

SOUTH THAMES GATEWAY BUILDING CONTROL JOINT COMMITTEE

22 MARCH 2012

DUTIES, FUNCTIONS AND ACTIVITIES FUNDED BY THE THREE PARTNER AUTHORITIES

Report from: Tony Van Veghel, Director, South Thames Gateway
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Summary

This report was requested by Members to identify the cost of the public protection role of the partnership and other costs, which are met by the contributions from the three partner authorities.

1. Budget and Policy Framework

- 1.1 The Joint Committee requires the submission of reports to ensure value for money from the contributions made by each authority to fund the non-building regulation functions of the partnership.

2. Background

- 2.1 Under the terms of the Memorandum of Agreement the three partnership authorities fund a number of non-fee earning activities that are carried out by STG. These are detailed in the Memorandum (under Part B of Appendix 1) and include dangerous structures, demolitions, unauthorised works and disabled persons applications.
- 2.2 Members have asked for a report to demonstrate the officer time spent carrying out these activities correlates with the funding provided. The 2010 Charges Legislation requires a similar demonstration of time spent on both fee earning and non-fee earning activities, so that a resultant hourly charge is arrived at in a transparent fashion.
- 2.3 Through data collected before and after 2010 it has been possible to demonstrate how the contributions funding has been apportioned to each of the activities, which has been divided into public protection inspection and public protection information. There are also ancillary functions that are included such as Safety Advisory Group meetings and inter-council liaison.

- 2.4 The details are included in Appendix 1 and demonstrate for 2008/09, 2009/10 and 2010/11 a charge for officer time has been costed against the contribution funding. Part years 2007/08 and 2011/12 have not been included in this analysis. The charts in Appendix 2 graphically demonstrate the percentage splits of each activity. It should be noted that disabled person applications have increased year-on-year and would have generated an income of around £250,000 since 2008, had we been able to charge for this type of application. Initial notices deposited by Approved Inspectors (AI's) have also increased and an analysis of these indicates a shift in markets since 2008. Many AI's have now moved away from the commercial and industrial sectors and are now heavily involved in pursuing work in the residential and domestic markets. Due to changes in legislation there has been an increase in the administration of the Competent Person Scheme.
- 2.5 A brief description of each of the areas of activity is included in paragraph 3.8 and, where possible, details of the numbers of applications deposited up to the end of February 2012 have been included.

3. Directors' Comments

- 3.1 As described in the Memorandum of Agreement for the partnership each authority has agreed to fund the non-fee earning services provided in certain proportions: Gravesham 20%, Medway 53% and Swale 27%. These have been calculated from reference to the total domestic and non-domestic hereditaments in each Council's administrative areas.
- 3.2 Included in the agreement are details of the building regulation fee earning account and other services provided under the building control function, which are not covered by The Charges Regulations 1998. The Charges Regulations were updated in 2010 but designation of these functions remained the same and detailed guidance from the Chartered Institute of Public Finance and Accounting (CIPFA) describes which functions under building control that can be charged for under the scheme and which should be supported by the Local Authority.
- 3.3 Since October 2010 detailed time analysis reports have been kept regarding the time allocation to each of the building control functions in compliance with CIPFA's recommendations. Prior to this a slightly different format was provided by the 1998 guidance.
- 3.4 This information has been used to demonstrate how officer time and costs have been attributed to the partnership's non-fee earning account. Details of these can be found in Appendix 1, however, only three full years data is available. The first year's data has not been included because budgetary contributions for the first year were calculated by reference to the net direct costs of each Council's building control service prior to coming into the partnership. Details of

2011/12 will only be available after financial accounts are published in June 2012.

- 3.5 The thirteen headings on the table in Appendix 1 indicate the various functions identified in the CIPFA guidance. These are based on the hours worked on the activity, an analysis of the contributions spent on that activity based on the hours worked and the percentage of contribution spent on non-fee earning work.
- 3.6 For the purposes of the Business Plan many of these activities were broken down into two areas: Public Protection Information and Public Protection Inspection. These reflected office based and site based activity although there are a number of overlaps in each.

