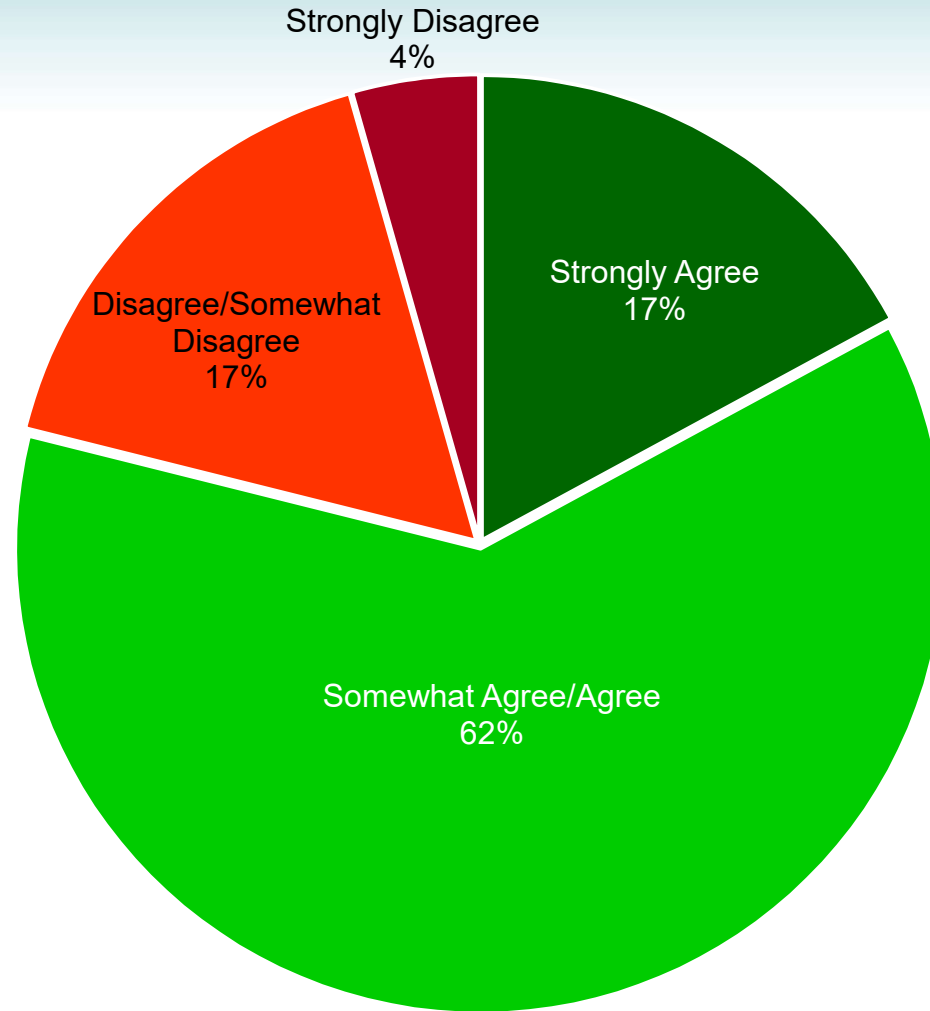
# Q21. I think the Senior Leadership Team are effectively leading us through the challenging times facing local government.



**Negative** 14%  
**Positive** 86%



## Q22. I have enough contact with relevant members of the Extended Leadership Team to do my job efficiently.

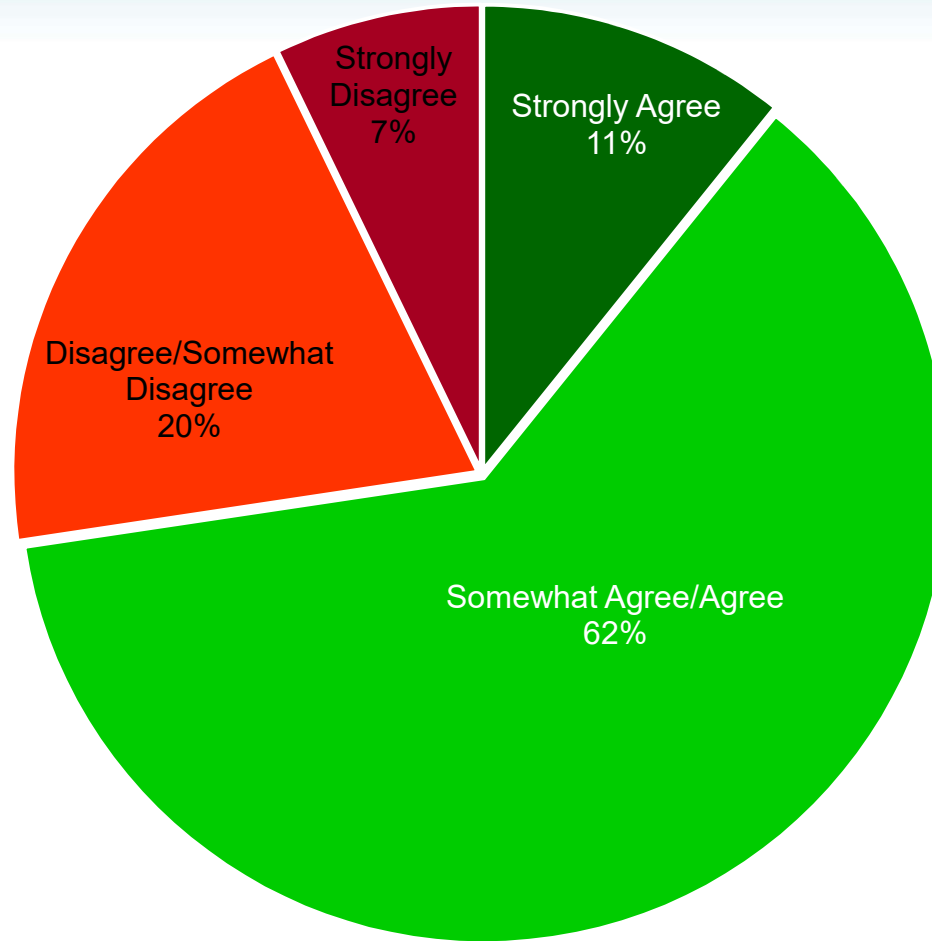


**Negative** 11%

**Positive** 79%



**Q23. The members of ELT relevant to my work area unblock problems and provide solutions that make my job more effective.**



**Negative 27%**

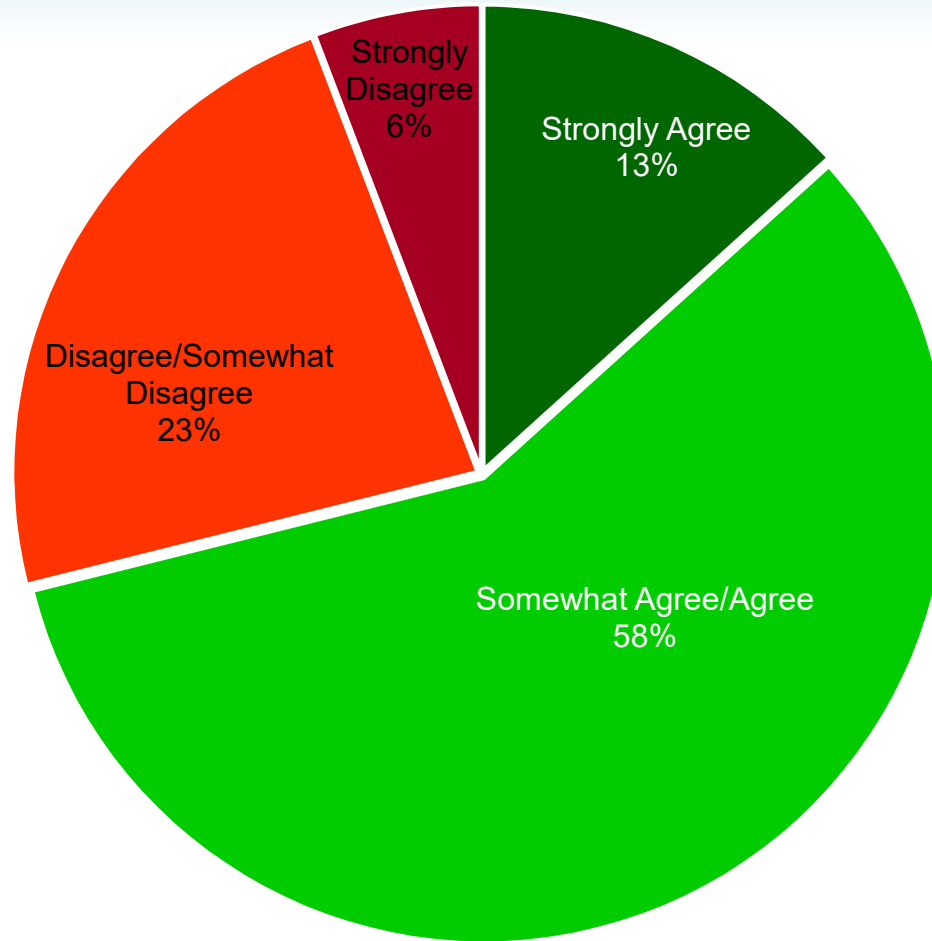
**Positive 73%**



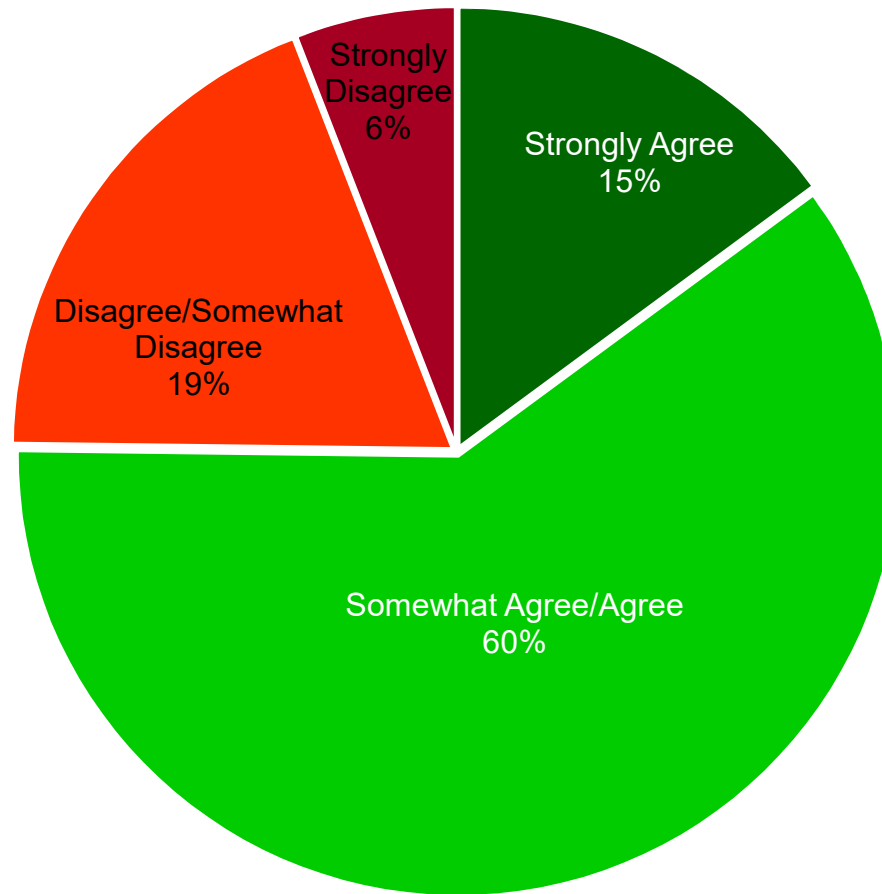
## Q24. The members of ELT relevant to my work area actively support my professional development.

Negative 29%

Positive 71%



**Q25. The members of ELT relevant to my work area encourage me and my colleagues to challenge the way we work and listen to new ideas.**

