

Council

Wednesday 9th December at 6.00pm
Conference Room, Parkside, Chart Way, Horsham

To: All Members of the Council

(Please note that prayers will be taken by Father David Bouskill, Vicar of Holy Trinity, Horsham before the meeting commences)

You are summoned to attend the meeting to transact the following business

Tom Crowley
Chief Executive

Agenda

	Page No.
1. Apologies for absence	
2. To approve as correct records the minutes of the meetings of the Council held on 21 st October (attached); and 19 th November 2015 (to follow)	1 To follow
3. To receive any declarations of interest from Members	
4. To receive any announcements from the Chairman of the Council, the Leader, Members of the Cabinet or the Chief Executive	
5. To receive questions from the public	
6. To receive questions from Members under Rule 10.2 (Questions by Members on notice)	
7. To receive recommendations from the meeting of Cabinet held on 23 rd November 2015 on: Proposals for the Redevelopment of Broadbridge Heath Leisure Centre (Report to Cabinet regarding this item online at: Cabinet agenda)	9
8. To receive the minutes of the following Committees and, if approved, to adopt any recommendations contained therein:	
	<u>Date</u> 2015
a) Licensing Committee (agenda online at Licensing Committee agenda)	24 th November 11
b) Personnel Committee (agenda online at Personnel Committee agenda)	25 th November 15
c) Standards Committee (agenda online at Standards Committee agenda)	2 nd December To follow

9.	To receive the minutes of the meeting of the Scrutiny & Overview Committee held on 9 th November 2015 (agenda online at Scrutiny and Overview Committee)	17
10.	To receive the report of the Chairman of the Scrutiny & Overview Committee on a recommendation from the Scrutiny and Overview Committee to amend the Constitution to include a revision of the planning determination process	25
11.	To receive the report of the Chairman of the Licensing Committee on the Review of Licensing Policy (Gambling Act 2005)	35
12.	To receive the report of the Cabinet Member for Finance and Assets on Changes to the Council Tax Support scheme and Council Tax discounts	39
13.	To receive the report of the Cabinet Member for Finance and Assets on Grants to Parish Councils 2016/17	53
14.	To receive the report of the Cabinet Member for Finance and Assets on the Medium Term Financial Strategy 2016/20	59
15.	To receive the report of the Cabinet Member for Finance and Assets on Revisions to Horsham District Council's Procurement Code	69
16.	To receive the report of the Chief Executive on the Calendar of Meetings for 2016/17	77
17.	To consider matters certified by the Chairman as urgent	

APPENDICES

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GUIDANCE ON COUNCIL PROCEDURE

(Full details in Part 4A of the Council's Constitution)

Addressing the Council	Members must address the meeting through the Chairman. When the Chairman wishes to speak during a debate, any Member speaking at the time must stop. The Chairman will decide whether he or she prefers Members to stand or sit when addressing the Council.
Minutes	Any comments or questions should be limited to the accuracy of the minutes only
Declarations of Interest	Members should state clearly in which item they have an interest and the nature of the interest (i.e. personal; personal & prejudicial; or pecuniary). If in doubt, seek advice from the Monitoring Officer in advance of the meeting
Announcements	These should be brief and to the point and are for information only – no debate/decisions
Questions from the public (Notice must have been given in writing to the Chief Executive by 12.00 on the last but one working day before the meeting)	Directed to Leader, Cabinet Member or Chairman of an ordinary committee. 2 minutes in total to put 1 or 2 questions. Appropriate Member to reply. Questioner may ask one supplementary question. Member to reply. Overall time limit for questions of 15 minutes. If a questioner is unable to attend, the Chairman may ask the question or a written reply may be given. If a question cannot be dealt with at the meeting (lack of time or absence of relevant Member), a written reply to be given. No discussion but any Member may move that a matter raised by a question is referred to Cabinet or committee. If seconded, no discussion – vote taken.
Petitions (See petitions procedure – Part 4J of the Council's Constitution)	Petition organiser has maximum of 5 minutes to present the petition. Relevant Cabinet Member has maximum 5 minutes right of reply. Members discuss for overall maximum of 30 minutes – each Member speaking has a maximum of 3 minutes. Council decides how to respond (e.g. recommend Cabinet Member to take specific action or ask for further investigation/report).
Cabinet recommendations (see also rules of debate)	Leader/Cabinet Member presents and moves recommendation(s) – seconder required. Members may: - ask a question on the item under consideration – max 2 minutes; and/or - make a statement – max 5 minutes.
Questions from Members on Notice (Notice must have been given in writing to the Chief Executive by 12.00 on the last but one working day before the meeting)	These are directed to the Chairman, Leader, Cabinet Member or chairman of any committee: - 2 minutes maximum for initial question - 5 minutes maximum for the response - 1 minute maximum for a supplementary question - 2 minutes maximum for a response to the supplementary question - 5 minutes maximum for the questioner to make a final statement in response, if they wish - If an oral reply is not convenient (e.g. too lengthy) a written answer may be circulated later. No discussion.

<p>Rules of debate</p>	<p>The Chairman controls debate and normally follows these rules but Chairman's interpretation, application or waiver is final.</p> <ul style="list-style-type: none"> - No speeches until a proposal has been moved (mover may explain purpose) and seconded - Chairman may require motion to be written down and handed to him/her before it is discussed - Secunder may speak immediately after mover or later in the debate - Speeches must relate to the question under discussion or a personal explanation or a point of order (max 5 minutes) - A Member may not speak again except: <ul style="list-style-type: none"> o On an amendment o To move a further amendment if the motion has been amended since he/she last spoke o If first speech was on an amendment, to speak on the main issue (whether or not the amendment was carried) o In exercise of a right of reply. Mover of motion at end of debate on original motion and any amendments (may not otherwise speak on amendment). Mover of amendment has no right of reply. o On a point of order – must relate to an alleged breach of Council Procedure Rules or law. Chairman must hear the point of order immediately. The ruling of the Chairman on the matter will be final. o Personal explanation – relating to part of an earlier speech by the Member which may appear to have been misunderstood. The Chairman's ruling on the admissibility of the personal explanation will be final. - Amendments to motions must be to: <ul style="list-style-type: none"> o Refer the matter to an appropriate body/individual for (re)consideration o Leave out and/or insert or add others (as long as this does not negate the motion) - One amendment at a time to be moved, discussed and decided upon. - Any amended motion becomes the substantive motion to which further amendments may be moved. - A Member may amend a motion that he/she has moved with the consent of the meeting and seconder (such consent to be signified without discussion). - A Member may withdraw a motion that he/she has moved with the consent of the meeting and seconder (such consent to be signified without discussion). - The mover of a motion has the right of reply at the end of the debate on the motion (unamended or amended).
<p>Voting</p>	<p>Any matter will be decided by a simple majority of those voting, by show of hands or if no dissent, by the affirmation of the meeting unless:</p> <ul style="list-style-type: none"> - A majority of the Members present request a ballot; or - A single Member requests a recorded vote (this overrides a request for a ballot). <p>Any Member may request their vote for, against or abstaining to be recorded in the minutes.</p> <p>In the case of equality of votes, the Chairman will have a second or casting vote (whether or not he or she has already voted on the issue).</p>

HORSHAM DISTRICT COUNCIL
21ST OCTOBER 2015

Present: Councillors: Tricia Youtan (Chairman), Christian Mitchell (Vice-Chairman), John Bailey, Andrew Baldwin, John Blackall, Toni Bradnum, Alan Britten, Karen Burgess, Peter Burgess, John Chidlow, Jonathan Chowen, Philip Circus, Paul Clarke, Roger Clarke, David Coldwell, Roy Cornell, Christine Costin, Leonard Crosbie, Ray Dawe, Brian Donnelly, Matthew French, Tony Hogben, Ian Howard, Nigel Jupp, Liz Kitchen, Adrian Lee, Gordon Lindsay, Tim Lloyd, Paul Marshall, Mike Morgan, Josh Murphy, Stuart Ritchie, Kate Rowbottom, Jim Sanson, David Skipp, Simon Torn, Claire Vickers, Michael Willett

Apologies: Councillor: Jonathan Dancer, David Jenkins, Godfrey Newman, Brian O'Connell, Connor Relleen, Ben Staines

CO/37 **MINUTES**

The minutes of the meeting of the Council held on 9th September 2015 were approved as a correct record and signed by the Chairman.

CO/38 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

CO/39 **ANNOUNCEMENTS**

The Chairman of the Council:

- Advised Members that Marjorie Ward, who had been Chairman of the Council in 1990-91 and a councillor for 15 years, from 1980 to 1995, had celebrated her 100th birthday on 14th October 2015. The Chairman had sent a letter of congratulations on behalf of the Council.
- Announced that Councillor David Jenkins was not able to attend tonight's meeting as he had had a bad fall. All Members joined with the Chairman in sending him their best wishes for a speedy recovery.
- Reminded Members that:
 - tickets were still available from The Capitol Theatre for the Chairman's Trust Charity Quiz Night on 24th October 2015 at the Drill Hall, Denne Road, Horsham.
 - the Horsham Remembrance Day Service would take place on Sunday 8th November 2015 commencing with the wreath-laying ceremony in the Carfax at 10.30am and followed by a service in the Parish Church. There will also be a short ceremony on Armistice Day, Wednesday 11th November 2015 at the War Memorial starting at 10.45 am.

CO/39 Announcements (cont.)

- there would be an extraordinary meeting of the Council on 19th November 2015 to consider the adoption of the Horsham District Planning Framework.
- the Chairman's Community Carol Service would be held on 14th December 2015 at 7pm at St. Mary's Church, The Causeway, Horsham.

The Cabinet Member for Housing and Public Protection advised Members of the Government's response to the Syrian refugee crisis, which included an undertaking to take in 20,000 refugees. He indicated that, as part of the overall delivery of this undertaking, this Council would take a maximum of two families per year over five years.

The Cabinet Member for Leisure and Culture reported that Dinosaur Island at Southwater Country Park had been nominated for a Green Apple Environment award, with the winners being announced at a presentation ceremony on 16th November 2015.

CO/40 QUESTIONS FROM THE PUBLIC

Mr Kornycky asked the following questions:

In Viability Appraisals the calculation of Gross Development Value is established by multiplying expected square footage by anticipated sales price. As Affordable Homes are typically sold at discounts of up to 50% from market price, getting the square footage correctly allocated between Market & Affordable is critical.

*To meet the housing need, you would expect the schedule of Affordable Homes to have a greater proportion of smaller properties, than that for Market Homes. Bizarrely, the Affordable Homes schedule for **Countryside (West of Horsham)** was taken as exactly 20% of the overall mix of properties, so creating a huge discrepancy between the viability appraisal & the actual development.*

*So, 63 x 4/5 Bedroom **Affordable** Properties were in the viability appraisal, but none built. Whereas the **Market** Homes went the other way, 222 x 1/2 Bedroom Units were in the viability appraisal, but just 134 built.*

*Hence even though 20% by **unit count** of this development is affordable, clearly significantly less than 20% of the **built square footage** at this site will be affordable. Not picking this point up when evaluating the viability appraisal has understated the Gross Development Value by £6.35m. Allowing 20% developer profit still means that the viability margin was some **£5m understated**; money which potentially could have been secured towards the infrastructure shortfall.*

CO/40 Questions from the Public (cont.)

Q1 – *Why has this happened?*

Q2 – *The Viability Appraisal submitted for North of Horsham at the November 2014 hearings made this same error. Will you learn from this mistake & put it right?*

Councillor Claire Vickers, the Cabinet Member for Planning and Development advised that, due to the detailed nature of the questions, she would provide a written reply as soon as possible, which would also be circulated to all Members

Mr Kornycky asked a supplementary question as to why the Council does not have an 'open book' policy for strategic developments and requesting the Cabinet Member to commit to an 'open book' viability appraisal in respect of the North of Horsham site.

Councillor Vickers indicated that she would also address this in her written reply.

CO/41 **QUESTIONS FROM MEMBERS UNDER RULE 10.2**

No questions had been received.

CO/42 **MINUTES OF COMMITTEES**

The following minutes were received:

Standards Committee – 16th September 2015

Accounts, Audit & Governance Committee – 23rd September 2015

Personnel Committee – 30th September 2015

CO/43 **MINUTES OF THE MEETING OF THE SCRUTINY & OVERVIEW COMMITTEE OF 14TH SEPTEMBER 2015**

The minutes of the meeting of the Scrutiny & Overview Committee held on 14th September 2015 were presented by Councillor Leonard Crosbie, Chairman of the Committee.

CO/44 **NUTHURST NEIGHBOURHOOD PLAN**

A representative of the Nuthurst Parish Council (the Chairman of the Neighbourhood Plan Steering Group) addressed the Council, referring to the large number of local people who had worked together over a period of two years to produce the Plan. He indicated that the Plan was endorsed by the

CO/44 Nuthurst Neighbourhood Plan (cont.)

large majority of local residents in favour of its adoption, 86.6% of those who had voted at the recent referendum. He expressed particular thanks to Val Court, the Chairman of Nuthurst Parish Council and Barbara Childs, the District Council's Head of Strategic Planning and Sustainability for their support throughout the process. He urged the Council to agree to make the Plan.

The Cabinet Member for Planning and Development reported that following extensive preparation and successful Examination, the Nuthurst Neighbourhood Plan was the first in the District to have been subject to a referendum, where a majority had voted in its favour. In view of the result of the referendum, the Local Planning Authority was required to declare the plan "made" as soon as possible after the referendum had taken place.

The Cabinet Member, the local Member and other Members paid tribute to the Parish Council, the Steering Group and the many volunteers for their time and effort in producing such a well-received Neighbourhood Plan.

The Cabinet Member therefore sought Council's formal approval to "make" the Nuthurst Neighbourhood Plan part of the Development Plan, as required by the Town and Country Planning Act 1990 and the Localism Act 2011.

RESOLVED

That the Nuthurst Neighbourhood Plan be formally "made" part of the Development Plan, following the referendum held on 24th September 2015.

REASONS

- (i) The preparation of the Nuthurst Neighbourhood Plan has followed the statutory procedures set out in The Neighbourhood Planning (General) Regulations 2012. The plan has successfully undergone examination and has satisfied the basic test that the plan is in conformity with the Horsham District Planning Framework (HDPF).
- (ii) Where a referendum results in a majority 'yes' vote, the Local Planning Authority is required to "make" the Neighbourhood Plan as soon as reasonably possible. This will enable the District Council to use the plan to determine planning applications in the Nuthurst Parish.

AMENDMENTS TO THE CONSTITUTION – REMOVAL OF PARAGRAPH RELATING TO MAJOR APPLICATIONS AND AMENDMENT TO MEMBER REFERRAL PARAGRAPH

The Cabinet Member for Planning and Development submitted a report seeking approval for the following amendments to the Council’s Constitution:

- the removal of Paragraph 3.12 (d) Part 3F, which required every major application to be brought before the Development Control Committees; and
- the amendment of Paragraph 3.12 (h) Part 3F to allow for one Councillor to request an application be heard at committee rather than two members and to remove the requirement to provide a planning reason for the referral (the requirement for such requests to be received within 35 days of the date of validation of the application was to be retained).

Members supported the proposal before them.

The Leader indicated that a group of Members including the Chairman of Council, Chairmen of all standing Committees, the Leader of the Minority Group and himself were currently looking at a number of governance options and would be publishing their findings for full Member consultation early in 2016.

RESOLVED

- (i) That paragraph 3.12 (d) of Part 3F of the Constitution, which stated “applications comprising major development within the meaning of GDPO”, be deleted.
- (ii) That paragraph 3.12 (h) of Part 3F of the Constitution be amended by replacing the phrase “two members” with “one member” and deleting the words “identifying grounds for referral and supported by valid planning reasons”

REASON

Paragraph 3.12(d), as it stands, results in uncontentious major applications having to be brought before the Development Control Committees unnecessarily. The change to paragraph 3.12(h) will ensure any single Member can call applications to a Development Control Committee.

CO/46 **CHANGE OF NAME OF NEIGHBOURHOOD COUNCILS**

The Leader reported that the three Neighbourhood Councils Denne, Forest and Trafalgar, had requested a change to the names of their Councils by the addition of the word Horsham to each of them.

As the three Neighbourhood Councils and their (identical) Constitutions had been established by the District Council any change to their Constitution required this Council's approval.

Members supported the request.

RESOLVED

That the names of the three Neighbourhood Councils (Denne, Forest and Trafalgar) be amended by prefixing their names with the word 'Horsham' (i.e. 'Horsham Denne Neighbourhood Council', 'Horsham Forest Neighbourhood Council' and 'Horsham Trafalgar Neighbourhood Council').

REASON

The Neighbourhood Councils have requested the change of name at Article 1 of their constitution.

CO/47 **URGENT MATTERS**

There were no urgent matters to be considered.

The meeting closed at 6.54pm having commenced at 6.00pm.

CHAIRMAN

**COUNCIL
9TH DECEMBER 2015
CABINET RECOMMENDATIONS**

Details of a Recommendation to Council made at the Cabinet Meeting held on 23rd November 2015 are set out below.

REPORT BY THE CABINET MEMBER FOR LEISURE AND CULTURE

EX/28 **Proposals for the Redevelopment of Broadbridge Heath Leisure Centre**

One member of the public spoke in support of the proposals.

The Cabinet Member for Leisure and Culture presented the report proposing the Redevelopment of Broadbridge Heath Leisure Centre. The report recommended a way forward for the future provision of “dry-side” sports and leisure facilities in the District. It reinforced the importance of the facility to meet the needs of the population and would grow during the term of the Horsham District Planning Framework.

If the proposed scheme was agreed, it was anticipated that construction would start in the Autumn of 2016, with the centre due to open in 2018.

The Leader thanked the Cabinet Member for the report and his work on this project.

The Cabinet supported the proposals.

The local Councillor for Broadbridge Heath spoke in support of the proposals.

RECOMMENDED TO COUNCIL

- i) To agree to proceed with the construction of a new facility to replace the existing Broadbridge Heath Leisure Centre as per Option 3 detailed in this report.
- ii) Subject to i) to supplement the current capital budget of £7.4m in the Council’s capital programme for the rebuilding of the Leisure Centre by £4.9m ensuring that the total budget for the project is £12.3m.
- iii) Subject to i) to agree that the revenue implications of Option 3, as identified in section 7.8, averaging at an additional cost of £255k per annum over a 25 year period is added to the Council’s revenue expenditure budget; and to note the impact on the Council’s projected budget deficit.
- iv) Subject to i) to agree to utilise £2m of New Homes Bonus to fund the project.

REASON

- i) To address the need for increased leisure and sporting provision as a consequence of a growing population
- ii) To ensure there is a sufficient capital budget to meet the build requirement.
- iii) To ensure that that there is sufficient revenue budget to meet the costs of the new leisure centre.
- iv) To ensure approval is given to utilise New Homes Bonus.

LICENSING COMMITTEE
24th November 2015

Present: Councillors: Jim Sanson (Chairman), Roger Clarke (Vice-Chairman), Karen Burgess, Peter Burgess, Philip Circus, Roy Cornell, Paul Marshall, Christian Mitchell

Apologies: John Blackall, Christine Costin, Ian Howard, David Jenkins, Adrian Lee, Tim Lloyd, Connor Relleen

LI/10 **MINUTES**

The minutes of the meeting held on 15th July 2015 were approved as a correct record and signed by the Chairman.

LI/11 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

LI/12 **ANNOUNCEMENTS**

The Chairman advised that there had been no representations received during the consultation period for the draft Gambling Licensing Policy, which had been considered by the Committee on 15th July 2015, and therefore the draft policy would be recommended to Council for adoption.

LI/13 **RELAXATION OF LATE NIGHT REFRESHMENT – DEREGULATION ACT 2015**

The Environmental Health and Licensing Officer advised Members that the Deregulation Act 2015 gave local authorities the power to exempt premises, in certain circumstances, from the requirement to have a licence to provide hot food or hot drink to members of the public between 11pm and 5am.

The powers were intended to allow local authorities to exempt premises where there were no problems with antisocial behaviour or disorder associated with the night time economy. Licensing authorities were under no obligation to use exemptions and it was noted that several nearby local authorities with a similar demographic to Horsham District Council had chosen not to make use of these powers.

RESOLVED

That the Council continues to require all late night refreshment providers to be licenced.

LI/13 Relaxation of Late Night Refreshment – Deregulation Act 2015 (Cont.)

REASONS

- (i) To ensure compliance with legislative requirements.
- (ii) To ensure openness and transparency in the Council's decision making.
- (iii) To ensure that any anti-social behaviour or disorder associated with the night time economy continues to be prevented as far as possible by the imposition of licence conditions and regulation under the Licensing Act 2003.

LI/14 **DURATION OF TAXI AND PRIVATE HIRE LICENCES – DEREGULATION ACT 2015**

The Environmental Health and Licensing Officer advised Members that the Deregulation Act 2015 required local authorities to offer both one-year and three-year driver licences, and one-year and five-year operator licences. The Council currently only offered one-year licences. In order to accommodate this requirement a fee structure for the longer duration licences was required.

The Council's current fees for one year licences had been agreed for the three year period from 1st April 2015 to 31st March 2018 and were subject to an increase of 2% each year. The proposed fees for licences for more than one year would charge the same amount for each year of the licence, thus saving the licensee the 2% annual increase. This small saving would be similar to the amount saved by the Council in administration costs. It was noted that the frequency of driver's checks would remain unchanged.

RESOLVED

- (i) That the changes to Hackney Carriage & Private Hire licence durations for Drivers and Operators be noted.
- (ii) That the fee for the longer duration licences to be the fee for the year of application multiplied by the number of years' duration of the licence but without the 2% per annum increase.

LI/14 Duration of Taxi and Private Hire Licences – Deregulation Act 2015 (Cont.)

REASONS

- (i) To ensure compliance with legislative requirements.
- (ii) To allow drivers and operators to decide the length of licence subject to statutory requirements.
- (iii) To ensure that the Council is authorised to receive the appropriate licence fee following the implementation of these changes.

LI/15 TAXI AND PRIVATE HIRE LICENSING CRIMINAL CONVICTIONS POLICY

The Environmental Health and Licensing Officer presented the report which sought approval for a Taxi and Private Hire Licensing Criminal Convictions Policy. The council currently had regard to best practice and guidance when determining whether or not an applicant or existing licence holder was a fit and proper person to hold a licence, but had not formally adopted a policy.

The Council had a statutory obligation to provide protection for the travelling public by ensuring that hackney carriage and/or private driver or operator licences were only held by those considered to be 'fit and proper'. Consideration of criminal convictions was an important part of this decision making process and the proposed policy would formalise the existing procedure, encourage consistency, and provide information to applicants and existing licence holders on the Council's approach.

Members considered the implications of the proposal, in particular regarding non-conviction information where an applicant or licence holder had been arrested or charged but not convicted. Members were assured that any such case would be carefully considered by Officers who would seek legal advice as required.

RESOLVED

That the Taxi and Private Hire Licensing Criminal Convictions Policy, as submitted, be approved.

REASON

To ensure openness and transparency in the Council's decision making process.

LI/16 **LICENCE FEES FOR 2016/2017**

The Environmental Health & Licensing Manager reported on the proposed fees for various licences issued by the Environmental Health & Licensing Department. The fees, if approved by the Committee, would take effect on 1st April 2016.

The individual licence fees were calculated to recover the cost of issuing the licence and enforcing the requirements of the legislation. The fees were calculated taking into account officer time, transport and any external costs that the Council incurred. The fees could not make a profit for the Council and could not include the cost of enforcement. There were other licenses issued by the Environmental Health & Licensing Department, the fees for which were set by statute and could not be changed.

The proposed fees and charges would increase the current costs by 1.5% for the financial year commencing 1st April 2016, to allow for inflation and increased costs. It was noted that the proposed fees were in keeping with those set by other Councils.

RESOLVED

That the fees for licences issued during 2016/17 be approved, as submitted, to take effect from 1st April 2016.

REASONS

- (i) The setting of fees for licences is the responsibility of the Licensing Committee.
- (ii) To ensure openness and transparency in decision making.

The meeting ended at 6.25pm having commenced at 5.30pm

CHAIRMAN

**PERSONNEL COMMITTEE
25th November 2015**

Present: Councillors: Roger Clarke (Chairman), Matthew French, Liz Kitchen, Mike Morgan, Josh Murphy, Godfrey Newman

Apologies: Councillors: Michael Willett (Vice-Chairman), John Blackall, Alan Britten, Roy Cornell, Jonathan Dancer, Ray Dawe, Tony Hogben, Nigel Jupp, Brian O'Connell

PC/16 **MINUTES**

The minutes of the meeting of the Committee held on 30th September 2015 were approved as a correct record and signed by the Chairman.

PC/17 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

PC/18 **ANNOUNCEMENTS**

There were no announcements.

PC/19 **REVIEW OF CORPORATE HEALTH & SAFETY POLICY**

The Corporate Health & Safety Policy Adviser introduced the Review of Corporate Health & Safety Policy. The policy was adopted on 16th October 2015 and will be reviewed annually.

Members noted that the policy's statement of intent, originally a generic list, had been replaced with a clear statement of intent.

Members noted that all of the policy's arrangements had been replaced with a broader subject list that was clearer about who was responsible and provided guidance for those with responsibilities.

RESOLVED

That the contents of the report be noted.

REASON

- 01 Section 2(3) of the Health & Safety at Work etc. Act 1974 requires employers to prepare and revise a health and safety policy which provides a written statement of intent and the organisation and arrangements required to achieve that intention.

- 02 The current corporate health and safety policy was published 2012.
- 03 The current Horsham District Council Health & Safety Audit (2014/2015) recommended that the corporate health and safety policy is reviewed annually.

PC/20 **WORKFORCE STATISTICS**

The HR and OD manager introduced the report on workforce statistics which set out staffing related activity for recruitment and employee relations for the year 2014/15. Workforce statistics had been prepared at regular intervals to monitor key indicators such as sickness, turnover or equalities.

Members noted that sickness absence had been lower and turnover figures, which had been particularly high because of the restructure of middle and senior management, had significantly fallen.

RESOLVED

That the contents of the report be noted.

REASON

To monitor key performance indicators relating to staffing.

The meeting finished at 5.50pm. having commenced at 5.30pm.

CHAIRMAN

SCRUTINY & OVERVIEW COMMITTEE
9TH NOVEMBER 2015

Present: Councillors: Leonard Crosbie (Chairman), David Coldwell (Vice-Chairman) Alan Britten, John Chidlow, Paul Clarke, Roger Clarke, Matthew French, Nigel Jupp, Tim Lloyd, David Skipp, Michael Willett

Apologies: Councillors: Jonathan Dancer, Tony Hogben, Brian O'Connell, Ben Staines

Officers: Katharine Eberhart, Director of Corporate Resources
 Chris Lyons, Director of Planning, Economic Development & Property
 Paul Cummins, Head of Legal and Democratic Services

Also present: Councillors: Christian Mitchell, Mike Morgan, Godfrey Newman, Tricia Youtan

SO/30 **MINUTES**

The minutes of the meeting of the Committee held on 14th September 2015 were approved as a correct record and signed by the Chairman.

SO/31 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

SO/32 **ANNOUNCEMENTS FROM THE CHAIRMAN OF THE COMMITTEE OR THE CHIEF EXECUTIVE**

There were no announcements.

SO/33 **REPLIES FROM CABINET/COUNCIL REGARDING SCRUTINY AND OVERVIEW RECOMMENDATIONS**

There were no replies from Cabinet or Council.

SO/34 **BUSINESS IMPROVEMENT WORKING GROUP – NOTES OF THE MEETING HELD 13TH OCTOBER 2015**

A Member of the Business Improvement Working Group presented the notes of the meeting held 13th October 2015.

The Committee noted that the Working Group was proposing to commence an entire review of the S106 process. The Committee noted the terms of reference drawn up specifically for this review and commented that the financial element of the S106 process should also be included as part of the review. Following discussions, it was proposed that the following term of reference be added:

SO/34 Business Improvement Working Group – Notes of the meeting held 13th
October 2015 (cont.)

“Financial appraisal of S106 outcomes in relation to affordable homes ratio.”

The Committee suggested that the review also include a comparison of Horsham’s S106 process to that of other councils, along with a review of how the Council drafted its S106 agreements. Members also proposed that specialist lawyers also be involved with this review, and agreed the following also be added to the terms of reference:

“Commission an immediate comparison analysis of S106 agreements, supported by contributions from officers and a specialist firm of suitably qualified external legal advisers”.

The Business Improvement Working Group could agree how to incorporate this into its review or whether it should be a separate review.

The Committee noted the Working Group’s review of the Council’s planning appeals process. In his absence, the Chairman of the Working Group had submitted a note to support the discussions from the Group’s meeting and to reflect the concerns of the Councillors.