Public Protection Information

Public Protection Inspection

Cavity Walls
Competent Person Schemes
Approved Inspectors
Searches
Informal Notices

Disabled Applications
Dangerous Structures
Demolitions
Unauthorised Works
Boarding Up

- 3.7 In order to complete this report other areas have been introduced in line with the CIPFA guidance on activities and a comparison of this data is demonstrated in the charts in Appendix 2.
- 3.8 In order to understand what each of these activities delivers a general description is included below.
- **Disabled person applications**
Under the Charges Legislation there is an exemption against paying a building regulation fee for work carried out for the benefit of a disabled person. In the 2010 regulations this was extended to cover the role of carers. These applications, therefore, have to be funded from the contributions and there has been a steady increase in applications since 2008. Had we been able to charge for this type of application it would have generated an income of around £250,000 to date. As significant is the officer time spent on site, which tends to be increased due to the nature of the application and the need to liaise with occupational health colleagues and others who have been involved in the design and funding of the projects.
 - **Demolitions**
27 demolitions have been inspected so far this year varying in size and impact on the local community. There are limited controls available to the Local Authority concerning demolitions and the primary legislation rests with the Health & Safety Executive. However, notices and counter notices are required to be served on both the contractor and adjoining properties and inspections carried out on the structure, drainage, protection to adjoining properties and general condition of the site after demolition. Currently the

partnership is still monitoring 162 of the demolitions submitted in previous years, which are either still ongoing or awaiting commencement.

- **Dangerous structures**

There have been 103 reported dangerous structures this year to date, with a further 268 being monitored from previous years. Unfortunately there are many structures that, although in a state of disrepair, are not so dangerous as to require us to serve either a Section 77 or 78 (emergency measures) Notice on the owner. These remain the responsibility of the owner and it is for them to take remedial action. However, most of this type of preventative repair is not covered by insurance and is also very expensive to fund, with the consequence that the structure remains unaltered until it deteriorates to such an extent that we need to serve a notice. The possibility then exists that if no funds are forthcoming the owner declines to do anything and the council have to step in to remedy the situation. We will carry out the minimum work necessary to remove the danger but cannot carry out full repairs or remedial works. The cost of the minimum work carried out is often then put as a charge on the property. Through the partnership we have been able to offer an “out of hours” dangerous structure service delivering 24/7 emergency cover. This has proved invaluable to both clients and other stakeholders such as the police and fire service. This structured response was not possible at two of the authorities before the commencement of the partnership.

This process is often further lengthened as other parts of the Building Act deal with defective premises and dilapidated buildings, which again rely on the courts serving notice and the owner carrying out the work. If the owners default on carrying out the work it falls again to the council to rectify the defects and recharge the owner often as a charge on the property that is only recovered in the medium to long term, if at all.

- **Unauthorised works**

160 unauthorised works have been inspected this year, either as a direct result of complaints from the community or through the intervention of officers investigating works which they had discovered in carrying out a general site inspection. Currently the partnership is pursuing a further 290 cases. Where possible many of the unauthorised works are converted to regularisation applications, which generate additional income. Throughout 2011/12 officers from STG have vigorously pursued unauthorised work so as to reduce the burden on customers of illegal works and rogue traders. It remains the responsibility of the owner to ensure their property complies with the building regulations and whilst every effort is made to negotiate a way forward there are provisions within the Building Act to prosecute the builder and serve notice on the owner to ensure works comply.

- **Boarding Up**
 The powers of boarding up properties are shared with colleagues in Environmental Health and/or Private Sector Housing. These properties are normally empty but sometimes require work after a fire or break-in. In most cases where boarding up is required to residential premises during normal office hours these other sections within each authority carry out the work. Where commercial premises are concerned or the action is required urgently out of office hours the dangerous structures team will attend to the situation.
- **Approved Inspectors**
 It is a legal requirement to record each Initial Notice submitted by an approved inspector and to make this available to the public. There have been 272 Initial Notices deposited this year and each one had to be checked against the approved inspector legislation to ensure validation and was required to be acknowledged within five working days.
- **Informal Notices**
 Where applicants are uncertain if the building work they are carrying out requires an application under the Building Regulations they often ask for a determination as an informal notice. This goes through the usual registration process and recorded against the property and will confirm back to the applicants the nature of works and that formal consent is not required.
- **Pre-application advice (Pre-Subs)**
 On larger projects we encourage pre-application discussion to try and resolve any potential problems before the statutory time periods for dealing with an application begin. This also gives us an opportunity to consult with other departments and services, such as the Fire Service, in order to deliver a more holistic approach to our customers. Under the Charges Legislation 2010 the first hour of pre-application advice is free and therefore the data supplied in the tables is concerned with the time element after that.
- **Competent person schemes (CPS)**
 Members of these schemes are considered competent to self certify that their work complies with the relevant requirements and are used for installations such as new boilers, replacement windows and domestic electrical works. This places a heavy administrative burden on the Partnership as each installation needs to be recorded and the various scheme operators use a variety of systems to transfer data. This year so far we have had 24,241 notifications reported. A revised schedule of competent persons now includes roofing contractors, flat roof specialists and micro generation technology.