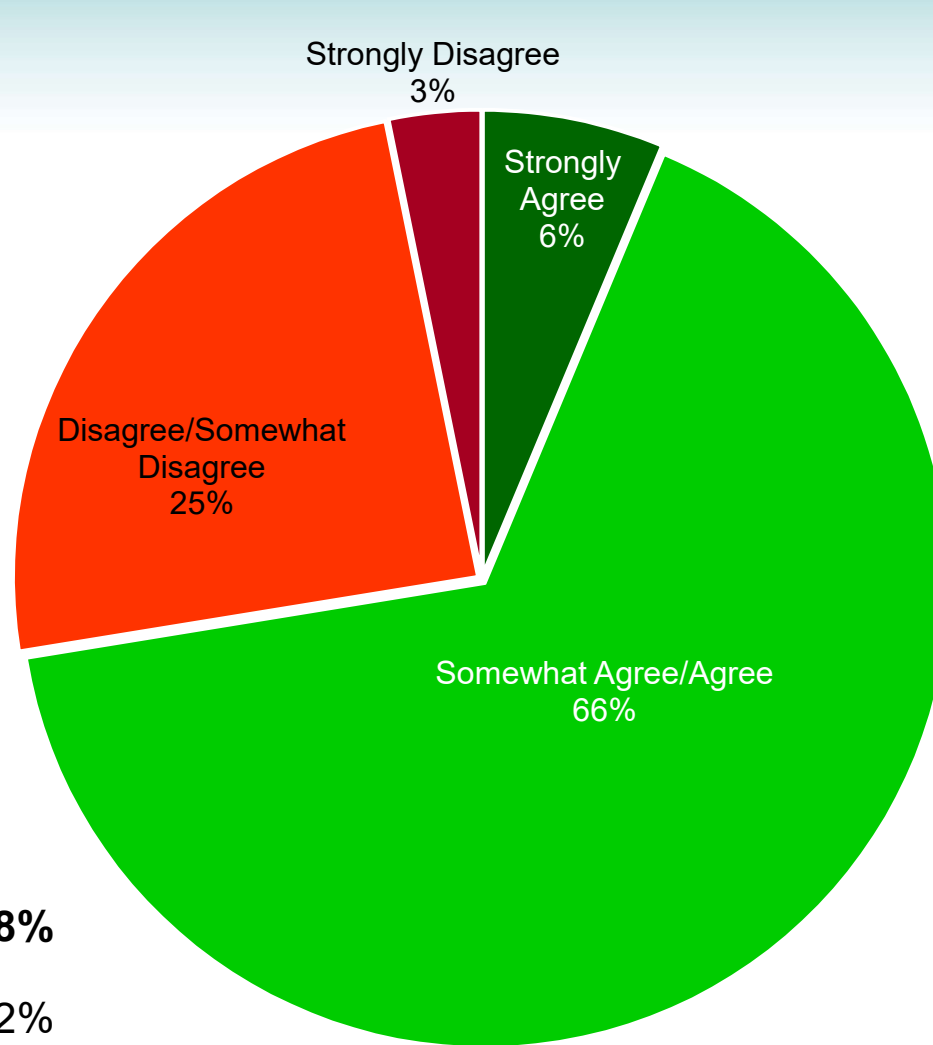


**Negative 25%**

**Positive 75%**

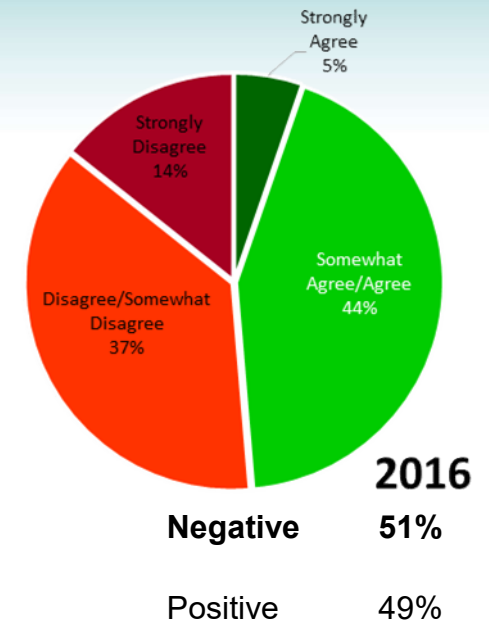


## Q26. I believe that actions are taken as a result of staff surveys in this organisation.

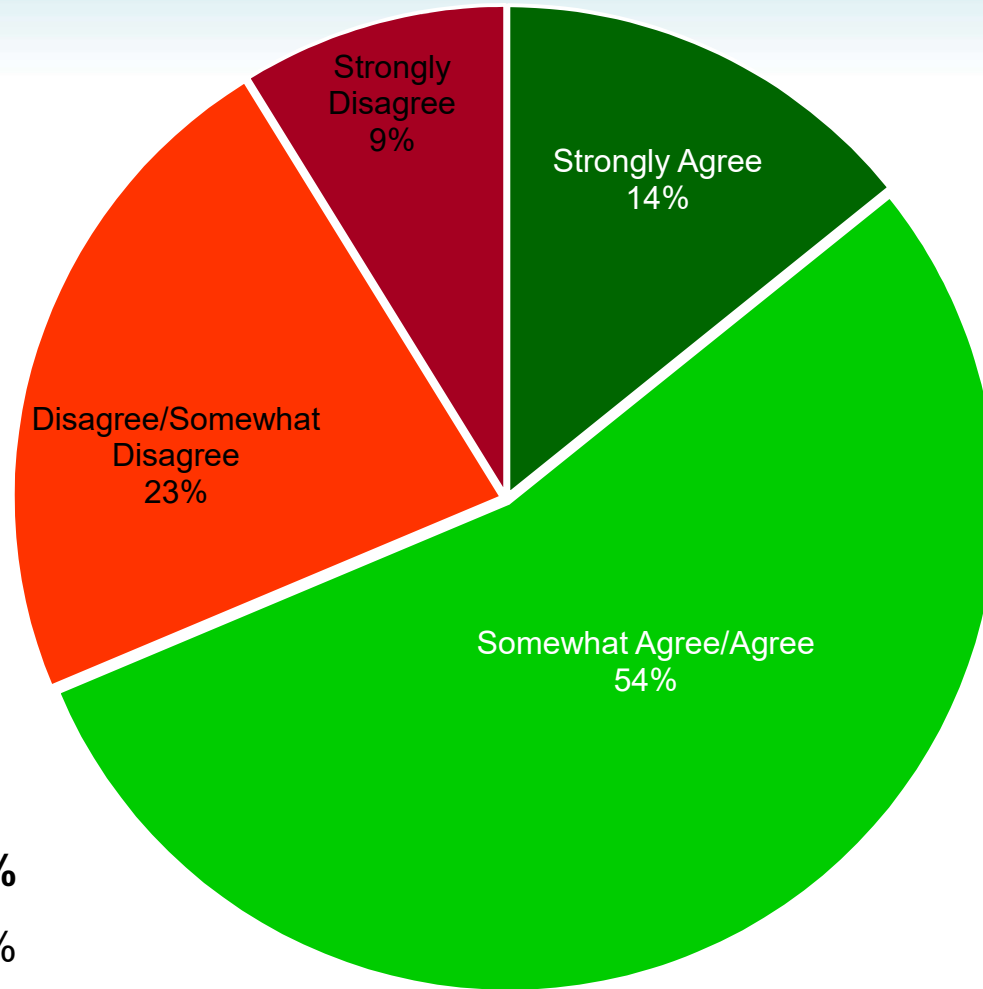


**Negative 28%**

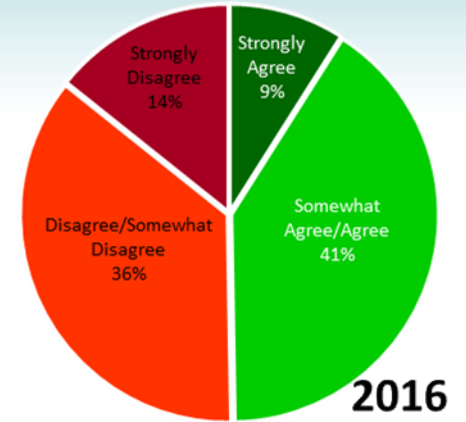
**Positive 72%**



## Q27. I would recommend working here to a friend.

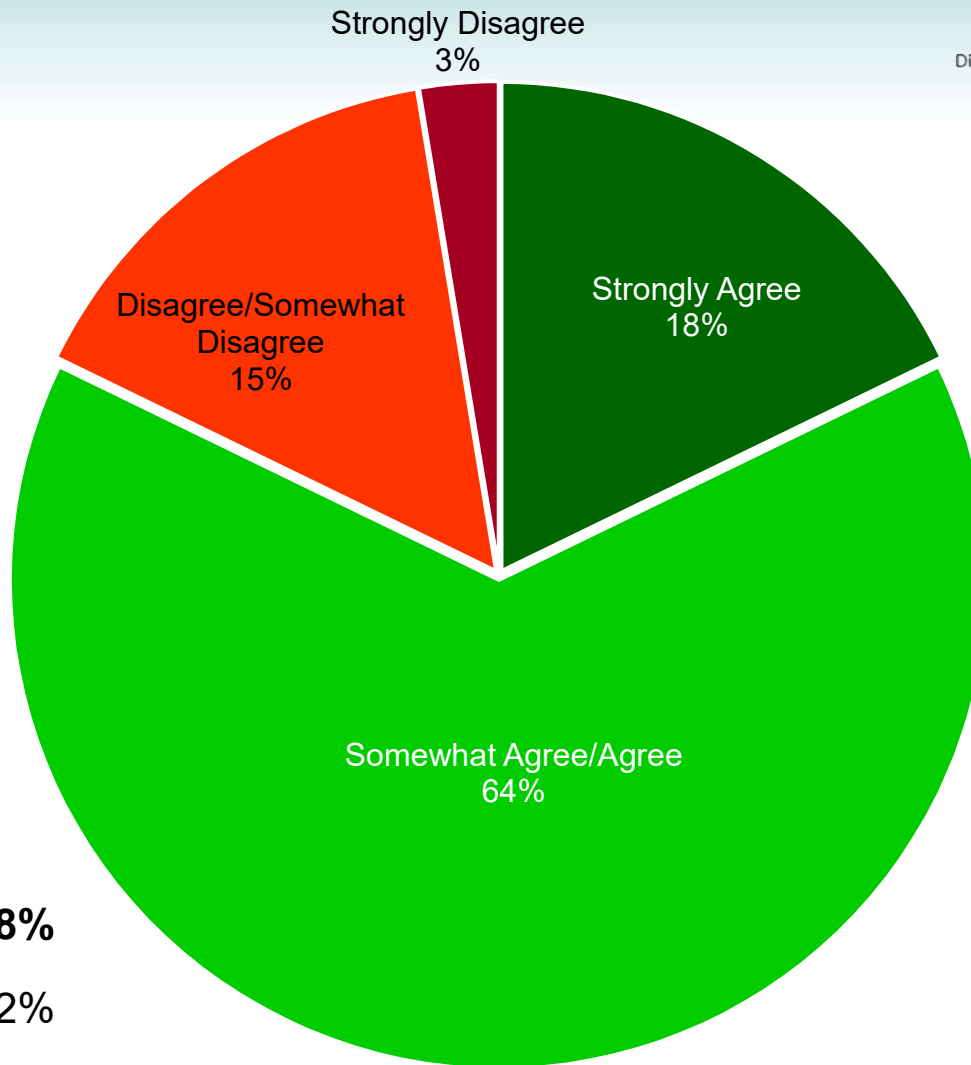


**Negative** 32%  
**Positive** 68%



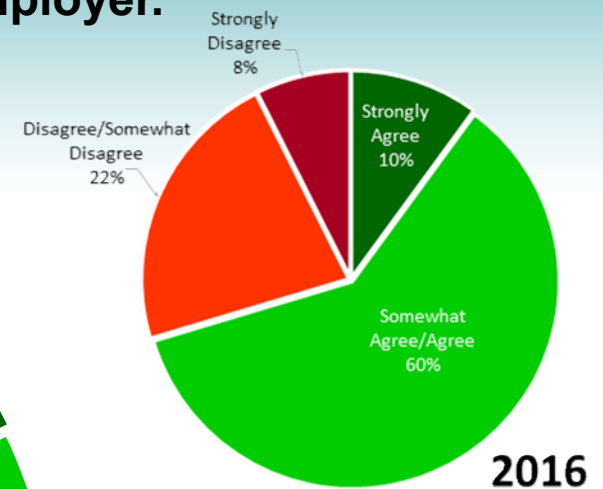
**2016**  
**Negative** 50%  
**Positive** 50%

## Q28. I think the Councils are a good employer.



**Negative** 18%

**Positive** 82%



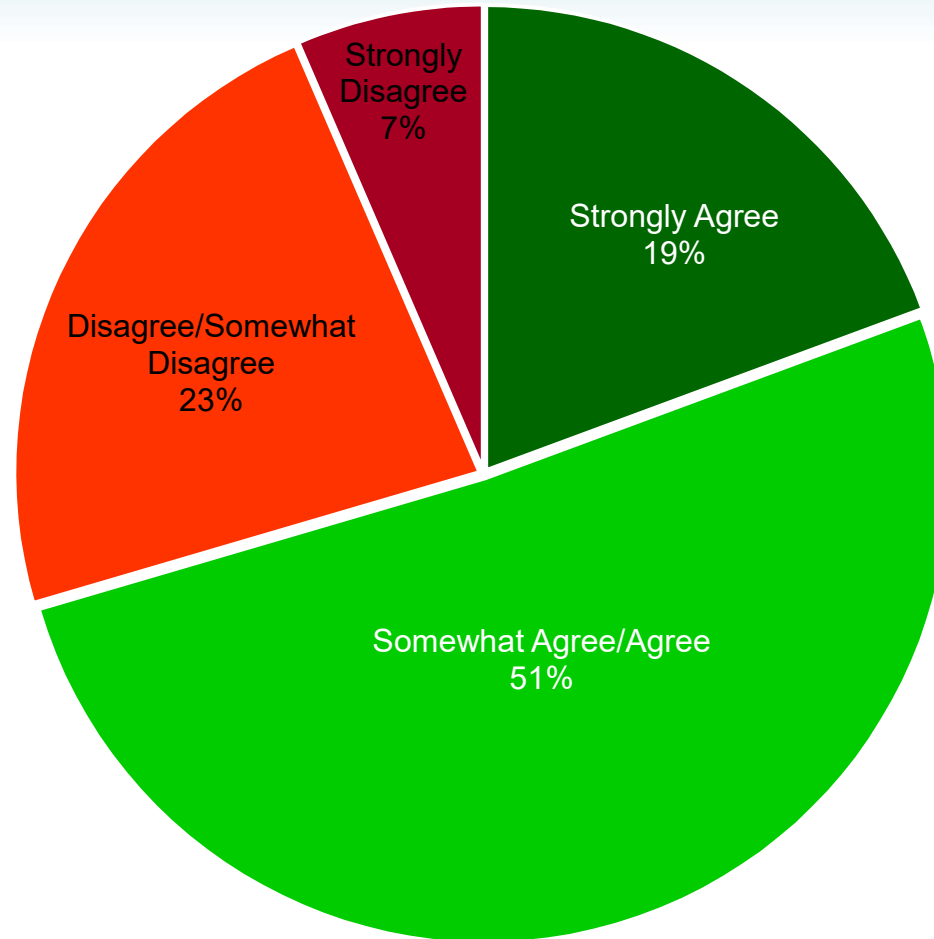
**2016**

**Negative** 30%

**Positive** 70%



## Q29. Performance has improved in my area of work over the last 12 months.

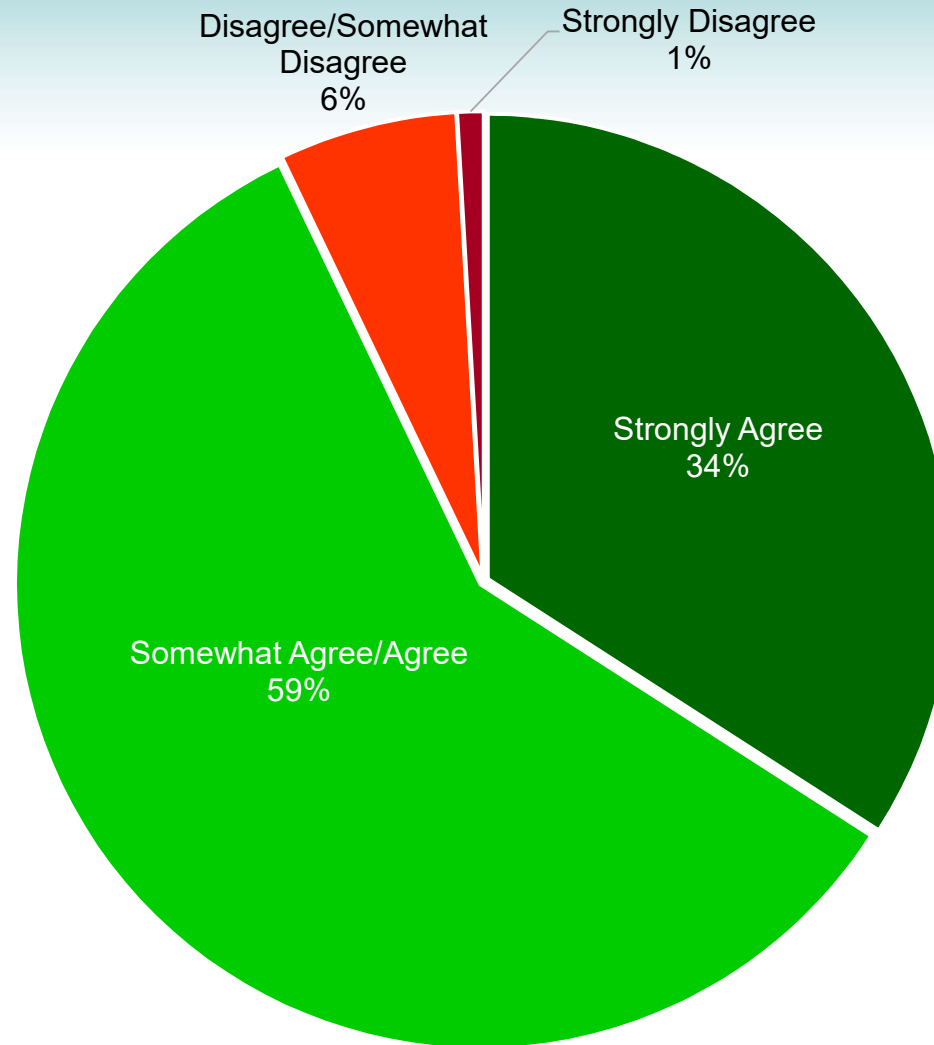


**Negative** 30%

**Positive** 70%



## Q30. I understand my personal responsibilities and the organisation's responsibilities in relation to Health and Safety.

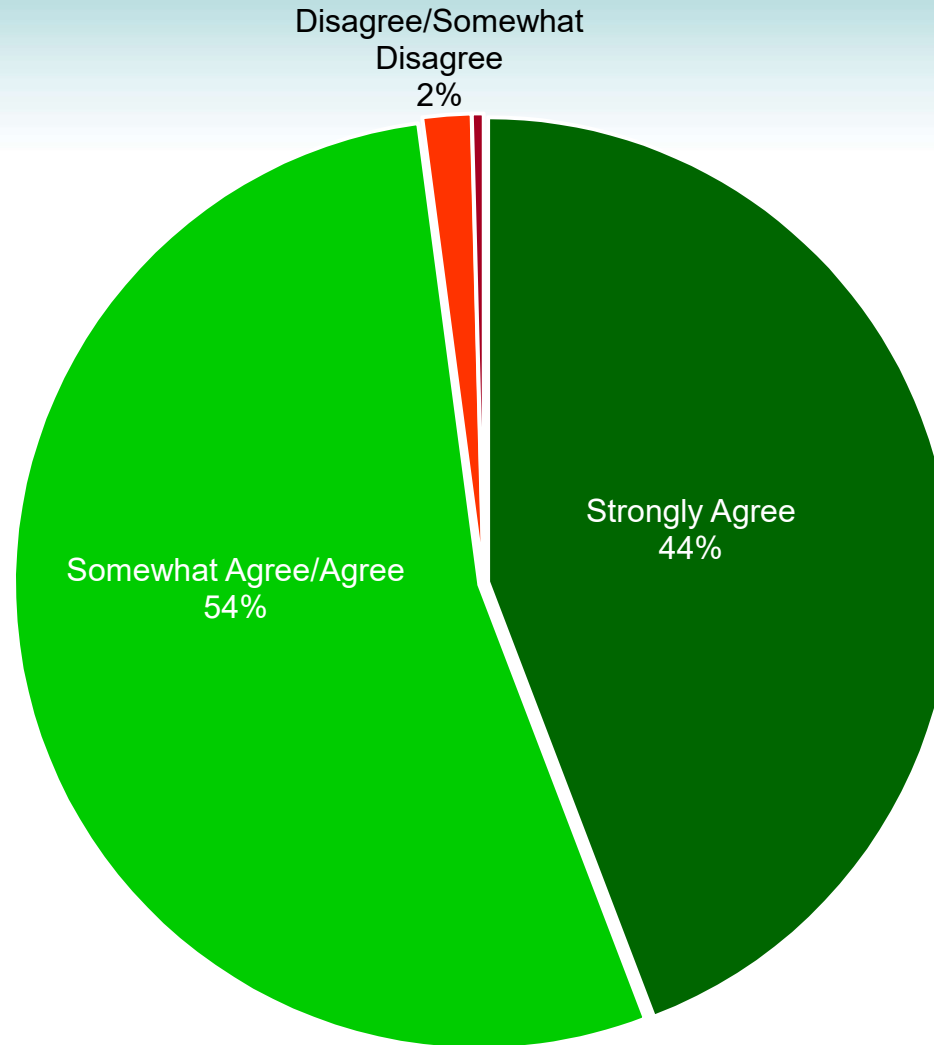


**Negative** 7%

**Positive** 93%



# Q31. I understand my personal responsibilities and the organisation's responsibilities in relation to Data Protection.



**Negative** 2%

**Positive** 98%



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# Employee Health and Well Being Strategy



## Introduction

1. The importance of employee health and well-being has become more widely recognised in the UK in recent years. Whilst it remains critical that we protect employees from the risk of unsafe working practices, the complex changes in the world of work and in society at large mean that individuals can now be at risk from other organisational and wider environmental pressures that can lead to psychological and physical harm.
2. At South Hams/West Devon, the past few years have seen unprecedented change in the way we work; with a significant reduction in the number of people, big changes in technology, innovation in the way we design and manage our teams and a greater emphasis on how, when and where we do work rather than a simple focus on what we do.
3. This Health and Well-Being Strategy is a commitment to create a working environment and culture that allows our people to flourish and achieve their full potential for the benefit of themselves and our organisation.
4. The Strategy brings together the policies, practices and activities that promote health and well-being and is a starting point for identifying new initiatives that will help us become a better organisation to work for.

## Our Approach – the 4 territories of health and well-being

5. Our model identifies four inter-related territories of employee health and well-being. Each territory has supporting components and, in turn, policies, practices, activities and initiatives that demonstrate and deliver our commitment to promoting an organisation focussed on the health and well-being of its people.
6. The model is a framework and should not be seen as exhaustive. Indeed, a large part of employee well-being is giving people the opportunity to bring forward ideas and suggestions to improve our work, both in terms of the way we deliver services through system and processes and also how we create the sustainable working environment that promotes health and well-being and protects our people from wider physical and psychological risks inherent in the modern world.
7. There is a large degree of inter-dependency and overlap between the territories and supporting components. For example, strong and effective line management should be a feature that runs through many of the components as it is not only central to the effective management of performance and absence but also a core enabler of effective employee voice and personal growth.
8. The Health and Well-Being Community of Practice has responsibility for the formulation of a delivery plan to meet the commitments in this strategy.