The Committee noted the Chairman of the Working Group’s comments and supported the suggestions; the Committee discussed the timing of when the decision on a planning appeal should be deferred for determination by full Council and agreed that at the point that the Development Control Committee appears to be leaning towards a decision which is contrary to the planning officers’ recommendation and it would appear that substantial costs could be incurred if the application went to appeal, the case would be deferred for determination by full Council. It could not be deferred following formal rejection of the application as this would be too late. Therefore, if the vote was carried the decision of the Committee would be a recommendation to Full Council to refuse the application and would not be a determination of the application.

The Committee also agreed that it would be full Council that would make the final decision.

Members agreed the proposed method would lead to a more democratic process.

The Committee accepted the recommendation made by the Working Group subject to the removal of the words “...or another group of elected Members”.

The Committee agreed that “significant costs” would have to be determined on a case by case basis; it would prove difficult to define a figure or threshold after which cases would be referred but that it would normally be if the officer was of the opinion that the reasons for refusal could not be substantiated with evidence.

SO/34 Business Improvement Working Group – Notes of the meeting held 13th October 2015 (cont.)

Referring back to the notes of the Working Group, the Committee congratulated officers on the work involved in the Business Transformation Programme.

In relation to the Group's item on the Property and Asset Management Review, the Committee suggested that a programme of inspection be drawn up and adhered to.

The Committee also noted that additional Members would be added to the Working Group for the duration of the S106 review, Councillors Matthew French, Nigel Jupp and David Coldwell volunteered to take part in this review.

It was also agreed that a defined programme of meetings should be drawn up for the S106 review, so that Members know the meeting dates and times in advance and also to help achieve an efficient and timely review.

RECOMMENDED TO COUNCIL

That the Council should agree a change to the Council's Constitution so that, in the event of a planning Committee proposing a decision that could not be justified on planning grounds and would be likely to incur significant costs at appeal, a process is established whereby the decision can be deferred for determination by full Council.

SO/35 CRIME AND DISORDER WORKING GROUP – TO RECEIVE AN UPDATE FROM THE CHAIRMAN

The Chairman of the Crime and Disorder Working Group updated the Committee on the Working Group.

The next meeting of the Working Group had been rescheduled in order to accommodate the representatives from Sussex Police, to enable them to attend and present their update on their Community Safety Partnership Action Plan. The Working Group felt strongly about having this representation at the meeting and to present the update reports.

The Committee also noted the recent changes to policing arrangements in the District and how Horsham would now appear under the same District Commander as Worthing and Adur. It was anticipated that Horsham would benefit from this new merger.

SO/35 Crime and Disorder Working Group – To receive an update from the Chairman (cont.)

RESOLVED

That an update from the Crime and Disorder Working Group be received.

REASON

All updates from Working Groups are to be received by the Committee.

SO/36 **FINANCE AND PERFORMANCE WORKING GROUP – TO RECEIVE AN UPDATE FROM THE CHAIRMAN**

The Committee noted that there had been no further meetings of the Working Group.

RESOLVED

That an update from the Finance and Performance Working Group be received.

REASON

All updates from Working Groups are to be received by the Committee.

SO/37 **SOCIAL INCLUSION WORKING GROUP – NOTES OF THE MEETING HELD 28TH SEPTEMBER 2015**

The Chairman of the Social Inclusion Working Group presented the notes of the meeting held 28th September 2015.

At the meeting the Working Group had reviewed the replies it had received in response to the Group's recommendations, following the review of the effectiveness of the provision for local residents suffering financial hardship. The Group discussed the responses and highlighted several points.

The Working Group had also received a report on Digital Inclusion in the District. The Members were awaiting an action plan on the Digital Inclusion Strategy at its next meeting.

The Committee supported the Group's review into this as the Council relied heavily on use of the internet for many of its services.

SO/37 Social Inclusion Working Group – Notes of the meeting held 28th September 2015 (cont.)

RESOLVED

That the notes of the Social Inclusion Working Group meeting held on 28th September 2015, be received

REASON

All notes of Working Group meetings are to be received by the Committee

SO/38 HEALTH PROVISION WORKING GROUP –NOTES OF THE MEETING HELD ON 28TH OCTOBER 2015

The Chairman of the Health Provision Working Group presented the notes of the meeting held 28th October 2015.

The Group had invited two local GPs to discuss their plans regarding the future provision of health care in Horsham.

The Committee noted that the GPs were positive about Horsham Hospital and the services it offered.

The Committee noted that a seminar from the Coastal CCG had been organised for 8th December 2015, following a request from the Scrutiny and Overview Committee. In addition, on 2nd December 2015, Members were invited to attend a meeting with the local GPs on the local primary care provision in Horsham.

The Working Group would also be looking at ambulance response times in the south east.

RESOLVED

That the notes of the Health Provision Working Group meeting held on 28th October 2015, be received

REASON

All notes of Working Group meetings are to be received and approved by the Committee.

SO/39 **TRADE WASTE WORKING GROUP – FINAL REPORT**

The Trade Waste Working Group produced its final report in 2014 with a number of recommendations. At the Committee Members received updates on the recommendations.

Councillor Coldwell took Members through the updates and highlighted the Trade Refuse and Recycling Marketing Communications Plan.

The Committee noted that the Council was continuing to offer going ahead with the trade waste service as there was a demand from small shops and businesses in the District.

It was agreed that the Committee would revisit this in 12 months for an update on the position and whether the service had been successful to that point.

RESOLVED

That the updates on the recommendations in the Trade Waste Working Group, be received

REASON

All Working Group recommendation updates are to be received and approved by the Committee.

SO/40 **RAIL PERFORMANCE WORKING GROUP – FINAL UPDATE**

The Committee noted that a short term working group to review the rail performance in the District took place in 2012; the Group had made a number of recommendations. Members felt that there were no outstanding issues with Southern Rail at this stage and it was not necessary for a working group to continue.

RESOLVED

That the Rail Performance Working Group would no longer continue.

REASON

The future of all working groups is to be determined by the Committee.

SO/41 **MEMBERSHIP OF WORKING GROUPS**

The Committee noted that when a new Scrutiny and Overview working group was established, the Group Leaders would be contacted and asked to nominate any members to sit on the working group.

It was proposed that in future, as the Committee generated its own work programme; it would be more appropriate for/ the Scrutiny and Overview Committee Chairman to nominate members to sit on the working groups.

It was not currently prescribed in the Constitution how Scrutiny working groups should be appointed and it was considered best local government practice for a Committee to nominate its own working groups. The Committee supported this proposal.

RESOLVED

That the Scrutiny and Overview Committee be responsible for nominating new working group members.

REASON

All Working Groups are to be approved by the Committee.

SO/42 **REVIEW OF WEST SUSSEX TRAFFIC ASSESSMENTS – SELECTION OF WORKING GROUP**

The Chairman of the Committee explained that the review of assessment and accountability of West Sussex County Council traffic assessments and forecasts, especially relating to major developments, was a an item raised for review by the Scrutiny and Overview Committee at its last meeting.

There had been concerns raised about the traffic assessment process undertaken by West Sussex County Council in the past, especially relating to large developments in the District.

Although the Committee had agreed to establish a working group to carry out this review the Chairman advised at the meeting that, firstly, West Sussex County Council was the statutory authority for highways and also that they were the final arbiter when it concerned highways decisions, therefore it was advised that a review carried out by a working group would have little impact on the process.

If Members expressed concerns about traffic assessments relating to new developments in the District and planning applications, they were advised to raise these directly with the County Council. Members noted that the policies were set on a national scale. In addition, there had been a number of failed attempts to gather volunteers for a new working group.

SO/42 Review of West Sussex Traffic Assessments – Selection of working group (cont.)

After discussions the Committee therefore agreed that it would be futile use of the Council's resources to engage consultants to carry out the review.

If concerns were ongoing, it was suggested that this could be raised as an item for full Council.

RESOLVED

That the Review of West Sussex Traffic Assessments Working Group would not be established.

REASON

The future of all working groups is to be determined by the Committee.

SO/43 **TO RECEIVE ANY SUGGESTIONS FOR THE SCRUTINY AND OVERVIEW WORK PROGRAMME**

There were no suggestions for the Scrutiny and Overview work programme.

SO/44 **ITEMS NOT ON THE AGENDA BUT CONSIDERED URGENT**

None.

The meeting finished at 8.15 pm having commenced at 6.00 pm.

CHAIRMAN

Report to Council

9 December 2015

By the Chairman of Scrutiny and Overview Committee

DECISION REQUIRED



Not Exempt

Recommendation from the Scrutiny and Overview Committee to amend the Constitution to include a revision of the planning determination process

Executive Summary

The Scrutiny & Overview Committee have recommended to Council a change to the Council's Constitution so that, in the event of a Development Control Committee proposing a decision that would be likely to have significant costs implications for the Council, the processes described at appendix 3 to this report be followed whereby the decision can be deferred for determination by full Council.

Paragraph 9.1 of Part 4C states that once it has formed recommendations on proposals for development, the Scrutiny and Overview Committee shall prepare a formal report to the Council as appropriate. The subject matter of this recommendation (amendment to the Constitution of the Council) is not an Executive function. Therefore, the Scrutiny and Overview Committee are enabled to make a recommendation directly to the Council.

Unfortunately the Council has incurred significant costs in recent years where both Development Control Committees have made decisions which cannot be justified on planning grounds and the applicant has then been successful at appeal including obtaining a significant costs award against the Council. Under the proposed process the full Council will determine planning applications referred to it by the Director of Planning, Economic Development and Property if he is of the opinion that the relevant Development Control Committee is minded to make a decision were there are likely to be significant cost implications.

Recommendations

That the Council is recommended:

- i) To agree the revisions to the Constitution as set out in appendix 2 and the procedure note set out at appendix 3.**

Reasons for Recommendations

- i) That the Council receive the recommendation of the Scrutiny and Overview Committee pursuant to part 4C of the Council's Constitution
- ii) To ensure where a decision is made in respect of a planning application in which there is a likelihood of the Council incurring significant costs that such decision is

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taken by the full Council given the effect of large costs awards on the Council's overall budget.

Background Papers

Agenda and minutes of Working Groups and the Scrutiny and Overview Committee 2015 are published on the Council's website.

Wards affected: All Wards

Contact: Daniela Smith, Scrutiny and Committee Support Officer

Background Information

1 Introduction and Background

- 1.1 Part 4C of the Constitution of the Council enables the statutory obligations of Part 1A of the Local Government Act 2000 (as amended by Schedule 2 of the Localism Act 2011) that Executive arrangements by a local authority must include provision for the appointment by the authority of one or more committees of the authority to discharge Overview and Scrutiny functions.
- 1.2 Horsham District Council has appointed one such Committee, known as the 'Scrutiny and Overview Committee'. The Scrutiny and Overview Committee may create working groups pursuant to Part 4C (1.4) of the Constitution (Scrutiny and Overview Procedure Rules).
- 1.3 Paragraph 6.1 of Part 4C provides that the Scrutiny and Overview Committee shall be responsible for setting its own work programme and that of any sub-committee or working group and in doing so they shall take into account of the effective, efficient and economic discharge of the Council's scrutiny and overview function.
- 1.4 Paragraph 9.1 of Part 4C states that once it has formed recommendations on proposals for development, the Scrutiny and Overview Committee shall prepare a formal report and submit it to the Chief Executive for consideration by the Executive (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate in other cases.
- 1.5 The subject matter of this recommendation (amendment to the Constitution of the Council) is not an Executive function. Therefore, the Scrutiny and Overview Committee are empowered to make a recommendation directly to the Council.
- 1.6 The Scrutiny & Overview Committee have recommended to Council a change to the Council's Constitution so that, in the event of a Development Control Committee proposing a decision that would be likely to incur significant costs for the Council, the processes described at appendix 2 to this report be followed whereby the decision can be deferred for determination by full Council.

2 Relevant Council policy

- 2.1 Corporate Priority 2015/16 4, Living, Working Communities.

3 Details

- 3.1 Two Scrutiny and Overview Working Groups have been considering this matter. The Finance and Performance Working Group of 18 June 2015 noted that Members raised some concerns; these included the officer time involved in planning inquiries and the costs incurred. The Working Group discussed implementing a system to prevent the enormous costs that were sometimes involved. It was noted other Councils such as Maidstone Borough Council and Test Valley Borough Council had relevant procedures. Subsequently, the matter was discussed by the Business Improvement Working Group on 13 October 2015.

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- 3.2 At the Business Improvement Working Group on 13 October 2015 it was noted that in 2015/16 to date the Council had spent in excess of £340,000 in paying costs awards at public inquiries. The Head of Legal and Democratic Services and the Development Manager explained that these cases occurred where the Development Control Committee made a decision to refuse a developer application contrary to Officer recommendation and there were no justifiable planning grounds to refuse. The developer had appealed such decisions of the Committee and at the subsequent public inquiry the developer had overturned the Development Control Committee decision and been awarded costs.
- 3.3 The Chairman of the Working Group confirmed Member concern at the substantial costs that were payable to developers following public inquiries. Members concluded that some potential future appeal costs could be prevented if there was a procedure in place that could be used in the event that a Development Control Committee was mindful to agree a decision, where that decision was not underpinned by sound planning reasons, and where there was reason to predict significant costs.
- 3.4 The Scrutiny and Overview Committee convened on 9 November 2015. The Committee resolved to recommend to Council that a change to the Council's Constitution be made so that, in the event of a Development Control Committee proposing a decision that could not be justified on planning grounds and would be likely to incur significant costs at appeal, a process is followed whereby the decision can be referred for determination by full Council.
- 3.5 Officers have drafted the necessary amendments to the Constitution as attached to this report as appendix 2 (amendments shown in red italics) and a short procedure note at appendix 3.

4 Next Steps

- 4.1 Consequential to the decision by Council on the recommendation from the Scrutiny and Overview Committee, the decision of Council will have effect from the date of the Council meeting. The Constitution will be consequentially updated. Decisions of the Council are not subject to the Council's call-in procedure.

5 Outcome of Consultations

- 5.1 The Scrutiny and Overview Committee, Finance and Performance Working Group and the Business Improvement Working Group formed the consultees in the preparation of this recommendation to Council. The feedback from those Members and Senior Officers is captured in the proposed amendments to the Constitution.

6 Other Courses of Action Considered but Rejected

- 6.1 The Council could choose not to amend its Constitution. This course of action was rejected due to the Council requiring a clear process in order to mitigate risk.

7 Financial Consequences

- 7.1 The Council's robust reporting of financial and performance information has enabled Members to consider how to address the financial implications of planning

decisions on the Council. The recommended process enables the Council to mitigate the financial risks appropriately.

8 Legal Consequences

- 8.1 These recommendations demonstrate the effective discharge of the Overview and Scrutiny functions provided by the Local Government Act 2000 as amended by the Localism Act 2011, by the Council's Scrutiny and Overview Committee.
- 8.2 The determination of planning applications is a Council function delegated to the Development Control Committees. Therefore a process in which the full Council is required to determine a planning application is within the powers of the full Council.

9 Staffing Consequences

- 9.1 It may be necessary to call an Extraordinary Council Meeting to deal with a referral if the next Ordinary Council meeting scheduled is not impending in the Council diary. This means there may be additional meetings which Members will need to attend and Officers will need to staff.

10 Risk Assessment

- 10.1 The recommendations within this report are part of mitigating a Corporate Risk described in the Corporate Risk Register, September 2015. The risk is:
 - CRR09, Governance: The Council's decision-making relies upon the taking of professional advice from officers or external consultants. *Event:* Advice is not taken

Appendix 1

Consequences of the Proposed Action

<p>How will the proposal help to reduce Crime and Disorder?</p>	<p>Section 17 of the Crime and Disorder Act 1998 requires the Council to do all that it reasonably can to reduce crime and disorder. There are no crime and disorder implications as a result of this report.</p>
<p>How will the proposal help to promote Human Rights?</p>	<p>The Human Rights Act 1998 requires not only that the Council shall not infringe the convention rights but also (by inference) promotes the convention rights.</p>
<p>What is the impact of the proposal on Equality and Diversity?</p>	<p>There are no specific equality issues arising from this report.</p>
<p>How will the proposal help to promote Sustainability?</p>	<p>There are no specific sustainability issues arising from this report.</p>

Article 4 – The Full Council

4.1 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:-
- § Local Best Value Performance Plan;
 - § Sustainable Community Strategy;
 - § Crime and Disorder Reduction Strategy;
 - § Development Plan Documents and Plans and strategies which together comprise the Development Plan;
 - § Council's Corporate Plan
 - § Council's Housing Strategy
 - § Statement of Licensing Policy
- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council's borrowing, investments and capital expenditure, the setting of virement limits and the Asset Management Plan.

4.2 Functions of the full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework and the budget;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an Executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (d) appointing the Leader;
- (e) agreeing and/or amending the terms of reference for ordinary committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council;

- (g) adopting an allowances scheme under Article 2.5;
- (h) changing the name of the area;
- (i) confirming the appointment of the Head of Paid Service;
- (j) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- (k) the functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Executive; and
- (l) To determine planning applications referred to it by the Director of Planning, Economic Development and Property if he is of the opinion that the relevant Development Control Committee is minded to make a decision in which there are likely to be significant cost implications.*
- (m)* all other matters which, by law, must be reserved to Council.

4.3 Council meetings

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

4.4 Responsibility for functions

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Executive.

Procedure Note – Referral of planning application to the full Council

1. This procedure note is to assist Members and Officers as to the procedure to be followed when the full Council comes to determine a planning application referred to it by the Director of Planning, Economic Development and Property under Article 4 paragraph 4.2 (I) of the Constitution.
2. The planning application shall be listed as an item on the agenda and will be considered by the meeting after all other motions on the agenda unless the Chairman of the meeting determines the item should be considered elsewhere on the agenda.
3. The Director of Planning, Economic Development and Property (or other Officer delegated by them) will prepare and present a report to the Council meeting and such report will include an account of the item when it was considered at the Development Control Committee.
4. Those speakers who attended and spoke at the Development Control Committee will be invited to attend and speak at the meeting of the full Council. No other public speakers will be permitted to speak on the item.

Report to Council

9 December 2015

By the Environmental Health and Licensing Manager

DECISION REQUIRED

Not Exempt



Review of Licensing Policy (Gambling Act 2005)

Executive Summary

The Gambling Act 2005 currently requires Licensing Authorities to publish at least every three years a statement of their Gambling Licensing Policy.

Applications for licences under the Gambling Act 2005 have to be made in accordance with the Licensing Authority's Licensing Policy. The policy, which has to be approved by full Council (as the Licensing Authority), has to be the subject of public consultation and the comments received have to be taken into account before formally adopting the policy.

At its meeting on 15 July 2015 the Licensing Committee approved a draft Gambling Licensing Policy for consultation. The period of consultation ran until the 31st October 2015.

As the Council did not received any relevant representations the Environmental Health and Licensing Manager in consultation with the Chairman of the Licensing Committee recommends to the Council adoption of the Gambling Licensing Policy at Appendix 2

Recommendations

That the Council is recommended:

- i) Approve the Gambling Licensing Policy as set out at Appendix 2 to this report as council policy

Reasons for Recommendations

- i) To comply with legislative requirements
- ii) To ensure openness and transparency in the Council's decision making

Background Papers: None

Wards affected: All

Contact: Chris Boyle (Licensing Officer) Ext 5578

Background Information

1 Introduction and Background

- 1.1 The purpose of this report is to seek the Council's approval of the Gambling Licensing Policy at Appendix 2 as council policy.
- 1.2 The Gambling Act 2005 currently requires Licensing Authorities to publish at least every three years a statement of their Gambling Licensing Policy. The Council's current Policy came into force on 31 December 2012. The Council has now to adopt a new policy to come into force by 31 December 2015.

2 Relevant Council policy

- 2.1 The Council's existing Gambling Licensing Policy

3 Details

- 3.1 The Gambling Act 2005 currently requires Licensing Authorities to publish at least every three years a statement of their Gambling Licensing Policy.
- 3.2 Applications for licences under the Gambling Act 2005 have to be made in accordance with the Licensing Authority's Licensing Policy. The policy, which has to be approved by full Council (as the Licensing Authority), has to be the subject of public consultation and the comments received have to be taken into account before formally adopting the policy.
- 3.3 At its meeting on 15 July 2015 the Licensing Committee approved a draft Gambling Licensing Policy for consultation (Appendix 2). The period of consultation ran until the 31st October 2015.
- 3.4 The draft Gambling Licensing Policy was sent to a wide range of consultees including: -
 - All Statutory Consultees (Police, Fire and Rescue Service, Health and Safety, Planning, Social Services)
 - All Members
 - All Parish and Neighbourhood Councils
 - All Licensed Betting Establishments (Betting Shops)
 - Trade Representative Bodies
 - All Licensed Betting Shop Operators conducting business in the district
 - The Gambling Commission
 - The consultation was also published on Horsham District Council's website and the local press were informed.

No Responses were received from any of the above.

4 Next Steps

- 4.1 As the Council did not received any relevant representations the Environmental Health and Licensing Manager in consultation with the Chairman of the Licensing Committee recommends to the Council adoption of the Gambling Licensing Policy set out at Appendix 2

5 Outcome of Consultations

- 5.1 No relevant representations were received during the three month statutory consultation process.
- 5.2 The Monitoring Officer has reviewed the policy and supports its adoption. The policy will give clarity in respect of decisions and thereby help give protection from legal challenge.

6 Other Courses of Action Considered but Rejected

- 6.1 None.

7 Financial Consequences

- 7.1 None arising from this report

8 Legal Consequences

- 8.1 The Gambling Act 2005 currently requires Licensing Authorities to publish at least every three years a statement of their Gambling Licensing Policy. Applications for licences under the Gambling Act 2005 have to be made in accordance with the Licensing Authority's Licensing Policy. The policy, which has to be approved by full Council (as the Licensing Authority), has to be the subject of public consultation and the comments received have to be taken into account before formally adopting the policy.

9 Staffing Consequences

- 9.1 None arising from this report

10 Risk Assessment

- 10.1 The Gambling Licensing Policy has been subject to statutory consultation and as no relevant representations were received no changes have been made to the policy which has served the Council well since 2006

Appendix 1

Consequences of the Proposed Action

<p>How will the proposal help to reduce Crime and Disorder?</p>	<p>One of the licensing objectives is preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.</p>
<p>How will the proposal help to promote Human Rights?</p>	<p>There are no specific human rights implications arising from this report.</p>
<p>What is the impact of the proposal on Equality and Diversity?</p>	<p>There will be no impact on different equality groups (protected characteristics) issues arising from this report</p>
<p>How will the proposal help to promote Sustainability?</p>	<p>The proposal is not relevant to issues of sustainability</p>

Report to Council

9 December 2015

By the Cabinet Member for Finance and Assets

DECISION REQUIRED



Not Exempt

Changes to the Council Tax Support scheme and Council Tax discounts

Executive Summary

The Council agreed to introduce a local Council Tax Support (CTS) scheme in December 2013 that protected all pensioners (a requirement) and certain other vulnerable groups; the disabled, carers, and lone parents with children under five. However, it expected a minimum payment of 10% of the tax bill from all other claimants, limited support to the tax applicable to a Band D property, amended the savings limits and abolished the Second Adult Rebate. This was in place for 2014/15 and was unchanged in 2015/16.

The funding for CTS has now been incorporated into the Council's Revenue Support Grant (RSG). In 2015/16, RSG has been reduced by 30% with a financial cost to the Council of the 30% reduction of CTS funding estimated to be £321,000. Under the arrangements for the localisation of the CTS scheme approved in December 2013, the recovery for 2015/16 is estimated to be just £33,000.

The Council Tax Relief Working Group, an Advisory Group to the Cabinet Member for Finance and Assets, met in September 2015 and examined the options available to the Council to offset the loss in income. The Group concluded that a change should be made to the expectation of the minimum payment of 10% of the tax bill from all other claimants and an increase to 20% of the tax bill was proposed.

The Council was required to consult on the proposed change to the local scheme, which ran for five weeks from 12 October to 13 November 2015.

The Council received six responses to its consultation. After considering the responses, and the opportunity or ability of claimants to increase their income (eg through work or unclaimed benefits/support) in order to meet their shortfall in council tax liability, and the ability for claimants to access the existing S13A(1)(c) scheme policy which after careful consideration and assessment of exceptional individual circumstances could award additional discretionary support, the working group is recommending the implementation of the proposed change to the local CTS scheme in 2016/17, commencing on 1 April 2016.

The Working Group also reviewed the Council Tax discounts that the Council allows on property which includes a 25% discount on uninhabitable property and a 30 day (100%) discount in any one year for unfurnished and vacant property. No consultation on these changes was necessary and it is recommending that the discounts be removed completely, also commencing on 1 April 2016.

Recommendations

The Council is recommended:

- i) to note the results of the consultation detailed in paragraphs 3.2 and 3.3
- ii) to agree to the implementation of the change to the scheme; that all non-protected Council Taxpayers entitled to Council Tax Support pay at least 20% of their Council Tax bill.
- iii) to agree to the removal of Council Tax discounts for uninhabitable property and unfurnished and vacant properties.

Reasons for recommendations

- i) to meet the cost of reduced funding in this area.
- ii) to protect the most vulnerable from a reduction in support for Council Tax.

Background papers: Report to Council 11th December 2013 item 9c

Consultation: CenSus Head of Service Revenues and Benefits

Wards affected: All

Contact: Dominic Bradley – Head of Finance Ext 5302

1 Background Information

- 1.1 The Local Government Finance Act 2012 required each local billing authority to establish its own local Council Tax Support (CTS) scheme from April 2013 to support those on low incomes. This replaced the previous entitlement under the old national Council Tax Benefit whereby the government reimbursed the tax collection authority for 100% of the costs of benefits awarded. The government made an initial contribution to the cost of the CTS scheme which was estimated to be at a fixed amount of 90% of the cost of the previous scheme. In 2013/14, the Council adopted the default scheme which provided the same level of support as there had been in the old scheme.
- 1.2 Following a public consultation in September and October 2013, the Council agreed to introduce a local CTS scheme in December 2013. It protected all pensioners (a requirement) and certain other vulnerable groups, such as the disabled, carers, and lone parents with children under five. The full list of protected groups is set out in Appendix 2.
- 1.3 Four key changes were made to the scheme which were put in place for 2014/15 and were unchanged in 2015/16. These were:
- all non-protected Council Taxpayers entitled to CTS (by way of means testing or passporting of benefits) should pay at least 10% of Council Tax due up to the band D level.
 - no support should be provided to non-protected taxpayers above that available for those in Band D properties, the difference between any liability assessed at the band D rate and higher bands being met in full by the Council Tax payer.
 - a reduction in the savings limit from £16,000 to £10,000. No support is now provided to claimants with more than £10,000 in savings, with a sliding scale of reductions for those whose savings exceed £5,000.
 - abolition of the Second Adult Rebate (SAR) – this compensates a Council Tax payer for the loss of a Single Person Discount if a second adult (other than a partner) moves into a property. The second adult must be on a low enough income to entitle them to Council Tax Support if they themselves were the taxpayer.
- 1.4 The funding for CTS has since been incorporated into the Council's Revenue Support Grant (RSG). In 2015/16, RSG has been reduced by 30% with a financial cost to the Council of the 30% reduction of CTS funding estimated to be £321,000. Under the arrangements for the localisation of the Council Tax support scheme approved in December 2013, the recovery for 2015/16 is estimated to be just £33,000. The Council has lost an estimated £0.5m in funding for CTS since 2012/13.

2 The proposed change to the local scheme for 2016/17

- 2.1 In September 2015, the Council Tax Relief Working Group reviewed the arrangements of the CTS scheme that had been set in December 2013 relating to the non-protected groups.

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2.2 The Working Group's view was that the non-protected group should contribute more to the shortfall by increasing the reduction of benefit paid to the claimants.

- all non-protected Council Taxpayers entitled to CTS (by way of means testing or passporting of benefits) will now pay at least 20% of Council Tax due up to Band D level.

2.3. The working group looked at the impact on residents, and potential financial gain on a number of scenarios. The potential impact of the change detailed in paragraph 2.2 above is calculated on the difference between a resident currently paying 10% of the bill and the change to 20% of the bill; as follows:

	Saving to all precepting authorities including HDC)	Savings to HDC	Numbers affected / changed	Biggest impact on unprotected claimant £ per week	Smallest impact on unprotected claimant £ per week	Average difference £ per week
Cap at band D payment of 20% up to band D level unless protected.	£155,100	£19,400	1,276	Between £3 and £4	£0.02	£1.51

2.4 The unprotected claimants are split across the property bands as follows:

Band	Number
A	123
B	416
C	561
D	309
E	58
F	16
G	9
H	0

Equality Impact Assessment

2.5 In order to carefully consider the implications of all these issues, officers have produced a draft Equality Impact Assessment (EIA) in parallel with the work as it has progressed. The final EIA is attached at Appendix 3. It is important in demonstrating that consideration has been given to the equality implications of the draft scheme.

