



Email: committeeservices@horsham.gov.uk
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Cabinet

Thursday, 23rd July, 2020 at 5.30 pm
via Remote Video Link

Councillors: Ray Dawe
Peter Burgess
Jonathan Chowen
Philip Circus
Paul Clarke
Claire Vickers
Tricia Youtan

You are summoned to the meeting to transact the following business

Glen Chipp
Chief Executive

In line with Government guidance, Horsham District Council's office at Parkside is closed until further notice. Public meetings will proceed with Councillors participating via remote video link and the public via an audio link. The meeting will also be livestreamed on the Council's YouTube Page [here](#)

Agenda

	Page No.
1. Apologies for absence To receive any apologies for absence.	
2. Declarations of Members' Interests To receive any declarations of interest from Members of the Cabinet	
3. Announcements To receive any announcements from the Leader, Cabinet Members or the Chief Executive	
4. Minutes of the previous meeting To approve as correct the minutes of the meeting held on the 4 th June 2020. <i>(Note: If any Member wishes to propose an amendment to the minutes they should submit this in writing to committeeservices@horsham.gov.uk at least 24 hours before the meeting. Where applicable, the audio recording of the meeting will be checked to ensure the accuracy of the proposed amendment.)</i>	3 - 8

5. **Public Questions**
To receive questions from and provide answers to the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting
6. **Update on the Council's financial position** 9 - 20
To receive a report from the Leader and Cabinet Member for Finance & Assets.
7. **Transformation Fund - top up from the 2019/20 budget** 21 - 24
To receive a report from the Leader and Cabinet Member for Finance & Assets.
8. **Amendment to the Council's Private Sector Housing Policy to reflect changes to the Electrical Safety SitPRSE Regulations** 25 - 46
To receive a report from the Cabinet Member for Community Matters and Wellbeing.
9. **Overview & Scrutiny Committee**
To consider any matters referred to Cabinet by the Overview & Scrutiny Committee
10. **Forward Plan** 47 - 50
To note the Forward Plan
11. **Purchase of property in Slinfold by Horsham District Homes (Holdings) Limited** 51 - 62
To receive a report from the Leader and Cabinet Member for Finance & Assets.
12. **Cash Collection Service Tender** 63 - 68
To receive a report from the Leader and Cabinet Member for Finance & Assets.
13. **Grant of an option over surplus land in Storrington.** 69 - 74
To receive a report from the Leader and Cabinet Member for Finance & Assets.
14. **To consider matters of special urgency**

Public Document Pack Agenda Item 4

Cabinet **4 JUNE 2020**

Present: Councillors: Ray Dawe (Leader), Peter Burgess, Jonathan Chowen (Deputy Leader), Philip Circus, Paul Clarke, Claire Vickers and Tricia Youtan

Also Present: Councillors Karen Burgess, Lynn Lambert and Tim Lloyd

EX/82 **MINUTES**

The minutes of the meeting of the Cabinet held on 30th April were approved as a correct record and signed by the Leader.

EX/83 **DECLARATIONS OF MEMBERS' INTERESTS**

There were no declarations of interest.

EX/84 **ANNOUNCEMENTS**

The Cabinet Member for Planning and Development announced that responses to the Local Plan Regulation 18 were now going live, and all comments would be available on line by the end of the month.

The Cabinet Member for Local Economy and Parking announced that the reopening of the car parks and charging would take place from the 16th June. He went on to say that the council had received £128,132 of European Union funding as part of the Government's reopening of highstreets safely funding scheme. This was a most welcome initiative. In order to ensure the shops opened in the safest way possible, the Horsham District Task Force had been founded to ensure that shops could open as safely as possible.

EX/85 **PUBLIC QUESTIONS**

No questions had been received.

EX/86 **RENEWAL OF ENERGY PURCHASING CONTRACT THROUGH LASER**

The Leader introduced the report and said that the Council had participated in a flexible energy procurement arrangement since 2015 under a Framework contract with LASER (a Public Sector Buying Organisation). This contract was now due for renewal and it was proposed that the arrangement should continue.

LASER provides the aggregated, flexible and risk-managed approach route to procurement in line with the Government's guidelines for energy-buying by local authorities. LASER effectively acts as a buying club whereby HDC joins

together with other authorities and optimum prices were achieved by pooling their energy requirements.

LASER was a part of the Commercial Services Group, wholly owned by Kent County Council. It was fully European Union regulation (OJEU) compliant and LASER undertakes this role on behalf of 200 public sector organisations including over 130 local authorities throughout the UK with an annual spend of £450m (approximately 2% of the UK's non-domestic energy demand).

It was proposed that the Council continued with LASER over the next contract period running from 1 October 2020 to 30 September 2024 but that it did not commit the Council to a particular energy supplier or tariff. The contractual arrangements covered the supply of gas and electricity to the Council's operational buildings and had achieved significant savings.