## The Four Territories of Employee Health and Well-Being



### Health – physical health, physical safety and mental health



# Employee Health and Well Being Strategy



## **We will promote the physical health of our people by:**

- Creating a Healthy Living group to champion and promote activities
- Hosting medical screening events at our worksites hosted by our leisure partners
- Use Learning Pool to send out a schedule of healthy living messages
- Promote healthy living initiatives through Learning Pool, such as healthy eating, alcohol and tobacco awareness, fitness
- Referrals to Occupational Health
- Effectively managing absence

## **We will promote the physical safety of our people by:**

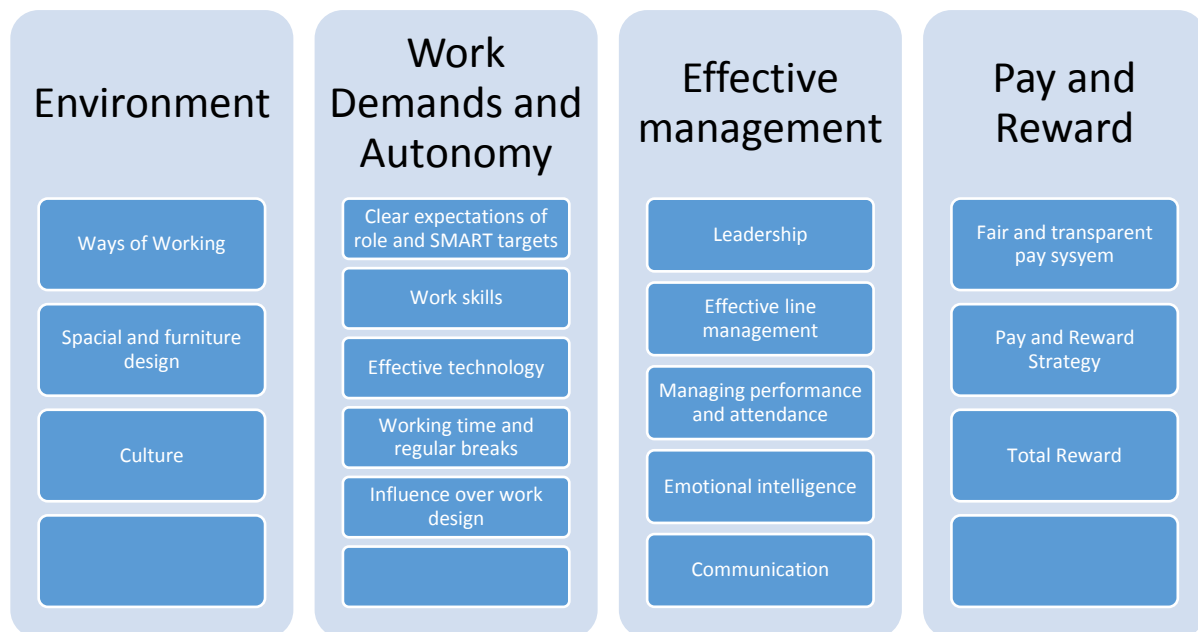
- Adopting safe working practices throughout the organisation
- Carrying out and keeping under review risk assessments wherever necessary
- Providing all necessary safety training
- Providing all necessary personal protective equipment (PPE)
- Adopting safe working practices for lone and agile workers

## **We will promote the mental health of our people by:**

- Providing a self-referral counselling service
- Providing open access to a range of advisory and counselling services through an Employee Assistance Programme (EAP)
- Promote mental health initiatives and provide access to information and support
- Build resilience by providing access to relevant training on coping with change, mindfulness and building resilience
- Ensure all line managers understand the causes and can identify early signs of workplace stress and can signpost to support

# Employee Health and Well Being Strategy

## Work – working environment, work demands & autonomy, effective management and pay & reward



### We will promote well-being in the working environment by:

- Adopting flexible working practices that enable our people to strike a good work-life balance
- Providing working spaces and furniture at our main offices that are ergonomically designed
- Encourage regular breaks from working in front of a screen
- Promote the effective use of communal space and support a culture where people foster positive working relationships

### We will empower our people in their job by:

- Setting clear expectations about performance
- Setting SMART targets that enable success to be measured
- Providing the opportunity to acquire and retain the necessary key work skills through a comprehensive mixed delivery learning and development programme
- Providing effective technology to support efficient working
- Encouraging challenge to way work is designed and listening to ideas to for continuous improvement

### We will effectively manage our people by:

- Displaying strong corporate leadership
- Equipping line managers with the right tools and skills to be effective
- Managing performance and attendance consistently and fairly
- Ensuring there are regular and accessible channels of communication
- Instilling emotional intelligence in our interaction with people

### We will reward our people by:

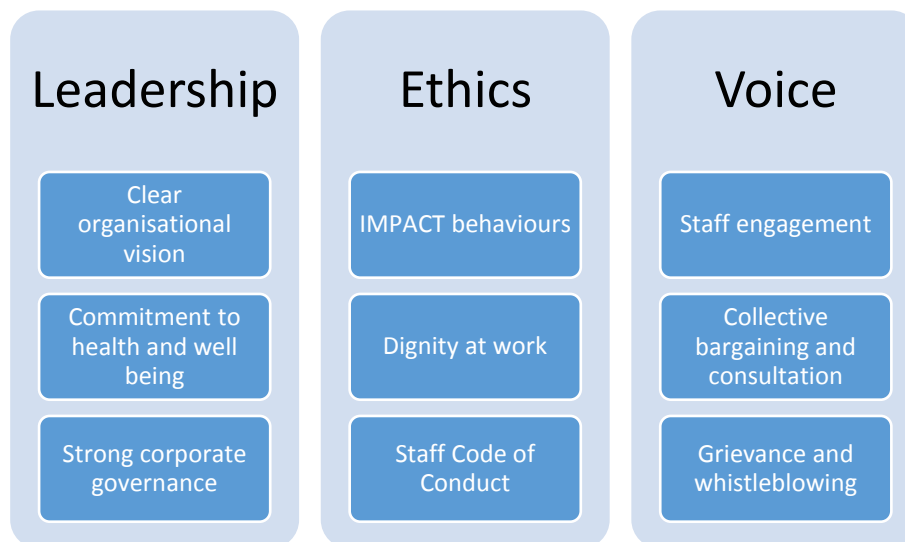
- Maintaining a fair and equitable pay system and structure



# Employee Health and Well Being Strategy

- Publishing an annual Pay and Reward Strategy
- Developing a Total Reward approach and including components that employees value

## Values – leadership, values and employee voice



### We will provide strong leadership by:

- Developing a strong corporate vision that everyone understands and can buy into
- Developing strong governance arrangements
- Committing to the health and well-being of our people

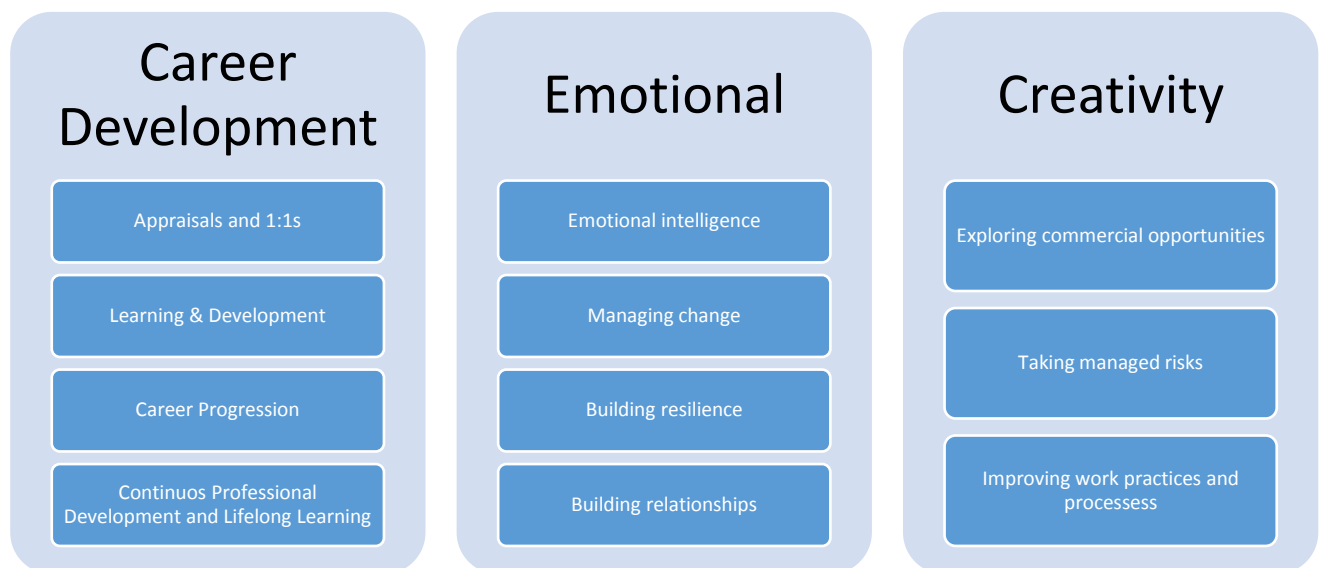
### We will build a strong ethical base for our organisation by:

- Continuing to work with the IMPACT behavioural framework
- Developing a Staff Code of Conduct so that all our people understand expected behaviour and conduct
- Supporting the right to dignity at work for all

### We will give our people a strong voice at work by:

- Being committed to strong employee engagement through staff briefings, e-communication
- Holding an open and honest staff survey each year and tracking our progress against issues raised
- Supporting local and national collective bargaining and understanding the important role played by recognised trade unions in employee relations
- Supporting a Staff Forum
- Consulting on proposals that have significant impact on working lives
- Removing all barriers to our people reporting wrongdoing (Whistleblowing) or raising grievances

## Personal Growth – career development, emotional well-being and creativity



### We will support the career development of our people by:

- Making sure everyone has a meaningful annual performance appraisal
- Making sure everyone has regular 1:1 discussions with their line manager
- Making sure everyone receive regular and constructive feedback on their performance
- Providing access for everyone to professional, personal and elective learning and development opportunities to promote continuous development
- Wherever possible, opening up vacancies to internal candidates to encourage career development and progression
- Wherever possible offer opportunities to act up into a more responsible or different role
- Wherever possible, offer secondment opportunities

### We will support people's emotional well-being by:

- Embracing the concept of emotional intelligence to understand individual need when managing and interacting with people
- Equip people to manage change constructively
- Equip people to build resilience in the workplace and in their personal lives
- Equip people to build, retain and develop effective and positive working relationships

### We will encourage people to be creative and innovative at work by:

- Providing opportunities to explore commercial opportunities
- Supporting the taking of managed risks in service delivery
- Listening to suggestions for improvements in work processes and practices
- Reward innovation that improves customer service

# Agenda Item 9

Report to: **Overview & Scrutiny Committee**

Date: **5 September 2017**

Title: **Q1 Performance Measures**

Portfolio Area: **N/A**

Wards Affected: **All**

Relevant Scrutiny Committee:

Urgent Decision: **N** Approval and clearance obtained: **Y / N**

Date next steps can be taken:  
(e.g. referral on of recommendation or implementation of substantive decision)

Author: **Jim Davis** Role: **Specialist – Performance & Intelligence**

Contact: **EXT:1493**  
**Email: jim.davis@swdevon.gov.uk**

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## **Recommendations:**

**That Members note the performance levels against target communicated in the Balanced Scorecard and the performance figures supplied in the background and the exception report.**

### **1. Executive summary**

Performance measures for Quarter 1 have maintained a good level with only one measure at 'red' for this quarter.

The new dashboards have been developed in conjunction with Cllr Edmonds to display information in an easy to understand, graphical way. These are available online from any web-enabled device and can be used to monitor performance in between the O&S reporting cycle. There is a regular update of the previous month's figures that occurs by the 3<sup>rd</sup> Wednesday of the month, for SLT to keep on top of performance issues.

The performance of the transactions on the website has continued to improve so much above the early 20% target that the target has become an irrelevance and will be reviewed and reconsidered as part of the wider performance measure review. Almost a half of Workflow360 transactions came in online during Quarter 4 and with the implementation of the new website and simplified customer journeys in March over 60% of Contact and Report it processes are now being received that way. Percentage of calls answered in 20 secs continues to be below the target level but this usefulness of this measure is being reviewed though the current task and finish group.

## **2. Background**

The Balanced Scorecard has suffered from scope creep over the years where some measures are reported to Committee for interest rather than to fulfil a scrutinising role and generates questions rather than helps to provide answers. A joint Task and Finish group is reviewing the measures targets and format of reports going forward. The new web-based performance dashboards provide monthly information up-to-date information to provide context against the report that comes to Committee and access to a much larger range of data to access if desired.

## **3. Outcomes/outputs**

**Appendix A** is the balanced scorecard – this contains the high level targeted performance information.

**Appendix B** is an information and exception report. This contains the data only performance information for context and the detail of the targeted measures which have fallen below target in the quarter being reviewed.

**Appendix C** contains the description of the targets chosen for the Balanced Scorecard

## **4. Options available and consideration of risk**

Dashboards can be tailored by type, interest or area. We have created a customer contact centre dashboard, a planning and planning enforcement dashboard, and a replica of the information that forms part of this report. Other dashboards can be created to explore other areas of concern/interest.

## 5. Proposed Way Forward

- 1) The Balanced Scorecard and background report as shown in the Appendices are approved.
- 2) Members view dashboards online and consider what other information they would want to be shown through the dashboards.
- 3) Members feed any comments or views into the Task and Finish group for consideration towards the final proposal.

## 6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	N	Whilst there are no statutory performance measures anymore, some are still reported nationally. We collect these in the same format as required to improve consistency. Other measures are to improve efficiency or to understand workload.
Financial	N	
Risk	Y	Poor performance has a risk to the Council's reputation and delivery to our residents. These proposals should give Scrutiny the ability to address performance issues and develop robust responses to variation in delivery
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	
Safeguarding	N	
Community Safety, Crime and Disorder	N	
Health, Safety and Wellbeing	N	
Other implications	N	

## **Supporting Information**

### **Appendices:**

Appendix A – Corporate Balanced Scorecard  
Appendix B – Background and Exception Report  
Appendix C – Corporate Balanced Scorecard Targets

### **Background Papers:**

None

# Corporate Balanced Scorecard

## Community/Customer

Q4	Q1	
	-	Overall waste recycling rate % <i>No data supplied</i>
	-	Residual waste per household <i>No data supplied</i>
	-	Average no. of missed bins <i>No data supplied</i>
		<b>CST: % of calls answered</b>
		<b>CST: % of calls answered in 20 secs</b>

## Processes

Q4	Q1	% of planning applications determined within time frame
		Major(Statutory)
		Minor
		Other

Q4	Q1	
		Avg End to End time Benefits New Claims
		Avg End to End time Benefits Change of circumstances

## Online uptake

Q4	Q1	
		<b>Ratio of benefit new claims web/post submissions</b>
		<b>Ratio of benefit change of circumstances web/post submissions (IEG4)</b>
		<b>Ratio call/web submissions (W2)</b>

## Performance

Q4	Q1	
		<b>EH: % of nuisance complaints resolved at informal stage</b>
		Avg days short term sickness/FTE
		Complaint response speed

## Key

	Below target performance
	Narrowly off target, be aware
	On or above target

Updated measures to replace the T18 programme measures that added little extra information.

Additional measures to better quantify online uptake and benefit to the council will be developed as the new website goes live.

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# Information Report


Non-targeted (data-only) performance measures that will be reported every quarter to provide context and background information – not suitable for the Balanced Scorecard page as no targets applicable or relevant.

Performance measure	Managed By	Q1 16/17	2016/17	Q1 2017/18		17/18	Comment (If Applicable)
			YTD or Total			YTD or total	
<b>Planning Enforcement</b>	Pat Whymer	-	-	Enforcement cases closed: 27 Live enforcement cases: 136 Enforcement cases received: 67  Backlog closed: 1 Backlog remaining: 64		-	Figures for July: Enforcement cases closed: 3 Live enforcement cases: 141 Enforcement cases received: 39 Backlog closed: 0 Backlog remaining: 64
<b>All: Complaints received</b>  Complaints logged against each Service per quarter. Highlights changes over time and the effects of initiatives.	Area	Complaints rec. last qtr Q4 2016/17		Total	Avg Time (Days)	Total no. of complaints YTD	This breakdown of area and average time to complete timings is only available for the completed complaints.  71 complaints were logged during the quarter. 25 were service issues that were dealt with immediately and aren't formal complaints. There are 9 remaining active processes that could be service issues or formal complaints but haven't been completed yet.  <b>Note:</b> Service Issues – Some issues are logged as complaints as the customer has a justified concern. Often these are simple issues resolved by talking with the customer or are complaining through us against a third party. They don't form part of our formal complaints process but still are captured for improvement and analysis purposes  <u>Ombudsman Complaints</u>  0 received during the quarter.
	Council Tax/NNDR	4	Council Tax/NNDR	5	17	5	
	Customer Services	5	Customer Services	4	14	4	
	Planning	7	Planning	10	30	10	
	Waste	10	Waste	14	30	14	
	Commercial Services	3	Commercial Services	1	27	11	
	Parking	2	Parking	1	15	1	
	Benefits	2	Benefits	-	-	-	
	EH	1	EH	-	-	-	
	Housing		Housing	1	8	1	
	Total	34	Total	37	24	37	
Service Issues	34	Service Issues	25	20	25		

Performance measure	Managed By	Q1 16/17	2016/17	Q1 2017/18	17/18	Comment (If Applicable)
			YTD or Total		YTD or total	
<p><b>All: Compliments received</b></p> <p>Compliments logged against each Service per quarter. Highlights changes over time and the effects of initiatives.</p>						We are 'readvertising' in the Friday flash to encourage officers log them so we can keep a record of compliments that can be reported out easily.
<p><b>Long term sickness (days)</b></p> <p>Number of days lost due to long term sickness</p>	Andy Wilson	53	YTD 53	78.8	78.8	Equivalent to 0.9 days/FTE. Low numbers of staff in WD means that any long term sickness has a disproportionate effect on days/FTE
<p><b>Short term sickness (days)</b></p> <p>Number of days lost due to short term sickness</p>	Andy Wilson	31.1	YTD 31.1	32.7	32.7	Equivalent to 0.39days/FTE for the quarter.
<p><b>CS: Top 5 call types</b></p>	Anita ley			1) Garden Waste - New Subscription 2) Garden Waste subscription enquiry 3) Revenues Move 4) Call transferred to other organisation 5) Domestic waste - missed waste	-	Last Qtr 1) Revenues - Move 2) Domestic Waste - Missed Collection 3) General Other - Enquiry Dealt With 4) Revenues - Discount / Exemption 5) Revenues - General Balance Enquiry
<p><b>CS: Top 5 website views/trend</b></p>	Kate Hamp			Issue with extracting information Moving to the new website and re-focusing on transactions, this measure will highlight processes started rather than page hits	-	
<p><b>CS: % of customer contact through online interaction</b></p> <p>Demonstrating channel shift</p>	Kate Hamp	17.8%	17.8%	49.2%	Q4 16/17 33.3%	<p>The figures for Qtr 1 show that almost 50% of processes were initiated online. There is still scope to increase this further as more processes go online for Environmental Health &amp; Licensing.</p> <p>The new website with simplified and standardised scripts, that don't require customers to log in, make it far quicker and easier for the public to interact online. Halving the mouse clicks needed in most instances and smoothing the</p>

Performance measure	Managed By	Q1 16/17	2016/17	Q1 2017/18	17/18	Comment (If Applicable)
			YTD or Total		YTD or total	
						customer journey, especially when submitted by smartphone.  Reports to management are highlighting the processes achieving better channel shift so more effort can be focused on the processes with lower uptake.
<b>CS: Total number of online transactions</b>	Kate Hamp	3611	3611	Workflow360(W2): 17420	17420	Number of online interactions continues to increase as well as the percentage of all contact through online means. This increase of over 10,000 transactions over the quarter show the benefit in the website redesign and enable more automation to reduce the workload for CST and for Case Managers.  The increase in online transactions over the past year has been relentless and shows no sign of slowing, boosted by two factors; more processes online, and better customer experience, especially via mobile/tablets.
<b>CS: % of calls resolved at first point of contact</b> Percentage of calls which are resolved at initial contact with CST	Anita Ley	65%	65%	-	-	<i>Measure no longer captured in new phone system. Online CST dashboard has more measures data updated monthly and broken down into call types and answer speed.</i>
<b>Nuisance complaints Received</b>	Ian Luscombe	64	64	167	167	The nuisance process (covering noise, odours, smoke, etc) in Workflow360, has been updated to simplify the process for case managers and specialists and ensure consistency of use.
<b>EH: Average time taken for Disabled Facilities Grants (Fast track) (work days)</b>  The total time, from when the application was received until the works are completed. Only a small portion of this is under direct control of the Council.	Ian Luscombe		-	Same working day	0	This is the portion of the process completely under the council's control (from application to approval). Our target is completion within 5 days.  All applications received during the quarter were completed in the same working day as they were received.