3 Outcome of consultations on the local scheme

3.1 The consultation ran for five weeks from 12 October to 13 November 2015. The Council received six responses from individuals across the district which may not be fully representative and meaningful, but have nonetheless been considered. The Council asked two questions:

- i) Government cuts have meant that the Council has lost an estimated £0.5m in funding for Council Tax Support since 2012/13. Do you agree that anyone of working age who is not in the protected groups should be expected to pay a minimum of 20% of their Council Tax bill?
- ii) Are there any other comments you would like to make about the proposals to make this change to the Council Tax Support scheme?

3.2 Respondents were divided in their views.

- Half the respondents (three) supported the proposed change to increase the expected minimum payment to 20% of the Council Tax bill.
- Half the respondents (three) were against the proposed change to increase the expected minimum payment to 20% of the Council Tax bill.

3.3 Not all respondents added their own comments, but there were comments on the timing of this increase at a time when other working age benefits are also being cut and the fact that the combined impact may cause some budgeting problems for this group of people. Two comments were received that suggested that the CTS should be withdrawn completely. A comment was also received that suggested a slower paced increase by gradually increasing to 15% in 2016/17 and raising it to 20% in 2017/18.

3.4 The Working Group met to discuss the results of the consultation. After considering the opportunity or ability of claimants to increase their income through work or unclaimed benefits/support in order to meet their shortfall in council tax liability, and the ability for claimants to access the existing S13A(1)(c) scheme policy which after careful consideration and assessment of exceptional individual circumstances could award additional discretionary support, they concluded to recommend to Council that that the proposed change to the local scheme be implemented on the 1st of April 2016.

4 Council Tax discounts

4.1 The Working Group also reviewed the Council Tax discounts that the Council currently allows on property. These are:

- a 25% discount on uninhabitable property. This is where a property is undergoing major structural repair and is unoccupied. The discount is 25% up to a maximum of one year.
- a 30 day (100%) discount in any one year for unfurnished and vacant property. This discount can last no longer than 30 days and the property can only have a total of 30 days empty discount in any financial year.

- 4.2 No consultation was necessary for these changes, and the Working Group concluded to recommend to Council that the discounts be removed completely, also commencing on 1st April 2016.

5 Next steps

- 5.1 If the recommendations are agreed, all residents' impacted by the scheme will be informed of the impact prior to the commencement of the new financial year. Once implemented, the impact of the scheme on residents will be monitored. Should amendments be required to the scheme for future years, these will be brought initially to the Working Group for consideration. Any major changes to the scheme will be subject to consultation and approval by Council.

6 Consultations

- 6.1 The Head of Legal comments that the recommendations are in accordance with the Council's power to establish its own local Council Tax Support scheme.
- 6.2 Director of Corporate Resources comments that the additional income will help offset the budgetary pressures.

7 Other courses of action considered but rejected

- 7.1 The Council could continue with the current scheme and would therefore have to continue to fund the increasing deficit caused by a reduction in central government funding. For this reason, given the pressure created by the continued reduction in government grant, the option of continuing with the current scheme has not been recommended by the Working Group.
- 7.2 Alternative options requiring an even higher contribution to Council Tax by all unprotected claimants were considered by the Working Group but not recommended because of their impact on claimants.

8 Financial consequences

- 8.1 The proposed changes to the scheme are estimated to save the Council around £19,400 which is equivalent to approximately 0.25% on Council Tax. In addition, savings to the precepting authorities (West Sussex County Council and Sussex Police) are estimated at £135,700. This is an estimated total saving for the public sector of £155,100.
- 8.2 Although the amount was separately identifiable for 2013/14, the value of the grant received for the costs of paying CTS is now included within the Revenue Support Grant (RSG). In 2015/16, RSG has been reduced by 30% with the financial cost to the Council of the 30% reduction of CTS funding estimated to be £321,000. Under the arrangements for the localisation of the CTS scheme approved in December 2013, the recovery for 2015/16 is estimated to be just £33,000.

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- 8.3 The impact of the incorporation of the CTS funding into the Council's RSG is that the value of this grant may decrease yet further in line with the reduction of Revenue Support Grant in the future.
- 8.4. The removal of the uninhabitable property discount and unfurnished and vacant property discount will save the Council around £29,000 which is equivalent to 0.35% on Council Tax. In addition, savings to precepting authorities (West Sussex County Council and Sussex Police) are estimated at £276,000. This is an estimated total saving for the public sector of £305,000.

9 Staffing consequences

- 9.1 The costs of dealing with the changes will be met by the existing staffing establishment.

Appendix 1

Consequences of the proposed action

<p>What are the risks associated with the proposal?</p>	<p>Failure to consult on the proposals and to implement a revised Council Tax Support scheme will mean a greater cost to both HDC and the precepting authorities. Implementation of the proposed scheme is not thought to present a risk, as the changes to software can be accommodated.</p>
<p>How will the proposal help to reduce Crime and Disorder?</p>	<p>There is no impact on Crime and Disorder.</p>
<p>How will the proposal help to promote Human Rights?</p>	<p>There is no specific impact on Human Rights.</p>
<p>What is the impact of the proposal on Equality and Diversity?</p>	<p>The Council has drafted its proposals for consultation having given careful consideration to the equalities issue. An Equalities Impact Assessment is attached in Appendix 3.</p>
<p>How will the proposal help to promote Sustainability?</p>	<p>There is no impact on sustainability.</p>

Appendix 2

PROTECTED GROUPS

A. Protected groups under the Local Government and Finance Act 2012

Pensioners

A Pensioner household is one consisting of:

- A single person who has reached state pension credit age
- A couple where BOTH have reached state pension credit age
- A couple where one person has reached state pension age and the other is of working age and not in receipt of Income Support, JSA or ESA.

B. Protected groups under the Local Council Tax Support Scheme

Those unable to work (working age)

It is proposed that entitlement to protection is, as a general rule, based on entitlement to specific national benefits or tax credit awarded by the DWP and/or HMRC to support those unable to work. These are as follows:

1. Lone parents with children under the age of 5
2. Those in receipt of:
 - (a) Disability Living Allowance and Attendance Allowance
 - (b) Personal Independence Payments
 - (c) Employment Support Allowance with a Support Component
 - (d) Disability element or Severe Disability element of Working Tax Credit
 - (e) Those in receipt of a War Widows Pension or any other Armed Forces Compensation Payments
 - (f) Any Disability Premium
 - (g) Those in receipt of Income support with a Carers Allowance and/or Carers Premium

Appendix 3

Equality Impact Assessment (Horsham District Council)

Names of Team members (min of 2 – Author, manager and or staff member/equality lead) and Lead Officer/Director	Katherine Eberhart, Damian Brewer, Tim Delany, Morag Freitas, Dominic Bradley
Consultation mechanism (names of equality groups liaised with)i.e. Access Forum, Staff Group	A communications strategy will be developed once revised scheme has been adopted.
Date Equality Impact Assessment submitted to ratifying committee	6 October 2015 and updated 9 December 2015.
Are there resource implications to deliver actions from this EIA? If yes, please detail	Dependent on communications method used (and who the Council decides to consult with), but none expected.
Name of policy/strategy	Horsham District Council (HDC) Council Tax Support Scheme
Aim of policy/strategy (maximum 100 words)	Due to the reduction of government grant in this area by circa 30 per cent since 2012/13, the Council wishes to reduce the burden of the cost of Council Tax Support to other taxpayers in the Horsham District.

Impact Assessment

Does the policy/strategy target or exclude a particular equality groups listed? (Consider Direct Discrimination)	Race	No	<p>Please provide an explanation for your answer and evidence as appropriate</p> <p>There are no directly discriminatory actions as a result of the proposed actions for the revision of the Council Tax Scheme.</p>
	Disability/carer	No	
	Gender/gender identity	No	
	Age	No	
	Sexual orientation	No	
	Religion & Belief	No	

<p>Does the policy/strategy affect any of the equality groups listed disproportionately?</p> <p>(Consider Indirect Discrimination)</p> <p>(List all negative and positive impacts)</p>	<table border="1"> <tr> <td data-bbox="703 199 1037 240">Race</td> <td data-bbox="1043 199 1167 240">No</td> </tr> <tr> <td data-bbox="703 245 1037 287">Disability/carer</td> <td data-bbox="1043 245 1167 287">No</td> </tr> <tr> <td data-bbox="703 292 1037 365">Gender/gender identity</td> <td data-bbox="1043 292 1167 365">No</td> </tr> <tr> <td data-bbox="703 370 1037 411">Age</td> <td data-bbox="1043 370 1167 411">No</td> </tr> <tr> <td data-bbox="703 416 1037 458">Sexual orientation</td> <td data-bbox="1043 416 1167 458">No</td> </tr> <tr> <td data-bbox="703 462 1037 1305">Religion & Belief</td> <td data-bbox="1043 462 1167 1305">No</td> </tr> </table>	Race	No	Disability/carer	No	Gender/gender identity	No	Age	No	Sexual orientation	No	Religion & Belief	No	<p>Please provide evidence for your answer</p> <p>Any negative impacts needs to be included in action plan on page 3 for elimination or reduction</p> <p>Carers and disabled people who meet the Department of Work and Pensions (DWP) criteria for disability exemption (essentially those unable to work or not expected to work) are not impacted upon by the changes to the scheme and their Council Tax arrangements will remain the same.</p> <p>Older people of Pension Credit age (benefit issued by the DWP) are not impacted upon by the scheme and their Council Tax arrangements will remain the same.</p> <p>Single parents/guardians who are carers of children under the age of 5 are not impacted upon by the changes to the scheme and their Council Tax arrangements will remain the same.</p> <p>Negative Disabled people who are working and may not have internet access/literacy may not be aware or understand changes proposed unless they receive information in their preferred format. People of working age (under the Pension Credit age), either working or not working, will be impacted upon by this scheme as they will have to shoulder the additional cost of the scheme from those who have been exempted.</p> <p>Neutral It was felt that there was neutral impact on this scheme on the protected characteristics of gender identity, race, sexual orientation and religion/beliefs.</p>
Race	No													
Disability/carer	No													
Gender/gender identity	No													
Age	No													
Sexual orientation	No													
Religion & Belief	No													

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What evidence has been used to make these judgements? Please tick one or more	Demographic data and other statistics, including census findings	<input type="checkbox"/>	Please provide any evidence that you feel may be appropriate Census 2011 data from Office of National Statistics/localised benefits data
	Information from groups/agencies/consultation/research within Horsham District	<input type="checkbox"/>	
	Comparisons between similar functions / policies either internally or with other District Councils	<input type="checkbox"/>	
	Analysis of complaints/public enquiries information/audits or reviews	<input type="checkbox"/>	
How is the effect of the policy/strategy on different equality groups going to be monitored? Please specify for each equality group	Race		Please provide evidence for your answer There are monthly monitoring figures of caseloads which are reported to the Council by Census. Data from some equality strands can be obtained from this. Any significant future changes to future Council Tax schemes will require further consultation and the impact can be assessed at that stage with a new equality impact assessment.
	Disability/carer		
	Gender/gender identity		
	Age		
	Sexual orientation		
	Religion & Belief		

Does the document have an access statement offering the document in alternative formats for disabled people?	Do staff dealing with this document know where to get alternative formats if a request is made?	Does the document need to be translated into key locally used languages?
Yes No If no, please add to action plan as	Yes No If no, please add awareness training needed to action	Yes No (current research does not support information to be made available in other languages)

Agenda Item 12

evidence that this assessment has assisted.	plan (Equalities Officer can provide)	If yes, how will this be distributed and funded?
---	---------------------------------------	--

Action Plan (to reduce or eliminate any adverse impacts)

Equality Strand	Action and Resources	Lead Person	Timescale
All strands	Clearer identification on who will actually be impacted upon by the scheme	Tim Delany/Morag Freitas	October 2015 and updated December 2015
Age (working age)/Disability	Communication strategy to be developed to ensure all people impacted upon are aware of the proposals under the scheme. Consideration needed to reach out to disabled people who are working and do not use internet access.	Tim Delany/Morag Freitas/Katharine Eberhart /Dominic Bradley	October 2015 and updated December 2015
Disability	Inclusion of access statement or wording to ensure that disabled people can request information/correspondence about their Council Tax in another format	Tim/Delany/Morag Freitas	By March 2016

Report to Council

9 December 2015

By the Cabinet Member for Finance and Assets

DECISION REQUIRED



Not Exempt

GRANTS TO PARISH COUNCILS 2016/17

Executive Summary

The national Council Tax Benefit scheme was replaced by local Council Tax Reduction Schemes in April 2013. At the same time, funding for the scheme, which had been paid as a 100% subsidy to the billing authority, was reduced to approximately 90% of the 2012/13 level and paid as a fixed sum in general grant to county, police and district authorities. The share relating to the parish council tax was paid to district councils. The grant relating to Council Tax Support (formerly benefit) has now been subsumed into Revenue Support Grant with no separate identification.

Provisional figures for 2016/17 were announced as part of the Local Government Finance Settlement for 2015/16. Final confirmation is awaited, but it is anticipated that Revenue Support Grant will reduce by 40%. It is therefore proposed that a grant is paid to each parish council but that it is reduced in cash terms by 40% compared to 2015/16.

Recommendations

The Council is recommended:

- i) to agree the Schedule of Payments to Parish Councils set out in paragraph 3.1 of the report.

Reasons for recommendations

- i) to provide financial support to parishes for loss of income resulting from the revised arrangements for funding Council Tax Support (formerly Council Tax benefit).

Background papers: Report to Council 19 December 2012

Consultation:

Wards affected: All

Contact: Dominic Bradley – Head of Finance Ext 5302

1 Background Information

- 1.1.1 The national Council Tax Benefit scheme was replaced by local Council Tax Reduction Schemes in April 2013. At the same time, funding for the scheme, which had been paid as a 100% subsidy to the billing authority, was reduced to approximately 90% of the 2012/13 level and paid as a fixed sum in general grant to county, police and district authorities. The share relating to the parish council tax was paid to district councils.
- 1.2 The grant relating to Council Tax Support (formerly benefit) has now been subsumed into Revenue Support Grant (RSG) with no separate identification. There is no requirement for the district to pay grant to parish councils, though there has been ministerial exhortation to do so.

2 Statutory and Policy background

- 2.1 The Local Government Finance Act 2012 required each local billing authority to establish its own local Council Tax Support (CTS) scheme from April 2013 to support those on low incomes. This replaced the previous entitlement under the old national Council Tax Benefit whereby the government reimbursed the tax collection authority for 100% of the costs of benefits awarded. The government made an initial contribution to the cost of the CTS scheme which was estimated to be at a fixed amount of 90% of the cost of the previous scheme. Government funding from RSG has fallen year on year since.
- 2.2 Horsham District Council agreed at its meeting in December 2012 to distribute the parish element of the funding identified in the 2013/14 Local Government Finance Settlement to parish councils pro rata to the estimated cost of Council Tax Benefit for each parish.
- 2.3 With the element of grant for Council Tax Support no longer separately identified, the Council has previously agreed to reduce the grants to parishes in line with the overall reduction in the district council's RSG as set out in Table 1 below:

Table 1: Decrease in grant awarded since 2013/14

Year	Reduction in RSG	Grant reduction to Parish Councils
2013/14	10%	10%
2014/15	22%	22%
2015/16	30%	30%

3 Proposals

- 3.1 We are anticipating the 2015/16 Local Government Settlement will result in a further reduction of 40% in Horsham District Council's RSG for 2016/17. It is therefore proposed that funding for parish grants should be reduced in line with this and details are set out in table 2 below:

Table 2: Parish grants for 2016/17

Parish	2016/17 grant	2015/16 grant
Amberley	£365	£608
Ashington	£1,640	£2,734
Ashurst	£111	£185
Billingshurst	£6,572	£10,955
Bramber	£124	£207
Broadbridge Heath	£1,150	£1,916
Coldwaltham	£215	£358
Colgate	£132	£220
Cowfold	£724	£1,206
Henfield	£3,928	£6,546
Itchingfield	£523	£872
Lower Beeding	£199	£331
North Horsham	£7,006	£11,678
Nuthurst	£255	£425
Parham	£50	£83
Pulborough	£4,367	£7,279
Rudgwick	£624	£1,039
Rusper	£367	£612
Shermanbury	£102	£170
Shipley	£245	£409
Slinfold	£1,128	£1,881
Southwater	£4,633	£7,722
Steyning	£3,739	£6,232
Storrington & Sullington	£5,002	£8,336
Thakeham	£403	£671
Upper Beeding	£3,133	£5,222
Warnham	£839	£1,399
Washington	£398	£663
West Chiltington	£480	£799
West Grinstead	£773	£1,289
Wiston	£178	£296
Woodmancote	£63	£105
Total	£49,468	£82,450

5 Other courses of action considered but rejected

- 5.1 The Council is not required to distribute grant related to Council Tax Support to the parishes, but not to do so would mean that the entire cost of Council Tax Support related to the parish tax would be borne by other Council Tax payers within each parish.

6 Financial consequences

- 6.1 The total cost to Horsham District Council will be £49,468

7 Consultations

- 7.1 The Head of Legal comments that the recommendation is in accordance with the Council's power to establish its own local Council Tax Support scheme.
- 7.2 Comments from the Director of Corporate Resources have been included in the report.

8 Staffing consequences

- 8.1 There are no direct staffing consequences arising from this report.

Appendix 1

Consequences of the proposed action

<p>What are the risks associated with the proposal?</p>	<p>There are no associated risks.</p>
<p>How will the proposal help to reduce Crime and Disorder?</p>	<p>There is no impact on Crime and Disorder.</p>
<p>How will the proposal help to promote Human Rights?</p>	<p>There is no specific impact on Human Rights.</p>
<p>What is the impact of the proposal on Equality and Diversity?</p>	<p>The proposals will ensure that parishes with a higher than average number of claimants of Council Tax Support are provided with some recompense for the ensuing reduction in Council Tax income.</p>
<p>How will the proposal help to promote Sustainability?</p>	<p>There is no impact on sustainability.</p>

Report to Council

9 December 2015

By the Cabinet Member for Finance and Assets

INFORMATION REPORT

Not exempt



Horsham
District
Council

serving our towns and villages

Medium Term Financial Strategy 2016/2020

Executive Summary

The review of the Financial Strategy, as part of the budget setting process, enables a balanced budget target to be established with a focus on an affordable level of Council Tax, delivery of the corporate priorities and policies of the Council and the continued enhancement of value for money and satisfaction with services for the residents of the District.

This report sets out the Council's updated review of its Financial Strategy for the period 2016/2020 to establish the context for the Council's budget and medium term financial planning scenarios and assumptions. This follows the announcements in the Autumn Statement in November 2015.

Recommendations

The Council is recommended:

- i) to note the projected budget gap detailed in paragraph 4.4 and undertake to bring forward strategies to deal with the deficit during the 2016/17 budget setting process.

Background Papers

Report to Cabinet, 23 July 2015 Medium Term Financial Strategy 2016/19

Consultation
Wards affected
Contact:

All
Katharine Eberhart, Ext: 5300

Background Information

1 Introduction

The purpose of this report

- 1.1 The Council's Medium Term Financial Strategy was last reviewed by Council on 23 July 2015 as part of the annual budget setting cycle of the Council. The Autumn Statement spending review was announced on 25 November 2015 so it seems timely to update the Council on current projections.
- 1.2 This review ensures that the 2016/17 budget and resultant Council Tax level will be set within the context of the Council's emerging Corporate Plan priorities and the financial strategy in order to deliver a balanced budget, updated for the latest information and knowledge available to the Council.

2 Economic Outlook

- 2.1 The economic outlook since the Council last reviewed its financial position in July has become a little more certain. The Chancellor announced how further cuts will be made in the Autumn Statement. However, we will need to wait until the settlement announcement in mid-December to fully understand the impact to our Council. The overall tone of the Autumn Statement was that this will impact on us fairly hard once again.
- 2.2 In his speech, the Chancellor confirmed 2019/20 as his target date for resolving the national deficit and achieving a £10bn budget surplus. This will help to spread the pressure of finding savings over a period one year longer to that previously indicated. However, the government has reiterated its pledge to protect key services such as the NHS and education, and it is clear that this will result in steeper funding cuts to local government. Early analysis indicates that this will be around 25% by 2019/20.
- 2.3 It also set some wider priorities for greater efficiency and value for money across the public sector namely in promoting innovation and greater collaboration in public services and promoting growth and productivity, including through devolution of powers to local areas in England.
- 2.4 In accordance with government policy to devolve more powers and functions to groups of Councils, an early proposal is being developed by the counties of West and East Sussex and Surrey in collaboration with the districts and boroughs in the area. This focuses on transport and infrastructure as a key enabler for the Government's priorities of growth and housing, linking in with the Local Enterprise Partnership. The government's policies continue to show the desire to devolve functional and fiscal responsibility to local councils rather than being reliant on government grants. Any future devolution plan would also require investment offerings from the local government authorities to demonstrate their commitment to the deal in order for central government to grant any financial devolution.
- 2.5 As anticipated, Revenue Support Grant (RSG) will be phased out by 2019/20 with only £100k of central government grant remaining for temporary accommodation.

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Local authorities will be made to rely on other sources of income such as the 100% retention of business rates and increased council tax income streams by the end of 2019/20. However, this economic freedom is likely to come with additional responsibilities.

- 2.6 The Chancellor also set out plans to encourage the delivery of more homes, by building an additional 400,000 affordable homes over the course of the next parliament. He also indicated plans to consult on the future of New Homes Bonus (NHB). NHB is a key source of funding for the Council and the reforms are likely to result in the reduction on the length of payments from 6 years to 4 years. The Government also plans to save £800m out of the current £1.2 billion NHB budget for social care. To meet these national savings would mean a sizeable reduction in NHB funding which is a key income source for the Council.
- 2.7 The Chancellor also outlined further detail on the Housing Bill and despite easing back on the cuts to tax-credits, still plans to deliver cuts in welfare and housing that will impact some of our residents and may create additional pressures on our benefit and housing services. We are also likely to see a reduction in the management fee income for temporary accommodation that we receive worth approximately £45k a year. We will need to continue to monitor use of bed and breakfast accommodation and our temporary accommodation stock to ensure that we can meet the needs of our vulnerable residents with best quality and cost effective care.

3 Financial Strategy Objectives

- 3.1 At the Council Meeting on the 25th of October 2012, the following financial objectives were agreed.

Financial Strategy Objectives	
1	To deliver services identified in the Council's District Plan.
2	To deliver a balanced budget.
3	To deliver business transformation efficiencies of £1.25m over the life of the strategy.
4	To optimise income opportunities.
5	To maintain an adequate level of reserves.
6	To provide strong financial services, systems and processes to deliver and support a balanced budget.
7	To remain within our borrowing limits defined in our Treasury Management Strategy.

- 3.2 Since the Financial Strategy Objectives were agreed by Council we have been successful in meeting these. We have set out a balanced budget, provided strong financial controls, maintained an adequate level of reserves and remained within the our borrowing limits..
- 3.3 We also remain on track towards our business transformation target savings. By the end of 2015/16 we will have delivered around £1m of the original £1.25m target.
- 3.4 As previously reported, we delivered £440k of the savings by the end of 2014/15. In addition, the office move was completed in July and this project has improved our organisational effectiveness, our use of technology, reduced our reliance on paper and improved communication amongst staff. We will also realise a significant capital receipt from the sale of North Point/Park North when this completes, to help finance our extensive capital programme.

- 3.5 The relocation of office staff from Park House has created the potential to improve income from our property portfolio creating additional income opportunities by letting office space whilst the future of Park House is considered by councillors. The income generation from Park House and revenue benefit of the capital receipt and will create a potential revenue benefit of approximately £500k.
- 3.6 We are currently reviewing our business transformation programme to ensure it maximises the use of technology to improve outcomes for residents. The forecast savings for the next phase of the project will be reflected in the budget report to Cabinet on the 28th January 2016.

4 Budget Assumptions

- 4.1 Future budget projections are based on a number of assumptions. The following table compares the changes in budget assumptions from July 2015 to November 2015. Details of the budget assumptions and the reasons for the change in assumptions are explained in the following paragraphs.

Assumptions	November 2015			July 2015		
	2016/17	2017/18	2018/19	2016/17	2017/18	2018/19
Pay Award	1%	1%	1%	1%	1%	1%
Inflationary pressure	1%	1%	1%	1%	1%	1%
Pensions revaluation	£125k	£125k	£125k	£125k	£125k	£125k
Minimum level of reserves	£6m	£6m	£6m	£6m	£6m	£6m
Reduction in Government Grant	£400k	£400k	£400	£400k	£400k	£400k
Increase in Dwellings	850	850	850	1000	1000	1000
Increase in Council Tax	0%	0%	0%	0%	0%	0%

- 4.2 There are no changes to the projected pay award holding the expenditure on public pay at a 1% increase. The pension contribution replicates unchanged advice from the actuary reflecting the returns on investments and the discount rate.
- 4.3 The impact of the changes is shown in the following two tables. The projected gap reported in July 2015 is shown in the first table and the current projection is shown in the second table:

	2016/17	2017/18	2018/19
July 2015	£000	£000	£000
Net expenditure	13,772	14,278	14,908
Funded by			
New Homes Bonus	1,166	1,166	1,166
Council Tax	8,066	8,173	8,280
Government Grant - RSG	1,121	721	421
- Business Rates	1,862	1,862	1,862
Additional Business Rates	440	470	500
Payment to parishes	(57)	(37)	(22)
Total Funding	12,598	12,429	12,207
Net Deficit	1,174	1,923	2,701

	2016/17	2017/18	2018/19	2019/20
November 2015	£000	£000	£000	£000
Net expenditure	12,892	13,936	14,672	15,475
Funded by				
New Homes Bonus	1,166	1,166	1,166	1,166
Council Tax	8,150	8,277	8,403	8,529
Government Grant - RSG	1,121	721	421	104
- Business Rates	1,862	1,862	1,862	1,862
Additional Business Rates	400	440	480	520
Payment to parishes	(57)	(37)	(22)	(0)
Total Funding	12,642	12,429	12,310	12,181
Net Deficit	249	1,507	2,362	3,294

Localisation of Business Rates

- 4.4 Commencing in April 2013 a portion of the government grant we receive is now linked to business rates. To date we have built in an additional £400k in business rates and anticipate meeting the projected income target for 2015/16 and 2016/17. Any future growth in businesses will create additional income for the Council and we are forecasting that business rate income will rise by a further £40k in each of the next two financial years.
- 4.5 In the longer term, we will await the details of the government's plans to introduce 100% retention of business rates for local government and the additional responsibilities that will go with this, such as elements of public health funding and taking on responsibility for the funding for the administration of Housing Benefit for pensioners. We currently receive an HB administration grant of around £386k, for which around half could be assumed to be for pensioners; an estimated reduction to us of £193k which is likely to occur much earlier than 2019/20.

New Homes Bonus Scheme

- 4.6 New Homes Bonus (NHB) has been a significant source of income for the Council. Since 2013/14 the Council has used £1,166k of the yearly NHB to support revenue expenditure. NHB is not ring-fenced and can be spent at the Council's discretion.
- 4.7 In the Autumn Statement, the Chancellor announced plans for a consultation on the future of NHB and signalled a reduction in the length of NHB payments, likely to result in a reduction from 6 to 4 years and size of the payments, with plans to save £800m out of the current £1.2 billion NHB budget and redirect this to social care. This will mean a sizeable reduction of funding from this key source for the Council. Details of both reforms will be set out as part of the local government finance settlement consultation expected in December. We have revised our projections to anticipate retaining only 33% of the value of our existing payments and for these payments to last only 4 years, not 6 years.
- 4.8 After the consultation, once the future of New Homes Bonus becomes clearer, the Council could chose to develop a policy for spending part or fully the NHB for projects other than funding the existing capital programme. However, the resulting increase in financing costs will then need to be considered.

Council Tax increases

- 4.9 There has been no increase in Council tax since 2010/11. It is the lowest council tax in West Sussex and in the bottom quartile of all district councils. The Autumn Statement announcement puts significant further pressure on resources in the medium term due to the reductions in government grant income and cuts to NHB.