RESOLVED

- i) That, given the estimated savings and the flexible procurement strategy, it was recommended that the Council continue its arrangement with LASER and participate in the framework contract for the 4 year period from 1 October 2020 to 30 September 2024.

Reasons for Recommendations

1. LASER benchmarks its purchasing performance each year and shares this information with its customers. This benchmarking exercise indicates that LASER has been able to deliver prices to customers at 4.6% below the market average over the last 4 years.
2. Government policy recommends that to spread market risk, and avoid buying during periods of peak market pricing, "all public sector organisations adopt aggregated, flexible and risk-managed energy procurement" as provided under the LASER framework.
3. LASER offers full flexibility to secure energy In line with the Council's policy to reduce its carbon footprint

EX/87 **REVIEW OF FEES FOR HIGH HEDGE DISPUTES**

The Cabinet Member for Planning & Development introduced the report and said that Part 8 of the Anti-social Behaviour Act 2003 made provision for local councils to determine complaints about high hedges submitted by the owners/occupiers of domestic properties adversely affected by evergreen hedges over 2 metres high. If it was considered by the council that the hedge in question was overly high and caused a statutory nuisance, then the owner of a high hedge could be ordered to take action to put right the problem.

S.68(1)(b) of the Act allowed councils to charge a fee for High Hedge complaints, the intention of which was to cover the costs of administration and determination of each case. Horsham District Council's present fee was £300.

Following an internal examination of the resources required to administer these cases, it had been found that the fee failed to cover the costs, representing only around 45% of internal costs incurred.

A benchmarking exercise examining the fees charged by 20 other local authorities in Surrey, Sussex and Kent revealed that 16 of these councils had increased their fees since the introduction of the legislation.

It was recommended that the fee in question should be raised to cover the costs of administration and determination as the Act originally intended, in line with the level of resource needed to achieve this, and that the fee be reviewed each year and linked to inflation.

RESOLVED

That:

- 1) An increase in the fee for the determination of High Hedge complaints to £645 be approved and;
- 2) The fee be increased each year in line with CPI inflation.

Reasons for Recommendations

- 1) To cover the costs of administration and determination of High Hedge complaints as intended under the legislation;
- 2) To ensure that the charge for High Hedge complaints keeps up with inflation.

EX/88 **GROUND MAINTENANCE CONTRACT**

The Cabinet Member for Leisure & Culture introduced the report and said that there was an opportunity to align the arboriculture and grounds maintenance contracts from 1 April 2022. There were several benefits to this recommended approach and a revised specification which included the ability to support the aims in the Wilder Horsham District initiative ensuring that the environment was protected and wildlife habitats were enhanced. There was an opportunity to contribute towards the council's sustainability and carbon-reduction ambitions, as detailed in the Corporate Plan.

In order to take advantage of this combined approach, it was necessary to extend the current grounds maintenance contract for a short period as it was due to end on 31 December 2020.

Resolved

That:

- i) The current grounds maintenance contract be extended for a period of 13 months, to end on 31 January 2022.

Reasons for Recommendations

The current arboriculture contract is due to end on 31 March 2022 and there is no option for extension. There is therefore an opportunity to combine the grounds maintenance contract with the arboriculture contract, through one tender process, in order to achieve the council's sustainability ambitions and gain efficiencies.

For operational reasons it is less risky to start a new grounds maintenance contract in February 2022 rather than April 2022. Therefore although there will be one procurement process and one resulting contract, the grounds maintenance element will start under the new contract in February 2022, whilst the arboriculture element will start under the same new contract in April 2022. Both elements will finish and will be reviewed again in the future on the same date.

EX/89 **FORWARD PLAN**

The Forward Plan was noted.

EX/90 **OVERVIEW & SCRUTINY COMMITTEE**

There were no matters currently outstanding for consideration.

EX/91 **TO CONSIDER A MATTER OF GENERAL EXCEPTION**

Cabinet considered an item under general exception, 4g.21 a) - d) of the Council's Constitution. All elements of General Exception have been complied with. The item was not on the forward plan because the Government announced the grant on 1 May and issued its guidance on 14 May with the intention of the Council issuing grants in June.

EX/91a **APPROVAL OF THE COUNCIL'S POLICY FOR THE AWARD OF DISCRETIONARY SMALL BUSINESS GRANTS**

The Leader introduced the report and said that on the 1st May the Government announced that it would provide Local Authorities with additional funding to target small businesses with high fixed property-related costs not eligible for the current grant schemes. Guidance for the scheme was issued on the 14th May. An additional £513,000 for the scheme was provided to Horsham District in addition to the funds it had left from the money it received for Small Business, Retail, Hospitality and Leisure Grants, which the Government expected to be £917,000. The report asked Cabinet to approve Horsham District Council's Discretionary Grants Fund Scheme in order to enable applications for the scheme to begin on 5 June 2020 and payment of the £1.43m fund to be made by 30 June.