## Exception Report:

Performance measure	Managed by	Prev Status	Last Qtr	Apr 2017	May 2017	Jun 2017	Q1 2017/18		Action Response
			Q4	Value	Value	Value	Value	Target	
<b>% calls answered in 20 seconds</b>	Anita Ley		29%	23%	26%	25%	25%	50%	<p>We are seeing a reduction in the quick simple calls which is due to better routing in the new telephone system alongside the introduction of the new website. This does mean the Contact Centre are dealing with longer more complex calls which will increase average call length and wait times.</p> <p>An increase in temporary agency staff who have required training coupled with more calls than the previous 3 months has affected performance this quarter.</p>

Explanation and value of targets for Balanced Scorecard measures

*Italics for obsolete or updated figures*

Measure	Target	Explanation
Overall waste recycling rate %	58%	A combination of recycling, re-use & composting for household waste. A self-set stretching target based on historic collection rates and current ambitions
Residual waste per household	31kg/month	The residual waste left after recycling and re-use.
Average Call Answer Time	1 min	Simple statistic to judge overall call answer speed. Can mask the complexity of call answer times but provides useful yardstick for comparing performance over time. If capacity exists in CST then answering calls in 20secs is common and simple. Answering calls consistently around the minute (or any) timeframe occurs only when incoming calls are being matched with the speed calls are being completed. As an example with our avg call and wrap up time of 7 mins this target is passed with only 2 extra calls being received per minute. Each additional extra 2 calls/minute would add another 1 minute wait to all callers wait time.
<i>% of enquiries resolved at first point of contact</i>	60%	<i>In contrast to the measure above, this focuses on when the customer gets through, can CST deal with the issue at hand. Driving increased success in this measure pushes up call times so has a negative impact on call answer speed.</i>
% of Applications determined within time frame Major	60%	Statutory performance measure target
% of Applications determined within time frame Minor	65%	Old statutory performance measure target
% of Applications determined within time frame Other	80%	Old statutory performance measure target
Avg End to End time Benefits New Claims	24 days	Time for processing new claims
Avg End to End time Benefits Change of circumstances	11 days	Time for processing changes to existing claims

% of nuisance complaints resolved at informal stage	90%	Handling nuisance complaints informally saves time and money and often provides a more satisfactory outcome for all involved
Avg days short term sickness/FTE	1.5days/qtr	Private sector average of c.6 days/year, Public sector average of c.8 days has informed this initially stretching target. Agile working has had a very positive impact on sickness as people feeling under the weather have remained at home, working and reduced the likelihood of transfer of communicable infections to colleagues. Better sickness reporting via W2 will increase confidence in this figure and speed of reporting. Will be measured monthly from April onwards.
Complaint response speed	30 days	Time to respond to a Level 1 complaints
<i>T18: Programme timescales on track</i>	<i>Against Plan</i>	<i>Performance against programme timelines. Recently re-baselined following agreement of milestones with Civica</i>
<i>T18: Performance vs. Budget</i>	<i>Under/over spend</i>	<i>Measure to compare the forecast spend on the programme at the end of the period to the actual spend. To judge budget control. Green: Actual spend less than planned Amber: Overspend of less than 5% Red: Overspend greater than 5%</i>
<i>T18: No. of Processes live</i>		<i>Against baselined projection for the month. There is a rolling programme of processes being worked on together by the BDT and the services that is dependent on system fixes and adoption/buy in from the organisation.</i>
Ratio of benefit new claims web/post submissions (IEG4)	80%	Ratio of submissions via the new IEG4 portal
Ratio of benefit change of circumstances web/post submissions (IEG4)	20%	Ratio of submissions via the new IEG4 portal
T18: Ratio call/web submissions	10% increasing over time Updated to 20%	Ratio for customers calling vs self servicing using integrated processes online. Customers currently fill in online forms but this then requires input into our systems. The new integrated approach inputs directly to our system and routes work where needed. Initially requires creation of account before first submission so expectation of slight drop off in ratio to begin with and then increasing as more customers sign up.

		Communication initiatives will be coordinated at key times during the year, for example, with annual council tax bills to drive sign ups so a stepwise increase in submissions is expected.
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Report to: **Overview and Scrutiny Committee**  
Date: **5 September 2017**  
Title: **Annual Review of Health and Safety Policy**  
Portfolio Area: **Strategy and Commissioning**  
Wards Affected: **All**  
Relevant Scrutiny Committee: Overview and Scrutiny

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken:  
(e.g. referral on of recommendation or implementation of substantive decision)

Author: **Ian Luscombe** Role: **Community of Practice Lead (Environmental Health)**

Contact: **01822 813713 [Ian.Luscombe@swdevon.gov.uk](mailto:Ian.Luscombe@swdevon.gov.uk)**

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**Recommendations:**

**That the Committee RECOMMEND that the Hub Committee RECOMMEND to Full Council to adopt the revised policy and that it is signed by the Head of Paid Service and the Leader of the Council.**

**1. Executive summary**

- 1.1 The Council is required to prepare a written health and safety policy statement by the Health and Safety at Work Act 1974. The policy should be agreed and signed off by the Head of Paid Service and the Leader of the Council.
- 1.2 The Joint West Devon Borough Council and South Hams District Council Health and Safety policy documents the Council's position regarding its intentions, organisation and arrangements for ensuring the health, safety and welfare at work of their employees,

and the health and safety of any other person working in, visiting the Councils, or who may be affected by their activities

- 1.3 The policy is required to be reviewed annually and where appropriate, revised to reflect any significant change within the Organisation. The updated policy is attached in Appendix A.
- 1.4 The only significant change in the policy is in 4.7 and Appendix B (Section 2)(of the Policy) the substitution of the Harbour Master for the Community of Practice Lead for Assets, in respect of responsibilities relating to health and safety and marine safety at Salcombe harbour and the lower ferry.
- 1.5 The wording in 5.1.1 has also been amended to provide greater clarity.
- 1.6 The attached Appendix B provides an update on progress against a programme of work related to achieving compliance with health and safety requirements. There has been significant progress over the last 18 months to ensure that the Council is compliant with its legal obligations and aspires to promote good practice in the organisation.

## **2. Background**

- 2.1 The Council is required to have a written health and safety policy under the Health and Safety at Work Act 1974. The Policy is an important document to set the responsibility for the health and safety of staff in the Council's employment and those persons effected by its activities. The Policy covers the entire range of Council Services.
- 2.2 The Policy is supplemented by a number of Safety Codes dealing with specific issues relevant to particular Service Groups and/or activities, e.g., Work at Height, Working Alone, Incident Reporting, etc. These Codes will have the same status as the Policy
- 2.3 The Policy adopts a sensible approach to managing risk which reflects best practice and is based on integrated management principles enabling the Council to achieve a correct balance in managing health and safety as part of an overall risk management
- 2.4 The Policy should be reviewed annually and revised to include any significant changes
- 2.5 The Council carried out a GAP analysis of its health and safety provision in January 2016 and identified a number of areas that required improvement to ensure compliance with its obligations under the Health and Safety at Work Act 1975

- 2.6 The Council established a work programme to carry out a number of actions across all Council areas. This included the updating of risk assessments, method statements, policies, guidance material and training.
- 2.7 This approach has been successful with a significant amount of progress being achieved to ensure compliance with health and safety requirements. The focus of the programme is now on audit and improving best practice and to improve the health and safety culture of the organisation and enable continuous improvement.
- 2.8 The status of health and safety compliance is regularly communicated to the senior leadership team and is reviewed quarterly as part of the corporate risk register.
- 2.9 The Council is also implementing a health and wellbeing strategy with the intention of supporting staff health and wellbeing through areas such as health, personal growth, values and work. This will involve for example wider access to e-learning, effective staff engagement and access to counselling services.

### **3. Outcomes/outputs**

- 3.1 The Council is required to have a Health and Safety Policy agreed by senior management and members, signed off by the Head of Paid Service and the Leader of the Council
- 3.2 The work carried out over the past 18 months is summarised in Appendix B – the health and safety work programme. The work is supervised by the Internal Health and Safety Community of Practice (CoP) , a group of officers from across the Council who are responsible for the delivery of health and safety control measures.
- 3.3 The future work programme will be informed by the internal health and safety audit and an aspiration to demonstrate continual improvement and good practice.

### **4. Options available and consideration of risk**

- 4.1 There is a statutory requirement to agree and implement the Council's Health and Safety Policy. Failure to do so would risk prosecution by the Health and Safety Executive and put employee's health and safety at unacceptable risk.

### **5. Proposed Way Forward**

- 5.1 The Council should agree the revised Health and Safety Policy and continue to review it on an annual basis and/or when significant changes occur.

5.2 The Internal Health and Safety CoP should provide a basis for integrating health and safety into its management structure and achieve continuous improvement in health and safety standards.

## 6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	Health and Safety at Work etc Act 1974 The Policy conforms to the 2013 HSE guidance in order to ensure that the Council is legally compliant. Accordingly, the Policy needs to be formally adopted by the Council.
Financial	Y	Achieving legal compliance requires the Council's officers to actively engage in carrying out health and safety responsibilities intrinsic to their job role. The cost will be officer time which is accounted for within existing budgets.  Achieving best practice will require an ongoing commitment to continuously improve the health and safety management system which will add to the cost of officer time.
Risk		The potential cost of not achieving legal compliance includes: i HSE enforcement costs ii legal and court cost iii compensation costs iv loss of credibility.
Comprehensive Impact Assessment Implications		
Equality and Diversity		The Policy applies to all members of staff and has considerations of the effect of Council activities on non-employees. Effective management of health and safety should ensure that equality and human rights are not infringed.
Safeguarding		Indirect impact derived from suitable and sufficient risk assessment of activities associated with vulnerable groups
Community Safety, Crime and Disorder		No direct impact

Health, Safety and Wellbeing		As above, indirect impact on wellbeing derived from suitable and sufficient assessment of risk of work activities, e.g., lone working
Other implications		None

### **Supporting Information**

#### **Appendices:**

A - South Hams District and West Devon Borough Council's Health and Safety Statement and Policy

B - Health and Safety work programme

#### **Background Papers:**

None

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# South Hams District and West Devon Borough Councils



## HEALTH AND SAFETY STATEMENT AND POLICY

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### Revisions

Version 1	September 2015
Version 2	November 2016
Version 3	July 2017

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### 1. Statement of Intent

- 1.1 This is a statement of policy by South Hams District Council and West Devon Borough Council (the Councils) about their intentions, organisation and arrangements for ensuring the health, safety and welfare at work of their employees, and the health and safety of any other person working in, visiting the Councils, or who may be affected by their activities.
- 1.2 It is the intention of the Councils to do all that is reasonably practicable to provide safe and healthy working conditions for its employees and to enlist their support in achieving this. The Councils also recognise their responsibilities to ensure the health and safety of elected members, members of the public, visitors and contractors when on their premises and others who may be affected by their activities.

### 2. Policy

- 2.1 It is the policy of the Councils as employers that they will comply so far as is reasonably practicable, with the requirements of the Health and Safety at Work etc. Act 1974 and all other relevant statutory provisions.
- 2.2 This policy is supported by Codes of Practice that apply throughout the Councils and will have the same status as this policy. The Codes of Practice will reflect:
- minimum legal requirements
  - best practice.

- 2.3 The Councils will do all that is reasonably practicable to prevent personal injury and illness, loss and damage to premises, plant and equipment by:
- Appropriate assessment and management of risk for all activities and seeking to eliminate hazards and/or reduce risks;
  - ensuring appropriate competence of all employees in health and safety by the provision of information, instruction, training, supervision, management support and performance appraisal;
  - ensuring close co-operation and participation of management and staff through normal working relationships and consultation with employees.
- 2.4 The Councils will pursue the above aims by the implementation of the objectives at **Appendix A** and the three year safety plan.
- 2.5 The remainder of this document contains the following sections:
- Organisation and responsibilities
  - Arrangements for implementation
  - Objectives.

### **3. Policy Review**

- 3.1 This policy will be reviewed annually, in consultation with the unions, by the Internal Health and Safety Service who will advise the Senior Leadership Team (SLT) on possible amendments
- 3.2 The Codes of Practice will be reviewed by the Internal Health and Safety Service as and when legislation changes, best practice dictates or when otherwise necessary.

### **4. Organisation and responsibilities**

- 4.1 This part of the policy describes the organisational arrangements within the Councils and their trading arm(s) for ensuring health and safety at work. Health and Safety issues are line management responsibilities alongside and of equal importance to responsibilities for the provision of services and the management of resources.

#### **4.2 Head of Paid Service**

- 4.2.1 The **Head of Paid Service** has overall responsibility to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all the Councils' employees and to ensure, so far as is reasonably practicable, the health and safety of others who work in and visit the Councils or may be affected by the Councils' activities.
- 4.2.2 The **Head of Paid Service** will include Health and Safety in his/her annual report to Council.

#### **4.3 Group Managers**



4.3.1 Group Managers are responsible for the implementation of this policy in the areas over which they have control.

#### 4.3.2 Community of Practice Lead Specialist- Environmental Health

The **Community of Practice Lead Specialist- Environmental Health** will be responsible for providing an internal health and safety service to the Councils which will be the competent assistance as required by the Management of Health and Safety at Work Regulations 1999. To avoid confusion this should be a named officer.

#### 4.4 Managers/supervisors

Managers/supervisors are responsible for ensuring the implementation, co-ordination and monitoring of this policy and associated Codes of Practice, and the overall health and safety management of the staff within their control. In particular, they must:

- carry out risk assessments and ensure that safe working conditions are maintained;
- ensure that staff within their control are trained and instructed in safe methods and comply with them;
- ensure that all accidents, incidents and near misses are reported and investigated and steps taken wherever possible to prevent a recurrence.

4.5 Group Managers may nominate officers with Day to Day Responsibility for Health and Safety in their respective services/departments and inform their staff and the Internal Health and Safety Service accordingly but this will not remove the Head of Service's responsibilities.

#### 4.6 Employees

Employees shall:

- take reasonable care for the health and safety of themselves and of other persons who may be affected by their acts or omissions;
- co-operate with their manager in the implementation of this policy;
- follow safe working practices at all times;
- report accidents, incidents and near misses to their line manager;
- report unsafe working conditions and hazards to their line manager or other appropriate person.

#### 4.7 Key staff with additional health and safety responsibilities

In addition to their responsibilities as managers the following Heads of Services will also have the responsibilities shown at **Appendix B**:

- Community of Practice Lead Specialist- Environmental Health
- Harbour Master

Commented [IL1]: Was Assets Cop lead

- Lead HR Business Partner
- Members of the Internal Health & Safety Virtual Community of Practice group (HSvCoP)

#### 4.8 **Members of the Internal Health & Safety Virtual Community of Practice group (HSvCoP)**

- Membership of HSvCoP will consist of CoP Leads and Managers and other relevant persons
- The group will be a forum for discussion for Internal Health and Safety matters and responsible for developing and progressing health and safety awareness throughout the Councils.
- The group will identify and implement work programmes relating to internal health and safety, including a programme of auditing and review, and any other tasks arising to achieve compliance with regulatory requirements or best practice.
- A member of SLT will be in attendance. This will enable key decisions to be made or effectively escalated to SLT.
- This group will also be a point of contact for Union Representatives and Staff Forums.

Commented [IL2]: Changed from "allow"

#### 4.9 **Community of Practice Lead Specialist- Environmental Health (Internal Health and Safety)**

The Internal Health and Safety service provides the competent advice to the Councils on matters relating to health, safety and welfare at work across the Councils. Their objectives include:

- providing specialist support and guidance to the Councils on the effective management of health and safety;
- to help promote and maintain a high standard of total health (physical and mental) for all persons working in the Councils;
- the safeguarding of all staff from health and safety hazards arising from their work or the environment by means of accident prevention, environmental control and prevention of injury and illness;
- to receive all Incident/Near Miss reports, maintain an Incident/Near Miss database and publish performance statistics.

### 5. **Arrangements for implementation**

5.1 This part of the policy describes the general arrangements for the implementation and monitoring of health and safety at work.

#### 5.2 **Strategic aims, objectives and three-year action plan**

The aims, objectives and three-year safety plan set out the Councils' commitment to provide a healthy and safe environment for all those who work in and visit the Councils. The plan reflects best practice and is based on the principles of loss control and quality management.

This approach is designed to:

- a. address the health and safety implications of the various activities of the organisations;
- b. identify the hazards and assess the level of risk;
- c. apply the following general principles of prevention in the order shown:
  - avoiding risks;
  - evaluating the risks which cannot be avoided;
  - combating the risks at source;
  - adapting the work to the individual, especially as regards the design of workplaces, the choice of work equipment and the choice of working and production methods, with a view, in particular, to alleviating monotonous work and work at a predetermined work-rate and to reducing their effect on health;
  - adapting to technical progress;
  - replacing the dangerous by the non-dangerous or the less dangerous;
  - developing a coherent overall prevention policy which covers technology, organisation of work, working conditions, social relationships and the influence of factors relating to the working environment;
  - giving collective protective measures priority over individual protective measures; and
  - giving appropriate training and instructions to employees.

### **5.3 Codes of Practice**

- 5.3.1 Where a need is identified, through legislation, risk assessments, best practice, health and safety auditing, the proceedings of committees or other means, a Code of Practice will be established to set the standard of implementation and operation for the identified topic. These Codes of Practice will be reviewed as and when legislation changes or practice dictates.
- 5.3.2 The Codes of Practice shall have the same status as the main policy document and will outline how to implement the requirements of the main policy in specific risk areas.