Council Tax Support Scheme

- 4.10 Since its inception in 2013/14, when funding was reduced by 10%, funding for the Council Tax Support (CTS) scheme has subsequently been consolidated into government grant funding which has been reduced significantly and is anticipated to reduce to £100k by 2019/20. The Council introduced a local CTS scheme in 2014/15 which remained unchanged in 2015/16 which required non-protected groups to pay at least 10% of their council tax bill.
- 4.11 Despite these changes, the reduction in funding has far outweighed the additional contribution from those minimum payments in the scheme. This has had a significant financial cost to the Council of approximately £500k in total over the three years. A public consultation was undertaken in October 2015 to increase the minimum payment percentage to 20% from April 2016, but this will not cover the existing costs of the scheme, therefore adding further pressure to the financial gaps in the future. A report considering increasing the minimum payment from 10% to 20% is considered elsewhere on the Agenda.

Housing

- 4.12 The Housing Bill will require Housing associations to reduce rent by 1% per annum. This will have a very significant impact on their finances especially as previous policy allowed them to increase rents by CPI plus 1%. The Autumn Statement has reduced the capability of Registered Providers (RPs) to borrow funding so freely. There is likely to be a severe impact on building programmes and this will also impact what we can achieve on affordable housing schemes linked to planning permissions.
- 4.13 It will be necessary to review the way we plan and secure affordable homes. The emphasis will increasingly be in securing homes to meet local needs which will include homes for purchase, shared ownership, market rent and affordable rent. We are reviewing what we have achieved over the life of our current housing strategy and outlining options for the future in the light of financial and legislative changes. The Autumn Statement also indicated the end of the management fee income for temporary accommodation that we receive, valued at approximately £45k a year.

5. Budget Challenge Process for 2016/17

- 5.1 Each year as the budget is set, unavoidable growth becomes apparent in the services. This is because of increased responsibilities from legislation, corporate priorities, contractual obligations and inflationary pressures.
- 5.2 For the purposes of this forecast we have assumed that any growth pressures must be met by offsetting reductions elsewhere.

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- 5.3 The 2016/17 budget process commenced in the summer. The process has been closely scrutinised using budget-challenge sessions to ensure that excessive budgeting is avoided and likewise adequate resourcing is provided to meet service delivery items. Officers have been challenged to increase revenue streams and reduce expenditure and this has included a review of all discretionary services.
- 5.4 Following this exercise, despite some significant growth items, the anticipated budget gap in 2016/17 has decreased in size but a budget deficit remains, requiring a number of more difficult decisions to be made by Members in this year and future years too. The 2016/17 budget will be finalised in January 2016.

6. Capital Programme

- 6.1 Funding for the capital programme can be provided from either capital or revenue income. In the first instance, capital expenditure will be funded through capital receipts. Capital receipts are realised from the sale of the Council's assets.
- 6.2 The balance of the capital programme is funded either through general reserves or borrowing. Historically much of the capital programme has been financed through capital receipts but in recent years more use of general reserves has been required.
- 6.3 The capital programme that is reflected in the revenue costs is the capital programme that was presented to Council as part of the 2015/16 budget setting exercise in February with the additions of approved supplementary budgets for Hop Oast and the purchase of temporary accommodation at Bishopric.
- 6.4 A decision on the future of a new leisure centre at Broadbridge Heath is being discussed elsewhere on the Agenda. The Council had previously agreed to pursue this in 2012 when it approved a £7.3m capital budget for this purpose. The revised leisure centre (option 3) supported by Cabinet is £12.3m. The cost of this preferred option has been included in the financial forecasts. Members will also need to commit to making decisions to deal with the additional revenue costs associated with the decision which really start to feed through into the increased expenditure costs in 2018/19 and 2019/20.

7. Reserves

- 7.1 The Council holds two types of reserves, earmarked reserves and general revenue reserves. Earmarked reserves are funds received for a specific purpose. For example, grant funding that can only be expended on particular purposes. Details of the earmarked reserves held by the Council at 31st March 2015 are shown below.

Earmarked Reserves	£
Neighbourhood Planning Grant	318
S106 Reserves	1,502
NNDR Reserve	1,435
Council Tax Localisation	259
Health and Wellbeing	256
Weekly Waste Collection	265
Community Reserves	333
Other	688

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- 7.2 General reserves are reserves held to ensure that the Council has sufficient funds to deal with any emergency or uncertainty. The Council also uses its general fund reserves to fund capital expenditure, redundancy payments and one-off costs such as the up-front costs of business transformation.
- 7.3 The Council agreed in October 2012 on a minimum level of general reserves of £6 million. General reserves at 31st March 2015 were £9 million.
- 7.4 The following table shows the predicted level of general reserves for future years, assuming that we are unable to fully resolve our deficit position and need to fund our shortfall from reserves. If we fail to take appropriate action and resolve our deficit, our reserve levels will reduce significantly.

Reserves – November 2015	2016-17 £000	2017-18 £000	2018-19 £000	2019-20 £000
General Reserves	5,615	2,996	1,577	(695)
Potential NHB Reserve	1,573	1,651	1,803	1,957
Potential total reserves	7,188	4,647	3,380	1,262

- 7.5 The potential NHB reserve assumptions in 2016/17 include £2m used to fund capital expenditure on the Broadbridge Heath leisure centre capital project.

8. Potential Actions

- 8.1 The Council has a number of potential actions it could take to mitigate the deficit. It could choose to increase Council Tax, fees and charges. It could also consider ceasing the delivery of some services and further rationalising its property estates.
- 8.2 When the budget report is presented to Cabinet at the end of January 2016, it will include anticipated savings from the business transformation programme, commissioning opportunities and other service efficiencies.
- 8.3 In addition options will need to be considered during 2016/17 of ceasing some discretionary services to help close the projected budget deficits.
- 8.4 There also some income generating opportunities. For example a 1% increase in council tax raises about £80k. If the Council raises Council Tax each by 1% in 2016/17, 2017/18, 2018/19 and 2019/20 we will raise a cumulative total of £800k over the four years. A 2% rise in 2016/7 would give a cumulative total of £640k over four years. It should be noted that government policy in the recent past has been to impose low percentage limits on any council's ability to increase council tax.
- 8.5 The Council could choose to introduce Sunday and Bank Holiday car parking charges at a flat rate of £1.50 for the day. This would raise additional income of £140k in one year or an additional £560k over the four years assuming demand remains the same.
- 8.6 The Council could also choose to collect residential household waste fortnightly, rather than weekly. If this were introduced by 2017/18, this could save around £0.4m in a full year or £1.2m by 2019/20.

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Options	2016/17 £000s	2017/18 £000s	2018/19 £000s	2019/20 £000s
1% year on year increase in CT	80	160	240	320
Sunday and bank holiday car-parking charges of £1.50	140	140	140	140
Fortnightly collection of household waste	-	400	400	400
Total	220	700	780	860

- 8.7 Over the coming months the Cabinet will review all options and develop proposals and bring the resulting recommendations to Council.

Appendix 1

Consequences of the Proposed Action

<p>What are the risks associated with the proposal?</p> <p>Risk Assessment attached Yes/No</p>	<p>CRR01, Financial Source: The Council is reliant on Central Government funding (e.g. New Homes Bonus). Event: Grant funding from Central Government is less generous than assumed in the MTFSP</p>
<p>How will the proposal help to reduce Crime and Disorder?</p>	<p>The report is for noting and therefore there will be no impact on Crime and Disorder.</p>
<p>How will the proposal help to promote Human Rights?</p>	<p>There is no specific impact on Human Rights.</p>
<p>What is the impact of the proposal on Equality and Diversity?</p> <p>Equalities Impact Assessment attached Yes/No/Not relevant</p>	<p>There is no specific impact on Equality and Diversity.</p>
<p>How will the proposal help to promote Sustainability?</p>	<p>There is no specific impact on sustainability.</p>

Report to Council

9 December 2015

By the Cabinet Member for Finance and Assets

DECISION REQUIRED

Not exempt



Horsham
District
Council

Revisions to Horsham District Council's Procurement Code

Executive Summary

This report outlines the changes to the Council's Procurement Code. These changes are required to incorporate the new Public Contract Regulations 2015, which introduce the most significant changes to public procurement in over a decade.

The Public Contract Regulations incorporate the EU Procurement Directives into UK statute as well introducing additional UK Government legislation aimed at providing more business opportunities for Small and Medium sized Enterprises (SMEs), simplifying the procurement process and providing greater transparency through the publication of data on all tenders advertised and all contracts awarded by the Council over £5,000 in value.

The changes required are so significant that a complete overhaul of the Procurement Code has been undertaken rather than try to amend the existing version. The revision has also been used as an opportunity to make other changes to remove process bottlenecks and inefficiencies and move towards more electronic processes. The new Procurement Code can be found in Appendix 2 of this report.

The key changes are:

- Invite at least one local supplier to quote wherever possible;
- All tenders over £50,000 must be advertised centrally;
- Pre-Qualification Questionnaires (PQQ) prohibited on tenders below £172,000;
- To have full electronic tendering and communication between bidders and the Council on all EU tenders not later than March 2018;
- Move towards electronic tendering as a default process.

Recommendations

The Council is recommended:

- i) to adopt the revised new Procurement Code
- ii) to delegate authority to the Cabinet Member for Finance and Assets to approve the administrative changes to the tender receipting procedures when tenders are submitted by electronic means.

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- iii) to delegate authority to the Cabinet Member for Finance and Assets to approve subsequent amendments to and the Procurement Code arising from additional guidance issued by the Cabinet Office, Case Law or new legislation.

Reasons for Recommendations

- i) The Council has a statutory obligation to comply with the Public Contract Regulations 2015 and the Local Government Act 1972 and have its own set of procurement rules.
- ii) Additional amendments have been made to make the Council's procurement processes more efficient and transparent and to accommodate the Council's aspiration to become a Commissioning organisation.

Background Papers – existing Contract Standing Orders and Procurement Code
Consultation

Wards affected: All

Contact – Mark Pritchard, Commissioning & Performance Manager, ext: 5110.

Background Information

1 Introduction

The purpose of this report

- 1.1 The report outlines the changes proposed to the Council's Procurement Code to accommodate several new pieces of legislation as detailed in Section 2.

2 Statutory and Policy Background

Statutory background

- 2.1 Local Government Act 1972; EU Procurement Directives 2014; Public Contract Regulations 2015; Small Business, Enterprise and Employment Act 2015; The Local Government (Transparency Requirements) (England) Regulations 2015

Relevant Government policy

- 2.2 Local Government Transparency Code 2015; Lord Young's *Report on Small Firms 2010 to 2015*;

Relevant Council policy

- 2.3 Contract Standing Orders, HDC Procurement Code

3 Details

- 3.1 The changes are required because of the introduction of new legislation, in particular, the Public Contract Regulations 2015, the Small Business, Enterprise and Employment Act 2015 and the Local Government (Transparency Requirements) (England) 2015. It is proposed to replace the Council's Contract Procedure Rules with a Procurement Code to accommodate these changes. Further information on the changes is provided below:

Mandatory changes brought about by introduction of new legislation

- 3.2 All tenders over £50,000 in value must now be advertised on the UK Government's *Contracts Finder* website. This website has been designed as a national single information resource where suppliers may register free of charge to receive details of any public sector business opportunity within their particular area of interest. Previously the Council could choose where to advertise its tenders and was simply required to ensure there was adequate competition. The rules for advertising higher value EU tenders remain unchanged.
- 3.3 Details of all tenders advertised and all contracts awarded by the Council with a value of £5,000 or more must be published on the Council website. Previously the Council was only obliged to formally publish details of all EU tender awards and maintain a basic Contracts Register.

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- 3.4 Pre-Qualification Questionnaires (PQQ), the process used to establish a bidder's credentials (legal, financial and technical capabilities), are prohibited on any procurement exercise with a value of £172,514 (200,000 euros) or less. Procurements above this value may only use the UK national standard PQQ which must not be modified in format or content. An assessment of the bidder's legal, financial and technical capabilities must now be undertaken just prior to writing the contract award recommendation report. Previously the Council was able to bespoke its PQQ and seek this information on any tender process irrespective of value.
- 3.5 All procurement documentation must now be available for electronic download free of charge from the Council or another agreed website from the date the tender advertisement is placed. Previously interested companies had to request the tender documents directly from the Council.
- 3.6 Restrictions limiting the level of variations or changes to existing contracts have also been introduced. The new Regulations set out in detail the circumstances whereby an existing contract may be modified and when such changes would be significant enough that the contract must be retendered. The conditions for allowing changes to contracts must be detailed in the tender documents. These changes apply to not just new contracts but those contracts awarded prior to the new Regulations coming into force.
- 3.7 All EU procurement processes including communications between Tenderers and the Council must be conducted electronically not later than March 2018. In order to comply with this requirement for full electronic tendering the Council, in conjunction with Crawley and Mid Sussex councils has recently acquired a new electronic tendering system for use by the Procurement Team. The system has sufficient functionality to allow roll out at some future date to other departments across Crawley, Horsham and Mid Sussex councils for use on their lower value procurement at no additional cost.
- 3.8 The new legislation also grants powers to the Minister for the Cabinet Office to issue from time to time new policy or guidance in respect of the Regulations which all Contracting Authorities must consider in the procurements.

Voluntary changes for consideration

- 3.9 In an effort to support the local economy it is proposed to introduce a requirement that when seeking three written quotations (i.e. contract values up to £50,000 for Goods and Services or £100,000 for Works) Heads of Service should invite at least one local organisation to quote where such suitable organisations exist that could fulfil the requirements. Each procurement project should be considered on a case by case basis and whilst a "local organisation" shall normally be defined as an organisation or supplier having their main base of business/activity located within the environs of Horsham District for some more specialist requirements a "local organisation" may be further afield.

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- 3.10 As noted in section 3.7 above, the Council has acquired a new e-tendering system. Full electronic tendering will require changes to the tender receipting process currently administered by Legal Services. In the short term it is planned to have both electronic and paper based tender return options available until such time as an appropriate receipting process for electronic tenders has been agreed and implemented. The new e-tendering system has a secure “vault” in which the tenders are stored until the tender closing date and time has passed. Access to the vault is via secure username and password and is fully auditable with details of user, time and date the vault was opened and the details of the tenders and prices received all being recorded. As such once full e-tendering is introduced at the Council the formal tender opening procedure detailed in section 10.8.2 of the Procurement Code will no longer be required.

Other differences between the old and new Procurement Code

- 3.11 The new Procurement Code provides officers with more information and guidance on areas of best practice than the old Code did. Examples include:
- Commissioning and Stakeholder and Early Market engagement (sections 3 and 4) – information about adopting a commissioning culture and steps which may be taken in consulting with services users and service providers to better shape the service specification before going out to tender;
 - Use of Framework Agreements (section 9) – information on the potential benefits of using framework agreements and some of the legal considerations;
 - Procurement Exemption process (section 10) has been extended to provide more visibility and evidence why an exemption to follow the appropriate procurement process was approved.
 - Document retention periods (section 15.3) – to reduce the time that contract documentation is required to be retained by the Council to 3 years **after** the expiry of the contract. Previously the retention period was between 6 and 12 years after the contract expiry.
 - Contract management, Contract variations and extensions (sections 16 – 18) – information on managing contracts and contractors effectively to ensure maximum benefit is provided to the Council and/or service users; details of the formal processes which must be followed regarding contract variations and extensions;

4 Next Steps

- 4.1 Update the Council’s Constitution with the new Procurement Code
- 4.2 Update the Procurement Intranet pages with links to these new documents and provide additional guidance for Officers in the Procurement Toolkit
- 4.3 Provide a programme of training for Officers on the changes.

5 Outcome of Consultations

- 5.1 The Monitoring Officer advises that adoption of the EU Procurement Directives is mandatory. It is likely there will be rigorous enforcement against public bodies.
- 5.2 The Head of Finance comments that the updated Procurement Code and Contract Standing Orders will bring the Council into line with requirements and are welcomed.
- 5.3 The Chief Internal Auditor comments that the revised Contract Standing Orders and Procurement Code are essential components of the Council's Governance Framework. The requirement to comply with the EU procurement rules and regulations has recently been added to the Council's Corporate Risk Register as more services are being put out to tender and contractors are increasingly challenging contract awards. This is a highly complex area, and it is important that the revised Contract Standing Orders and Procurement Code are brought to the attention of all relevant officers. Furthermore, as stated in paragraph 4.3 above, it is important that a programme of training is rolled out to reinforce the main aspects of the guidance. It is also important that officers understand their responsibilities and the importance of complying with the Council's procurement processes.

6 Other Courses of Action Considered but Rejected

- 6.1 Not applicable

7 Staffing Consequences

- 7.1 None

8 Financial Consequences

- 8.1 None if the Council complies with the new legislation.

Appendix 1

Consequences of the Proposed Action

<p>What are the risks associated with the proposal?</p> <p>Risk Assessment attached Yes/No</p>	<p>Failure by the Council to comply with the new legislation may result in fines or contracts being cancelled by the Courts.</p>
<p>How will the proposal help to reduce Crime and Disorder?</p>	<p>None directly but such aspects will be considered on a case by case basis according to the service requirements being procured.</p>
<p>How will the proposal help to promote Human Rights?</p>	<p>None directly but such aspects will be considered on a case by case basis according to the service requirements being procured.</p>
<p>What is the impact of the proposal on Equality and Diversity?</p> <p>Equalities Impact Assessment attached Yes/No/Not relevant</p>	<p>None directly but such aspects will be considered on a case by case basis according to the requirements being procured.</p>
<p>How will the proposal help to promote Sustainability?</p>	<p>None directly but aspects such as Whole Life Costing and Sustainability evaluation criteria will be considered on a case by case basis according to the requirements being procured.</p>

Report to Council

9th December 2015

By the Chief Executive

DECISION REQUIRED

Not Exempt



Calendar of Meetings 2016/17

Executive Summary

This report proposes a programme of Council, Cabinet and Committee meetings, including standing Scrutiny & Overview Working Groups, for 2016/17.

The programme takes into account, where possible, the dates of bank holidays and school holidays.

As in previous years, the calendar for 2016/17 is based on a two-monthly cycle. It is also again proposed that the Licensing Committee should meet only as required, although there will be an initial meeting in June to appoint the Committee Chairman and Vice-Chairman. Licensing Sub-Committees will also continue to be called as and when necessary.

Recommendations

The Council is recommended to approve the calendar of meetings for 2016/17 as submitted.

Reasons for Recommendations

To fix a programme of Council meetings, in accordance with the Council's Constitution, and to approve a calendar for Cabinet and Committee meetings, which enables the Council to transact its business in a timely and efficient manner.

Background Papers: None.

Wards affected: None.

Contact: Lesley Morgan, Democratic Services Manager, Ext. 5123

Background Information

1 Introduction and Background

- 1.1 A draft calendar was prepared for initial consultation with officers to ensure that any statutory requirements/deadlines could be met during the year. The draft was then circulated to all Members and re-circulated to Directors and Heads of Service for any additional comments or observations.

2 Relevant Council policy

- 2.1 The Council's Constitution, Part 4A, Rule 2.1, provides that "ordinary meetings of the Council will take place in accordance with a programme decided by the Council by no later than the Council's annual meeting." It has also been the Council's practice to agree a calendar for all Cabinet and Committee meetings.

3 Details

- 3.1 A draft calendar of meetings for 2015/16 has been prepared for Members' approval and is attached to this report as an appendix.
- 3.2 The proposed programme takes into account, where possible, the dates of bank holidays and school holidays.
- 3.3 As in previous years, the calendar for 2015/16 is based on a two-monthly cycle. It is, of course, open to the Chairman of Council or any Committee/Working Group to call extraordinary or additional meetings, as necessary.
- 3.4 It is also proposed that, based on the level of business transacted over the past few years, the Licensing Committee should continue to meet only as required, although there will be an initial meeting in June to appoint the Committee Chairman and Vice-Chairman. Licensing Sub-Committees will also continue to be called as and when necessary.
- 3.5 As in previous years, a number of dates have been allocated throughout the year to enable seminars to be held for informal discussions on important matters and for Member development purposes.
- 3.6 The draft calendar also shows possible dates for the first two months of the 2017/18 Council year, for information only (please note that these may change when the final calendar for 2017/18 is prepared).

4 Next Steps

- 4.1 Once the calendar of meetings has been approved by the Council, the dates for 2016/17 will be published online.

5 Outcome of Consultations

- 5.1 Members and Officers have been consulted to ensure that the proposed programme meets the requirements for reporting on statutory matters such as the budget and final accounts.

6 Other Courses of Action Considered but Rejected

- 6.1 No other courses of action have been considered, as the Council requires a programme of meetings in order to transact its business in an efficient manner.

7 Financial Consequences

- 7.1 There are no financial consequences.

8 Legal Consequences

- 8.1 The Council is required to agree a programme of meetings for each municipal year by no later than the date of the annual Council meeting.

9 Staffing Consequences

- 9.1 There are no direct staffing consequences.

10 Risk Assessment

- 10.1 If the Council does not approve a calendar of meetings there is a risk that it will not meet requirements for reporting on statutory matters such as the budget and final accounts; dealing with planning applications etc. There would also be a risk to the Council's reputation as it would not be seen to be operating in an open and timely manner.

Appendix 1

Consequences of the Proposed Action

<p>How will the proposal help to reduce Crime and Disorder?</p>	<p>There are no crime and disorder implications as a result of this report.</p>
<p>How will the proposal help to promote Human Rights?</p>	<p>The approval of a programme of meetings for the year will enable its publication in advance. This will ensure that this information can be made available to members of the public who may wish to attend and/or address meetings of the Council and its Committees or the Cabinet in exercise of a number of the convention rights, including a Right to a Family Life and Freedom of Expression.</p>
<p>What is the impact of the proposal on Equality and Diversity?</p>	<p>There are no positive or negative impacts arising from this proposal in relation to the protected characteristics under equality and diversity.</p>
<p>How will the proposal help to promote Sustainability?</p>	<p>The proposal will have neither a positive or negative impact in respect of sustainability.</p>

Calendar of Meetings 2016/17

Times of meetings (based on 2015/16)

Council (inc. Annual Meeting)	6.00pm	<i>Finance & Performance Working Group</i>	6.00pm
Cabinet	5.30pm	<i>Business Improvement Working Group</i>	6.00pm
Scrutiny & Overview Committee	6.00pm	<i>Social Inclusion Working Group</i>	5.30pm
Accounts, Audit & Governance Committee	6.00pm	<i>Crime & Disorder Working Group</i>	5.30pm
Licensing Committee	5.30pm		
Personnel Committee	5.30pm		
Standards Committee	10.00am		
Development Control (North) Committee	5.30pm	<i>Planning Obligations Panel</i>	5.00pm
Development Control (South) Committee	2.00pm	<i>Seminars</i>	6.00pm

MAY 2016

Monday	Tuesday	Wednesday	Thursday	Friday	Sat.	Sun.
						1
2 BANK HOLIDAY	3	4	5 <i>Police & Crime Commissioner Election</i>	6	7	8
9 Scrutiny & Overview Committee	10 Development Control (North) Committee*	11	12	13	14	15
16	17 Development Control (South) Committee DCN Cttee – Strategic applications (provisional)	18	19	20	21	22
23	24	25 COUNCIL – ANNUAL MEETING	26 Cabinet	27	28	29
30 BANK HOLIDAY {-----	31----- <i>Half-Term</i>					

JUNE

Monday	Tuesday	Wednesday	Thursday	Friday	Sat.	Sun.
		1 --30 th May– 3 rd June --	2 -----	3 -----	4	5
6 Scrutiny & Overview Committee	7 Development Control (North) Committee	8 Standards Committee	9 Licensing Committee#	10	11	12
13 <i>Planning Obligations Panel</i>	14	15 Personnel Committee	16 Finance & Performance Working Group	17	18	19
20 Social Inclusion Working Group	21 Development Control (South) Committee (@ 6.00pm)	22 <i>Seminar</i>	23	24	25	26
27	28 Accounts, Audit & Governance Committee	29 COUNCIL	30			

JULY

Monday	Tuesday	Wednesday	Thursday	Friday	Sat.	Sun.
				1	2	3
4	5 Development Control (North) Committee	6	7	8	9	10
11	12 Business Improvement Working Group	13	14	15	16	17
18	19 Development Control (South) Committee DCN Cttee – Strategic applications (provisional)	20 <i>Seminar</i>	21 Cabinet	22	23	24
25 {-School Summer Scrutiny & Overview Committee	26 <i>Holiday 25th July</i>	27 to 2 nd September -----	28 -----	29 -----	30	31

AUGUST

Monday	Tuesday	Wednesday	Thursday	Friday	Sat.	Sun.
1 -----	2 Development Control (North) Committee	3 -----	4 -----	5 -----	6	7
8 <i>Planning Obligations Panel</i>	9 -----	10 Finance & Performance Working Group	11 -----	12 -----	13	14
15 -----	16 Development Control (South) Committee DCN Cttee – Strategic applications (provisional)	17 -----	18 -----	19 -----	20	21
22 -----	23 -----	24 -----	25 -----	26 -----	27	28
29 PUBLIC HOLIDAY	30 -----	31 -----				

SEPTEMBER

Monday	Tuesday	Wednesday	Thursday	Friday	Sat.	Sun.
			1 -----	2 -----}	3	4
5	6 Development Control (North) Committee	7 COUNCIL	8	9	10	11
12	13 Accounts, Audit & Governance Committee	14 Standards Committee	15	16	17	18
{ <i>Lib Dem Conference</i> 19 Social Inclusion Working Group	17 – 21 <i>Sept (Brighton)</i> 20 Development Control (South) Committee DCN Cttee – Strategic applications (provisional)	21 <i>Seminar</i>	22 Cabinet	23	24	25 {----
26 Scrutiny & Overview Committee	27	28 Personnel Committee	29	30		

OCTOBER

Monday	Tuesday	Wednesday	Thursday	Friday	Sat.	Sun.
					1	2
{ <i>Conservative Party</i> 3	<i>Conference 2 – 5 Oct</i> 4 Development Control (North) Committee	(<i>Birmingham</i>) 5	6	7	8	9
10 <i>Planning Obligations</i> <i>Panel</i>	11 <i>Business</i> <i>Improvement</i> <i>Working Group</i>	12 <i>Seminar</i>	13	14	15	16
17	18 Development Control (South) Committee DCN Cttee – Strategic applications (provisional)	19 COUNCIL	20	21	22	23
24 {-----}	25 -----	26 -- <i>Half Term 24th - 28th</i>	27 -----	28 -----}	29	30
31						

NOVEMBER

Monday	Tuesday	Wednesday	Thursday	Friday	Sat.	Sun.
	1 Development Control (North) Committee	2	3	4	5	6
7	8	9 <i>Finance &</i> <i>Performance</i> <i>Working Group</i>	10	11	12	13
14	15 Development Control (South) Committee DCN Cttee – Strategic applications (provisional)	16 <i>Seminar</i>	17	18	19	20
21 <i>Social Inclusion</i> <i>Working Group</i>	22	23 Personnel Committee	24 Cabinet	25	26	27
28 Scrutiny & Overview Committee	29	30 Standards Committee				

DECEMBER

Monday	Tuesday	Wednesday	Thursday	Friday	Sat.	Sun.
			1	2	3	4
5	6 Development Control (North) Committee	7 COUNCIL	8	9	10	11
12 <i>Planning Obligations Panel</i>	13	14	15	16	17	18
19 {----- <i>School</i>	20 <i>Holiday 19th Dec</i> Development Control (South) Committee DCN Cttee – Strategic applications (provisional)	21 to 2 nd Jan -----	22 -----	23	24	25 Christmas Day
26 BOXING DAY	27 BANK HOLIDAY	28 -----	29 -----	30 -----	31	

JANUARY 2017

Monday	Tuesday	Wednesday	Thursday	Friday	Sat.	Sun.
						1 New Year's Day
2 BANK HOLIDAY	3	4 Accounts, Audit & Governance Committee	5	6	7	8
9	10 Development Control (North) Committee*	11	12	13	14	15
16	17 Development Control (South) Committee DCN Cttee – Strategic applications (provisional)	18 <i>Seminar</i>	19	20	21	22
23	24 Business Improvement Working Group	25	26 Cabinet	27	28	29
30 Scrutiny & Overview Committee	31					

FEBRUARY

Monday	Tuesday	Wednesday	Thursday	Friday	Sat.	Sun.
		1	2	3	4	5
6 <i>Planning Obligations Panel</i>	7 Development Control (North) Committee	8	9 Finance & Performance Working Group	10	11	12
13	14	15 COUNCIL	16	17	18	19
20 {-----}	21 ----- Development Control (South) Committee DCN Cttee – Strategic applications (provisional)	22 ----- <i>Half Term</i> -----	23 -----	24-----}	25	26
27 <i>Seminar</i>	28					

MARCH

Monday	Tuesday	Wednesday	Thursday	Friday	Sat.	Sun.
		1	2	3	4	5
6 Social Inclusion Working Group	7 Development Control (North) Committee	8 Personnel Committee	9	10	11	12
13	14 <i>Seminar</i>	15 Standards Committee	16	17	18	19
20	21 Development Control (South) Committee DCN Cttee – Strategic applications (provisional)	22 Accounts, Audit & Governance Committee	23	24	25	26
27	28	29	30 Cabinet	31		

APRIL

Monday	Tuesday	Wednesday	Thursday	Friday	Sat.	Sun.
					1	2
3 Scrutiny & Overview Committee	4 Development Control (North) Committee	5 <i>Seminar</i>	6	7	8	9
10 {----- <i>Planning Obligations Panel</i>	11 ----- <i>School Holiday</i>	12 ---1 ^{0th} to 21 st April ---	13 -----	14 ----- GOOD FRIDAY	15	16
17 ----- EASTER MONDAY	18 -----	19 -----	20 -----	21 -----}	22	23
24	25 Development Control (South) Committee* DCN Cttee – Strategic applications* (provisional)	26 COUNCIL	27	28	29	30

MAY

Monday	Tuesday	Wednesday	Thursday	Friday	Sat.	Sun.
1 BANK HOLIDAY	2 <i>Business Improvement Working Group</i>	3	4	5	6	7
8	9 Development Control (North) Committee*	10 <i>Seminar</i>	11	12	13	14
15	16 Development Control (South) Committee DCN Cttee – Strategic applications (provisional)	17	18	19	20	21
22	23	24 COUNCIL – ANNUAL MEETING	25 Cabinet	26	27	28
29 BANK HOLIDAY {-----	30----- <i>Half- Term</i>	31 --29 th May– 2 nd June --				

JUNE (provisional for information only – not part of the approved calendar)

Monday	Tuesday	Wednesday	Thursday	Friday	Sat.	Sun.
			1 -----	2 -----	3	4
5 Scrutiny & Overview Committee	6 Development Control (North) Committee	7 Standards Committee	8 Licensing Committee	9	10	11
12 <i>Planning Obligations Panel</i>	13 Accounts, Audit & Governance Committee	14 Personnel Committee	15 Finance & Performance Working Group	16	17	18
19 Social Inclusion Working Group	20 Development Control (South) Committee DCN Cttee – Strategic applications (provisional)	21 COUNCIL	22	23	24	25
26	27	28	29	30		

JULY (provisional for information only – not part of the approved calendar)

Monday	Tuesday	Wednesday	Thursday	Friday	Sat.	Sun.
					1	2
3	4 Development Control (North) Committee	5	6	7	8	9
10	11 Business Improvement Working Group	12 <i>Seminar</i>	13	14	15	16
17	18 Development Control (South) Committee DCN Cttee – Strategic applications (provisional)	19	20 Cabinet	21	22	23
24 Scrutiny & Overview Committee	25 {-School Summer	26 <i>Holiday 25th July -----</i>	27 <i>to 1st September -----</i>	28 -----	29	30
31 -----						

* proposed to be moved from the day after the Bank Holiday

One scheduled, others to be arranged as required



**Horsham
District
Council**

**Horsham District Council's
Statement of Principles in
respect of the Gambling Act
2005**

DECEMBER 2015

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1 STATEMENT OF PRINCIPLES

1.1 Introduction

Horsham District Council is the Licensing Authority under the Gambling Act 2005. This Council is responsible for granting premises licences, permits and registrations in the Horsham District Council area in respect of those classes of premises set out at paragraph 1.6 below.