- **Cavity wall insulation**

One of the registers we are required to maintain is that of cavity wall installations carried out by approved contractors. We received 951 such notifications in 2010/11 and each one had to be registered against the property. A change in legislation in 2011 has meant that installers can now be registered as competent persons and so this data will now form part of the competent person scheme statistics.

- **SAG (Safety Advisory Group)**

In the Final Report of the enquiry into the Hillsborough Stadium disaster Lord Justice Taylor recommended that each authority set up an advisory group (now generally known as Safety Advisory Group – SAG).

The purpose of the SAG is to assist the Local Authority in exercising its functions. To achieve this, the SAG will consist of appropriate members of Local Authority staff and services together with representations from the Police, Fire and Ambulance services. Where applicable additional representatives of the stadium will form an essential part of the group and be regularly consulted.

The SAG represents a fundamental core around which the safety planning of all sports grounds and public events can be considered. It will bring together inter-agency expertise to advise and guide the Local Authority in both certified and non-certified sports grounds. The principle objective is to create a consistent and well tried safety overview process that can be used to enhance public safety at sports grounds and public events.

As recommended in paragraph 31 of the Final Report building control is included as a core member of the group, as such STG are represented on Swale and Medway's SAG's as well as Gillingham FC and Ebbsfleet United FC attending regular meetings, outdoor event inspections and stadium annual inspections.

- **Inter-Council Liaison**

It has been vitally important to maintain links with each authority through regular meetings and dialogue with colleagues. Interaction between building control and other regulatory services reflects a consistent approach to customers. Information gathering and sharing is essential to ensure proper enforcement is carried out in collaboration with colleagues in planning, environmental health, private sector housing, licensing, highways and other frontline services.

Inter-council liaison has also proved important in maintaining links with customers and other stakeholders. Opportunities for early marketing contacts with respective customers must be optimised and must not be lost because of our position away from the three central hubs.

Regular contact with the host authority's management structure ensures regular monitoring of STG's position, which is fed back to members of the Steering Group and Joint Committee.

- **Training**

Part of the resilience built into the partnership was a determination to improve personal development for staff. PDR's and half yearly reviews are carried out and training needs identified and linked back to the business plan objectives.

Where this training relates to activities outside of the building regulation work the costs are apportioned to the contributions element of the budget as is officer time. Much of the training has revolved around dangerous structures, some of which have been undertaken with the emergency services, and access issues where STG is a member of the Centre for Accessible Environments. Training has also been undertaken for unauthorised works and enforcement. Where dedicated training is undertaken by an officer it is fed back to the group via monthly technical meetings.

4. Financial Implications

- 4.1 There are no financial implications as the report reflects the usage of the contributions.

5. Legal Implications

- 5.1 There are no direct legal implications as a result of this report.

6. Risk Management

- 6.1 Planned reduction in contributions, in accordance with the financial plan, will require adjustments to working practices to deliver an improved service with less funding.

7. Recommendation

- 7.1 Members are asked to note the contents of the report.

8. Suggested Reason for Decision

- 8.1 The Constitution requires Joint Committee to monitor the activities of the partnership, which are paid for by the contributions from each authority in order to ensure value for money.

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Background papers

Memorandum of Agreement for the South Thames Gateway Building Control Partnership

The Building (Local Authority Charges) Regulations 2010

The Building (Local Authority Charges) Regulations 1998

Appendix 1 Percentage of contribution spent on non-fee earning activities

Appendix 2 Charts of percentage of contribution spent on non-fee earning activities

Percentage of contribution spent on non-fee earning activities

Number of hours worked on non-fee earning activities

Year	Disabled	Demolitions	Dangerous Structures	Unauthorised Works	Boarding Up	Initial Notices	Informal Notices	Pre-Subs	CPS	Cavity Walls (pre 1 April 2011)	SAG	Inter-Council Liaison	Training	Total
2008-09	1,757	282	2,580	2,352	8	426	102	162	804	1,526	36	213	660	10,908
2009-10	2,233	234	2,490	2,880	12	732	98	135	569	491	36	320	820	11,049
2010-11	2,429	204	2,085	2,028	20	1,032	92	207	741	238	38	400	870	10,383