### **5.4 Training**

- 5.4.1 The Internal Health and Safety Service in conjunction with the training partnership and workplace managers and supervisors, will provide guidance on Health and Safety Training and general training needs, and identifying those key workers who should attend. The Internal Health and Safety CoP will administer health and safety training across the organisations and develop a training competency matrix, which will establish key training for all staff.

- 5.4.2 Each Service will ensure that good working arrangements for health and safety training exist. This training will include attendance at corporate induction training and appropriate special to job induction training.
- 5.4.3 Each Service will ensure that health and safety is included as an integral part of their annual business plan.
- 5.4.4 Records of safety training provided will be maintained on Team Spirit and but may also be maintained by service managers.
- 5.4.5 The identification of health and safety training needs is to be part of the annual appraisal process. Managers are responsible for identifying the training needs of individuals. The Internal Health and Safety Service needs in conjunction with Human Resources will be responsible for an analysis of the corporate training.

## **5.5 Risk assessment**

5.5.1 Each manager/supervisor shall make a suitable and sufficient assessment of:

- the risks to the health and safety of his employees to which they are exposed whilst they are at work; and
- the risks to the health and safety of others who may be affected by their activities,

for the purpose of identifying the measures necessary to ensure a safe and healthy place of work.

5.5.2 In addition to the general risk assessment set out at paragraph 5.5.1 there may also be a need for a specific risk assessment and the need for that should be identified and if possible carried out at the same time. These specific assessments are shown in the appropriate Code of Practice on Assessment of Risk but include:

- manual handling (*(including the lifting, putting down, pushing, pulling, carrying or moving of a load)*);
- display screen equipment (computing and word processing);
- hazardous substances etc;
- young people
- pregnancies.

5.5.3 Risk assessments will be reviewed:

- Periodically as recorded on the risk assessment;
- when an accident, incident or near miss occurs;
- when purchasing new equipment;
- changing work practices etc; or
- moving into a new work area.

5.5.4 Managers/supervisors are to monitor work activities to ensure that risk assessments and control measures are still suitable and sufficient and take appropriate action to review when necessary.

5.5.5 Where a need for a generic risk assessment is identified (e.g. work in offices, activities of a similar nature taking place in more than one service) the internal health and safety service will be responsible for carrying out the assessment and monitoring as required by paragraph 5.5.4

## **5.6 Health and safety standards, audit and inspection**

5.6.1 A set of health and safety standards has been designed and each Service will make their own arrangements for reviewing their level of achievement annually which will be reported in their service plan. The standards are shown at **Appendix C**.

5.6.2 The Internal Health and Safety Service CoP will develop a programme of audits and a standardised form to identify whether the management of risk has been carried out in each service area. The programme should be designed to reflect the needs of the Councils and the individual Service and will take into account the particular kinds of hazard or health and safety issues encountered. The timing of health and safety audits will appear in the annual safety plan and will be proportionate to the level and scope of the hazards and risks present.

5.6.3 The combination of the review of safety standards and the audit process is designed to ensure that we can demonstrate our level of health and safety management. The results will be analysed, considered, prioritised and shaped into an action programme.

## **5.7 Occupational health**

5.7.1 Occupational health is concerned with work-related problems and health and safety in the work place. An occupational health service for staff is provided under arrangements made by Human Resources. Further details may be obtained from the Human Resources Office.

## **5.8 Incidents**

5.8.1 Any incident or injury occurring whilst at work or on the Council's premises, however trivial it may appear at the time, must be reported to the Internal Health and Safety Service on the prescribed form.

5.8.2 Any report of an incident caused by defective fixtures and fittings, furniture, equipment etc. should make the cause clear so that steps can be taken to rectify the fault and avoid a recurrence.

## **5.9 First Aid Arrangements and Medical facilities**

5.9.1 Details of first aid arrangements and medical facilities for the Councils are given in the appropriate Code of Practice and on the Health and Safety pages of the Intranet.

#### **5.10 Eye tests for display screen equipment users**

5.10.1 Members of staff who are users of display screen equipments (computers etc) are eligible for the refund of the cost of an eye test. If it is confirmed by the optician that they require spectacles specifically for display screen equipment use, a further refund may be provided for the cost of a basic pair of spectacles. Further details are available from the Internal Health and Safety Service and on the Health and Safety pages of the Intranet.

#### **5.11 Smoking and vaping**

5.11.1 Smoking or vaping is not permitted in any of the Council's premises, in any of its workplaces, or within the confines of its depots or the defined area at Follaton House or at any workplace. The text of the policy is set out in the appropriate Code of Practice and on the Health and Safety pages of the Intranet. This also extends to the use of E Cigarettes.

Commented [IL3]: This text will be deleted

#### **5.12 Emergency Procedures**

##### **5.12.1 Fire**

Details of the procedure in the case of fire are provided at each of the Councils' premises. Fire Safety training is also covered on the Induction Courses which is mandatory for all staff, in the health and safety training prospectus and periodically as a refresher.

##### **5.12.2 Emergency procedures for staff with disabilities**

On joining the Councils, any member of staff who has a disability that might impede their evacuation or the evacuation of anyone else should bring this to the attention of their manager. A personal evacuation plan will be drawn up by the responsible manager, in conjunction with the Internal Health & Safety Service, and this should be brought to the attention of colleagues working in the same locality. Staff who develop a disability during their employment in the Councils should also consult their manager.

##### **5.12.3 Threats Against the Councils**

On receipt of a threat against the Councils including those by letter or suspect package suspicious letter or parcel, staff should:

- make no attempt to open it;
- place the package carefully on the nearest firm surface; and
- telephone Follaton House Building Management (extension 1227) and Kilworthy Park Facilities (extension 3611/3609)

### 5.13 Security

Responsibility for security within the Councils' premises rests with the manager of each site. Staff are however expected to exercise all reasonable vigilance and, in particular, are responsible for any visitors they may bring into the Councils' premises.

### 5.14 Arrangements for Names badges and access cards and for Access Control

Where there is a need to provide staff with name badges and access cards or for access control the Facilities service will make the necessary arrangements.

### 5.15 Consultation With Employees

5.15.1 Consultation with employees on health and safety matters is essential and a statutory requirement.

5.15.2 Suitable arrangements are to be put in place for staff consultation and Terms of Reference agreed as appropriate.

.....  
Steve Jorden  
Head of Paid Service

.....  
John Tucker  
Leader of the Council

South Hams District Council  
Follaton House  
Totnes  
TQ9 5NE

Date November 2017

.....  
Philip Sanders  
Leader of the Council

West Devon Borough Council  
Kilworthy Park  
Tavistock  
PL19 0BZ

### Appendices

- Appendix A Aims and Objectives
- Appendix B Key Staff With Additional Health and Safety Responsibilities
- Appendix C Standards Linked To Health and Safety Objectives

## Aims and Objectives

### Aims

- To ensure that a robust safety management system is in place;
- To provide and maintain a work environment that is safe and without risk to health for all employees, contractors and others who may be affected by the activities of the council;
- To avoid all accidents and to ensure that no one suffers ill health as a result of working at South Hams District Council or West Devon Borough Council or by the activities of the Councils;
- To plan and manage activities so that hazards are assessed and risks eliminated or controlled in so far as is reasonably practicable by appropriate prevention and protection measures

### Objectives

- Fully integrate health and safety into the management and decision-making processes within the Councils.
- Ensure appropriate systems are developed and maintained for the effective communication of health, safety and welfare matters throughout the Councils.
- Comply with all relevant Statutes, Regulations and Codes of Practice. The minimum standards that will be adopted by the Councils will be those required by law, although the Councils will always seek to exceed these where there is a demonstrable benefit.
- Devote appropriate resources in the form of finance, equipment, personnel and time to ensure the maintenance of health, safety and welfare standards.
- Provide necessary information, instruction and training to employees and others, including temporary staff, to ensure their competence with respect to health, safety and welfare.
- Ensure appropriate liaison with all necessary persons to ensure an appropriate standard of health, safety and welfare. The Councils will also ensure that adequate arrangements are also in place for ensuring the health and safety of non- employees who may be affected by the Councils' activities.
- Ensure that all employees are aware of their responsibilities to take reasonable care of themselves and others who could be affected by their acts or omissions and to co-operate with management in achieving the standards required.
- Ensure that managers are aware of their specific duties and responsibilities to comply with the letter and spirit of the Councils' policy and that the management of health, safety and welfare is an integral part of their function and their performance will be monitored along with their other duties.
- Carry out appropriate investigation of accidents, incidents and 'near-misses' and necessary action taken to reduce the likelihood of a recurrence.
- Establish procedures to ensure that safe equipment and plant are provided for employees and non-employees.
- Establish procedures for the appointing and monitoring of the competency of contractors.



## Appendix B

### Key Staff with Additional Health and Safety Responsibilities

1. Community of Practice Lead Specialist- Environmental Health, in addition to his enforcement responsibilities in the commercial sector, will:
  - a. Provide a health and safety advisory service to the Councils by means of the Internal Health and Safety Service;
  - b. Advise the Internal Health and Safety Service on matters of Environmental Health and Pollution Control, relating to activities carried out by the Councils;
  - c. When necessary, monitor the atmosphere and assess noise levels in certain areas of work;
2. Harbour Master will ensure that:
  - a. The Dartmouth Lower Ferry operates in accordance with the South Hams District Council's approved Domestic Safety Management Code as required by the Merchant Shipping (Domestic Passenger Ships) (Safety Management Code) Regulations 2001 and that reviews of the Code take place when necessary and at not less than 3 yearly intervals.
  - b. The Salcombe Harbour Safety Management System as required by the Department for Transport Port Marine Safety Code is produced and reviewed at the prescribed intervals.
3. Lead HR Business Partner will have responsibility for:
  - a. Advising elected Members and Officers on the personnel implications of the Councils' Health and Safety Policy;
  - b. Consultations and negotiations with representatives of the staff on those aspects of the Health and Safety policy which affect the staff and their conditions of employment;
  - c. In conjunction with the Internal Health and Safety Service provide suitable induction and other training for staff in health and safety matters, including the administration of the training programme and the organisation of training courses within the Council;
  - d. Ensure that an appropriate paragraph concerning risk management and health and safety is included in each job description.
4. Internal Health & Safety Virtual Community of Practice group (HSvCoP) will have responsibility for:
  - a. identifying and implement work programmes relating to internal health and safety, including a programme of auditing and review, and any other tasks arising to achieve compliance with regulatory requirements or best practice.
  - b. the administration of health and safety training across the organisations and develop a training competency matrix.

Commented [IL4]: Duties were previously with Asset CoP Lead

## APPENDIX C

### Standards linked to Health and Safety Objectives

Performance levels			
1	2	3	4
<b>Communication and Consultation</b> - Management will ensure that appropriate systems are developed and maintained for the effective communication of health, safety and welfare matters throughout the Councils. The Councils will liaise and work with all necessary persons to ensure an appropriate standard of health, safety and welfare. The Council will also ensure that adequate arrangements are also in place for ensuring the health and safety of non- employees			
Health & safety is not discussed and changes are made without consulting with staff or managers	Health & Safety is a standard item on managers meetings, for all staff during first week induction and following any incident. Changes which may affect H&S are openly discussed with managers	Health & Safety is a standard item on managers and team meetings, for all staff during first week induction and following any incident and as part of risk assessment. Changes which may affect H&S are openly discussed with managers and staff	Health & Safety is a standard item on managers and team meetings for all staff during first week induction and following any incident and as part of risk assessment. Any matters arising are followed up to a conclusion. Changes which may affect H&S are openly discussed with managers and staff and comments or arguments welcomed
<b>Contractors</b> - The Councils will ensure that procedures are established for appointing and monitoring the competency of contractors.			
Contractors are selected without considering any health and safety implications	Contractors are selected after checking their health and safety management and systems	Contractors are selected after checking their health and safety management and systems and agreeing method statements and working processes. The Council's Internal Health and Safety Service is involved.	Contractors are not used OR Contractors are selected after checking their health and safety management and systems and agreeing method statements and working processes. The Council's Internal Health and Safety Service is involved. Contractors are actively monitored during the contract works and a record is maintained.
<b>Monitoring of health and safety including risk assessments and working practices</b>			
No monitoring of health and safety takes place	When problems are brought to the attention of managers the matter is looked into	Regular checks of some aspects of health and safety are made	A programme of checks on health and safety is produced and followed
<b>Planning including the effects of service changes and requirements on health and safety</b>			
There is no consideration of health and safety in my planning	Health and safety is included in my Service Plan but not to any great extent	Health and safety is included in my Service Plan and general planning for my service. Key hazards are identified together with targets for removing or	Health and safety is a feature of all planning in the service. My service plan identifies key hazards and shows targets for removing or mitigating the risks. Progress is actively monitored.

		mitigating the risks	
<b>Risk assessment</b> - <i>The Councils' approach to health, safety and welfare is based on the identification, management and control of risks. There are distinct benefits to be gained from providing a safe and healthy working environment, and appropriate levels of resources will be allocated to promoting, developing and maintaining the standards of health, safety and welfare within the Councils.</i>			
No risk assessments have been carried out	Risk assessments have been carried out for all activities	Risk assessments have been carried out for all activities, control measures put in place and communicated to those affected. Review of assessments is carried out	Risk assessments have been carried out for all activities, control measures put in place and have been communicated to those affected and training has been provided. Monitoring and reviewing of assessments is carried out and recorded.
<b>Training</b> - <i>The Councils will provide the necessary information, instruction and training to employees and others, including temporary staff, to ensure their competence with respect to health, safety and welfare.</i>			
Training is not provided.	Health and safety training needs are identified during the annual appraisal process but not monitored	Health and safety training needs are identified during the annual appraisal process, and when they arise during the year	Health and safety training needs are identified during the annual appraisal process, and when they arise during the year and monitoring carried out to ensure that training takes place

**South Hams District Council and West Devon Borough Council aim to ensure equality of opportunity in the delivery of their policies, services and employment practices. South Hams District Council and West Devon Borough Council will challenge discrimination, and encourages other organisations within South Hams and West Devon to act in accordance with Equality legislation.**

***This Policy is available in large print or Braille upon request.***

***If you require any help completing associated paperwork please contact the Internal Health and Safety Service extension 1475.***

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REQUIREMENT	DESCRIPTION OF REQUIREMENT	DETAIL OF GAP ANALYSED	ACTION REQUIRED	Progress	Outcome	BY WHEN
OH&S Policy	Policy is proportionate, includes commitment to: <ul style="list-style-type: none"> <li>prevention of injury and ill health</li> <li>Comply with applicable legal requirements and with CoPs to which it subscribes</li> <li>Provides for setting &amp; reviewing objectives</li> <li>Is documented and maintained</li> <li>And periodically reviewed</li> </ul>	Policy not signed and available to staff – general lack of awareness of requirements	Amend & approve policy to indicate commitment to continual improvement in OH&S management and performance	Policy to Exec (18th Oct) and Hub (1st Nov)	Policy statement in place and reviewed annually	1 <sup>st</sup> November 2016
		There is a supporting policy for communicating to staff which is not implemented	Approve and implement Communication of Safety Statement and Policy & Associated Safe Working Procedures	Communication policy agreed. Await sign off of Policy above and circulate	Communication policy in place	1 <sup>st</sup> November 2016
		There is no policy for communicating to interested parties (e.g., contractors)	Supply policy to contractors when appointed	Phil Conday (IH&SS) has drafted and will circulate to H&S CoP	Policy now supplied to contractors when appointed	1 <sup>st</sup> December 2016
		Supporting Codes of Practice have not been formally agreed and made available to staff. Staff largely unaware of existence.	Draft, approve and implement Management of Contractors Policy	Codes of Practice agreed and circulated via intranet	Codes of Practice agreed and circulated via intranet	1 <sup>st</sup> November 2016
Planning	The procedure for hazard ID and RA shall be proactive and take into account: <ul style="list-style-type: none"> <li>Hazard risk identification, assessment and determining controls</li> <li>Legal and other requirements</li> <li>Objectives and programmes (s)</li> </ul>	A comprehensive RA Code of Practice has been prepared but managers largely unaware.	Code of Practice needs to be re-implemented and recirculated	Reviewed Code of Practice to be circulated to CoP for onward circulation	Code of practice reviewed and circulated	Immediately
		Code of Practice / Policy for Managing contractors is not complete	Draft of Policy to be completed and agreed	Reviewed Policy to be circulated to CoP for onward circulation	Policy completed	1 <sup>st</sup> Nov 2016
		Review across all services of compliance with risk management (RA, policies, procedures) has outlined some inadequate assessment of risks in individual service areas. Lack of response to self assessments to address	Comprehensive review of Risk Assessment within individual services by managers, aided by IHSS where required.	H&S CoP members and Group Managers need to ensure instruction is given to all service and workplace managers to review RA and policies in line with Self-assessment findings	Service and workplace managers have implemented a review of RA and policies in line with self-assessment findings and gap analysis. IHSS time to aid review and implementation.	1 <sup>st</sup> Feb 2017
		Safe working procedures for Lone Working across service areas are not reflective of current working practices, putting staff at risk.	Workplace managers to review and implement lone working procedure for service area, based on the Code of Practice for Lone Working	Customer First lone working procedure in draft form; Salcombe Harbour procedure in place; various other methods in place but need to be checked against Code of Practice	Outstanding self assessments to be returned to IHSS as soon as possible.  Lone working procedure in place and key staff trained and recorded	1 <sup>st</sup> October 2016
			Implement lone working procedures	Personal contacts of staff to be collated for Lone working purposes and held in a secure location but accessible to key personnel	this has been reviewed and will be replaced as a requirement by the Council writing to staff to inform them that the escalation procedure (for non return to work ) must be given to next of kin or buddies	1 <sup>st</sup> October 2016