The Gambling Act 2005 requires the Council to prepare and publish a “Statement of Licensing Policy” that sets out the policies that the Council will generally apply when making decisions on applications made under the Act.

This “Statement of Principles” has been prepared having regard to the provisions of the Guidance issued by the Gambling Commission and the duties of the Licensing Authority under the Gambling Act 2005.

The Statement of Principles will be available on the Council’s website.

The Statement of Principles first came into effect on the date of its adoption by the Council in December 2006. It was subsequently reviewed in accordance with the statutory provisions and will be reviewed as necessary, and at least every three years from the date of adoption.

1.2 Horsham District Council Area

Horsham District Council is situated in the County of West Sussex, which comprises 7 District Councils and 1 County Council. The Council area has a population of 131,300 (2011 Census) making it the third largest in the County in terms of population. In terms of area it is the second largest, covering 205 square miles. A map of the district is contained in Appendix B.

1.3 Glossary of Terms

Within this draft Statement of Policy, the following words and terms are defined as stated:

Licensing As defined in section 1.4 below

Objectives:

Council: Horsham District Council

District: The area of West Sussex administered by Horsham District Council (Map appended at Appendix B)

Licences: As defined in section 1.4 below

Applications: Applications for licences and permits as defined in section 1.6 below

Notifications: Means notification of temporary and occasional use notices

Act:	The Gambling Act 2005
Regulations:	Regulations made under the Gambling Act 2005
Premises:	Any place, including a vehicle, vessel or moveable structure
Code of Practice:	Means any relevant code of practice under section 24 of the Gambling Act 2005
Machine Categories	Defined in Paragraph 16.29 of the Gambling Commission Guidance and set out at Appendix C for ease of reference.
Mandatory Condition:	Means a specified condition provided by Regulations to be attached to a licence
Default Condition:	Means a specified condition provided by regulations to be attached to a licence, unless excluded by Horsham District Council
Responsible Authority:	<p>For the purposes of this Act, the following are responsible authorities in relation to premises:</p> <ol style="list-style-type: none"> 1. The Licensing Authority in whose area the premises are wholly or mainly situated (“Horsham District Council”); 2. The Gambling Commission; 3. Sussex Police; 4. West Sussex Fire and Rescue Service; 5. Head of Planning, Planning Department, Horsham District Council; 6. Environmental Protection Team, Horsham District Council; 7. West Sussex Children’s Safeguarding Board 8. HM Customs and Excise.
Interested Party:	<p>For the purposes of this Act, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:-</p> <ol style="list-style-type: none"> a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities; b) Has business interests that might be affected by the authorised activities; c) Represents persons who satisfy a) or b) above.

1.4 Licensing Objectives

The Gambling Act 2005 requires that the Council carries out its various licensing functions having regard to the following three licensing objectives:-

1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
2. Ensuring that gambling is carried out in a fair and open way;
3. Protecting children and other vulnerable persons from being harmed or exploited by gambling.

1.5 Types of Licence

This document sets out the policies that the Council will apply when making decisions upon applications or notifications made for:-

1. Premises Licences;
2. Temporary Use Notices;
3. Permits as required under the Act;
4. Registrations as required under the Act.

1.6 Licensable Premises and Permits

This policy relates to all those licensable premises, notices, permits and registrations identified as falling within the provisions of the Act, namely:-

1. Casinos;
2. Bingo Premises;
3. Betting Premises;
4. Tracks;
5. Adult Gaming Centres;
6. Family Entertainment Centres;
7. Club Gaming Permits;
8. Prize Gaming and Prize Gaming Permits;
9. Temporary Use Notices;
10. Registration of small society lotteries.

1.7 General Principles

Nothing in this Statement of Principles will:-

1. Undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits; OR
2. Override the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.

The starting point in determining applications will be to consider applications in accordance the requirements of Section 153 of the Gambling Act 2005. Conditions will only be considered where they are needed to meet the requirements of the Licensing Objectives, and any conditions applied will be proportionate to the scale of the application and the risks involved. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

All applicants for Premises Licences will be required to set out how they will comply with the Licensing Objectives, as specified in section 1.4 above, and what measures they intend to employ to ensure compliance with them.

When determining an application to grant a Premises Licence or review a Premises Licence, regard will be taken regarding the proximity of the premises to schools, vulnerable adult centres or residential areas where there may be a high concentration of families with children. The proximity of premises taken into consideration will vary depending on the size and scope of the gambling premises concerned. It should be noted that this policy does not preclude any application being made and each application will be decided on its merits, with the opportunity for the applicant to show how potential concerns can be overcome.

Licensing is about the control of licensed premises, temporary use notices or occasional use notices within the terms of the Act. Conditions may be attached to licences that will cover matters that are within the control of individual licensees.

When considering any conditions to be attached to licences, the Council will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The Secretary of State may by regulation provide for specified conditions to be attached to a premises licence as either "mandatory" or "default" conditions. In determining an application the Council may not have regard to the expected demand for the facilities which it is proposed to provide.

The Council recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:-

1. Planning controls;
2. Ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council departments;
3. Regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour;
4. The power of the Police, other responsible authorities or local residents and businesses to seek a review of the licence.

Objectors will be required to relate their objection to one of more of the Licensing Objectives, as specified in section 1.4 above, before the Council will be able to consider it.

The Council, in undertaking its licensing function, will have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different racial groups.

1.8 Consultees

The Statement of Licensing Policy will be subject to formal consultation with:-

1. Sussex Police and other responsible authorities, and
2. Representatives of the holders of the various licences for premises within the District who will be affected by this Policy, and
3. Persons/bodies representing the interests of persons likely to be affected by this policy.

1.9 Information exchange

In fulfilling its functions and obligations under the Gambling Act 2005 the Council will exchange relevant information with other regulatory bodies and will establish protocols in this respect. In exchanging such information, the Council will conform to the requirements of data protection and freedom of information legislation in accordance with the Council's existing policies.

Details of those persons making representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document. Anyone making representations or applying for the review of a premises licence will be informed that their details will be disclosed on the Council's website in accordance with its existing policies on the disclosure of information.

2 LEGISLATION, POLICIES AND STRATEGIES

2.1 Legislation

In undertaking its licensing function under the Gambling Act 2005, the Council is also bound by other legislation, including:-

1. Section 17 of the Crime and Disorder Act 1988;
2. Human Rights Act 1998;
3. Health and Safety at Work Act 1974;
4. Environmental Protection Act 1990;
5. The Anti-Social Behaviour Act 2003;
6. The Equality Act 2010;

However, the policy is not intended to duplicate existing legislation and regulation regimes that already place obligations on employers and operators.

2.2 Relationship with Planning Policies

When determining an application, the Licensing Authority cannot take into account “irrelevant matters” such as the likelihood of the applicant obtaining planning permission or building control approval.

An applicant can apply for a “provisional statement” if the building is not complete or if he does not yet have a right to occupy it. Such an application is, however, a separate and distinct process to the granting of planning permission or building control approval.

2.3 National Strategies

The Council will also seek to discharge its responsibilities identified by other Government Strategies, in so far as they impact on the objectives of the licensing function.

2.4 Local Strategies and Policies

Where appropriate, the Council will consider applications with reference to other adopted local strategies and policies, including the following:-

1. The Council's Corporate Strategy;
2. The Community Safety Strategy;
3. Enforcement Policy.

2.5 Integrating Strategies

There are many stakeholders involved in the leisure industry and many are involved in the promotion of the licensing objectives. A number of stakeholders' plans and strategies deal with matters related to the licensing function. Where this is the case, the Council will aim, as far as possible, to co-ordinate them.

The Council recognises in particular the importance of the co-ordination and integration of the Gambling Policy with other plans aimed at the management of town centres and the night-time economy.

Relevant plans and strategies include:-

- Crime and Disorder Strategy – The Council will fulfil its duty under section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the District. As far as possible, licensing decisions will aim to contribute to the targets set in the Crime and Disorder Strategy and conditions attached to licences and certificates will reflect local crime prevention strategies.
- The Café Culture and Town Centre Management. As far as possible, any licensing decisions will be in line with the aspirations of this strategy.
- Equality – The Council is required under The Equality Act 2010 to give due regard to the need to eliminate unlawful discrimination, promote equality of opportunity and good relations between persons of different protected characteristics (equality groups). The impact on these issues of the Gambling Policy will be monitored and amendments will be made as necessary.
- Human Rights – The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a Convention right. The Council will have particular regard to the following relevant provisions of the European Convention on Human Rights:-
 - Article 6 that in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
 - Article 8 that everyone has the right to respect for his home and private and family life;
 - Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions, including for example the possession of a licence.

- Proper integration will be assured by the Licensing Authority's Licensing Committee providing reports, when appropriate, to its Planning Committee on the situation regarding licensed premises in the area, including the general impact of gambling related crime and disorder, to enable the Planning Committee to have regard to such matters when taking its decisions.
- The Council will ensure that the Licensing Committee receives reports, when appropriate, on the needs of the local economy to ensure that these are reflected in their considerations.
- Economic Strategies – The Council will ensure that the Licensing Committee is apprised of the employment situation in the area and the need for new investment and employment where appropriate.
- Enforcement Policy – All licensing enforcement will be conducted in accordance with the Enforcement Concordat and the General Environmental Health and Licensing Enforcement Policy and the Council's Licensing Enforcement Policy which will be amended to reflect the requirements of the Gambling Act and the advice of the Gambling Commission once it is published.

In order to avoid duplication with other statutory regimes, the Council will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

Non-compliance with other statutory requirements may be taken into account in reaching a decision about whether to grant a licence, but only if relevant representations are received.

3 DECISION MAKING

3.1 Committee Terms of Reference

A Licensing Sub-Committee of three Councillors will sit to hear applications where representations have been received from interested parties and responsible authorities. Ward Councillors will not sit on a Sub-Committee involving an application within their ward.

The Licensing Committee will also sit to determine general licensing matters that have been delegated to it by the full Council that are not associated with the Gambling Act 2005.

Where a Councillor who is a member of the Licensing Committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision making process affecting the licence in question.

The Licensing Sub-Committee will also refer to the Licensing Committee any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

The Licensing Committee will refer to the full Council any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

Every determination of a licensing decision by the Licensing Committee or a Licensing Sub-Committee shall be accompanied by clear, cogent reasons for the decision. The decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations in accordance with the timescales set out in any Regulations. A summary of the decision shall also be posted on the Council's website as soon as possible after the decision has been confirmed, where it will form part of the statutory licensing register required to be kept by the Council.

The Council's Policy with regard to the determination of applications for gaming machine permits in premises licensed under the Licensing Act 2003 is that all applications for permits for 3 or more machines will be determined by a Licensing Sub Committee on their individual merits. Appendix C sets out in detail the permitted number of gaming machines by category in different types of premises.

The Council's Environmental Health and Licensing Manager will deal with all other licensing applications where either no representation have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.

Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by the Council's Licensing Officer in consultation with the Environmental Health and Licensing Manager, who will make the decisions on whether representations or applications for licence reviews should be referred to the Licensing Committee or Sub-Committee. Where representations are rejected, the person making that representation will be given a written reason as to why that is the case. There is no right of appeal against a determination that representations are not admissible.

3.2 Allocation of Decision Making Responsibilities

The Council will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.

Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a Sub-Committee to deal with them.

Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, including for example those licences and permits where no representations have been made, will be delegated to Council Officers.

The table set out at Appendix A sets out the agreed delegation of decisions and functions to Licensing Committee, Sub-Committee and Officers.

This form of delegation is without prejudice to Officers referring an application to a Sub-Committee or Full Committee if considered appropriate in the circumstances of any particular case.

3.3 Licensing Reviews

The Council will carry out a review of a Premises Licence where it has received a formal application for review in accordance with the Act that is relevant to one or more of the Licensing Objectives. Representations may include issues relating to the following:-

1. Use of licensed premises for the sale and distribution of class A drugs and/or the laundering of the proceeds of drugs crimes;
2. Use of licensed premises for the sale and distribution of illegal firearms;
3. Use of licensed premises for prostitution or the sale of unlawful pornography;
4. Use of licensed premises as a base for organised crime activity;
5. Use of licensed premises for the organisation of unlawful discriminatory activities or sexual abuse or attacks on (a) minority group(s);

6. Use of licensed premises for the sale of smuggled tobacco or goods;
7. Use of licensed premises for the sale of stolen goods;
8. Children and/or vulnerable persons being put at risk.

Due consideration will be given to all relevant representations unless they fit the following:-

- a) The grounds are frivolous;
- b) The grounds are vexatious;
- c) The grounds are irrelevant;
- d) The grounds will not cause the Licensing Authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence;
- e) The grounds are substantially the same as the grounds cited in a previous application relating to the same premises; or
- f) The grounds are substantially the same as representations made at the time the application for a premises licence was considered.

A premises licence may also be reviewed by the Licensing Authority of its own volition.

4 LOCAL STANDARDS

4.1 Applications

An application for a premises licence can only be made by a person who either holds an operating licence authorising him to carry on the activity in respect of which a premises licence is sought, OR has made an application for an operating licence which has not yet been determined.

Applications for the grant, transfer or variation of a Premises Licence must be accompanied by an assessment that demonstrates how the applicant will promote all the Licensing Objectives in the form of a written Operating Schedule. The applicant may ask the Council for advice as to the scope of information to be provided.

The level of detail to be provided will be advised by the Council and will be proportional to the scale and nature of the application made.

Definitions of “Responsible Authorities” and “Interested Parties” who are able to make representations under this Act can be found in the glossary of terms in section 1.3.

4.2 Assessment of Need

Unmet demand is not a criterion that will be taken into consideration when determining an application for a Premises Licence under the Gambling Act 2005.

4.3 Conditions

Conditions will be applied to licences that are proportionate and appropriate to the business, organisation or individual concerned or are required by law. The Council will draw upon the advice issued by the Gambling Commission and attach conditions relative to the given circumstances of each individual case.

However, there will be a number of measures that the Licensing Authority will commonly consider utilising in order to pursue the Licensing Objectives. These may include such measures as the supervision of entrances, segregation of gambling areas from non gambling areas frequented by children. The Licensing Authority will expect applicants to offer their own suggestions as to ways in which the Licensing Objectives can be met effectively through the use of conditions.

Conditions attached to Premises Licences will, so far as possible, reflect local crime prevention strategies. For example, closed circuit television cameras may be appropriate in certain premises.

4.4 Enforcement

The Council is a signatory to the Enforcement Concordat and will follow the principles set out in it. The concordat is based around the principles of consistency, transparency and proportionality.

The Council has adopted a General Enforcement Policy for Environmental Health and Licensing which reflects the Regulators' Code which proposes that a graduated response is taken where offences against legislation are found or where licence conditions have been contravened. An isolated administrative offence, such as failing to maintain certain records, may be dealt with by way of a written warning. More serious offences may result in a referral to Sub-Committee, the issue of a Formal Caution or a referral for prosecution.

The Council intends to use appropriate enforcement to promote the licensing objectives. Once licensed, it is essential that premises are monitored to ensure that they are run in accordance with their operating schedules, in compliance with the specific requirements of the Act and in compliance with any licence conditions. It will also be important to monitor the District for unlicensed premises.

The Council recognises that in respect of bookmaker's premises it is likely that certain bookmakers may have a number of premises within the Council's area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the Licensing Authority a single named point of contact, who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise.

The Council will seek to work actively with the Police in enforcing licensing legislation and intends to establish protocols with Sussex Police, West Sussex Trading Standards Department and West Sussex Fire and Rescue Service on enforcement issues to ensure an efficient deployment of police and council officers.

4.5 Casinos

There are currently no casinos operating within the District. At its meeting on 7th June 2006 the Council agreed that with effect from 13th December 2006 its policy with regard to Casino Premises Licences was not to issue any Casino Premises Licences in respect of the District of Horsham. This remains the council's policy.

4.6 Prize Gaming Permits

Gaming is defined as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences.

A prize gaming permit is a permit issued by the Authority to authorise the provision of facilities for gaming with prizes on specified premises.

An application for a permit can only be made by a person who occupies or plans to occupy the relevant premises and if the applicant is an individual, he must be aged 18 or over. An application for a permit cannot be made if a premises licence or club gaming permit is in effect for the same premises. The application must be made to the Authority in whose area the premises are wholly or partly situated. Applications for Prize Gaming Permits will be subject to formal consultation with Sussex Police.

4.7 Unlicensed Family Entertainment Centres

Where premises do not hold a Premises Licence but wish to provide gaming machines, it may apply to the licensing authority a gaming machine permit.

An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre, and if the Chief Officer of Police has been consulted on the application. Relevant considerations to take into account would be the applicant's suitability, such as any convictions that they may have that would make them unsuitable to operate a family entertainment centre; and the suitability of the premises in relation to their location and issues about crime and disorder.

In respect of premises licensed under Licensing Act 2003, premises will be automatically entitled to two Category D machines. Where premises apply for a permit for more than two machines each application will be considered on its own merits. Categories of Gaming Machines are defined in Appendix C

4.8 Licensed Family Entertainment Centres

Licensed Family Entertainment Centres (FECs) are a new category of premises introduced by the Act. Persons operating an FEC must hold a gaming machines general operating licence from the Commission and must seek a premises licence from the Authority. This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

This licensing authority will expect applicants to offer their own measures to meet the licensing objectives to cover issues such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry

- Notices / signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare
- Measures / training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

4.9 Bingo Premises

It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted this licensing authority will ensure that:

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

4.10 Betting Premises

The Act contains a single class of licence for betting premises. However, within this single class of licence, there will be different types of premises which require licensing.

The Act also permits betting intermediaries to operate from premises, although betting intermediaries usually offer their services via remote communication, such as the internet. In principle, however, there is nothing to stop a betting intermediary applying for a betting premises licence to offer intermediary services upon the premises.

The Authority is aware of its power to restrict the number of betting machines. In the event that the Authority considers whether to impose a condition on a licence it may, among other things, take into account the size of the premises, the number of counter positions available for person to person transactions, and the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons.

4.11 Tracks

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

Gaming machines - ~~JG & CE~~ Licence from the Gambling Commission is awaited as regards where such machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This licensing authority notes the Commission's Guidance that licensing authorities therefore need to consider the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.

Betting machines - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. It will also take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences.

Condition on rules being displayed – The licensing authority may attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.”

Applications and plans - This licensing authority awaits regulations setting-out any specific requirements for applications for premises licences but is in

accordance with the Gambling Commission's guidance which should include detailed plans for the racetrack itself and the area that will be used for temporary "on-course" betting facilities (often known as the "betting ring") and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities and that "Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence."

The authority also notes that in the Commission's view, it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences, to ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

4.12 Adult Gaming Centres

Adult gaming centres (AGCs) are a new category of premises introduced by the Act. Persons operating an AGC must hold a gaming machines general operating licence from the Commission and must seek a premises licence from the Authority.

No-one under the age of 18 is permitted to enter an AGC. This Authority will have particular regard to the location of and entry to AGCs to minimise the opportunities for children to gain access. This may be of particular importance in areas where young people may be unsupervised and an AGC is in a complex, such as a shopping centre.

This licensing authority will expect applicants to offer their own measures to meet the licensing objectives to cover issues such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

4.13 Club Gaming Permits

The Authority may grant members' clubs and miners' welfare institutes (but not commercial clubs) club gaming permits which authorise the establishments to provide gaming machines, equal chance gaming and games of chance as prescribed in regulations.

The Authority will only refuse an application on the grounds that:

- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Commission or the police.

Club gaming permits allow the provision of no more than three gaming machines. These may be from categories B, C or D. The club is permitted to choose the combination of machines on its premises. The Authority may grant or refuse a permit, but it may not attach any conditions to a permit.

4.14 Prize Gaming & Prize Gaming Permits

Gaming is defined as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences.

A prize gaming permit is a permit issued by the Authority to authorise the provision of facilities for gaming with prizes on specified premises.

An application for a permit can only be made by a person who occupies or plans to occupy the relevant premises and if the applicant is an individual, he must be aged 18 or over. An application for a permit cannot be made if a premises licence or club gaming permit is in effect for the same premises. The application must be made to the Authority in whose area the premises are wholly or partly situated.

4.15 Temporary Use Notices

The Act sets out the position in relation to temporary use notices. These allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice would include hotels, conference centres, and sporting venues.

A temporary use notice may only be granted to a person or company holding a relevant operating licence. For example, the holder of a betting operating licence could apply to provide betting facilities at a snooker tournament.

The Secretary of State will prescribe in regulations the gambling activities that may be specified in a temporary use notice as well as combinations of activities that may not be specified, and activities that may not be combined with any other.

4.16 Occasional Use Notices

The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

4.17 Registration of Small Society Lotteries

In carrying out its functions in relation to Lotteries the Authority will have regard to the Act, the guidance issued by the Gambling Commission from time to time and any Regulations issued by the Secretary of State.

5 PREVENTION OF CRIME AND DISORDER

The Council places a considerable importance on the prevention of crime and disorder, and will fulfil its duty under s17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the borough. A high standard of control is therefore expected to be exercised over licensed premises.

The Council will, when determining applications, consider whether the grant or a Premises Licence will result in an increase in crime and disorder.

Applicants are encouraged to discuss the crime prevention procedures in their premises with the Council's Licensing Officers and Sussex Police before making a formal application.

In considering licence applications, the Council will particularly take into account the following:-

1. The design and layout of the premises;
2. The training given to staff in crime prevention measures appropriate to those premises;
3. Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed;
4. Where premises are subject to age restrictions, the procedures in place to conduct age verification checks;
5. The likelihood of any violence, public order or policing problem if the licence is granted.

6 ENSURING THAT GAMBLING IS CONDUCTED IN A FAIR AND OPEN WAY

Generally, the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way, as this will be a matter for either the management of the gambling business (and therefore relevant to the Operating Licence), or will be in relation to the suitability and actions of an individual (and therefore relevant to the Personal Licence). Both of these options fall under the purview of the Gambling Commission.

If any matters of complaint are made to the Licensing Authority concerning gambling not being conducted in a fair and open way the Licensing Authority will refer the complaint to the Gambling Commission for investigation.

7 PROTECTION OF CHILDREN AND OTHER VULNERABLE PERSONS

7.1 Access to Licensed Premises

With limited exceptions, the access of children and young persons to those gambling premises which are adult only environments will not be permitted.

The Council will seek to limit the advertising for premises so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

The Council will consult with the person responsible for child protection issues at West Sussex County Council on any application that indicates there may be concerns over access for children or vulnerable persons.

The Council will judge the merits of each separate application before deciding whether to impose conditions to protect children on particular categories of premises. This may include such requirements as:-

1. Supervision of entrances;
2. Segregation of gambling areas from areas frequented by children;
3. Supervision of gaming machines in non-adult gambling specific premises.

The 2005 Act provides for a Code of Practice on access to Casino premises by children and young persons and the Council will work closely with the Police to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.

7.2 Vulnerable Persons

The Council does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children, but it will assume for regulatory purposes, that "vulnerable persons" include:

1. People who gamble more than they want to;
2. People who gamble beyond their means;
3. People who may not be able to make an informed or balanced decision about gambling due to a mental impairment, alcohol or drugs.

(Reference Para 5.21 Gambling Commission Guidance to Licensing Authorities)

8 COMPLAINTS AGAINST LICENSED PREMISES

The Council will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainants are encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.

Where an interested party has made either a valid representation about licensed premises or a valid application for a licence to be reviewed, the Council may initially arrange a conciliation meeting to address and clarify the issues of concern.

This process will not override the right of any interested party to ask that the licensing committee consider their valid objections or for any licence holder to decline to participate in a conciliation meeting.

As set out in 6 above any complaints relating to gambling not being conducted in a fair and open way will be referred to the Gambling Commission.

Due consideration will be given to all relevant representations unless they fit the exceptions in 3.3 above.