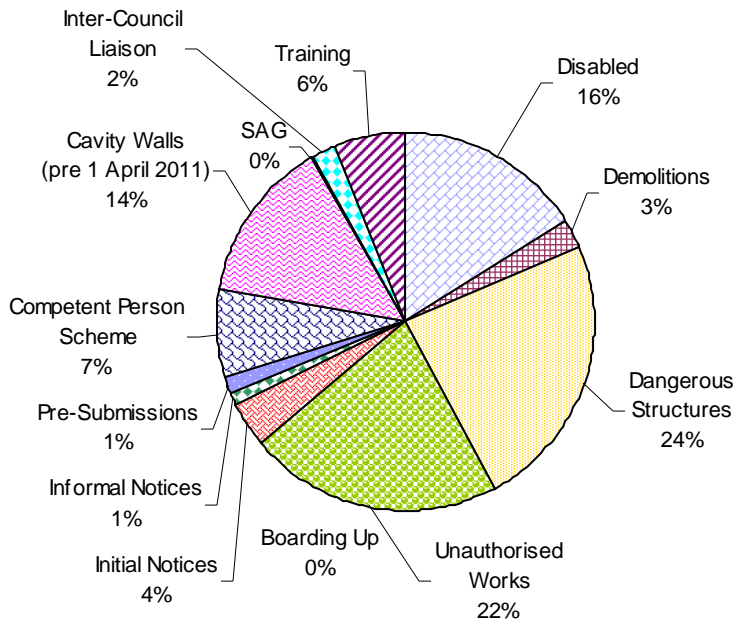
Analysis of contribution spent on non-fee earning activities based on hours spent

Year	Disabled	Demolitions	Dangerous Structures	Unauthorised Works	Boarding Up	Initial Notices	Informal Notices	Pre-Subs	CPS	Cavity Walls (pre 1 April 2011)	SAG	Inter-Council Liaison	Training	Total
2008-09	£57,359	£9,206	£84,227	£76,784	£261	£13,907	£3,330	£5,289	£26,242	£49,802	£1,175	£6,965	£21,546	£356,093
2009-10	£86,592	£9,074	£96,558	£111,682	£465	£28,386	£3,781	£5,235	£22,075	£19,021	£1,396	£12,409	£31,798	£428,473
2010-11	£101,125	£8,493	£86,803	£84,430	£833	£42,964	£3,809	£8,618	£30,848	£9,898	£1,582	£16,653	£36,220	£432,276

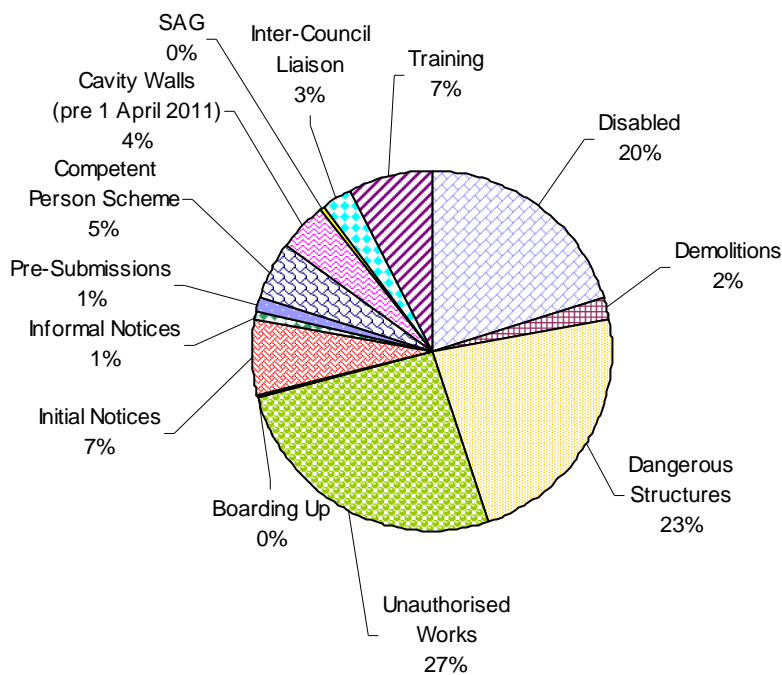
Percentage of contribution spent on non-fee earning activities

Year	Disabled	Demolitions	Dangerous Structures	Unauthorised Works	Boarding Up	Initial Notices	Informal Notices	Pre-Subs	CPS	Cavity Walls (pre 1 April 2011)	SAG	Inter-Council Liaison	Training	Total
2008-09	16.11%	2.59%	23.65%	21.56%	0.07%	3.91%	0.94%	1.49%	7.37%	13.99%	0.33%	1.96%	6.05%	100%
2009-10	20.21%	2.12%	22.54%	26.07%	0.11%	6.62%	0.88%	1.22%	5.15%	4.44%	0.33%	2.90%	7.42%	100%
2010-11	23.39%	1.96%	20.08%	19.53%	0.19%	9.94%	0.88%	1.99%	7.14%	2.29%	0.37%	3.85%	8.38%	100%

Percentage of Contribution spent on non-fee earning activities in 2008-09



Percentage of Contribution spent on non-fee earning activities in 2009-10



Percentage of Contribution spent on non-fee earning activities in 2010-11