<p>Implementation and operation</p> <ul style="list-style-type: none"> <li>Resources, roles, responsibility, accountability and authority</li> <li>Competence, training and awareness</li> <li>Communication, participation and consultation</li> <li>Documentation</li> <li>Control of documents</li> <li>Operational control</li> <li>Emergency preparedness and response</li> </ul>	<ul style="list-style-type: none"> <li>Top management shall take specific responsibility for OH&amp;S irrespective of other responsibilities</li> <li>Training procedures which take into account differing levels of responsibility, ability, language skills and literacy; and risk</li> <li>Establish, implement and maintain procedures for: communicating hazards and the management system; involving staff, contractors, visitors and relevant external interested parties</li> <li>Documentation which is proportional to the level of complexity, hazards and risks concerned and is kept to the minimum required for effectiveness and efficiency</li> <li>Documents are relevant, approved, reviewed, current and available. They must also be legible, readily identifiable and their distribution controlled</li> <li>Operational controls are integrated into the OH&amp;S management system re: purchases, contractors and other visitors, procedures and stipulated criteria</li> <li>Capability to identify, respond through prevention or mitigation to emergency situations</li> </ul>	<p>Joint Health and Safety Statement and Policy sets out roles and responsibilities for implementation of Policy and Codes, but this is not clearly implemented due to a complex matrix management structure.</p> <p>A training matrix template needs to be populated to identify levels of training required across the organisation.</p> <p>Document storage system is not consistent across services. No central depository for essential policies, procedures and guidance documents.</p> <p>Code of Practice in place for Threats to the Council and emergency Planning, but requires reviewing.</p> <p>No mechanism for feedback from Service Group or Centre managers to update management system.</p> <p>Health &amp; safety Induction and training (on the job) is not sufficient, although now eLearning available for new starters.</p>	<p>Duty-holders need to integrate h&amp;s planning at the initial stages of work stream development to avoid costly oversight in the future, including identifying responsibilities and training provision.</p> <p>Implement e-learning approach and reflect observations</p> <p>adopt communication policy</p> <p>Need to adopt a suitable repository for information to be held and referenced</p> <p>Establish current training requirements and how identified, introduce a training matrix for identifying and centralising training needs.</p> <p>Files need to be reviewed and rationalised to ensure there is no ambiguity. Establish secure document storage for both individual service areas and a central bank.</p> <p>Co-ordinate with Emergency Planning / Community Safety Specialists to establish, approve, implement and maintain a procedure which conforms to Councils' objectives</p> <p>SLT establishes h&amp;s item is routinely (and permanently) featured on all operational meeting agenda</p> <p>Implementation of Corporate Induction to include H&amp;S (E-learning) Health &amp; Safety responsibilities for staff and managers need to be included in job descriptions.</p> <p>Procedures for new starter Safety Induction Training (on the job training)</p>	<p>Responsibilities now clearer following review of H&amp;S policy; need a more structured repository for Policies and Codes of practice</p> <p>E-learning products available on work pal or similar</p> <p>See previous actions with respect to Communication policy</p> <p>Croner option to be subject to business case 6.5k per annum</p> <p>Identify training needs arising from risk assessment and establish a training matrix</p> <p>Croner product (or similar) subject to business case</p> <p>Review of business continuity and relationship with H&amp;S</p> <p>Virtual CoP now in place with direct line into SLT</p>	<p>Policy statement in place and reviewed annually; s drive and intranet now the repository</p> <p>HR team; virtual CoP to own training matrix of corporate issues eg first aid training</p> <p>Interim storage now backed up by info provision from Barbour index and BSI - need to roll out across org as info source</p> <p>IH&amp;SS with Service Managers</p> <p>S drive and intranet in use</p> <p>emergency response plan revised, business continuity in work plan for DEPS.</p> <p>H&amp;S standing monthly item at SLT and ELT</p> <p>New corporate induction is now live</p> <p>HR Team to implement when new appointments made</p> <p>elearnign is now live - requires further roll out</p>	<p>now using combination of s drive and intranet</p> <p>Training matrix forwarded to Managers</p> <p>1st November 2016</p> <p>1st December 2016</p> <p>Jul-17</p> <p>intranet</p> <p>1st November 2016</p> <p>1st December 2016</p> <p>1st October 2016</p>	<p>Due Autumn 2017</p>
<p>Checking</p> <ul style="list-style-type: none"> <li>Performance measurement and monitoring</li> </ul>	<ul style="list-style-type: none"> <li>using both proactive and reactive measures which are qualitative and quantitative</li> <li>evaluate consistent with its commitment to compliance</li> </ul>	<p>No evidence of proactive checks or audits of safety management systems for all service areas. No agreed system or methodology for internal audit.</p>	<p>Establish, implement and maintain a procedure to monitor and measure OH&amp;S performance on a regular basis.</p>	<p>Need a system in place that allows for periodic audit of safety management systems and presents new and emerging risks</p> <p>Business case for Croner or similar system</p>	<p>Internal audit programmed for 12 months</p> <p>Business case did not prove a need for a separate system; using s drive, work pal and intranet</p>	<p>1st June 2017</p> <p>1st June 2017</p>	<p>Audit schdled for August 2017</p>

<ul style="list-style-type: none"> <li>Evaluation of compliance</li> <li>Incident investigation, nonconformity, corrective action and preventive action</li> <li>Control of records</li> <li>Internal audit</li> </ul>	<ul style="list-style-type: none"> <li>investigate to find root causes, deal with actual and potential nonconformities and take corrective and preventive action subject to risk assessment</li> <li>establish, implement and maintain a procedure for identification, storage, protection, retrieval, retention and disposal of records which shall remain legible, identifiable and traceable</li> <li>objective and impartial audits to provide information on the efficacy of the management system</li> </ul>	<p>Evidence of incident investigation apparent evaluation of which results in corrective and preventive action. Still inadequate accident/incident reporting and awareness of requirements.</p> <p>Records need to be controlled and review implemented across the service areas.</p>	<p>Provide resources to undertake auditing.</p> <p>Agree a system of keeping records and reviewing outcomes. Recirculate Incident reporting procedure.</p>	<p>Need a repository for storage of incident reports and corrective action that is auditable and visible to appropriate levels of organisation</p> <p>working on W2 solution but unclear if will fit with HR records system (Teamspirit) or if practical to sit apart from other documentation</p> <p>Need a system in place that allows for periodic audit of safety management systems and presents new and emerging risks</p> <p>Consider as part of internal audit programme</p>	<p>Currently email based but will revise to be more transparent when w2 process in place</p> <p>awaiting resource to prioritise and complete; alternative system currently in place</p> <p>SLT to ensure appropriate system in place; audit in summer 2017 and monthly CoP meeting in place</p> <p>SLT to ensure appropriate resource in place; audit Summer 2017</p>	<p>1st June 2017</p> <p>1st June 2017</p> <p>1st June 2017</p> <p>1st June 2017</p>
<p>Management review</p>	<p>Input to review shall include: results of internal audits; feedback; performance data; status of incident investigations, corrective actions and preventive actions; and changing circumstances.</p> <p>Outputs shall include: any decisions and actions related to changes in performance; policy and objectives; and, resourcing and shall be communicated and subject to consultation.</p>	<p>There is no formal reporting mechanism to SLT in place, and does not appear on agenda items. No means of discussion at SLT level at present.</p> <p>No evidence that this exists. No methodology to achieve this.</p>	<p>Establish mechanism for reporting to management and to act on management decisions to achieve continual improvement.</p> <p>Virtual CoP Lead for Health &amp; Safety to provide a link between ELT and SLT.</p> <p>2 way feedback mechanism needed between SLT and ELT, and from ELT to managers and supervisors</p>	<p>virtual CoP now in place with direct access to SLT</p> <p>virtual cop and communication policy will resolve this</p> <p>virtual cop and communication policy will resolve this</p>	<p>SLT member is present on CoP meetings</p> <p>IL reports monthly to SLT</p> <p>Now a monthly item on SLT agenda and on ELT agenda</p>	<p>1st April 2017</p> <p>12 months</p>

manual system in place while we await resou







urce to progress

Report to: **Overview & Scrutiny Committee**

Date: **5 September 2017**

Title: **Regulation of Investigatory Powers Act 2000 (RIPA) Policy and update**

Portfolio Area: **Support Services**

Wards Affected: **All**

Relevant Scrutiny Committee: N/A

Urgent Decision: **N** Approval and clearance obtained: **N/a**

Date next steps can be taken: **Hub Committee**  
(e.g. referral on of recommendation or implementation of substantive decision) **12.09.17**

Author: **Catherine Bowen** Role: **Monitoring Officer**

Contact: [Catherine.Bowen@swdevon.gov.uk](mailto:Catherine.Bowen@swdevon.gov.uk)

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## RECOMMENDATIONS

- 1. To RECOMMEND to the Hub Committee that the guidance on Social Networking Sites in investigations (Appendix B) is approved and included in the Council's RIPA policy**
- 2. The Committee notes that there have been no RIPA Authorisations in the last three years, and makes any recommendations to the Hub Committee arising from this report.**

### 1. Executive summary

- 1.1. The purpose of this report is to:
  - 1.1.1. review the Council's RIPA policy and approve guidance on Social Networking Sites in investigations
  - 1.1.2. update Members on the use of RIPA, and
  - 1.1.3. report on the role of the Office of Surveillance Commissioners (OSC)
  - 1.1.4. report on training for Officers
- 1.2. The Regulation of Investigatory Powers Act 2000 (RIPA) was designed to regulate the use of investigatory powers, and its effect is that formal

authorisation must be obtained before carrying out certain surveillance, monitoring and other evidence gathering activities. RIPA ensures that the right balance is achieved between public interest and individual human rights.

- 1.3. RIPA requires the Council to have in place procedures to ensure that when required, surveillance is seen as necessary, proportionate and is properly authorised. These procedures are set out in the RIPA Policy attached to this report (Appendix A) and they are designed to protect the Council against a claim of a breach of Article 8 of the Human Rights Act if correctly followed (right to respect for private and family life, home and correspondence).
- 1.4. RIPA also requires the Chief Surveillance Commissioner to keep under review the use of RIPA by local authorities, and this is carried out by inspectors from the OSC. Historically these reviews were carried out by an Inspector's visit to all local authorities every three years, but given the reduction in the number of RIPA authorisations by local authorities, the OSC has changed the inspection regime, and visits are no longer automatic.
- 1.5. The Chief Surveillance Commissioner is now applying a more flexible approach to RIPA inspections to ensure compliance with RIPA. The Council was due a visit in August 2017 (the previous inspection having been carried out in August 2014) but this has been carried out this year by the completion of a questionnaire and submission of relevant documentation. The Inspector will send a report based on the information we have supplied in due course and a further report will be brought back to the O&S Committee.

## **2. RIPA Policy**

- 2.1. The Council's RIPA Policy is attached at Appendix A. It was amended following the last OSC visit in 2014 to reflect the minor amendments recommended by the Inspector, and to also reflect changes to the Authorising Officers following the appointment of the current Senior Leadership Team.
- 2.2. The previous Inspector confirmed that (subject to the above minor amendments made at the time) the Policy is comprehensive and very clear and no further amendments have been made at this time. The 2017 Inspector's report may make recommendations on any updates that he considers are necessary (see 1.5 above) but if this is the case, a further report will be brought to Overview & Scrutiny.
- 2.3. The previous Inspector recommended that the Council adopts guidance on the use of Social Networking Sites for RIPA investigations and a draft is attached at Appendix B to this report for Members' approval. The approved version will form Annex B to the Council's RIPA Policy to ensure all of the policy documentation is accessible in one document.

### **3. RIPA activity**

3.1. No RIPA authorisations have been applied for, or granted, in the three years since the inspection in August 2014.

3.2. The reasons are due a combination of factors, including the fact that for local authorities, the only statutory reason for a RIPA authorisation is for the purposes of preventing or detecting a criminal offence where that offence is punishable by a minimum term of at least 6 months imprisonment. The OSC also cite reduced resources, greater access to data-matching and overt, rather than covert, law enforcement.

### **4. OSC report**

4.1. The OSC is responsible for reviewing RIPA activity and monitoring compliance with RIPA and previously had a three-year inspection programme for councils. On this basis, the Council was due a visit in August 2017. As set above, the OSC recognise that, for a variety of reasons, local authorities have granted fewer RIPA authorisations with many councils not having granted any authorisations over the last three years. The OSC can therefore elect to review a Council's RIPA activity through a questionnaire, submission of documents and details of training undertaken by relevant officers. This is the case for West Devon, and a report is awaited from the Inspector in due course. It is likely that the Inspector will make recommendations in the same way that he has made recommendations following a visit, and a further update will be brought to Members once that has been received.

### **5. Training**

5.1. The Senior Leadership Team (the Authorising Officers) together with the Monitoring Officer, and officers who would be responsible for carrying out any RIPA investigations, attended RIPA training in February this year. The training covered a wide range of issues including the following:

- Why RIPA?
- RIPA and Local Authorities
- Surveillance
- CHIS
- Communications Data
- Role of authorising officers
- Necessity and proportionality
- Judicial Approval
- Social Networks
- The Investigatory Powers Act 2016

5.2. As the Council has not made any RIPA applications in the previous three years, (unless recommended otherwise by the OSC Inspector) further training will only be required when we appoint new Authorising or Investigating Officers or as a refresher to those currently trained officers. This will be built into the Councils' developing training programmes.

## 6. Outcomes/outputs

- 6.1. The Council aims to achieve compliance with the RIPA requirements and where authorisations are granted, that these are authorised as necessary and proportionate and in accordance with Policy.
- 6.2. Regular reviews of Council Policy, monitoring and reporting of any RIPA activity will ensure that compliance is achieved.

## 7. Options available and consideration of risk

- 7.1. The Council is obliged under the Regulation of Investigatory Powers Act, a series of regulations and Home Office guidance, to have a RIPA Policy in place and ensure compliance with that Policy. Home Office guidance also requires that officers are trained in RIPA in the future event that the Policy needs to be applied and authorisations granted.
- 7.2. Failure to review the Policy and non-compliance with the Policy, exposes the Council to the risk that it breaches the Human Rights Act, and is unable to legally enforce against unlawful activity.

## 8. Proposed Way Forward

- 8.1. To consider the current Policy attached at Appendix A. Pending the OSC Inspector's report, no amendments are recommended at this time save for the approval of the guidance for Social Networking Sites investigations to be added as Annex B to the Policy.

## 9. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The Council's duties for covert surveillance are set out in RIPA and these requirements are reflected in the Council's RIPA Policy at Appendix A. The Home Office guidance on covert surveillance recommends that Members should review the RIPA policy annually, and regularly consider reports on the use of RIPA. Reports on the use of RIPA will be brought to O&S if the Council grants any authorisations.
Financial	N	There are no direct financial implications to this report.
Risk	Y	Adoption of (and compliance with) a RIPA policy will minimise any risk to the Council of breaches of the Human Rights Act in any future investigations involving covert surveillance. Regular review of Policy and RIPA use, together with reporting to O&S will

		further mitigate that risk and ensure consistent application of the policy.
Comprehensive Impact Assessment Implications		
Equality and Diversity		There are no direct implications to this report but these issues are considered in each individual application and RIPA authorisation
Safeguarding		There are no direct implications to this report but these issues are considered in each individual application and RIPA authorisation
Community Safety, Crime and Disorder		There are no direct implications to this report but these issues are considered in each individual application and RIPA authorisation
Health, Safety and Wellbeing		There are no direct implications to this report but these issues are considered in each individual application and RIPA authorisation
Other implications		N/a

**Supporting Information**

**Appendices:**

**Appendix A:** RIPA Policy

**Appendix B:** Guidance on the use of Social Networking Sites for RIPA investigations

**Background Papers:**

None

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**SOUTH HAMS DISTRICT Council  
And  
WEST DEVON BOROUGH COUNCIL**

**Regulation of Investigatory Powers Act 2000  
Joint Policy**

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# Introduction

## **Overview**

The Regulation of Investigatory Powers Act 2000 (RIPA) means that formal authorisation from a senior officer must be obtained before carrying out certain surveillance, monitoring and other evidence-gathering activities. The Council may not carry out any other types of surveillance at all.

It is important to remember that RIPA must always be complied with, regardless of whether the information obtained is to be used as evidence in court proceedings. Failure to comply with RIPA doesn't just mean that the evidence cannot be used in court; it means that the whole procedure is illegal and that the officers concerned do not benefit from the above protection.

This Policy applies to South Hams District Council and West Devon Borough Council.

## **What is this document for and why is it needed?**

The Councils' are allowed and required to carry out investigations in relation to their duties. Such investigations may require surveillance or information gathering of a covert nature.

Article 8 of the European Convention on Human Rights provides:

- Article 8.1: Everyone has the right to respect for his private and family life, his home and his correspondence.
- Article 8.2: There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of rights and freedoms of others.

This right is not absolute, it is a qualified right. This means that in certain circumstances the Council *may* interfere with the right if the interference is:

- in accordance with the law
- necessary, and
- proportionate

Covert Surveillance and information gathering may constitute an interference with the right to respect for private and family life. To ensure that such an action is not unlawful under the Human Rights Act 1998, the Council needs to meet the requirements of the Regulation of Investigatory Powers Act 2000 (RIPA).

In simple terms, RIPA requires the Council to have in place procedures to ensure that when required, surveillance is seen as necessary and is properly authorised. Surveillance is usually a last resort that an investigator will use to prove or disprove an allegation. RIPA sets out a statutory mechanism for authorising covert surveillance and the use of covert human intelligence sources (see below). RIPA seeks to ensure that any interference with an individual's rights under Article 8 is necessary and proportionate and that, therefore,

there is a balance between public interest and an individual's human rights. Covert surveillance will only be undertaken where there is no reasonable and effective alternative means of achieving the desired objective.

### **What is meant by necessary?**

It is essential to consider whether an investigation requiring surveillance or information gathering can be done overtly rather than covertly. What would the result be if you carried out the investigation overtly?

If an investigation can be reasonably carried out by any means other than by using covert surveillance, then the use of covert surveillance is not necessary.

It must then be considered whether it is necessary to conduct covert surveillance or use covert human intelligence sources in the circumstances of the particular case for the **purpose of preventing or detecting crime where the offence is punishable by imprisonment of a term of six months or more.**

### **What is meant by proportionate?**

This is an important concept, and it means that any interference with a person's rights must be proportionate to the intended objective. The action must be aimed at pursuing a legitimate aim. Interference will not be justified if the means used to achieve the aim are excessive in all the circumstances.

The use of surveillance must be designed to do no more than meet the objective in question; it must not be unfair or arbitrary, and the impact on the individual (or group of people) concerned must not be too severe. In deciding whether the use or action is proportionate, the risk of intrusion into the privacy of persons other than those who are the object of the investigation must be considered, and the measures proposed to minimise such intrusion must be properly assessed. You must be satisfied that, on balance, the principle of the subject's right to privacy is outweighed by the purpose of the investigation. Clearly, the more serious the matter being investigated, the more likely that surveillance will be proportionate.

The proportionality test will also require you to consider whether there are any other appropriate means of obtaining the information and whether there is a risk of collateral intrusion. The least intrusive method will be proportionate. Some of the things you may also wish to consider in terms of proportionality are whether covert surveillance is the only option, what other options have been considered, the intended length of the investigation, the number of officers to be deployed in the investigation.

The activity will not be proportionate if it is excessive in the circumstances of the case or if the information which is sought could reasonably be obtained by other less intrusive means.