9 FURTHER INFORMATION

Further information about the Gambling Act 2005, this Statement of Licensing Policy or the application process can be obtained from:-

The Licensing Officer
Horsham District Council
Parkside
Chart Way
HORSHAM
West Sussex
RH12 1RL

Tel: 01403 215578
Fax: 01403 215461
E-mail: licensing@horsham.gov.uk

Information is also available from:-

Gambling Commission
Berkshire House
168-173 High Holborn
London
WC1V 7AA

Tel: 020 7306 6219
Website: www.gamblingcommission.gov.uk

APPENDIX A

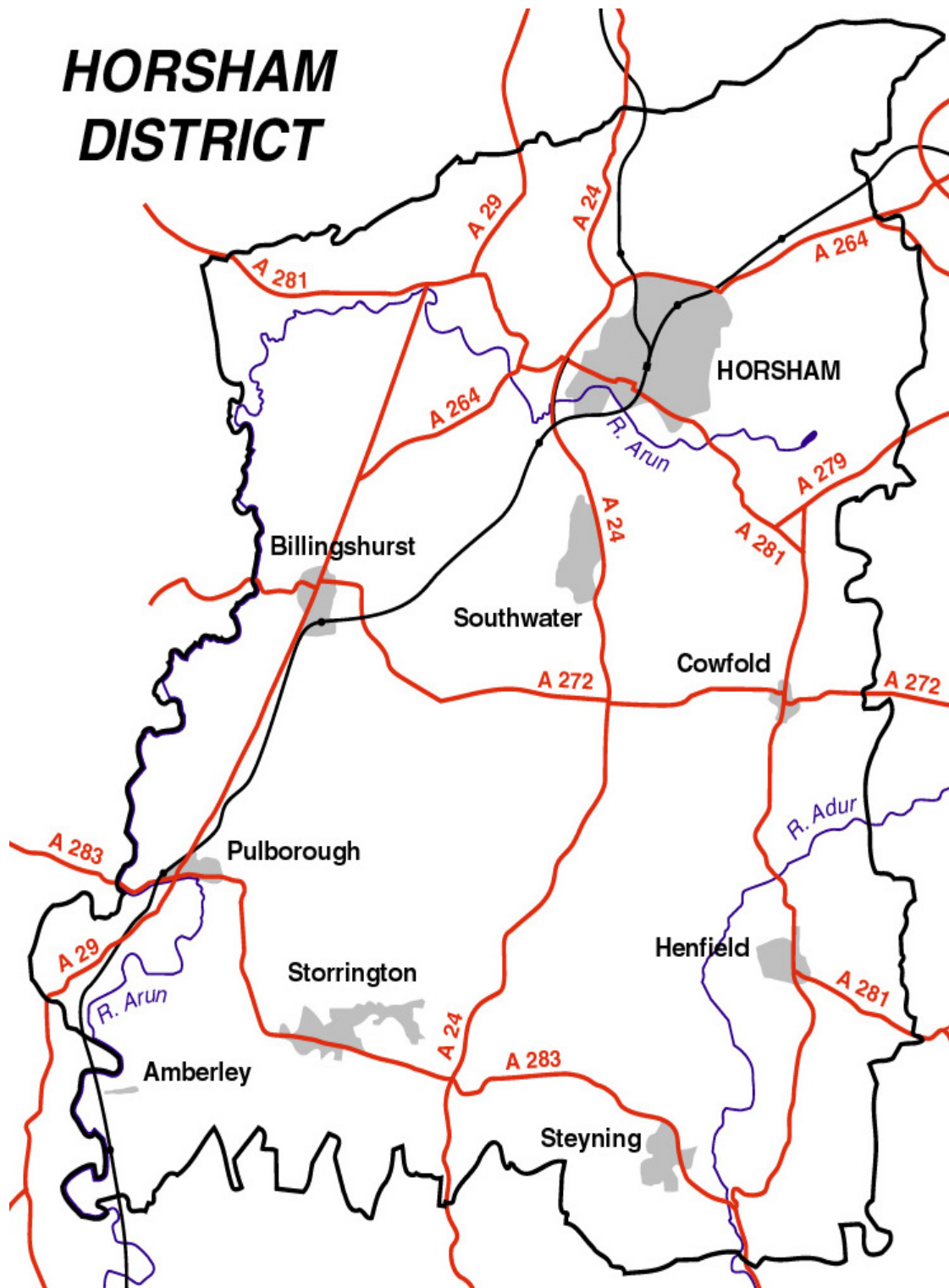
TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate			X (to be approved by Cabinet Member)
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licens premises gaming machi permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

Source: Gambling Commission "Guidance to Local Authorities". Dated April 2006

APPENDIX B

HORSHAM DISTRICT



APPENDIX C
CATEGORIES OF GAMING MACHINES

Premises Type	MACHINE CATEGORY						
	A	B1	B2	B3	B4	C	D
Regional casino (machine/table ratio of 25-1 up to maximum)	Maximum of 1250 machines. Any combination of machines in categories A to D, within the total limit of 1250 (subject to table ratio)						
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines. Any combination of machines in categories B to D, within a total limit of 150 (subject to table ratio)					
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines. Any combination of machines in categories B to D, within a total limit of 80 (subject to table ratio)					
Pre - 2005 Act casinos (no machine/table ratio)		Maximum of 20 machines categories B to D <u>or</u> C or D machines instead					
Betting premises and tracks occupied by pool betting			Maximum of 4 machines categories B2 to D				
Bingo premises				Maximum of 4 machines in category B3 or B4		No limit C or D machines	
Adult gaming centre				Maximum of 4 machines in category B3 or B4		No limit C or D machines	
Family entertainment centre (with premises licence)						No limit on category C or D machines	
Family entertainment centre (with permit)							No limit on category D machines
Clubs or miners' welfare institutes with permits				Maximum of 3 machines in categories B3A to D			
Qualifying alcohol licensed premises						1 or 2 machines of category C or D automatic on notification	
Qualifying alcohol licensed premises with gaming machine permit						Number as specified on permit	
Travelling fair							No limit on category D machines
	A	B1	B2	B3	B4	C	D

Categories of machines are defined in Section 16.9 of the Gambling Commission "Guidance to Local Authorities". Dated April 2006.



Horsham District Council
Horsham Procurement Code

November 2015

Version 4

Printed copies of this document are Uncontrolled.

Visit the Council's Procurement page on the Intranet for the latest version

http://hdc-intranet/corporate_toolkit/procurements.asp

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HORSHAM DISTRICT COUNCIL

HORSHAM PROCUREMENT CODE

PART A INTRODUCTION AND OFFICER ROLES & RESPONSIBILITIES

1. INTRODUCTION

- 1.1. The Council's Procurement Code establishes the legal framework through which the Council must undertake its commissioning and procurement activity. The purpose of the Horsham Procurement Code is to provide additional information and clarity on the rules for the commissioning and procurement of all the Council's goods, works and services as required by the Local Government Act 1972. The Horsham Procurement Code ensures a system of openness, integrity and accountability.
- 1.2. The Horsham Procurement Code is supported by the [Procurement Toolkit](#) which provides practical and more detailed advice about how to undertake commissioning and procurement exercises, including access to a suite of template documentation. There are useful links within the Horsham Procurement Code pointing to the relevant section of the Procurement Toolkit for further information. It is also supported by the Horsham DC Commissioning Framework and a [Joint Procurement Strategy](#) which outlines the future direction and deliverables of strategic commissioning and procurement. The toolkit will be updated on a regular basis to address queries and issues that arise.
- 1.3. Heads of Service have responsibility for all commissioning and procurement activity within their Department and they should ensure that any officer unfamiliar with undertaking a commissioning or procurement project seeks the necessary support and advice from their line manager and the Procurement Team. It is a requirement that the Procurement Team are informed at the time of project definition of any contract with a potential aggregate value of £50,000 or above for goods and services and £100,000 or above for works. The most convenient way of doing this is via the completion of a [Procurement & Contracts Checklist e-form](#) (see section 8).
- 1.4. It is also a requirement of the Horsham Procurement Code that any contract value of £50,000 or above for goods and services and £100,000 or above for works will be subject to the Council Project Management methodology, unless otherwise agreed by the Senior Leadership Team.
- 1.5. Procurement and Commissioning decisions are important because the money involved is public money and the Council is concerned to ensure that high quality goods, works and services are provided. Efficient use of resources in order to achieve *best value and to achieve the required outcomes* is therefore an imperative. The Council's reputation is equally important and should be safeguarded from any accusation of dishonesty or corruption. In accordance with Section 5B of the Council's Constitution, Officer Code of Conduct: Confidential Reporting Code (Whistle Blowing Policy) all employees have a duty to report breaches of the Horsham Procurement Code to the Commissioning and Performance Manager immediately they become aware of it.

- 1.6. The Horsham Procurement Code applies to all procurement by the Council of works, goods and services. They do not normally apply to acquisitions and disposals of land or buildings. The Horsham Procurement Code applies to all Council employees and elected Members. The Commissioning and Performance Manager shall have responsibility for maintenance, update and issuing the Horsham Procurement Code.
- 1.7. The Council is committed to supporting small and local businesses within the principles of equality, transparency and non-discrimination established in the EU Procurement Directives. At times these principles can appear contradictory but there are measures which the Council can take to support small and local businesses, these include:
- Voluntarily advertising requirements below £50,000 on the Council website and SE Shared Services ePortal;
 - Dividing requirements into smaller packages (by value or size) of work in order smaller suppliers have an opportunity to bid;
 - Ensure tender documents are easy to understand and that all evaluation criteria are relevant and proportionate to the value and level of risk of the requirement;
 - Make it a contractual requirement in the Council's key contracts that the Contractor shall advertise any sub-contracting opportunities through the same media used by the Council;
 - Ensure Council contracts with *Main Contractors* have a contractual requirement for the same prompt payments mechanism to all sub-contractors employed in delivering the services or project;
- 1.8. Every contract or official purchase order for works, goods or services made by the Council shall be for the purpose of achieving the Council's statutory or approved objectives and shall conform to all relevant English and European Union legislation.
- 1.9. Commissioning and Procurement is a complex area and as the Horsham Procurement Code sets out legislation and the rules that need to be followed it can seem daunting because it covers all potential procurements. Many aspects of the Code will not apply to individual procurements. If you want advice or further information, concerning this Horsham Procurement Code, you can contact any of the following officers:-

Mark Pritchard Commissioning and Performance Manager
Roger Dennis Joint Procurement Adviser
Jo Newton-Smith Procurement Manager
Paul Cummins Head of Legal and Democratic Services

2. ROLES AND RESPONSIBILITIES

2.1 Heads of Service:

2.1.1 The Head of Service has responsibility for all commissioning and purchasing activity and contracts tendered and let by his/her Department and for ensuring such activity is undertaken in compliance with the Procurement Code. He/she is accountable to the Cabinet for the performance of his/her duties in relation to contract letting and management, which are:

- Comply with the rules set out in the Horsham Procurement Code, the Councils *Financial Regulations*, the Code of Conduct for Local Government Employees, the Public Contract Regulations 2015, and with all other relevant UK legislation such as the Equality Act 2010, Public Services (Social Value) Act 2012, etc., and any additional guidance issued by the Cabinet Office;
- To ensure compliance with any guidelines issued in respect of the Horsham Procurement Code and to follow the principles of the Horsham Commissioning Framework;
- To ensure commissioning and purchasing activity complies with all relevant Council policy;
- To ensure that when it is proposed to use a Framework Agreement checks have been undertaken that the Council has been clearly identified in the advertisement and that any subsequent procurement complies with rules of the Framework Agreement. If the Head of Service is in any doubt of these matters he/she should contact the Procurement Team.
- To ensure that the Council's legal responsibilities under the Public Contract Regulations 2015 are fulfilled when participating in a joint procurement process led by another authority.
- To take immediate action in the event of a breach of the Horsham Procurement Code within his or her area including informing the Commissioning and Performance Manager of the breach;
- Ensure that there is an adequate approved budget prior to commencement of any formal procurement procedure to cover the full cost of the goods, services or works to be procured
- To ensure that where required, Cabinet Member approval for specific projects is obtained prior to committing expenditure and that the Cabinet Member is kept up to date with the progress of procurement exercises
- Ensure that agents, consultants and contractual partners acting on their behalf also fully comply with these requirements.
- Seek and take due account of all necessary legal, financial and professional advice.
- In accordance with Part 5B of the Council Constitution (Officer Code of Conduct) ensure that he/she or any member of their staff (including any temporary staff or employed consultants) formally declare any personal or financial interest in a contract which may (or be perceived by another person to) inhibit their impartiality in recommending or agreeing to the contract award.
- Ensure a purchase order is issued using the Council's financial management system for all purchases.
- Not enter into any leasing agreements or other forms of borrowing, including the set up of store or credit cards other than those arranged or approved by the Head of Finance.

- Not accept *tenders* or enter into contracts for the acquisition or maintenance of information technology hardware and software without having previously consulted and secured the agreement of the Head of Census ICT prior to the start of any commissioning or procurement process;
- Comply with the Council's Local Government Transparency Code (see section 20) obligations by promptly submitting information about any Invitation to Tender, commissioned activity or procurement over £5,000 immediately it has taken place
- Ensure that the Council's Contract Register is updated with the details of any new, or extension to an existing, contract or agreement with a value of £5,000.00 or more.
- Keep records and documentation of all procurement exercises (see section 15 of the Horsham Procurement Code for details of how long records need to be kept)
- Ensure that undisputed invoices from suppliers are paid within 30 days or any shorter timeframe dictated by Council Policy. Where the Council's contractor engages sub-contractors ensure the same prompt payment benefits are passed to them
- To ensure that where these responsibilities are delegated to other officers within their Department that these officers are familiar with the provisions of the Horsham Procurement Code and that they have received appropriate training before undertaking any procurement activity.

2.2 Commissioning and Performance Manager

- 2.2.1 The Commissioning and Performance Manager will ensure that:
- The Horsham Procurement Code and Procurement Toolkit are kept up to date and easily accessible
 - Training is available to Officers and Members

2.3 Head of Legal and Democratic Services

- 2.3.1 The Head of Legal and Democratic Services will ensure that:
- The Council's Procurement Code is kept up to date of any relevant legislative changes and any changes to the Council's Constitution.

PART B – PRE-PROCUREMENT CONSIDERATIONS

3. PRE PROCUREMENT CONSIDERATIONS – COMMISSIONING AND PROCUREMENT

- 3.1 Horsham District Council District Plan Priorities states the Council will ensure that all necessary steps will be taken ensure that it acts as a Commissioning Council from 2015/16. This is to secure delivery of sustainable quality services for our customers that are designed around their present and future needs that ensures successful outcomes are achieved through the most efficient and appropriate modes of delivery. This will be achieved by application of transparent, equitable and measurable processes providing value for money and effective returns of investment economically and socially. The application of the Horsham Procurement Code is a key factor in achieving this requirement.
- 3.2 Commissioning and Procurement are complementary activities. Procurement provides the mechanisms and means by which the outcomes determined by commissioned decisions are put into place. To ensure outcomes that have been commissioned are achieved Procurement has to deploy a strategic approach through adopting and implementing a Strategic Sourcing Strategy, Strategic Relationship Management and the principles of Sustainable Development. Their role is providing advice and guidance to internal teams on legally compliant and economically efficient means of procuring goods and services.
- 3.3 The Procurement team takes an active partnership role in project teams managing higher value tender processes, and leads corporate contracting exercises. This is in accordance with the internal procedures contained in the Procurement Code and, where applicable, relevant UK Regulations which implement EU Directives. The key issue is that Procurement shall be involved in the Commissioning process from the initial stages proving the operational expertise to implement the strategic outcomes determined by a commissioning council. Attention will have to be given to ensuring that the gearing between the commissioning and procurement cycles is smooth and precise.
- 3.4 The Procurement team has a crucial role as the main agents in implementing and advising on Commissioning decisions. It is essential that they have detailed involvement from the outset. The Procurement team;
- shall be involved in any initial discussion in regard to Commissioning and the setting and achievement of outcomes;
 - can advise in regard to what strategic approaches can be applied to the market and can advise on how compliance with procurement legislation and best practice can be maintained, and;
 - will advise on strategic sourcing and provide market intelligence to ensure that best value for money is achieved and demonstrated though the application of transparent and equitable processes to facilitate fair competition in the provision of compliant services.
- 3.5 Further issues that will need consideration in regard to Commissioning/Procurement encompass several areas including;

- The Public Services (Social Value) Act 2012
 - The Localism Act 2011
 - Equality Impact Assessment (EQIA)
 - Stakeholder engagement including co-design and co-production
 - Compliance with other related legislation for example Data Protection and Security legislation
 - Legal considerations including an appropriate form of contract/legal agreement
 - Financial considerations such as minimum organisation turnover and whether a Performance Bond or Parent Company Guarantee may be required
 - Project Management and Contract Management requirements
- 3.6 The Commissioning and Performance Manager and Procurement team can provide support and assistance in regard to these issues. To reiterate the key aspect to achieve the required outcomes is involvement of the Procurement team from the inception of any project.

4. STAKEHOLDER AND EARLY MARKET ENGAGEMENT

- 4.1 There are many types of Stakeholders, who they are, what motivates them and the outcomes they are seeking will vary from one service or project to another. Stakeholder engagement may take several forms such as:
- Customer intelligence – understand the customer and the outcomes they seek;
 - Demand Review – to understand the type of service currently provided and the demand for it and whether there are alternative forms of service provision;
 - Customer market – understand how customer demand is changing and evolving (e.g. have customers expectations changed?; does technology play a role in changing patterns of demand?; do the actions of other parties (e.g. withdrawal of a service by another agency) affect customer demand?)
- 4.2 Early market engagement with supply organisations which may be interested in supplying goods or providing services to the council is encouraged.
- 4.3 A structured dialogue with independent experts, trade association bodies or suppliers/organisations actually operating in the marketplace may help to identify the current capabilities, any new developments or innovations in the pipeline, and assist in estimating the cost of the requirements.
- 4.4 The advice obtained may be used to assist in the creation of the procurement documentation and inform how the procurement process is conducted but Heads of Service must ensure that such use does not distort competition or discriminate against any suppliers or organisations.

5. LOCALISM ACT 2011: COMMUNITY RIGHT TO CHALLENGE

- 5.1 The Act introduces a Right for organisations such as charities, voluntary bodies, Parish Councils and two or more Council employees to submit an expression of interest in running a council service.

- 5.2 The Council has an obligation to consider all expressions of interest and if the application is successful the Council must commence a procurement exercise in accordance with the rules laid down in the Horsham Procurement Code and, where applicable, the Public Contract Regulations and EU Procurement Directives.
- 5.3 Any procurement exercise arising from a successful application must be drawn up so as not to disfavour the applicant's aspirations (e.g. divide the requirement into smaller Lots), but must also ensure that the specification is sufficiently balanced that other organisations may bid.
- 5.4 The Director of Corporate Resources is responsible for receiving, validating and accepting or rejecting expressions of interest in accordance with the Community Right to Challenge.

6. DETERMINING THE CONTRACT VALUE

- 6.1. Prior to commencing a procurement exercise it is the responsibility of the Head of Service to estimate the *total value* of the contract or project. This will indicate which procurement route must be followed in order to comply with the Horsham Procurement Code. The estimated value means the aggregated value payable in Pounds Sterling exclusive of Value Added Tax.
- 6.2. The total contract value is based on the whole cost of ownership and therefore includes not only the purchase price but all the associated costs over the entire contract period (including any potential extension). These could include installation, training, maintenance, consumable items and disposal costs.
- 6.3 If the expenditure on an item, service or with a particular supplier is recurring then the likely expenditure over a 12 month period must be determined and multiplied by the length of the contract. Where the contract is for an uncertain duration, then as per the requirements of the Public Contract Regulations 2015, the total value shall be determined as the value of the requirement over a period of 48 months.
- 6.4 Where the requirement covers a number of suppliers providing the same goods, services or works then the contract value shall be the combined sum of all the individual contracts.
- 6.5 Where the Council is collaborating or acting on behalf of other public bodies then the contract value shall be determined as the combined sum of all the individual public bodies requirements.
- 6.6 Where it is intended to package the contract into several different "lots", e.g. based on geographical area or by particular type of requirements, then the contract value shall be the total value of all the combined lots.
- 6.7 In the case of Concession contracts (i.e. where the Service Users as opposed to the Council make payments to the contractor for use of the service) then the total value (i.e. turnover) of the contract must be used to determine the contract value. Procurements for Concession contracts should be undertaken in accordance with Section 13.2.

- 6.8. Contracts cannot be shortened in length to less than 48 months, or a contract requirement split into separate or smaller packages, solely to avoid an EU or local tender threshold.

7. DETERMINING THE PROCUREMENT ROUTE

- 7.1. All tender processes (any contract value of £50,000 and above for goods and services and £100,000 and above for works contracts)¹ must be notified in writing to the Procurement team. The most convenient way of notifying the Procurement Team is by the completion of the Procurement & Contracts checklist e-form (section 8.1).
- 7.2. The majority of the Council's procurement activity falls within the Goods and Services contract categories. The table below (7.13) identifies the procurement route required depending on the value of the contract. Works contracts are generally for construction related projects and therefore only used by a few Departments within the Council, the Works thresholds table can be found in section 25.
- 7.3. Where the requirement covers a combination of goods, services and/or works then the element with the greater value will determine the procurement route followed. For example the purchase of a piece of equipment (goods) for £10,000 together with building related works to fix it in situ costing £20,000 would be a Works contract. These rules also apply in circumstances where there may be a mixture of services some of which may be subject to the *Light Touch Regime*, see section 13.
- 7.4. In all instances, if there is a current corporate contract in place for the goods, works or services required then the corporate contract must be used and no further quotations or tenders are required. Details of corporate contracts are available on the procurement pages of the intranet.
- 7.5. The use of Framework Agreements is permitted for any value of contract, please see section 9 for further information on what a Framework Agreement is and how to access them.
- 7.6. Any procurement exercise triggered as a result of an Expression of Interest submitted under the Community Right to Challenge shall be undertaken in accordance with the requirements detailed in this Horsham Procurement Code.
- 7.7. With the exception of any employee-led mutual organisation tenders or quotations will not be invited or considered from individual Council employees, business partnerships in which a Council employee is a partner, companies in which a Council employee is a paid director or any business where a Council employee has an interest which exceeds a nominal value of £25,000 or one hundredth of the total issued share capital.
- 7.8. The selection and engagement of consultant architects, engineers and surveyors or other professional consultants shall be subject to section 21 of

¹ A Goods (Supply) contract covers the procurement of products e.g. stationery, vehicles, equipment etc. Services contracts are the procurement of skills and expertise provided by an individual or other organisation (e.g. grounds maintenance, facilities management, training etc.) Works contracts cover the procurement of any building work, building repairs and maintenance, construction, civil engineering etc.

this Horsham Procurement Code. *Consultants* shall be required to provide evidence of and maintain professional indemnity policies to the satisfaction of the relevant Head of Service for the periods specified in the respective agreement.

- 7.9 The requirement to seek written quotations or tenders shall not apply where the Council is:
- (a) seeking arbitration or conciliation services;
 - (b) seeking the advice of counsel;
 - (c) seeking services of counsel by way of representation;
 - (d) seeking the services of an expert witness;
 - (e) acquiring (or renting) or disposing of land or existing buildings or other immovable objects;
- 7.10 Certain partnerships arrangements with other organisations (usually other public bodies) to provide services on behalf of the Council may fall outside of the scope of the Public Contract Regulations 2015. Heads of Service should consult the Commissioning and Performance Manager or Head of Legal and Democratic Services if such a partnership is being considered.
- 7.11 The Council does not allow the use of Approved or Preferred Supplier Lists that have not been created by open competition. Such lists must be re-advertised every 4 years unless otherwise agreed by the Procurement Team.

7.13 Procurement Thresholds and Contract Award Procedure - Goods and Services Contracts (see 25 for Works contracts thresholds)

Total Value	Procurement Route	Short-listing of potential suppliers	Receipt of Quotes / Tenders	Contract Approval and Award	Method of Contract Completion	Transparency Code Obligations
Under £4,999.99	Evidence of value for money	Head of Service ¹	Head of Service ¹	Head of Service	Signature and or purchase order raised	Publish details of all contracts over £5,000 in Council's Contracts Register
£5,000 - £49,999.99	Three written quotations	Head of Service ¹	Quotations returned to Department and opened and reviewed by at least two officers	Head of Service.	Signature	Publish details of all contracts over £5,000 in Council's Contracts Register
£50,000 – EU Threshold (see intranet for current EU Thresholds)	Invitation to tender, to at least five Tenderers by advertisement on the Council's website the SE Shared Services Portal and <i>Contracts Finder</i> . Other media can also be used	Tenders to be evaluated by a minimum of two officers.	Tenders submitted via Council's secure e-tendering platform and electronically opened once closing date and time has passed.	Up to £100,000 Head of Service ² / Director / Chief Executive approval.	Up to £100,000 Signature	Advertise all tenders and publish details of the Contract Award on SE Shared Services Portal. Publish details of all contracts over £5,000 in Council's Contracts Register
				Over £100,000 Cabinet Member, Cabinet or relevant Committee	Over £100,000 Sealing	Advertise all tenders and publish details of the Contract Award on SE Shared Services Portal. Publish details of all contracts over £5,000 in Council's Contracts Register
Above EU Threshold	EU Procedure, or where this does not apply, invitation to tender to at least five Tenderers by advertisement on the Council's website, the SE Shared Services Portal, <i>Contracts Finder</i> and by advertisement in the Official European Journal. Other media may also be used.	Tenders to be evaluated by a minimum of two officers. Approval of shortlist by , Head of Service and relevant Director	Tenders submitted via Council's secure e-tendering platform and electronically opened once closing date and time has passed.	Cabinet Member, Cabinet or relevant Committee	Sealing	Advertise all tenders in OJEU and then SE Shared Services Portal. Publish details of Contract Award in OJEU and on SE Shared Services Portal. Publish details of all contracts over £5,000 in Council's Contracts Register

¹the Head of Service may delegate these functions in accordance with Section 3F, paragraph 1.4c of the Council's Constitution Scheme of Delegation to Officers

²in accordance with section 14 of the Procurement Code the following Heads of Service have authority to accept tenders and enter into contracts up to a value of £100,000. Head of Finance, Head of Census ICT, Property & Facilities Manager, Waste and Recycling Manager and Street Scene & Fleet Manager. For all other Heads of Service the threshold is £50,000.

8. PROCUREMENT & CONTRACTS CHECKLIST

8.1 Heads of Service should use the Commissioning and Procurement & Contracts e-forms for all procurements including Concession contracts over £50,000 in value, although it may also be used for lower value procurements. These e-forms serve as check-lists which can identify the particular requirements which may need to be incorporated into the project specification and contract. They cover the following elements:

- a) information to assist in drafting contract documents
- b) information to help identify the best commissioning or procurement route for the requirement
- c) information to help identify how the requirement may be best packaged to meet the needs of service users or residents including incorporating requirements of the Public Services (Social Value) Act 2012
- d) to identify how Equalities, Safeguarding and other legislative and Corporate requirements have been considered
- e) to identify whether there are any IT considerations such as Data Protection or Cyber Security requirements which need to be incorporated into the documentation;

Additional information may be found in the Procurement Toolkit

9. USE OF FRAMEWORK AGREEMENTS

9.1. A Framework Agreement is a contract that has been officially tendered for by another local authority, public sector organisation, Purchasing Consortium, or central Government. The contract is awarded to one or more suppliers, and has provision to allow other public sector bodies to use the contract without having to undertake their own tender process **so long as these public bodies have been clearly identified in the advert which led to the creation of the Framework Agreement.** Acquiring goods, works or services under a Framework Agreement can be a very efficient method of procuring the Council's requirements.

9.2 Framework Agreements may be used at any of the threshold levels as an alternative to the procurement routes identified in Tables 7.13 and 25 subject to 9.3 below. A framework agreement should only be used where the benefits justify its use.

9.3 Caution must be taken to follow the rules for accessing a Framework Agreement as these rules can vary from one Agreement to another. Failure to comply with the rules of a Framework Agreement could result in the Council being found in breach of the Regulations and either fined or have the contract cancelled. Guidance should be sought from the Procurement Team in order to:

- Establish if the Council can legally access the Framework Agreement;
- Check that the advertised total contract value of the Framework Agreement has not been exceeded;

- Determine whether the Council must enter into an agreement with the Authority that created the Framework Agreement prior to using it;
 - Establish the rules of the Framework Agreement governing the selection and invitation of organisations listed on the framework. Where no guidance is provided all organisations listed on the Framework Agreement shall be invited to tender in accordance with the local tender process outlined in this Procurement Code;
 - Establish the evaluation criteria that must be used on the framework agreement to determine the successful Tenderer;
 - Comply with any minimum requirements outlined in the Framework Agreement regarding the provision of information to the bidders;
 - Acknowledge that **only minor modifications** to the Terms and Conditions of the Framework Agreement are permissible. If more substantial contractual modifications are required the Council must tender for the requirement in its own right;
 - Comply with any minimum timescales for bidders to respond to the Council's Invitation to Tender;
- 9.4 Ensure that where the value of the requirement is £50,000 and above for goods and services or £100,000 and above for works, tenders are returned in accordance with Section 12.8;
- 9.5 Ensure that the provisions for the *Contract Award procedure* detailed in the Framework Agreement including any requirement to observe a "Standstill Period" are followed. In addition, the Council's procedure detailed in Section 14 on Contract Award must be followed.
- 9.6 Once use of the Framework Agreement has been concluded the Head of Service shall ensure details of the subsequent contract are published in accordance with the requirements of the Transparency Code and Council's Contracts Register detailed in with section 20.

10. EXEMPTIONS

- 10.1 There is provision within the Horsham Procurement Code for the requirements of obtaining quotations or tenders to be waived, however the following conditions apply:
- **NO exemptions can be made if the EU Procedure applies**
 - **NO exemptions can be made retrospectively.**
- 10.2 An exemption can only be applied when it is to the clear benefit of the Council to exercise an exemption. In considering whether an exemption is appropriate, an assessment needs to be made of the costs, benefits, outcomes and risks that follow should an exemption be agreed. An exemption shall only be agreed where the risks are proportionate to the benefits. The justification for an exemption must be evidenced in writing.
- 10.3 Although it is not an exhaustive list, it is likely that the grounds for the exemption will be one of the following:
- A contract is required as a matter of genuine urgency (e.g. flood alleviation/damage)

- There are sound reasons why there would not be a genuine competition and no reasonable alternative is available
 - The specification for goods and services is of a particularly specialised nature which only a very limited number of suppliers can meet and tenders will be invited from all suitable suppliers
 - The contract period cannot be accurately determined as the service area is undergoing review or restructure which may change future requirements. In these instances an exemption may be granted for a limited period of time in order to ensure the correct delivery model can be agreed prior to tender or quotation.
 - The Council's pre-set 70% Price, 30% Quality evaluation criteria for **tender** processes (see section 12.7.5) are not thought to represent best value for money for the requirement.
- 10.4 All exemptions and the reasons for them must be recorded using the [Procurement Exemption Form](#) on the intranet. The Head of Service seeking the exemption must provide clear and sufficient evidence why the contract matches one or more of the criteria set out above. **NOTE: this evidence may need to be provided to the Cabinet Office to explain why a procurement process was not undertaken.** If there is uncertainty whether the exemption is likely to be granted advice should be sought from the Procurement Team.
- 10.5 All exemptions for a contract value of £49,999.99 or less must be approved by; the relevant Head of Service, the Head of Legal and Democratic Services and the Director of Corporate Resources. A copy of the approved electronic Exemption Form shall be emailed to the relevant Head of Service, the Procurement Team and to Democratic Services for recording in the electronic database of delegated decisions managed by the Director of Corporate Resources.
- 10.6 All exemptions for a contract value of £50,000 and above must be approved by the relevant Head of Service, the Head of Legal and Democratic Services and Director of Corporate Resources or Chief Executive in consultation with the relevant Cabinet Member. A copy of the approved electronic Exemption Form shall be emailed to the relevant Head of Service, the Procurement Team and to Democratic Services for recording in the electronic database of delegated decisions managed by the Director of Corporate Services.
- 10.7 If an exemption is agreed it will still be necessary to accurately complete the contract administration procedures such as contract formation and checking of insurances and recording in the Contracts Register (section 20) in a timely manner.

PART C – QUOTATION PROCEDURE

11. QUOTATION PROCESS

- 11.1 Where the estimated value or amount of a proposed contract is £4,999.99 or less and provision has been made in the Council's annual budget for such expenditure, the Head of Service concerned shall have the authority to enter into any such contract provided they are satisfied that the Council is receiving value for money. A purchase order must be raised for all purchases via the Council's financial management system.

- 11.2 Any contract valued between £5,000 and £49,999.99 for goods and services or between £5,000 and £99,999.99 for works should follow the formal quotation process (see bullet points 11.3 to 11.11 below). If there is any doubt whether the contract may exceed £49,999.99 (goods and services) or £99,999.99 (works) then a formal tender and contract award process in accordance with section 14 must be followed.
- 11.3 A request for quotation shall, **where appropriate**, contain the following information (check the [Procurement Toolkit](#) for up to date list of requirements and access to all the standard documents):
- Background information and Instruction to bidders – concise relevant information about the Council, and details of the quotation procedure
 - A statement that the Council is not bound to accept any quotation and that all submissions are at the supplier's own cost
 - Details of any minimum levels of financial, legal and/or technical capability required of the bidder – see paragraph 11.4 below.
 - Evaluation criteria and process that will be used
 - The Specification – details the goods, services or works that are required
 - Council Contract Terms and Conditions in a form approved by the Head of Legal and Democratic Services.
 - Price Schedule – a form for the bidder to complete with their quotation pricing information
 - Method Statement – a series of questions asking the bidders to outline how the goods or service will be delivered (if appropriate to the contract)
- 11.4 The minimum criteria for participation must be clearly stated so the supplier can self-assess whether they meet these criteria. The minimum criteria applied shall be relevant and proportionate to the value and/or risk of the requirement. **Any minimum turnover threshold must be limited to not more than two times the total value of the contract.** Documentary evidence that the supplier meets these criteria should only be sought from the preferred bidder prior to making the formal contract award decision.
- 11.5 As a minimum three suppliers, one of whom ideally should be a local² supplier, must be formally requested to provide a written electronic quotation. Suppliers can be chosen by any means deemed suitable by the Head of Service including use of the SE Shared Services Portal where suppliers that have expressed an interest in working with the council register their interest. Where there are less than three suppliers that can be invited to bid for the goods or service then this must be evidenced by the Head of Service by using the procurement exemption process as detailed in section 10.
- 11.6 The quotation process must be transparent and all suppliers invited to submit a quotation must be issued with the same information at the same time and subject to the same conditions. Should any further information be issued this must be given to all suppliers on the same basis. A reasonable timescale for response must also be given.
- 11.7 A record of all correspondence between the council and the suppliers shall be maintained. Details of any additional information provided to tenderers and any clarification questions from tenderers shall also be recorded. Responses

² Local is defined as located within the boundaries of Horsham District Council

to general clarification questions received shall be issued to all suppliers except where the question is of a commercially sensitive nature unique to a particular supplier. In such cases the response shall only be communicated to that particular supplier.

- 11.8 Should the procurement process need to be extended this must be communicated to all suppliers allowing sufficient time before the closing date to ensure that no quotations may have already been submitted.
- 11.9 Quotations must be submitted electronically to a frequently monitored email address.
- 11.10 After evaluating the quotations the Head of Service must notify all the suppliers of the award decision in writing as soon as practicable, including an offer to provide feedback to unsuccessful suppliers if requested.
- 11.11 The Head of Service must ensure that details of the contract award and successful organisation are published in accordance with the requirements of the Transparency Code and the Council's Contracts Register (see section 20)
- 11.12 All documentation must be kept for a minimum of 12 months. The successful quote should be kept for the duration of the contract period. (See section 15 for more information on record keeping).

PART D – TENDER PROCEDURES

12. TENDER PROCESS

12.1 Scope

12.1.1 There are four main types of tender process:

- a) "Local Tender" - defined as any procurement process below the relevant EU Threshold (see intranet page for current Thresholds);
- b) "EU Tender" – defined as any procurement above the relevant EU Threshold;
- c) "Light Touch Regime Tender" – a tender for certain categories of Services, including health, social services, sports/leisure, and certain legal services, which are outside the full regulations of the EU Procurement Directives. Further details may be found in section 13.1;
- d) "Concessions Contract" – normally an arrangement where the Service Users as opposed to the Council make payments to the contractor for use of the service. Concession contracts normally follow a "Local Tender" process irrespective of the value. Further details may be found in Section 13.2.

12.1.2 The duration of a Tender process will be dependant upon the complexity of what is being procured and the type of procurement process being undertaken. The key milestones are detailed in the Procurement Toolkit,

however broadly speaking a local tender process will on average take 3 to 4 months and an EU tender 3 to 12 months depending on the complexity of the requirement.

12.1.3 Local tenders for Goods and Services **must** be conducted as single stage 'open' tender exercise, without the use of any Pre-Qualification Questionnaire (PQQ), unless there are exceptional reasons. An 'open' tender exercise is where the Council advertises the opportunity and all interested parties may complete and return the full tender documentation. Local tenders for Works projects or "Light Touch" Services above £172,000 may use the national standard PQQ which may be found on the Procurement Intranet pages. NOTE: There is very little scope to amend the standard PQQ.

12.1.4 There are several EU tender routes available and the Head of Service in conjunction with the Procurement Team must determine the most suitable type of procurement route to follow. The two most common routes are 'open' and 'restricted'.

- An 'open' tender exercise is where the Council advertises the opportunity and all interested parties complete and return the full tender documentation. This type of process tends to be used when there are few suppliers in the market that can provide the goods or services required;
- A 'restricted' tender exercise is a two stage process available on EU tenders where the Council advertises the opportunity and all interested companies have to submit evidence demonstrating they can meet minimum financial, legal and technical capabilities required by the Council. A Pre-Qualification Questionnaire (PQQ) may be used to obtain the evidence required to identify suitable companies for Invitation to Tender.

12.2 Conduct of the PQQ and Tender process

12.2.1 The Head of Service shall ensure that every PQQ and Tender process undertaken is transparent and that all participants are treated fairly and equally at all times throughout the process. In particular:

- ensure that competition is not distorted in circumstances when some participants in a procurement exercise may have previously assisted the Council in preparation of the procurement documentation (e.g. via a market engagement exercise). As a minimum any additional background information which the council provided to participants during a market engagement exercise should be made available to all participants of the procurement exercise;
- all participants should have access to the full procurement (PQQ or tender) documentation electronically free of charge from an appropriate web site (e.g. Council web site) or e-tendering system as soon as the advert is published. If a PQQ is to be used it must be the template document located on the Procurement intranet page and it must not be amended;
- a record should be maintained of all the correspondence between the

council and the participants including details of any additional information provided to participants and any clarification questions from participants which should be submitted in writing by email.

- a reply should be issued to all participants answering those clarification questions of a generic nature. Clarification questions specific to a particular participant or containing information of a commercially sensitive nature should only be communicated to that particular participant.
- Should the procurement process need to be extended this must be communicated to all participants allowing sufficient time before the closing date to ensure that no submissions may have already been received.

12.3 Advertising of Tender Opportunities

Local Tenders

12.3.1 **NOTE: The full set of tender documents must be ready and published on the website at the time the advertisement is placed.** All local tender exercises must be advertised by the Procurement Team on the Council's website and the SE Shared Services Portal as a minimum. Other media can also be used to ensure adequate market penetration. The advertisement must remain on these sites **for at least 28 days** and contain details of the tender exercise including timescales, any minimum selection criteria the suppliers will be expected to meet, details of the award criteria and evaluation process and a link to the website where the tender documents are published.

EU Tenders

12.3.2 All EU tenders must be advertised by the Procurement Team in the Official Journal of the European Union (OJEU), and comply with the minimum EU timescales and information that must be provided.

12.3.3 The advert should also be placed on the SE Shared Services Portal and other websites and media can also be used to ensure adequate market penetration but the OJEU advertisement must be published first.

12.3.4 The OJEU advertisement must state whether contract variants will be accepted. If nothing is stated no alternative proposals to the specification may be considered.

12.4 Pre Qualification Questionnaire and Short-listing

12.4.1. If you are undertaking a tender over £172,000 where use of a PQQ is permissible then the standard Pre-Qualification Questionnaire (PQQ) found on the Procurement intranet page must be used to short-list suppliers for invitation to submit a formal tender. The PQQ template is a mandatory format with very limited scope to add or amend questions, wording or format of the template.

12.4.2 The Selection Criteria, weightings and any minimum pass-mark must be clearly communicated to potential suppliers either as part of the advertisement or in the PQQ documentation. Selection criteria deal with the ability of the supplier to satisfy certain minimum levels of economic and financial standing,

legal capacity and/or technical or professional ability including past experience (see the Procurement Toolkit for more information).

12.4.3. Suppliers invited to respond must be given the minimum EU time period of 30 days in which to prepare and submit a PQQ electronically to the relevant Head of Service or their Department and a log should be kept of all PQQs returned. Details of minimum timeframes are detailed in the [Procurement Toolkit](#).

12.4.4 The Procurement documents must be published at the same time as the advertisement and shall contain the following information (see the procurement toolkit for standard documentation and further guidance):

- Instructions to Tenderers – concise information about the Council and its corporate objectives, details of the requirements and the timetable for completion; full details of the evaluation process including any minimum requirements suppliers must be able to meet and all the assessment criteria and weightings which will be used; details of the minimum [should not be less than five (5)] and/or a maximum number of companies to be invited to tender.
- Draft specification – detailing the Council's requirements
- Draft Council Contract Terms and Conditions – all contracts shall be in writing in a form approved by Head of Legal and Democratic Services.
- The Pre-Qualification Questionnaire
- Freedom of Information Form

12.5. PQQ Evaluation Process

12.5.1. The Head of Service must ensure that the PQQ/Selection process is transparent and that all applicants are treated fairly and equally at all times throughout the process. In particular:

- Confidentiality of PQQ submissions, and the identity of Applicants are preserved at all times
- Information about one Applicant's response is not to be given to another Applicant
- PQQs must be evaluated only in accordance with the Selection Criteria detailed in the advertisement/documentation, additional criteria or sub-criteria **must not** be used.
- a thorough PQQ evaluation is undertaken by a minimum of two appropriately qualified officers
- advice is sought from the relevant Service Department (or it may be agreed that the relevant Service Department undertakes the evaluation) on any areas of Selection Criteria that require specialist knowledge in order to evaluate effectively e.g. Financial Information, Equalities and Diversity, Health and Safety, Sustainability etc
- That there is a formal detailed record of how the evaluation process was conducted and the shortlist of those companies Invited to Tender (ITT) was reached. In particular details must be kept of all the discussions and outcomes of any moderation meeting where officers evaluating the

submissions have discussed and amended or averaged participants scores, and the reasons for these amendments recorded.

- the PQQ evaluation scoring spreadsheet and assessment is independently checked for accuracy before the Invitation to Tender (ITT) is drawn up

12.5.2. Upon conclusion of the PQQ evaluation process the Head of Service must write to all unsuccessful applicants advising them of the reasons why they have been unsuccessful, allowing a short period of time for the applicants to request further information as required. If the applicant requests further information or a formal debrief this should be provided. Further details may be found in the Procurement Toolkit.

12.5.3. Heads of Service are advised to wait 5 days after the unsuccessful applicants have been advised before issuing the Invitation to Tender to the successful companies.

12.6. Invitation to Tender Pack

12.6.1. Tenderers must be given an adequate period in which to prepare and submit a proper tender consistent with the urgency of the contract requirement. For local tenders this should not be less than a period of **28 days**, unless there is a justifiable reason. For EU tenders it should be the minimum period stipulated for the particular procurement route. See the [Procurement Toolkit](#) for further guidance.

12.6.2. Invitations to tender must be proportionate to the value and level of risk associated with the requirements but shall include the following (**see the [Procurement Toolkit](#) for access to all standard documentation templates and further guidance**):

- Instructions to Tenderers – Concise information about the Council, what the requirements are, how they link with the Council's corporate objectives, the timetable for completion; full details of any minimum financial/technical/suitability requirements suppliers must be able to meet, the evaluation criteria and weighting, including any sub-criteria that will be used to award the contract, and details of the evaluation procedure including any presentations/ interviews that may be required
- Final specification – detailing the Council's requirements in sufficient detail to enable the submission of competitive offers
- Council Contract Terms and Conditions - all contracts shall be in writing in a form approved by the Head of Legal and Democratic Services.
- Freedom of Information form
- Price Schedule – a clearly structured form enabling the bidder to easily complete with full details of all the tender prices excluding VAT
- Method Statement – a series of questions asking the bidders to outline how the goods, works or service will be delivered (if appropriate to the contract)
- Form of Tender

12.7. Evaluation Criteria

12.7.1. The evaluation criteria are those used to determine which tenderer(s) are awarded the contract. NOTE: All evaluation criteria and assessment process that will be followed to generate the marking scores must be fully detailed in the tender documentation. **No additional criteria can be added following publication of this document.**

“Selection” Criteria

12.7.2 “Selection” criteria are those normally assessed via a PQQ and cover elements such as suppliers’ capability, capacity and past experience, for example to satisfy minimum levels of economic and financial standing, and / or technical or professional ability. These **minimum requirements which suppliers need to meet must be clearly stated in the tender documentation** and evidence of compliance submitted or a link provided to a website where this information is stored.

12.7.3 In the case of an ‘open’ tender the minimum requirements should be stated as per 12.7.2 above but the evidence on the tenderer’s compliance **shall not be requested** until after the Award Criteria (see 12.7.5 – 12.7.8 below) have been evaluated and a Preferred Bidder(s) has been identified.

12.7.4 The Selection criteria information which the supplier(s) may be asked to confirm (and subsequently to provide documentary supporting evidence) are:

- Evidence that they fulfil the mandatory requirement and discretionary requirements (where applicable) relating to disclosure of criminal and misconduct offences required by Regulation 57 of the UK Public Procurement Regulations, 2015. See Procurement Intranet Pages for full list;
- Evidence that they shall hold valid public liability and Employers liability insurance or other required insurances at the values required by the council (or that they are prepared to obtain such levels of insurance cover by the start of the contract). The types and level of insurance cover required will be determined by the nature of the requirement. The Council’s Accountancy Section can provide further guidance.
- Evidence of a sound financial standing – this will normally be through an assessment of audited trading accounts or other official financial/trading records approved and assessed by the Council’s Accountancy Section. The requirements should be based on the relative value and risk of the requirement and the method of assessment to be used should be detailed in the tender documents. If a minimum turnover threshold is required this shall not exceed twice the estimated contract value and again must be stated in the tender documents. The Accountancy Section can provide advice on these matters.
- Evidence that they possess the necessary experience, skills and ability to perform the type of contract for which they are bidding;

- Satisfactory trade/customer references from existing Public or Private Sector organisation client (optional);
- A copy of their company Health and Safety Policy and Plan and confirmation that the supplier conforms with statutory obligations;
- A valid CIS tax exemption certificate (for construction related contracts only);
- Evidence of their Equalities Policy, and Environmental Policy and monitoring arrangements and confirmation that the supplier conforms with statutory obligations (optional depending upon the type of procurement);

“Award” Criteria

12.7.5 The Council shall evaluate contracts on the basis of the offer which is the most economically advantageous to the Council based on price or cost-effectiveness using a model such as the whole life cost cycle criteria outlined in 12.7.8 below and the Procurement Toolkit. The criteria at Award stage are split into Price and Quality criteria and given a percentage weighting. **Unless otherwise agreed by the Director of Corporate Resources the criteria for the Price element must be not less than 70% and not more than 90% of the evaluation criteria. Director agreement shall be documented in writing by means of a completed Procurement Exemption e-form.**

12.7.6 Award evaluation criteria are used in the tender to assess the ability of those Suppliers invited to tender to meet the Council's specification and the cost of providing the service. This is often referred as the Most Economically Advantageous Tender (MEAT) evaluation. The Tenderer should be requested to complete method statements to evidence that they are capable of meeting the Award Criteria. The criteria used must be linked to the requirements and be proportionate to the value and level of risk associated with the requirement. Award evaluation criteria may include the following:

- Quality of the requirement, including any relevant technical or functional requirements of the item/service;
- Equalities/accessibility considerations;
- Relevant social and environmental criteria;
- Innovation;
- Qualification and experience of staff assigned to undertake the contract (where this can have a significant impact of the quality of contract performance);
- delivery timescales, installation and commissioning, customer services, technical assistance, maintenance, etc.;
- Presentations and/or site visits.

12.7.7 The Award evaluation criteria used to determine the award of the contract **MUST** be clearly detailed in the tender advert and / or in the tender

documentation. This information must include details of the relevant weighting of each question or section and detail any sub-criteria used and the method by which the suppliers' responses will be assessed. Furthermore, if there is any minimum pass-mark requirements for specific technical sections these must also be detailed in the tender documentation.

- 12.7.8 The evaluation of the pricing element must be undertaken on the basis of the most economically advantageous tender and must be based on whole life cost cycle criteria where relevant. These may include:
- Costs relating to acquisition (e.g. equipment purchase price, installation costs, training, consultancy costs, etc.);
 - Costs of use (e.g. consumption of energy, etc);
 - Maintenance costs;
 - End of life costs such as collection and disposal or recycling;

Heads of Service should consult with the Procurement team before using any of these whole life cycle criteria.

12.8. **Tender Receipt and Opening**

12.8.1. *Electronic Receipt (e-tendering)*

12.8.1.1. Where the procurement route has been agreed as an e-tender exercise using the Council's approved e-tendering solution, all information must be submitted via the e-tendering solution by the date and time stipulated in the *Invitation to Tender*.

12.8.1.2. All tenders will be stored electronically by the e-tendering provider in a secure inbox. Access to the system will be password protected at individual user level. Only once the deadline for receipt has passed will the e-tendering system allow the user to login and electronically open the tenders.

12.8.1.3. Use of any other electronic tendering or bid submission portal/system (e.g. G-Cloud) to receive tenders or quotes via Framework Agreements shall be subject to the prior approval of the Procurement team.

e-auctions

12.8.1.4 If the Head of Service wishes to use an e-auction to fulfil the requirement, use of such system shall be subject to the prior approval of the Procurement team.

12.8.1.5 By using e-auctions it is customary in the case of late bids being received that the time (but not the date) for the receipt of tenders is extended to give rival bidders an opportunity to respond. Provided that such arrangements are set out in the tender details this procedure shall not be a breach of the Horsham Procurement Code.

12.8.2. Hard Copy Postal Receipt

12.8.2.1. All Tenders estimated to have a total value of £50,000 or above for goods and services, and £100,000 or above for works which are not submitted to the Council via the e-tendering system must be returned to Democratic Services in a sealed envelope bearing the word "Tender" followed by the name of the tender and the date for return. The envelope shall not bear any other mark to indicate the identity of the tenderer. The Protocol outlined below should be followed for paper tenders.

- a) The Head of Service must notify Democratic Services well in advance of the closing date for receipt of the invitation to tender, including details of the goods/services or works the subject of the tender, receipt of tender date/time, list of potential Tenderers, estimated contract value and officer(s) and Member(s) to be invited to the opening.
- b) The Democratic Services Officer shall be responsible for the safekeeping of all Tenders until opening. Receipt of each Tender must be:
 - date-and time-stamped and receipted to indicate whether received by hand or by post
 - initialled by the receiving officer
- c) The Democratic Services Officer must ensure that all Tenders are opened at the same time when the period for their submission has ended. At the opening, all tenders received within the proper timescale must be logged in the Tenders Register, recording the following:
 - the last date and time for the receipt of tenders;
 - the date and time upon which the tender was actually received and the receipt number;
 - the estimated tender price;
 - the name of the tenderer and the total amount of the tender;
 - the date and time that the tenders were opened;
 - the signature and names of all those present at the opening;
 - the signature of the officer to whom the tenders were handed after opening together with the details of the number of tenders and identity of the tenderers.
- d) Tenders must be opened in the presence of:
 - i. for contract values not exceeding £100,000 the Chief Executive or relevant Director and the relevant Head of Service or such officer as each respectively shall have designated for the purpose;
 - ii. for contract values over £100,000 the Leader or other Cabinet Member, the Chairman or other member of the appropriate Committee together with the Chief Executive, relevant Director and relevant Head of Service or such officer as each respectively shall have designated for the purpose;

Tables 7.13 and 25 summarise which Council representatives are required to be present.

- e) Upon opening, a record of the value of the Tender or Quotation must be recorded in the Tenders Register. The summary must be initialled on behalf of the Director of Corporate Resources.
- f) No tender received after the closing date and time stipulated in the Invitation to Tender will be considered unless the Head of Legal and Democratic Services is satisfied that there is evidence of it having been despatched in sufficient time to have arrived before the closing date and time.

12.9. Tender Evaluation Process

12.9.1. The Head of Service must ensure that:

- The scoring/assessment model in the evaluation spreadsheets are independently checked by another officer not involved in the procurement prior to the spreadsheet being used
- Confidentiality of Tenders, and the identity of Tenderers, is preserved at all times
- Information about one Tenderers response is not to be given to another Tenderer
- Tender submissions must be evaluated and awarded in accordance with the Selection and Award Criteria
- A thorough tender evaluation is undertaken by a minimum of two officers.
- Advice is sought from the relevant Service Department (or it is agreed that the relevant Service Department undertakes the evaluation) on any areas of Selection Criteria that require specialist knowledge in order to evaluate competently and effectively e.g. Financial Information, Equalities and Diversity, Health and Safety, Sustainability etc. This should be scheduled with the relevant Service Department well in advance
- There is a formal record of how the evaluation process was conducted and the contract award recommendation was reached. In particular details must be kept of the discussions and outcomes of any moderation meeting if officers evaluating the tender submissions have discussed and amended or averaged tenderers scores, and recorded the reasons for these amendments
- The tender evaluation process and the evaluation scoring spreadsheet is independently checked before a Contract Award Recommendation is made

12.9.2. The arithmetic content in Tenders must be checked. If arithmetical errors are found in the tender they should be notified to the Tenderer, who should be requested to confirm or withdraw their Tender, in writing.

12.9.3. Where appropriate, the Head of Service shall ensure that submitted tender prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily, in particular:

- to be alert to the risk of collusion between tenderers and aware of indications of potentially anti-competitive behaviour and report any suspicious bidding activities to the Procurement team;
- to be alert to the possibility of receiving an Abnormally Low Bid from one or more tenderers. If an Abnormally Low Bid is suspected the procedure outlined in section 12.11 below shall be followed.

12.10. Post-Tender Negotiation

12.10.1 Post-Tender Negotiation means negotiations with any Tenderer after submission of a Tender and before the award of the contract with a view to obtaining adjustments in both price and content. Public Procurement rules only allow limited negotiation on certain types of procurement route. It is not allowable on most EU Tenders procedures.

12.10.2 Post-Tender Negotiation must only be conducted in accordance with any guidance issued by the Commissioning and Performance Manager and Head of Legal and Democratic Services who must be formally consulted:

- wherever it is proposed to enter into Post-Tender Negotiation, and
- about whether the negotiation is to be with all Tenderers.

12.10.3. Post-Tender Negotiations must be conducted by a team of at least two officers.

12.10.4. In all cases where Post-Tender negotiations result in a fundamental change to the specification or contract terms, guidance shall be sought from the Commissioning and Performance Manager and the Head of Legal and Democratic Services prior to any award decision.

12.10.5 If Post-Tender Negotiations are necessary then such negotiations shall only be undertaken with the Tenderer who has previously been identified as submitting the most economically advantageous Tender. The Head of Service shall ensure that there are recorded minutes of all Post-Tender Negotiation meetings and that both parties agree actions in writing.

12.11 Abnormally Low Bids

12.11.1 In the event that the Head of Service believes that one or more of the bids received from Tenderers may be an *Abnormally Low Bid* they should consult with the Procurement team and Head of Legal and Democratic Services to review the bid(s) submitted and for support throughout the clarification process. A bid may be regarded as being Abnormally Low if there is a significant difference in price between the bid and other bids received.

12.11.2 If it is still believed that the bid(s) may be an Abnormally Low Bid then the Head of Service should request in writing from the Tenderer an explanation of the bid, or the parts thereof, which contribute to the bid being Abnormally Low. When seeking an explanation the information requested may include:

- a) detailed breakdown of the costs associated with the method of construction proposed, the manufacturing process or the services provided
- b) more information about the technical solutions proposed by the Tenderer and whether there are particular factors (e.g. innovative service model) which may give the Tenderer a competitive advantage;
- c) whether the works, goods or services proposed are exclusive to the Tenderer
- d) that the bid is compliant with provisions relating to environmental, social and labour laws, sub-contracting, etc. established by EU or national laws or collective agreements
- e) whether the Tenderer may have obtained State Aid

12.11.3 Tenderers shall not be allowed to modify Abnormally Low Bids

12.11.4 In determining whether the bid(s) is an Abnormally Low Bid the Head of Service, Procurement team and Head of Legal and Democratic Services should take into account the evidence provided by the Tenderer in response to the written request and verify the bid, or parts of the bid, being considered abnormally low with the Tenderer.

12.11.5 If after reviewing the evidence provided by the Tenderer in response to 12.11.2 it still does not satisfactorily explain the low level of price submitted by the tenderer then the Head of Service in consultation with the Head of Legal and Democratic Service may reject the bid(s) as an Abnormally Low Bid and in such case shall **immediately** notify the Tenderer that the bid is being rejected. Abnormally Low Bids must be rejected before Contract Award.

12.11.6 Where a tender is rejected on the basis of being an Abnormally Low Bid because the tenderer has received State Aid then the European Commission must be informed.

12.12 Acceptance of Tenders – Contract Award Recommendation

12.12.1 In the case of a tender following the Restricted procedure where the Selection criteria have already been assessed using a PQQ then the Head of Service should produce a Contract Award Recommendation report and seek approval in accordance with Section 14 below

12.12.2 In the case of tenders following either the Open procedure, or a Restricted procedure tender in which the supplier has been allow to submit a self-declaration stating that they meet the minimum criteria, then, once the tender evaluation process has been concluded and the Preferred Bidder(s) identified Heads of Service should:

- Request the appropriate documentary evidence in respect of the minimum Selection Criteria (see section 12.4) from the tenderer(s), and check to confirm this meets the Council's minimum requirements.
- If the documentary evidence confirms the tenderer meets the council's minimum requirement a formal Contract Award Recommendation

report should be produced and approval sought as detailed in Contract Award Procedure in Section 14 below;

- If the documentary evidence does not establish that the tenderer can meet the council's minimum requirements further clarification should be sought from the tenderer. If the tenderer still cannot provide satisfactory evidence that they are able to meet the Council's minimum requirements then further dialogue with them should be suspended. The next best ranked tenderer should then be asked to provide their documentary evidence of meeting the Council's minimum requirements;

13. SPECIALIST TYPES OF TENDER PROCESS

13.1 "LIGHT TOUCH" EU TENDERS

13.1.1 Several service areas (listed below) are subject to a "light touch" (i.e. simplified) procurement process rather than a full EU Tender process detailed in Section 12 above where the value of these services is above 750,000 Euros. These services include:

- Social and health services including Wellbeing contracts;
- Cultural, Recreational and Leisure/Sports services;
- Hotel and Temporary B&B accommodation, catering services
- Legal services
- Bailiff services
- Security services including manned guarding and patrol services
- Post and Courier services

A full list of the services covered is available from the Procurement Team.