### **What is covered by the Regulation of Investigatory Powers Act 2000?**

The main purpose of the Regulation of Investigatory Powers Act 2000 is to ensure that the relevant investigatory powers are used in accordance with human rights. The Act sets out

these powers in more detail. Part II of the Act sets out the powers available to local authorities.

The Council is able to carry out investigations using covert surveillance and/or by using a covert human intelligence source under RIPA following the formal authorisation procedures and codes of practice as set out in this document. RIPA applies to the Council's core functions. Please ask the RIPA Co-ordinating Officer for advice if you are unsure as to whether RIPA will apply.

RIPA not only covers the surveillance of members of the public but would also cover the observation of staff and members as part of an internal investigation.

### **Do we need to follow these rules?**

Although RIPA does not impose a requirement for local authorities to comply with it, it is essential for the Council to do so to ensure that:

- it is less vulnerable to a challenge under the Human Rights Act and
- any material gathered is admissible by the civil and criminal courts.

Following the requirements of RIPA and acting in accordance with this Policy, will therefore protect the Council against potential challenges to its decisions and procedures. Not following the procedures specified in this document could also lead to a complaint of maladministration or a complaint to the independent Tribunal set up under RIPA, details of which are to be found at the end of this document.

### **What is the relevant legislation?**

- The Regulation of Investigatory Powers Act 2000
- The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010
- Protection of Freedom Act 2012

Authorisation may only be granted if it is necessary for the reason permitted by RIPA. For local authorities the only statutory reason is **for the purposes of preventing or detecting a criminal offence where that offence is punishable (whether on summary or indictment) by a minimum term of at least 6 months imprisonment.**

This means that directed surveillance cannot be used for minor offences.

### **What is the Council's Policy on RIPA?**

This document is the Council's policy on RIPA. As such, it should be adhered to unless it is in conflict with either of the Government Codes of Practice which have been made under RIPA. The Codes of Practice are admissible as evidence in court and **must** be complied with.

Copies of the Codes of Practice are available on the Home Office site: [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk). These are:

- Covert Surveillance Code Of Practice
- Covert Human Intelligence Sources Code Of Practice

### **When will this document be reviewed?**

This document shall be subject to review once a year. An earlier review may take place should circumstances in the law so require it. Minor amendments may be made from time to time.

### **Who is responsible for reviewing and monitoring this document and the use of RIPA?**

West Devon Borough Council's **Overview and Scrutiny Committee** and South Hams District Council's **Corporate Performance & Scrutiny Panel** are responsible for the overview of the RIPA policy and the Councils' use of RIPA. The Committees will not be involved in making decisions on specific authorisations.

The RIPA Co-ordinating Officer is responsible for the RIPA Policy, the Central Register of authorisations, and for making regular reports on the use of RIPA to the Councils' Scrutiny Committees.

### **How do I find out more?**

General guidance on RIPA may be found on the Home Office site:  
<http://www.homeoffice.gov.uk/>

Please contact the Council's Legal Section if you require any further advice on RIPA, this document or any of the related legislative provisions.

For the Benefits Section – further guidance may be found in the DWP Circulars.



# Surveillance

## What is Surveillance?

“**Surveillance**” includes

- monitoring, observing, listening to persons, watching or following their movements, listening to their conversations and other such activities or communications
- recording anything mentioned above in the course of authorised surveillance
- surveillance, by or with, the assistance of appropriate surveillance device(s)
- the interception of a communication in the course of its transmission by means of a postal service or telecommunication system if it is one sent by, or intended for, a person who has consented to the interception of the communication.

Surveillance can be overt or covert.

### **Overt Surveillance**

Most of the surveillance carried out by the Council will be done overtly.

General observations made by officers in the course of their duties constitutes overt surveillance.

Warning the person about the surveillance (preferably in writing) constitutes overt surveillance. Consideration should be given to how long the warning should last. This must be a reasonable length of time (three months may be appropriate in many cases), but each case must be assessed as to what is reasonable having regard to the circumstances. Whatever period is chosen, this **must** be set out in the written warning. At the expiry of the period, further written warning should be given otherwise the surveillance will become covert.

Overt surveillance does not require authorisation under RIPA.

### **Covert Surveillance**

“Covert Surveillance” means surveillance which is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place.

Covert surveillance does require authorisation under RIPA.

## What are the different types of covert surveillance?

RIPA regulates two types of covert surveillance:

- Directed Surveillance, and
- Intrusive Surveillance;

RIPA also regulates the use of Covert Human Intelligence Sources.

### **Directed Surveillance**

Directed surveillance is defined as surveillance which is:

- covert,
- not intrusive (see definition below)
- undertaken for the purposes of a specific investigation or specific operation;
- carried out in such a manner as is likely to result in the obtaining of private information about a person (whether or not that person is the target of the investigation or operation); and
- undertaken in a planned manner, and not as an immediate response to events or circumstances.

### **Intrusive surveillance**

Intrusive surveillance is surveillance of any activities on any residential premises or in any private vehicle by a person (other than a Covert Human Intelligence Source) on those premises or in that vehicle or is carried out by means of a surveillance device on the premises or in the vehicle or which provides information of the same quality and details as if it was on the premises or in the vehicle

However, directed surveillance authorisation may be granted for parts of residential premises, such as gardens or driveways which can be observed from the public highway. Further guidance on this point may be obtained from the Council's Legal Section.

It is important to get this right because:

### **COUNCIL OFFICERS CANNOT CARRY OUT INTRUSIVE SURVEILLANCE**

### **Covert Human Intelligence Sources**

The term Covert Human Intelligence Sources is used to describe people who are more commonly known as informants or officers working "undercover". Throughout this document these people are referred to as "Sources"

This does not include members of the public who volunteer information to the Council as part of their normal civic duties or to contact numbers set up to receive information.

A person is a Source if he/she:

- establishes or maintains a covert personal or other relationship for the purposes of:

- obtaining information; or
- providing access to information to another person; or
- discloses information obtained by the use or existence of that covert relationship  
RIPA authorisation is required for using a Source.

There are special rules for using juvenile or vulnerable persons as sources, and only the Director (HoPS) can authorise such surveillance. Further advice should be sought from the Council's Legal Section in such cases.

### **Interception of Communications**

Local authorities can carry out interception of communications in a restricted number of circumstances.

These are:

#### **In the course of normal business practice**

The Councils are permitted without authorisation under RIPA to lawfully intercept its employees' e-mail or telephone communications and monitor their internet access for the purposes of prevention or detection of crime or the detection of unauthorised use of these systems.

The Councils' policies on use of the internet and e-mail are set out on the intranet site under Policies and Procedures/ICT policies.

The Council also has regard to the Employment Practices Data Protection Code – Part 3: Monitoring at Work produced by the Information Commissioner. A copy of this code and its supplementary guidance can be found at: [www.ico.org.uk](http://www.ico.org.uk)

#### **Interception with the consent of both parties.**

Such interception does not require RIPA authorisation, but should be properly recorded.

#### **Interception with the consent of only one of the parties.**

Such interception would require RIPA authorisation because it would fall within the definition of surveillance (either directed or using a Source). The main type of interception envisaged here is the recording of telephone calls where either the caller or the receiver has given consent to the recording.

Where as part of an already authorised Directed Surveillance or use of a Source a telephone conversation is to be recorded by the Officer or the Source then no special or additional authorisation is required.

#### **Interception without the consent of either of the parties**

The recording of telephone calls between two parties when neither party is aware of the recording **CANNOT BE UNDERTAKEN**, except under a Warrant granted by the Secretary of State under Part 1 of RIPA. Such warrants are only granted by the Secretary of State and it is not envisaged that such activity would fall within the remit of local authority investigations.

## Procedures

### What is the procedure for obtaining authorisation under RIPA?

Directed surveillance and the use of a Source can only be lawfully carried out if properly authorised, and in strict accordance with the terms of the authorisation.

All directed surveillance and use of a Source operations shall be:

- Applied for in writing or verbally in cases of urgency
- Approved
- Monitored
- Renewed when necessary
- Cease when no longer authorised

All the above actions will be carried out in accordance with this document and the relevant Codes of Practice and will be recorded on the Standard Forms listed below:

The Standard Forms are available from the Home Office web-site [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

### Directed Surveillance

- Application for directed surveillance authorisation
- Review of directed surveillance authorisation
- Application for cancellation of directed surveillance authorisation
- Application for renewal of directed surveillance authorisation

### Use of a Source

- Application for conduct-use of a CHIS authorisation
- Review of use of a CHIS authorisation:
- Application for renewal of use of a CHIS authorisation
- Application for cancellation of conduct-use of a CHIS authorisation

Copies of all these documents will be retained and kept on the investigation file as part of the evidence to show that the information gained by directed surveillance or the use of a Source has been obtained legally.

This document provides guidance on the Procedures required to be undertaken by the Investigating Officer and the Authorising Officer for the different stages specified above.

## • **The Senior Responsible Officer's Duties**

### **Who is the Senior Responsible Officer?**

The Councils' Senior Responsible Officer is listed in the annex to this document.

### **What are my duties?**

In accordance with the recommendations of the Codes of Practice, you are responsible for the following areas:-

- the integrity of the process in place within the Council for the management of Covert Human Intelligence Sources and Directed Surveillance
- compliance with Part II of RIPA and the Codes of Practice
- oversight of the reporting of errors to the relevant oversight Commissioner and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors
- engagement with the OSC inspectors when they conduct their inspections
- oversight of the implementation of any post-inspection action plan approved by the relevant oversight Commissioner
- ensuring that all Authorising Officers are of an appropriate standard in light of any recommendations in the inspection reports by the Office of the Surveillance Commissioner

- **The Investigating Officer's Duties under RIPA.**

### The Application

The application for authorisation is the responsibility of the Investigating Officer

#### What do I need to do?

You will need to consider:

- Whether covert surveillance is needed
- Whether directed surveillance or use of a Source is needed
- Whether directed surveillance or use of a Source is necessary for statutory reasons
- Whether directed surveillance or use of a Source is proportionate
- The risk of collateral intrusion
- Safety and welfare arrangements (use of Source only)

These are discussed in more detail below.

#### What do I need to consider?

- **Consideration: Whether covert surveillance is needed**

Consideration must be given as to whether covert surveillance is needed. You are advised to discuss the need to undertake directed surveillance or the use of a Source with your line manager before seeking authorisation. All options for the use of overt means **must** be fully explored. Remember: if the investigation can be carried out by overt means, then covert surveillance is not necessary.

- **Consideration: Whether directed surveillance or use of a Source is needed**

You must establish which type of "surveillance" is required for the investigation or operation having regard to the guidance contained in this document. The type of surveillance you require affects which application forms you need to complete. Additional considerations are needed for using a Source. Further detail is found below. Combined authorisations for both directed surveillance and the use of a Source may be applied for where appropriate.

- **Consideration: Whether directed surveillance or use of a Source is necessary for the statutory reason**

Authorisation may only be granted if it is necessary for the reason permitted by RIPA. For local authorities the only statutory reason is **for the purposes of preventing or detecting a criminal offence where that offence is punishable (whether on summary or indictment) by a minimum term of at least 6 months imprisonment.**

This means that directed surveillance cannot be used for minor offences.

You must set out this ground in your application form and provide details of the reasons why it is necessary to use covert surveillance.

- **Consideration: Whether directed surveillance or use of a Source is proportionate**

You must consider why it is proportionate to use covert methods to collect evidence. Please see the definitions set out on page 2 “what is proportionate?” Remember, the use of covert methods must do no more than meet your objective. The proportionality test will also require you to consider whether there are any other appropriate means of obtaining the information and whether there is a risk of collateral intrusion (see consideration below). The least intrusive method will be proportionate. The following aspects of proportionality must be considered and evidenced:-

- balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence
- explaining how and why the methods to be adopted will cause the least possible intrusion on the target and others
- considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result
- evidencing, as far as reasonably practicable, what other methods have been considered and why these were not implemented.

- **Consideration: The risk of collateral intrusion**

Collateral intrusion is the risk of intrusion into the privacy of persons other than the target. You are required to assess the risk of collateral intrusion. Details of any potential collateral intrusion should be specified. Measures must be taken wherever practicable to avoid or minimise collateral intrusion and a plan should be included in your application specifying how the potential for collateral intrusions will be minimised. You should give as much detail as possible, insufficient information may lead to the rejection of the application.

- **Consideration: Surveillance from private premises**

It is preferable for surveillance to be carried out from a public place, such as a public highway. However, there may be circumstances where private premises may be required for the carrying out of surveillance. In which case, it is essential that you obtain the consent of the owner and/or occupier of the premises prior to authorisation being sought. You should seek further guidance from the Council’s Legal Section on this point.

- **Consideration: safety and welfare arrangements – use of a Source**

You must provide a risk assessment as to the likely risks to be faced by an officer or other person both during the conduct of the investigation and after the cancellation of the authorisation. Details must also be included setting out the arrangements for the safety of the Source, this should include:

- the name of the Officer who has day to day responsibility for:
  - Dealing with the Source
  - Directing the day to day activities of the Source
  - Recording the information supplied by the Source



- The Source's security and welfare
- The name of the Officer responsible for recording and monitoring the use made of the Source
- Arrangements for ensuring the security of the records which identify the Source
- Records relating to the Source meet the requirements of the Statutory Instrument: The Regulation of Investigatory Powers (Source Records) Regulations 2000 (SI 2000 No. 2725) – please see either the Home Office website: [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk) or the Office of Public Sector Information website: [www.opsi.gov.uk](http://www.opsi.gov.uk)

## How do I apply?

All applications must be made in writing on the standard forms as set out in this document. The relevant forms are:

- An application for directed surveillance authorisation, and/or
- An application for use of a Source

The considerations set out above, form part of the application form.

The application form must be fully completed and passed to the Authorising Officer. The annex to this document contains details of the Council's Authorising Officers.

**NB. All authorisations and renewals must have the prior approval of the Magistrates' before they take effect.**

## What if authorisation is urgent?

The 2012 Home Office Guidance states that in most emergency situations where the police have power to act, then they are able to authorise activity under RIPA without prior JP approval. Therefore local councils may need to work with the police if faced with an emergency.

NB. Urgent authorisation may not be necessary if, under section 26(2) of the Act, an officer suddenly sees something relevant to his duties and takes an immediate note, observation of follow-up activity (within reason).

## Monitoring

### How long will an authorisation last for?

The authorisation for Directed Surveillance will last for **three months** from the date of authorisation unless renewed.

The authorisation for use of a Source will last for **12 months** from the date of authorisation (i.e. date of Magistrates' Order) unless renewed.

Review dates for the authorisation will be set by the Authorising Officer.

## **I now have my authority for surveillance, is there anything else I should be aware of?**

It will be the responsibility of the Investigating Officer to ensure that any Directed Surveillance or use of a Source is only undertaken under an appropriate and valid authorisation.

During the surveillance, you should ensure:

- Surveillance is carried out in accordance with the approval
- Collateral intrusion is minimised as far as possible
- Intrusive surveillance is not carried out
- All information obtained is recorded contemporaneously or as soon as possible thereafter

During the use of a Source, you should also ensure:

- That the source is aware that:
  - Only the tasks authorised are carried out
  - Third party collateral intrusion is minimised as far as possible
  - Intrusive surveillance is not carried out
  - Entrapment is not committed
  - They must regularly report to you

You should also be mindful of the date when authorisations and renewals will cease to have effect. Please see the notes on Renewals and Cancellation below.

## **What do I do if circumstances change during the investigation?**

You must inform the Authorising Officer if the investigation unexpectedly interferes with the privacy of individuals who are not covered by the authorisation or if there is another change in circumstances usually brought about by unforeseen action.

When the original authorisation may not be sufficient, consideration should be given to whether the authorisation needs to be amended and re-authorised (for minor amendments only) or whether it should be cancelled and a new authorisation obtained. The relevant forms should be used.

Particular care should be taken when using a Source to ensure that authorisation is sufficient. It is difficult to predict what might occur each time a meeting with a Source takes place. If unforeseen action takes place, the occurrence should be recorded as soon as possible after the event and the sufficiency of the authorisation must be considered.

You must bring to the attention of the Authorising Officer any concerns about the personal circumstances of the Source in relation to: the validity of the risk assessment; the conduct of the source; the safety and welfare of the Source.

## **Renewals**

## **Why are renewals important?**

Once the authorisation expires, surveillance must cease unless a renewal has been applied for and approved. Renewals must be authorised prior to the expiry of the original authorisation but will run from the date and time of expiry of the original authorisation.

## **What should I do?**

If it appears that the directed surveillance or use of a Source is needed beyond the authorisation date, you must seek a renewal of the authorisation.

You must consider whether covert methods are still necessary and proportionate.

An application for renewal for either Directed Surveillance and/or use of Source should be made on the relevant form and passed to the Authorising Officer for consideration.

Authorisation for renewal may be sought verbally, but only in exceptional circumstances.

**NB. All authorisations and renewals must have the prior approval of the Magistrates' before they take effect.**

## **Cancellations**

### **Why are cancellations important?**

All authorisations, including renewals, must be cancelled if the reason why Directed Surveillance or use of a Source was required no longer exists or is no longer proportionate. This will occur in most instances when the purpose for which surveillance was required has been achieved and officers must be mindful of the need to cancel any authorisation which has been issued. A cancellation should be issued at the expiry date if not before.

### **How do I cancel an authorisation?**

To cancel an authorisation, you should complete the Cancellation of Authorisation form and submit it to the Authorising Officer for endorsement.

# Authorising Officer Responsibilities under RIPA

## The Approval

### Who are the Authorising Officers?

The Council's Authorising Officers are listed in the annex to this document.

If the investigation may involve the acquisition of confidential or religious material, or require an authorisation for using juveniles or vulnerable persons as sources, the Authorising Officer is, by law, the Chief Executive (or in his absence one of the Corporate Directors).

Authorising Officers should not be responsible for authorising investigations or operations in which they are directly involved. If this is the case, the application form for authorisation should be noted to this effect.

**NB. All authorisations and renewals must have the prior approval of the Magistrates' before they take effect.**

### What are my responsibilities?

Responsibility for authorising the carrying out of directed surveillance or using a Source rests with the Authorising Officer and requires the personal authority of the Authorising Officer.

You must be satisfied that a defensible case can be made for surveillance. Authorisation is a safeguard against the abuse of power by public authorities. Full consideration of necessity and proportionality will make the action less vulnerable to challenge under the Human Rights Act 1998.