13.1.2 For all requirements covered by this simplified procurement regime Heads of Service must ensure:

- That instruction is given to the Procurement Team to place an advertisement for the requirement in the OJEU;
- That all the documentation relating to the procurement is hosted on an appropriate website (e.g. the Council website) at the time the advertisement is placed;
- That the procurement process is undertaken in accordance with the provisions for a Local Tender process detailed in Section 12
- That instruction is given to the Procurement Team to publish a Contract Award Notice in the OJEU on conclusion of the procurement

13.2 CONCESSION CONTRACTS

Note: The rules relating to the tendering of Concession contracts will change with the publication of new Regulations during 2016. The rules below shall be followed until further notice.

13.2.1 A Concession contract (i.e. where the Service Users as opposed to the Council make payments to the contractor for use of the service) should be undertaken in accordance with the provisions for a Local Tender process detailed in Section 12.

PART F- CONTRACT AWARD AND CONTRACT MANAGEMENT

14. CONTRACT AWARD PROCEDURE

14.1. Acceptance of Tenders – Approval Route

14.1.1. Acceptance of Tenders for any approved expenditure or for the disposal of assets other than land or buildings is delegated to;

14.1.2. The Chief Executive, relevant Director, Head of Finance, Head of Census ICT, Property and Facilities Manager, Waste & Recycling Manager and Street Scene & Fleet Manager in relation to the work of his or her Department, shall have power to accept tenders (where required) and to enter into contracts on behalf of the Council to a value not exceeding £100,000. All other Heads of Service (as defined by reference to Part 3 of the Council's Constitution) shall have power to accept tenders (where required) and enter into contracts on behalf of the Council to a value not exceeding £50,000.

14.1.3. In all other cases Cabinet, the relevant Cabinet Member or relevant Committee (subject to the call-in procedure).

14.2. Notification to Tenderers – Above EU Thresholds

14.2.1. Following acceptance of a contract award recommendation, in respect of any tender above the EU Procurement Directives financial threshold or following the use of a Framework Agreement, the Head of Service must, subject to the satisfactory conclusion of a mandatory 10 calendar day "standstill period";

- Simultaneously email* all unsuccessful Tenderers providing the following information:
 - a. The criteria for the award of the contract
 - b. The reasons for the decision, including the characteristics and relative advantages of the successful tender
 - c. The evaluation score of the Tenderer receiving the notice and the score(s) of the successful Tenderer(s)
 - d. The reasons (if any) why the Tenderer did not meet the technical specifications and / or the areas where the Tenderers submission was weaker than that of the successful Tenderer(s)
 - e. The name of the Tenderer(s) to be awarded the contract
 - f. A precise statement on the date the standstill period is expected to end
 - g. Details of how the ending of the standstill period might be affected (e.g. if a Tenderer requests further information regarding the Contract Award) and if so what contingencies will be made (e.g. the standstill period will be extended to allow further information to be provided)

***In the event that email cannot be used the standstill period must be extended to 15 calendar days.**

14.2.2. The standstill period must run for a minimum of 10 days commencing the day **immediately after** the notice was sent to the Tenderer and concludes at midnight on the 10th day. If the expiry date of the standstill period falls on a

weekend or public holiday then the expiry date shall be midnight on the next working day

- 14.2.3. Should a Tenderer request further information or a debrief during the standstill period the Head of Service should immediately consult with the Procurement team and Head of Legal and Democratic Services for advice. The Council may extend the standstill period for a further period until the Tenderer has received and considered the information.
- 14.2.4. If the Council receives notification from a Tenderer that it intends to challenge a Contract Award Decision then the Head of Legal and Democratic Services must be notified immediately and the Council must automatically refrain from entering into the contract. Failure to comply could result in the Courts cancelling the contract under the EU rules.
- 14.2.5. Upon satisfactory conclusion of the standstill period the Head of Service may advise the successful Tenderer(s) that the standstill period has passed and instruct the Head of Legal and Democratic Services to draw up a formal contract with the successful Tenderer(s).
- 14.2.6 Once the standstill period has concluded a Contract Award Notice should be placed in the Official Journal of the European Journal (OJEU) by the Procurement Team within **30 days** of the Contract Award. A Contract Award Notice is not required for any contract concluded via use of a “mini-competition” under a Framework Agreement.
- 14.2.7 The Head of Service must ensure that details of the contract award and successful organisation are also published in accordance with the requirements of the Transparency Code and the Council’s Contracts Register (see section 20)

14.3. Notification to Tenderers – Local Tenders

- 14.3.1. Local Tenders, i.e. those below the EU Procurement Directives financial thresholds, are not covered by the full requirements laid out in Section 14.2 above.

However it is considered best practice to follow the same general principles of notifying unsuccessful Tenderers and, if requested by the Tenderer, providing feedback on the outcome of the procurement exercise.

- 14.3.2. When feedback is requested by an unsuccessful Tenderer the Head of Service should provide a debrief, and explain the reasons why they were unsuccessful and the characteristics and relative advantage of the successful Tenderer, as appropriate. This should normally include:
- how the Award Criteria were applied
 - where appropriate the prices or range of prices submitted, in either case not correlated to Tenderers’ names.
- 14.3.3 No other information should be given without taking the formal advice of the Head of Legal and Democratic Services.

Once all Tenderers have been notified the Head of Service shall within 30 days instruct the Procurement team to place a Contract Award Notice on the

Contracts Finder website using the template document in the Procurement Toolkit.

The Head of Service must ensure that details of the contract award and successful organisation are published in accordance with the requirements of the Transparency Code and the Council's Contracts Register (see section 20)

14.4 **Contract formalities – Signature or Sealing**

- 14.4.1. All contracts must be concluded before the supply, service or construction work begins, except in exceptional circumstances, and then only with the prior written consent of the Head of Legal and Democratic Services and the Director of Corporate Resources. A contract award letter is insufficient.
- 14.4.2 The Head of Service shall ensure that the Head of Legal and Democratic Services is given instruction and provided all the necessary supporting documentation and information in order to draw up the final contract.
- 14.4.3 Every contract exceeding £50,000 in value not required or intended to be made under seal shall be signed on behalf of the Council by two officers of the Council being the Head of Legal and Democratic Services and one of the following: the Chief Executive, any Director or other officers authorised by the Chief Executive or under the Scheme of Delegation to Officers and the details recorded in the signature register held by the Head of Legal and Democratic Services.

15 **RECORD KEEPING**

- 15.1 Heads of Service shall ensure that sufficient documentation is retained to justify decisions taken at all stages of the procurement process. As such the following documents must be retained in a secure and easily retrievable format;
 - All information including internal communications, project meeting notes, etc. regarding the preparation of the procurement documentation and undertaking of the process;
 - A written record of any exemptions obtained under the Horsham Procurement Code and the reasons for them
 - Invitations to quote and quotations received
 - Invitation to Tender and tenders received
 - Any *Contracting Decision* and the reasons for it
 - The Award Criteria
 - All evaluation information/reports
 - Clarification and post-tender negotiation (to include minutes of meetings)
 - The contract documents
 - The post-contract evaluation and monitoring documentation
 - Written records of all communications with all Tenderers and with the successful Tenderer throughout the period of the contract
- 15.2. Documentation relating to a successful quotation must be retained for the duration of the contract period, or in the case of the supply of goods or provision of works a minimum of three years after supply/completion of the requirement. Documentation relating to unsuccessful quotations must be

retained for a minimum of 12 months from the award of the contract, providing there is no dispute about the award.

- 15.3 Documentation relating to a successful tender must be kept for a minimum of three years after the final settlement/end of the contract. However, documents which relate to unsuccessful Tenderers may be disposed of after 12 months from the award of the contract, provided there is no dispute about the award. Further guidance on document retention periods is included in the [Procurement Toolkit](#).

16. CONTRACT MANAGEMENT

16.1 No contract shall commence unless and until the procurement exercise and contract documents have been completed in accordance with the Council's Procurement Code and Financial Regulations.

16.2 Heads of Service shall ensure that all contracts have an appropriate level of resource and skills assigned to the contract management based on an assessment of the contract value, service complexity, and/or level of risk or strategic importance to the Council.

16.3 During the life of the contract the Head of Service shall ensure:

- A Contract Manager with the requisite skills, expertise and resource is assigned to effectively manage the contract;
- The Contract Manager has received any additional training required to adequately perform the contract management function;
- Through effective contract management and regular formal Contract Review meetings that the performance of the contract is appropriately monitored and compliance with the specification and contract conditions is ensured;
- Ensure that where any Statutory Duty (e.g. Safeguarding Duty, Data Protection) is transferred to the Contractor that the Contractor complies with the Duty including any reporting or record keeping requirements;
- Measure user satisfaction with the contract performance;
- Maintain a joint risks register for the contract and agree with the Contractor whether these risks are best managed by the Contractor or the Council;
- Discuss any proposed contract variations with Head of Legal and Democratic Services before they are carried out. Only variations that have been clearly and specifically detailed in the initial tender documentation may be made during the course of the contract.
- Authorise in writing any variations to contracts before they are carried out. These variations to be authorised by the relevant Head of Service, relevant Director or relevant Cabinet Member.
- Ensure that a record is kept of all certificates and instructions issued under the contract;
- Maintain documentation in support of each payment showing how the payment has been calculated and maintain a record of all such payments;

- Agree any price fluctuation or indexation provisions, subject to appropriate supporting documentary evidence being provided by the Contractor;
- Levy liquidated damages when circumstances dictate these should be applied;
- Notify the Head of Legal and Democratic Services of any breach of contract;
- Contact the Head of Legal and Democratic Services for advice on any contractual matters including the levying of liquidated damages or contract termination provisions;

16.4. Further information on the importance and benefits of Contract Management can be found within the [Procurement Toolkit](#).

17. CONTRACT VARIATION

17.1 Following consultation and agreement by the Head of Legal and Democratic Services and the Commissioning and Performance Manager contracts may be modified without the need for a new procurement exercise if any of the following cases apply:

- a. There was clear and unambiguous provision for the contract modifications, irrespective of their monetary value, made in the initial tender documentation which stated the scope and nature of such possible modifications as well as the conditions under which these modifications may be used. Such modifications must not fundamentally alter the nature of the contract;
- b. To provide additional works, services or supplies by the original contractor that have become necessary but were not included in the initial tender provided that a change of a contractor cannot be made for economic or technical reasons (e.g. IPR in the software, compatibility with existing equipment, etc) or would cause substantial duplication of cost so long as any increase in price does not exceed 50% of the value of the original contract. In such cases the Council must publish a Notice in the OJEU;
- c. Where all the following conditions are fulfilled:
 - The need for the modification could not genuinely have been foreseen by the Council;
 - The modification does not fundamentally alter the nature of the contract;
 - Any increase in price does not exceed 50% of the value of the original contract;
 - In such cases the Council must publish a Notice in the OJEU
- d. Where a new contractor replaces the one to which the council awarded the contract due to company takeover, merger, acquisition, insolvency, etc. providing that this change does not entail substantial modification of the contract;
- e. The value of the modification is below the relevant EU final threshold and less than 10% of the initial contract value (goods and services) or 15% of the initial contract value (works).
 - o Where several successive modifications are made the value shall be the net aggregated value of the successive modifications;

- Where the contract has an indexation clause then the inflated value shall be the one used as the basis of the calculation;
- 17.2 A new procurement exercise shall be required for any contract modification which:
- Materially alters the contract from the one initially awarded;
 - Introduces conditions that if they had been part of the original procurement would have allowed other suppliers to participate;
 - Changes the economic balance of the contract in favour of the contractor in a manner which was not provided for in the initial contract;
 - Extends the scope of the contract considerably;
 - Introduces a new contractor to replace the initial contractor for any reason other than those listed in e) above;
 - Proposes a contract modification other than those provisions outlined in 17.1 above.
- 17.3 Once negotiations with the contractor(s) regarding the contract variation have concluded the Head of Service must provide the Head of Legal and Democratic Services with all the appropriate documentation and instructions to issue the contract variation notice in accordance with the provisions in the contract.
- 17.4 The Head of Service must forward the details of any significant contract modifications to the Commissioning and Performance Manager for recording on the Contracts Register in accordance with section 20. Details of the changes will also need to be published on Contracts Finder and OJEU.

18. CONTRACT EXTENSION

- 18.1. Any contract that expressly provides for extension may be extended in accordance with its terms provided that the Head of Service and Head of Legal and Democratic Services are satisfied that Best Value will be achieved and the extension is reasonable in all the relevant circumstances.
- 18.2. Where the contract terms do not expressly provide for extension legal advice should be sought from the Head of Legal and Democratic Services at the earliest opportunity.
- 18.3. Approval for contract extension for any approved expenditure is delegated to:
- The Head of Finance / Head of Census ICT / Property and Facilities Manager / Waste and Recycling Manager / Street Scene & Fleet Manager and Head of Legal and Democratic Services, and relevant Director or Chief Executive for contract values not exceeding £100,000;
 - All other Head of Services and Head of Legal and Democratic Services for contract values not exceeding £50,000;
- 18.4. In all other cases a Contract may only be extended with the express agreement of the Cabinet the relevant Cabinet Member or the relevant Committee or, in the case of urgency, by the Chief Executive confirmed in writing.

- 18.5 Once granted the contractor must be notified in writing of the contract extension and the Head of Legal and Democratic Services provided with the appropriate instruction and supporting documentation to issue the contract extension.
- 18.6 Once concluded the Head of Service must forward the details of the contract extension to the Commissioning and Performance Manager for recording on the Contracts Register in accordance with section 20.

19. CONTRACT TERMINATION

Contracts may be terminated by the relevant Head of Service early by agreement prior to the expiry date or in accordance with the Termination Provisions set out in the contract. **Advice must be sought from the Head of Legal and Democratic Services before terminating any contract.**

20. TRANSPARENCY CODE AND CONTRACTS REGISTER

- 20.1 Immediately upon the completion of every contract of £5,000 in value or more:
- 20.1.1 The relevant Head of Service shall complete and submit the Contracts Register e-form to the Commissioning and Performance Manager with the required details of the contract for publication in the Council's Transparency Code information and inclusion in the Council's Contracts Register.
- 20.1.2 The Commissioning and Performance Manager shall have responsibility for maintaining the procurement information in the Transparency Code publication and the Contracts Register;
- 20.1.3 Upon receipt from the successful tenderer(s) the Head of Legal and Democratic Services shall send an electronic copy of any contract which has been completed to the relevant Head(s) of Service and the Commissioning and Performance Manager for inclusion in the Contracts Register.
- 20.2 The Contracts Register shall be available on the Council's website.

PART G – MISCELLANEOUS PROVISIONS

21 USE OF CONSULTANTS

- 21.1 Consultancy is defined as having the following two characteristics:
- a. Work is project based, outside the client's usual business and there is a clear end point of the consultant's involvement; and
 - b. Responsibility for the final outcome largely rests with the client.

Also, "interims" that are used to fulfil "business as usual" roles within the organisation that would otherwise be undertaken by a salaried member of staff may be regarded as a consultant.

- 21.2 In addition to the Council's Financial Regulations and the provisions detailed in Sections 11 and 12 of the Horsham Procurement Code the provisions in this section shall apply to the appointment of an external adviser or a consultant.

- 21.3 The provider of the professional services is usually the Council's lead professional. However, the lead professional may feel that they can best meet their need for such services from outside the Council. If this is the case, then the lead professional should discuss the matter with the relevant Head of Service and agree whether or not the Council should employ external services. The Head of Service should ensure no consultant is engaged unless:
- a. Specialist skills or expertise is not available from in-house sources
 - b. There is a lack of in-house capacity to undertake the project
 - c. Any in-house proposal is not competitive
 - d. An independent opinion is required.
- 21.4 If the cost of the external adviser or consultant is estimated to be in excess of £10,000 and the Head of Service agrees that the use of the external adviser or consultant is required, they should complete the **Use of Consultants business case e-form** for approval by the Director of Corporate Resources. The business case shall provide the reason the consultant is required, the length of time, the estimated costs and the defined scope of work to be completed including the anticipated outcomes or deliverables.
- 21.5 The Head of Service may wish to select a consultant who has previously been selected to advise, represent or act for the Council. In such circumstances the Head of Service must demonstrate in the business case that a second or further appointment of that consultant is reasonable and offers the best value for money to the Council.
- 21.6 The process for procuring the external adviser or consultant will follow the procedure detailed in section 11 or 12 depending on the value.
- 21.7 The Head of Service has the responsibility to ensure that:
- The phase or stages of any project are recognised and that any appointment takes into account the contract value over the full term of the project including any potential follow-up commissions required to be undertaken by the same external adviser or consultant.
 - Where the external adviser or consultant is being jointly-commissioned in conjunction with other public bodies that the total contract value is the combined sum of all participating bodies.
 - Both the Council and external adviser/consultant agree terms in writing using the appropriate form of contract
 - Tenders are sought on a project brief or specification including anticipated outcomes or deliverables that has been prepared and agreed beforehand
 - All necessary data is supplied to the consultant in a timely and efficient manner
 - The consultant's performance is rigorously monitored regularly throughout the commission at an agreed meeting frequency to ensure effective delivery against the project brief or specification;
 - The output from the consultants exercise is matched against the brief
 - The consultant's professional indemnity insurance is both adequate and current.

- 21.8 The fee, or the basis of fee, must be agreed prior to appointment. This must include the basis on which the consultant may charge, when payment is due and whether the consultant can claim additional disbursements or expenses which shall be detailed and formally recorded.
- 21.9 There should be a requirement for the external adviser or consultant to provide as part of their commission, a transfer of knowledge and special skills to the Council relating to the expertise procured. This is to help ensure that the Council learns more and reduces its need for external advisors and consultants in the future. The Council shall retain full user rights to all intellectual property that is generated by the consultant under the appointment.

22. PREVENTION OF CORRUPTION AND BRIBERY

- 22.1. The Head of Service must ensure that officers comply with Section 5B of the Council's Constitution, Officer Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract.
- 22.2. High standards of conduct and integrity are obligatory. Corrupt behaviour shall lead to dismissal and is a criminal offence under the Bribery Act 2010.
- 22.3. Council employees shall not use any contract or other procurement arrangement entered into by the Council for their own personal use, benefit or gain other than with the prior written approval of the Director of Corporate Resources.
- 22.4. The following clause must be included, in every Council contract:
- “The Council may terminate this contract and recover all its losses if the Contractor, its employees or anyone acting on the Contractor's behalf does any of the following things:
- (a) offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done); or
 - (b) commit an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972; or
 - (c) commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees.”
- 22.5. Any clause limiting the Contractor's liability shall not apply to this clause.

23. DECLARATION OF INTERESTS

- 23.1. In accordance with Section 5A Member Code of Conduct and Dispensation Scheme and Section 5B Office Code of Conduct of the Council's Constitution if it comes to the knowledge of a Member or an employee of the Council that a contract in which he or she has a financial or personal interest has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the Director of Corporate Resources. The Director of Corporate Resources shall report such declarations to the appropriate Committee.

- 23.2. Such written notice is required, irrespective of whether the monetary interest is direct or indirect. An indirect financial interest is distinct from a direct financial interest in as much as it is not a contract to which the member or employee is directly a party.
- 23.3. A shareholding in a body not exceeding a total nominal value of £1,000 or 1% of the nominal value of the issued share capital (whichever is the less) is not a financial interest for the purposes of the Horsham Procurement Code.
- 23.4. The Director of Corporate Resources shall maintain a record of all declarations of interests notified by Members and Officers.
- 23.5. The Director of Corporate Resources shall ensure that the attention of all Members is drawn to the appropriate provisions within the Council's Code of Conduct.

24. REVIEW AND AMENDMENTS OF THE HORSHAM PROCUREMENT CODE

- 24.1 The Procurement Code shall be reviewed and updated on an annual basis or more frequently if legislation or Case Law require amendments.

25. PROCUREMENT THRESHOLDS AND CONTRACT AWARD PROCEDURES - WORKS CONTRACTS

Total Value	Procurement Route	Short-listing of potential suppliers	Receipt of Quotes /Tenders	Contract Approval/Award	Method of Contract Completion	Transparency Code Obligations
Under £4,999.99	Evidence of value for money	Head of Service ¹	Head of Service ¹	Head of Service	Signature and or purchase order raised	Publish details of all contracts over £5,000 in Council's Contracts Register
£5,000 - £99,999.99	Three written quotations	Head of Service ¹	Quotations returned to department and opened and reviewed by at least two officers	Not exceeding £100,000 Property & Facilities Manager / relevant Director / Chief Executive approval.	Signature	Publish details of all contracts over £5,000 in Council's Contracts Register
£100,000 – EU Threshold	Invitation to tender by advertisement on the Council's website and the SE Shared Services Portal Additional media can be used. Tenders to at least five Tenderers	Evaluation by a min of two Officers. approval of shortlist by Head of Service and relevant Director	Tenders submitted via Council's secure e-tendering platform and electronically opened once closing date and time has passed.	Cabinet Member, Cabinet or relevant Committee	Sealing	Advertise all tenders and publish details of the Contract Award on SE Shared Services Portal. Publish details of all contracts over £5,000 in Council's Contracts Register
Above EU Threshold	EU Procedure, or where this does not apply, Invitation to Tender by advertisement on the Council's website and in the Official EU Journal. Additional media can be used. Tenders to at least five Tenderers	Evaluation by a minimum of two Officers. approval of shortlist by Head of Service and relevant Director	Tenders submitted via Council's secure e-tendering platform and electronically opened once closing date and time has passed.	Cabinet	Sealing	Advertise all tenders in OJEU and then SE Shared Services Portal. Publish details of Contract Award in OJEU and on SE Shared Services Portal. Publish details of all contracts over £5,000 in Council's Contracts Register

¹the Head of Service may delegate these functions in accordance with Section 3F, paragraph 1.4c of the Council's Constitution Scheme of Delegation to Officers

26. DEFINITIONS AND FURTHER INFORMATION

These terms occur throughout this document as italics and are purely to act as an aide memoir to refer to this glossary and do not alter or infer any meaning to the text of the document.

Abnormally Low Bid	DG III Working Group on Abnormally Low Tenders – <i>Prevention, Detection & Elimination of ALTs in the European Construction Industry</i> (19 May1999):- “A tender is assumed to be abnormally low if:- In the light of client’s preliminary estimate & of all the tenders submitted, it seems to be abnormally low by not providing a margin for a normal level of profit and in relation to which the tenderer cannot explain his price on the basis of the economy of the construction method, or the technical solution chosen, or the exceptionally favourable conditions available to the tenderer, or the originality of the work proposed”
Award Criteria	The criteria by which the successful quotation or tender is to be selected
Best Value	The duty on local authorities to secure continuous improvement in the way in which their functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
Bond; Performance Bond	An insurance policy. If the contractor fails to deliver what it has promised under a contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (usually 10% of the contract value). A bond is intended to protect the Council against any additional costs arising from the contractor’s failure or default.
Commissioning	The process of ensuring quality council services are designed around the present and future needs of residents and customers to ensure successful outcomes.
Consultant	Any person (not an employee), agency or firm engaged for a limited period of time, on an ad-hoc and fee paying basis, to carry out a specific task or tasks. A consultant provides subject matter expertise and/or experience to the Council as required. This may, for example, be because the Council does not possess the skills or resources in-house or requires an independent evaluation/assessment to be made. Tasks would include investigating problems, providing analysis or advice or assisting with the development of new projects/systems.
Contract Award Procedure	The procedure for awarding a contract
Contract Manager	The individual appointed to manage the contractual relationship between the Council and the service provider. He/she is responsible for ensuring high quality and value for money services are maintained throughout the life of the contract.
Contracting Decision	Any of the following decisions: - withdrawal of an invitation to tender - whom to invite to submit a quotation or tender - <i>short listing</i> - award of contract - any decision to terminate a contract.
EU Procedure	The procedure required by the EU where the total expected contract value of goods, works or services exceeds the relevant EU threshold.
EU Threshold	The financial threshold at which EU public procurement directives must be applied to a <i>Relevant Contract</i> . Refer to the Procurement Toolkit for current EU thresholds.
Financial Regulations	The financial regulations contained within the Constitution.

Invitation to Tender	Invitation to Tender documents in the form required by the Horsham Procurement Code.
Joint Procurement Board	This is the governance body that manages the Shared Procurement Service. It is made up of the Commissioning and Performance Manager, Horsham District Council, the Head of Partnership Services, Crawley Borough Council and the Head of Finance, HR and ICT, Mid Sussex District Council.
Light Touch Regime (aka Health and Social Services)	Certain categories of Service which are not subject to the full scope of the EU Procurement Directives. These services include certain Health, Educational, Social, Leisure, Parks and Recreational and Security services. Contact the Procurement Team for further information.
Main Contractor	The Contractor with whom the Council has a Contract but who uses sub-contractors to fulfil elements of the contract provision.
Officers' Code of Conduct	The code regulating conduct of officers which forms part of the Council's constitution.
Parent Company Guarantee	An agreement which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a contract, they can require the parent company to do so instead.
Preferred Bidder	The penultimate stage of a procurement process when the supplier(s) to whom the council intends to award the contract has/have been identified but the confirmation of the award is subject to receipt of final clarification documentation and/or information from the supplier(s).
Procurement Toolkit	The Procurement Toolkit prepared by the Commissioning and Performance Manager for guidance in conducting procurement activity.
Public Contract Regulations 2015; the Regulations	The UK Government transposition of the new EU Procurement Directives. Establishes the rules by which public bodies must abide when acquiring goods, works or services. In broad terms these are transparency, fairness and equal treatment of all potential bidders.
Quotation	A quotation of price and any other relevant matter without the formal issue of an Invitation to Tender.
Relevant Contract	Any arrangement made by, or on behalf of, the Council for the carrying out of work or for the supply of goods, materials or services. These include arrangements for: <ul style="list-style-type: none"> - the supply or disposal of goods - hire, rental or lease of goods or equipment - execution of works - <i>third party contracts or Framework Agreements, or call-off contracts</i> awarded by another public sector body - the delivery of services, including those related to: <ul style="list-style-type: none"> - the recruitment of staff - land and property transactions - financial and consultancy services. <p><i>Relevant Contracts do not include contracts relating to:</i></p> <ul style="list-style-type: none"> - the direct employment of staff paid via the council's payroll system - the engagement of Counsel - the acquisition, disposal, or transfer of land (for which <i>Financial Regulations</i> shall apply).
Short listing	Where Tenderers are selected from a list of interested parties to submit a quotation or tender.
Tender	A Tenderers proposal submitted in response to an Invitation to Tender.
Tenderer	Any person who asks or is invited to submit a quotation or tender.
Tender Register	The tender register maintained by the Democratic Services Officer to record details of tenders received (see Horsham Procurement Code

	Paragraph 12.8.2).
Third Party Contracts, or Framework Agreements, or Call-Off Contracts	Contracts awarded by a third party which have been structured to allow authorised users to procure goods and services by quoting, to the contractors and suppliers, the appropriate contract reference details. The management and administration of the contract resides with the awarding authority. The use of these contracts may alleviate the necessity for staff to initiate their own tendering exercise.
Total Value	Relates to the TOTAL contract sum or the TOTAL amount of purchase. This means that any annual value must be multiplied by the number of years the contract is likely to be in operation for e.g. A purchase for £45,000 would fall under the £10,000 to £50,000 bracket, whereas a contract for £45,000 over a four year term would equal £180,000 and would therefore be subject to the EU Directives. It is not acceptable to either enter into separate contracts or select a method of calculating the total value in order to avoid or minimise the application of the Horsham Procurement Code. It is also not acceptable to lessen the contract term so that the contract falls into a lower threshold. When in doubt as to the length of a contract term, a four year period is assumed.
Transparency Code	The Local Government Transparency Code is a statutory obligation on local authorities to publish data include information on all tenders issued and contracts award of £5,000 or more in value.
Whole Life Cost	A form of financial tender evaluation which considers the whole life costs of a project from design through to decommissioning and disposal or recycling.

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