### What do I need to consider?

You are required to consider the application for authorisation in relation to the following:

#### **Consideration: Is the directed surveillance or use of a Source necessary?**

**Firstly**, you must consider whether it is necessary to carry out the investigation by covert methods. This is an important consideration and must be recorded on the form. Please see "what is meant by necessary?" on Pages 1 and 2 of the Policy.

**Secondly**, as authorisation may only be granted if it is necessary for the reason permitted by RIPA. You should consider, having regard to the outline of the case provided by the Investigating Officer, whether authorisation is necessary for the purposes of preventing and detecting crime or of preventing disorder

### **Consideration: Is the directed surveillance or use of a Source proportionate?**

This involves balancing the intrusiveness of the activity on the target and others who may be affected by it (see “consideration: risk of collateral intrusion” below) against the need for the activity in operational terms. Please refer to “what is proportionate?” on page 2 of this Policy.

### **Consideration: The risk of collateral intrusion**

You must take into account the risk of interfering with the privacy of persons other than the target (collateral intrusion). Full details of potential collateral intrusion and the steps to be taken to minimise such intrusion must be included in the form. If there are insufficient details further information should be sought. Collateral intrusion forms part of the proportionality test and is therefore very important. Remember: the least intrusive method should be chosen otherwise the surveillance activity will not be proportionate.

### **Consideration: confidential material**

In cases where through the use of directed surveillance or the use of a Source it is likely that knowledge of confidential information will be acquired, authorisation may only be granted by the Chief Executive.

Confidential information consists of matters subject to legal privilege, confidential personal information or confidential journalistic material.

Authorisation involving the acquisition of confidential information should only be given in exceptional and compelling circumstances having full regard to the proportionality issues involved.

Further details about the type of information covered under this category are to be found in the Chapter 3 of the relevant Code of Practice. Further advice may be sought from the Council’s Legal Section.

### **Consideration: Safety and welfare arrangements of a Source**

When authorising the conduct or use of a Source, you must be satisfied:

- That the conduct and/or use of the Source is proportionate to what is sought to be achieved;
- That arrangements exist for the management and oversight of the Source, particularly the health and safety of the Source including:
  - Identifying the person who will have day to day responsibility for dealing with the Source
  - Security and welfare arrangements of the Source both during and after the investigation/operation.
  - Monitoring and recording the information supplied by the Source
  - Ensuring records disclosing the identity of the Source will not be made available to persons except where there is a need for access to them

- Records relating to the Source meet the requirements of the Statutory Instrument: The Regulation of Investigatory Powers (Source Records) Regulations 2000 (SI 2000 No. 2725) – please see either the Home Office website: [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk) or the Office of Public Sector Information website: [www.opsi.gov.uk](http://www.opsi.gov.uk)

### **Consideration: local community**

You should consider whether there any particular sensitivities in the local community where surveillance will be taking place.

**Having taken all these factors into consideration, you may either approve the application or refuse it.**

### **What do I do if I have refused the application?**

You must complete the form and give your reasons for refusal. Then follow the procedures below (“I have completed the form what do I do with it?”)

### **What do I do if I have approved the application?**

You need to follow the rest of the procedure set out below.

Regular review should be undertaken to assess the need for surveillance or use of a Source to continue and whether it is still proportionate. Where the surveillance or use of a Source provides access to confidential information or involves collateral intrusion, review should be more frequent.

You will therefore need to consider a Review Date(s). Both types of authorisation require you to specify a date when the authorisation should be reviewed (the Review Date) and the frequency of the review thereafter. This must be stated on the form.

### **What do I do if the authorisation is urgent?**

The 2012 Home Office Guidance states that in most emergency situations where the police have power to act, then they are able to authorise activity under RIPA without prior JP approval. Therefore local councils may need to work with the police if faced with an emergency. NB. Urgent authorisation may not be necessary if, under section 26(2) of the Act, an officer suddenly sees something relevant to his duties and takes an immediate note, observation of follow-up activity (within reason).

### **What do I do with the completed form?**

You must send the completed application form(s) to the RIPA Co-ordinating Officer as soon as you are able. This includes any forms in which you have refused authorisation. You should retain a copy of the form and send a further copy to the relevant Investigating Officer for retention on the investigation file.

### **Monitoring**

## **How long will an authorisation last for?**

The authorisation for **Directed Surveillance** will last for **three months** from the date of authorisation unless renewed.

The authorisation for use of a **Source** will last for **12 months** from the date of authorisation unless renewed.

It is important to set a review date which gives the opportunity to cancel if the authorisation is no longer required. If the surveillance is still required, set another review date (see below)

## **I have now given the authority for surveillance, what should I do next?**

After authorisation the Authorising Officer is responsible for continuing to oversee the progress of the investigation. You must ensure that whatever was authorised does actually happen, and that actions do not exceed the boundaries of the authorisation.

Progress of the investigation or operation should be reviewed in accordance with the review dates set by the authorisation using the relevant review form. In any case, as soon as the investigation or operation objectives have been achieved the authority should be cancelled.

You will regularly monitor the surveillance to ensure:

- Surveillance is being carried out in accordance with the authority given
- There is still a need for the approved surveillance or use of the Source
- The surveillance is achieving the intended results
- The risks of collateral intrusion are still minimal
- The risks associated with the surveillance or use of the Source are within an acceptable level
- The security and/or welfare of the Source has not been jeopardised. You must consider any concerns raised by the Investigating Officer relating to the personal circumstances of the Source.

You should record the outcome of such monitoring and take whatever action is appropriate.

## **Renewals**

### **Why are renewals important?**

Once the authorisation expires, surveillance must cease unless a renewal has been applied for and approved.

**NB.** All authorisations and renewals must have the prior approval of the Magistrates' before they take effect.

**What are my responsibilities in respect of renewals?**

You may renew an authorisation before it expires if it is necessary for the authorisation to continue for the purpose for which it was given.

You must consider the application for renewal in relation to the original purpose for which authorisation was granted, taking into account any change in circumstances. You should be satisfied that:

- There is a need to renew the authorisation (applying the test of necessity)
- That such a renewal is likely to contribute to the investigation or operation (it is proportionate to the aim)
- That the information could not be reasonably obtained by other less intrusive means.
- The risk of collateral intrusion is minimal – you should consider what collateral intrusion has occurred
- The risks associated with the use of a Source have not increased beyond an acceptable level

The outcome of a consideration for renewal may lead to:

- Approval
- A new application
- Refusal

### **Approval**

If you decide to approve a renewal you will need to provide details of why in your opinion you believe the renewal is justified, and state the date and time when the renewed authorisation will commence and expire on the application form.

The maximum time that renewal of authorisation can be approved for, is three months at a time for directed surveillance and 12 months for the use of a Source, but you may consider shorter periods if this is more appropriate to the circumstances.

You should also set Review Dates and continue to monitor the progress of the investigation or operation.

### **A new application for authorisation**

If the reason for requiring the authorisation has changed from the purpose for which it was originally granted, then the outstanding authorisation should be cancelled and new authorisation sought by way of a new application. You will need to note the refusal to renew the application on the renewal form setting out the reasons for your decision. You will also need to follow the procedures for cancellation see below and advise the Investigating Officer to seek new authorisation.

### **Refusal**

If in your opinion surveillance is no longer required, or justified, or proportionate, the renewal should be refused and the authorisation cancelled. See the paragraph on cancellation below. You will need to note on the renewal form your reasons for refusal.

### **What do I do with the completed form?**



You must send the completed renewal form to the RIPA Co-ordinating Officer as soon as you are able. This includes forms where you have refused a renewal. You should retain a copy of the form and send a further copy to the relevant Investigating Officer for retention on the investigation file.

## **Cancellations**

### **Why are cancellations important?**

All authorisations, including renewals, must be cancelled if the reason why directed surveillance or use of a Source was required no longer exists or is no longer proportionate. This will occur in most instances when the purpose for which surveillance was required has been achieved and officers must be mindful of the need to cancel any authorisation which has been issued. A cancellation should be issued at the expiry date if not before.

### **What are my responsibilities in respect of cancellations?**

The responsibility to ensure that authorisations are cancelled rests with the Authorising Officer. If you think cancellation should have been applied for, then you should make enquiries of the Investigating Officer as part of your monitoring of the authorisation. On receipt of the cancellation form from the Investigating Officer, you must consider the reasons for cancellation and if acceptable endorse the form.

As soon as the decision is taken that directed surveillance or use of a Source should be discontinued, the instruction must be given to those involved to stop all surveillance of the subject. The date and time when such an instruction was given should be recorded on the cancellation form.

Where necessary the safety and welfare of the Source should continue to be taken into account after the authorisation has been cancelled.

### **What do I do with the completed form?**

You must send the completed renewal form to the RIPA Co-ordinating Officer as soon as you are able. This includes forms where you have refused a renewal. You should retain a copy of the form and send a further copy to the relevant Investigating Officer for retention on the investigation file.

## **Working with or through other Agencies**

### **What do I do if I want to instruct another organisation to carry out surveillance?**

When some other agency has been instructed on behalf of the Council to undertake some action under RIPA, this Document and the forms in it, must be used in the normal way and the agency advised as necessary of the various requirements. They must be made aware explicitly what they are authorised to do.

### **What do I do if I want to carry out an investigation with another organisation?**

It is possible for two public authorities to carry out a joint directed surveillance investigation or use of a Source. It must be decided which of the authorities is to take the lead role. The Authorising Officer from the lead organisation must make the decisions on the necessity and proportionality of the surveillance or use of a Source. The Investigating Officer must make it clear on the application form that it is a joint investigation and provide details of Officers involved from both authorities.

Where joint surveillance is authorised by the lead organisation, it is good practice for the Investigating Officer of the other organisation to advise their Authorising Officer of the surveillance activity. It is important for each organisation's Authorising Officer to be aware of all surveillance activity being undertaken by their own Investigating Officers, regardless of which organisation authorised the activity.

# Record-Keeping

## What records must I keep?

The Council must keep a detailed record of all authorisations, renewals, cancellations and rejections in Departments and a Central Register of all these forms will be maintained and monitored by the RIPA Co-ordinating Officer.

In all cases, the relevant department should maintain the following documentation:

- a copy of the application and a copy of the authorisation together with any supplementary documentation and notification of the approval given by the Authorising Officer;
- The Magistrates' Order
- a record of the period over which the surveillance has taken place;
- the frequency of reviews prescribed by the Authorising Officer;
- a record of the result of each review of the authorisation;
- a copy of any renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested;
- the date and time when any instruction was given by the Authorising Officer.
- A record of the use made of any Source

## How long must I keep these records?

The Council will retain records in accordance with the Council's Record Management Policy. Retention of a record will therefore depend on an assessment of the need to retain the record.

## How should the records relating to a Source be maintained?

Records kept relating to an investigation or operation using a Source should be maintained in such a way as to preserve the confidentiality of the Source and the information provided by the Source. Regard should be had to the Council's Record Management Policy.

# **Material obtained from Directed Surveillance and/or use of a Source operations**

## **How should material be handled and stored?**

Material, or product, such as: written records (including notebook records); video and audio tape; photographs and negatives; and electronic files, obtained under authorisation for Directed Surveillance or use of a Source investigations or operations should be handled, stored and disseminated according to the following guidance and with regard to the Council's Records Management Policy, which is available on the intranet.

Where material obtained during the course of an investigation may be relevant to pending or future criminal or civil proceedings, it should be retained in accordance with the established disclosure requirements having regard to the Criminal Procedure and Investigations Act 1996 and Civil Procedure Rules.

Where material is obtained which is not related to a criminal or other investigation, or to any person who is the subject of the investigation, and there is no reason to suspect that it will be relevant to any future civil or criminal proceedings, it should be assessed for retention or destruction under the Council's Record Management Policy.

Material may be used in investigations other than the one which authorisation was issued for. However, use of such material outside the Local Authority or the Courts should only be considered in exceptional circumstances.

## **What about confidential material?**

This is privileged information from, for example, lawyers, doctors, priests etc. Where such persons are involved, and there is a possibility that you maybe obtaining confidential material, then further additional precautions must be taken. If this is the case, please seek appropriate advice from the Legal Section or from the statutory RIPA Code of Practice.

(Lord Coleville advised that reference only to confidential material is needed, as we are very unlikely to ever use these provisions.)

## **Complaints**

The Regulation of Investigatory Powers Act has established an Independent Tribunal. This Tribunal is made up of senior members of the judiciary and the legal profession and is independent of the Government. The Tribunal has full powers to investigate and decide any cases within its jurisdiction. It also has the power to award compensation.

Details of the relevant complaints procedure can be obtained from the following address:

Investigatory Powers Tribunal  
PO Box 33220  
London  
SW1H 9ZQ

Other actions that could be taken against the Council for failing to meet the requirements of RIPA are civil proceedings under the Human Rights Act 1998 or a complaint to the Ombudsman.

## **Annex**

### **AUTHORISING OFFICERS**

The following Officers shall be designated Authorising Officers on behalf of West Devon Borough Council and South Hams District Council under the Regulation of Investigatory Powers Act 2000.

**EXECUTIVE DIRECTOR (Service Delivery & Commercial Development) –**

**Sophie Hosking**

**COMMERCIAL SERVICES GROUP MANAGER – Helen Dobby**

**CUSTOMER FIRST & SUPPORT SERVICES GROUP MANAGER – Steve**

**Mullineaux**

**BUSINESS SUPPORT GROUP MANAGER – Darren Arulvasagam**

NB. Only the Executive Director has the authority to grant authorisation for the acquisition of confidential information or where the authorisation would involve juvenile or vulnerable CHIS.

### **SENIOR RESPONSIBLE OFFICER**

The following Officer shall be designated Senior Responsible Officer on behalf of the Councils' under the Codes of Practice.

**EXECUTIVE DIRECTOR (Strategy & Commissioning) - Steve Jordan**

### **RIPA CO-ORDINATING OFFICER**

**Legal Specialist – Becky Fowlds**

## **ANNEX B to RIPA Policy**

### **Guidance on the use of Social Networking Sites for investigations**

It is recognised that the use of the internet and, in particular, social networking sites, can provide useful information for South Hams District Council and West Devon Borough Council staff carrying out investigations. These investigations may relate to the various enforcement roles within the council – for example Fraud, Planning Enforcement, Licensing or Environmental Health, but will equally apply to some non-enforcement teams, such as Debt Collection or Housing. The use of the internet and social networking sites may fall within the definition of covert directed surveillance. This is likely to result in the breaching of an individual's Article 8 rights under the Human Rights Act (the right to privacy).

#### **Social Networking Sites**

There is a fine line between general observation, systematic observation and research and it is unwise to rely on a perception of a person's reasonable expectations or their ability to control their personal data.' The Councils' policy in relation to the use of social media for the gathering of evidence to assist in its enforcement activities is set out below:

- Officers of South Hams and West Devon must not 'friend' individuals on social networks as part of undertaking their roles and should not use their own private social networking accounts to view the social networking accounts of other individuals as part of their professional role
- officers viewing an individual's profile on a social networking site should do so only once in order to obtain evidence to support or refute their investigation
- further viewing of open profiles on social networking sites to gather evidence or to monitor an individual's status, must only take place once RIPA authorisation has been granted and approved by a Magistrate
- officers should be aware that it may not be possible to verify the accuracy of information on social networking sites and, if such information is to be used as evidence, steps must be taken to ensure its validity.

The **purpose** of this guidance note is to provide clarity on the Councils' position:

1. It is not possible to provide a definitive list of social networking sites, so this should be taken to mean any site which involves individuals creating a profile which contains personal information and is viewable by others, whether accepted as 'friends' or otherwise. This might include sites such as 'Facebook' and 'LinkedIn'
2. As the definition of 'private information' under RIPA includes:

'any information relating to a person's private or family life and should be taken generally to include any aspect of a person's private or personal relationship with others, including family and professional or business relationships'

Sites used to advertise goods and services should be included within the definition. Although there is likely to be a reduced expectation of privacy with this type of site, there is still the possibility of obtaining private information which may be subsequently used in any enforcement proceedings.

3. If an allegation is received or, as part of an investigation into an individual, it is necessary to view their social networking site, officers may access the main page of the individual's profile once in order to take an initial view as to whether there is any substance to the allegation or matter being investigated.

4. The initial viewing must be reasonable – for example, it would not be reasonable to spend any significant amount of time searching through various pages of the individual's profile or to print out several pages just in case they may reveal something useful.

5. In some cases where, for example, a link to a site is provided by a complainant, it may be relevant for the receiving officer to view the link before passing it onto the investigating officer to also view. This would count as one viewing. However, it would not be reasonable for each officer in a team to view the site in turn so that they may each gather some information.

6. Each single viewing of an individual's social networking site must be recorded on the log maintained by Legal Services (RIPA Co-ordinating Officer). This is to enable the reporting of the number of viewings to the Overview & Scrutiny Committee of each Council.

7. If it is considered that there is a need to monitor an individual's social networking site, authorisation must be obtained from an Authorising Officer.

8. If the offence being investigated falls under RIPA, a formal RIPA application must be completed, authorised by one of the Councils' Authorising Officers and then approved by a Magistrate.

9. If the offence being investigated falls outside of RIPA (for example if the offence does not carry a custodial sentence of at least 6 months imprisonment or is not a core function of the council) a non-RIPA form must be completed. General guidance on RIPA and appropriate forms can be found on the Councils' Intranet and in the main RIPA Policy document.



**OVERVIEW AND SCRUTINY COMMITTEE**  
**DRAFT ANNUAL WORK PROGRAMME – 2017-18**

Date of Meeting	Report	Lead Officer / Member
17 October 2017	Hub Committee Forward Plan	Kathy Trant
	Task and Finish Group Updates	
	Single Council Proposal Consultation Outcome	SLT
7 November 2017	South Devon and Dartmoor Community Safety Partnership – Annual Update	Louisa Daley
	West Devon Citizens Advice Bureau – Annual Update	Louisa Daley
	West Devon CVS – Annual Update	Louisa Daley
	Hub Committee Forward Plan	Kathy Trant
	Locality Service: Twelve Month Review	
	Q2 Performance Indicators	Jim Davis
	Joint Local Plan: Standing Agenda Item	Tom Jones
	Task and Finish Group Updates	
6 January 2018	Draft Budget 2018/19	Lisa Buckle
	Hub Committee Forward Plan	Kathy Trant
	Task and Finish Group Updates	
27 February 2018	Q3 Performance Indicators	Jim Davis
	Executive Forward Plan	Kathy Trant
	Task and Finish Group Updates	
	Joint Local Plan: Standing Agenda Item	Tom Jones
8 May 2018	Q4 Performance Indicators	Jim Davis
	Hub Committee Forward Plan	Kathy Trant
	Task and Finish Group Updates	
	Joint Local Plan: Standing Agenda Item	Tom Jones

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