RESOLVED

That the Horsham District Council Discretionary Grants Fund Scheme attached at appendix A of the report be approved.

Reasons for Recommendations

The Cabinet needs to approve a Discretionary Grants Fund Scheme to enable distribution of money given by the Government to support small businesses in Horsham District affected by the COVID-19 lock down, and not helped under any other scheme.

The meeting closed at 17:57 having commenced at 17:30.

CHAIRMAN

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Report to Cabinet

23 July 2020

By the Leader and Cabinet Member for Finance and Assets



DECISION REQUIRED

Not Exempt

Update on the Council's financial position

Executive Summary

The 2020/21 Budget was approved in February 2020 and near balanced budgets were projected through to 2023/24 on the assumption that business transformation continued and the Council generated further income to mitigate against the cost pressures that continue to rise.

The World Health Organisation declared a global pandemic of the COVID-19 virus on 11 March 2020. The subsequent lockdown and associated recession is having a severe impact on the lives of our residents, businesses and the Council itself. The immediate effect of reducing levels of income and increasing expenditure at the Council will result in a significant overspend in 2020/21, and much lower levels of income are anticipated in the future. The Council will have to fundamentally review, change or even close its services to ensure it has a balanced budget in the years to come.

This report sets out the projected scale of the impact in 2020/21 and how the medium term financial planning scenarios and assumptions have drastically changed. Without action, this will result in a likely budget gap of up to £3m in 2021/22 and significant budget gaps through to 2023/24.

This report is written in the context of unprecedented levels of uncertainty. The length and depth of the current recession is unknown. Factors of particular concern are the increase in unemployment as furlough ends in the hospitality and leisure sectors that dominate our local economy, the risk of another local or national lockdown, the nature and implications of the Brexit agreement due at the end of the calendar year and the Government's plans for the reform of business rates. In these circumstances it is essential the Council keeps as much of its reserves as it can this year to give it time to make considered decisions about its future service.

This report gives a snapshot of where we think our finances are today. As the situation becomes clearer there will be further updates, detailing the latest information on the scale of the deficit, setting out a more developed response and containing plans to tackle the budget gaps, working towards setting a balanced 2021/22 budget in February 2021. To do achieve a balanced budget in 2021/22 substantial action is required.

Recommendations

The Cabinet is asked to

- i) Note the changes in the Council's financial position in 2020/21 and the Medium Term.
- ii) To recommend Council approve a reduced 2020/21 capital programme.
- iii) To recommend Council delegates authority to the Director of Community Services in consultation with the Leader of the Council, the Deputy Leader and Cabinet Member for Leisure & Culture and the Cabinet Member for Local Economy and Parking to agree any waiving of the monthly management fee from Places Leisure for the required period of financial support until usage recovers towards pre-Covid-19 levels, or ending 31 March 2021.
- iv) To recommend Council delegates authority to the Director of Community Services in consultation with the Leader of the Council, the Deputy Leader and Cabinet Member for Leisure & Culture and the Cabinet Member for Local Economy and Parking to agree any financial support payments to Places leisure for the period of closure and for re-opening until usage recovers towards pre-Covid-19 levels, or ending 31 March 2021.
- v) To recommend Council delegates authority to the Director of Community Services in consultation with the Leader of the Council, the Deputy Leader and Cabinet Member for Leisure & Culture and the Cabinet Member for Local Economy and Parking to enter into any contract variations in respect of any financial support during the period of closure and for re-opening on the terms recommended.

Reasons for Recommendations

The Council needs to acknowledge the severe financial realities it is experiencing and their medium-term implications to prepare for the future

To prioritise capital projects that produce a financial return to the Council and postpone non-essential capital works to preserve reserves in 2020/21 allowing more scope for considering options for rebuilding the Council and our District next year.

Appendices:

Appendix A: Table 1 summary budget and MTFS set in February 2020

Appendix B: 2020/21 revised capital programme

Background papers: Budget and MTFS report Cabinet 23 January 2020 (approved by Council on 12 February 2020)

Wards affected: All

Contact: Jane Eaton, Director of Corporate Resources, 01403 215300

Background Information

1 Introduction and background

- 1.1 The Medium Term Financial Strategy was last fully reviewed by Council on 12 February 2020 as part of the annual budget setting cycle. At that meeting near balanced budgets were predicted across the period until 2023/24, provided that business transformation continued and the Council generated further income to mitigate against the cost pressures that continue to rise.
- 1.2 The World Health Organisation declared a global pandemic of the COVID-19 virus on 11 March 2020. The subsequent lockdown and associated recession is having a severe impact by sharply falling levels of income and increasing expenditure at the Council which will result in a significant overspend in 2020/21. The minimum level of overspend is estimated at the end of June at £5m. Depending on the extent of pandemic and depth of the associated recession, that figure could be as high as £9m especially if significant action is not quickly taken.
- 1.3 Longer term, a severe recession and changing customer habits mean that lower levels of income are anticipated in the future. Significant gaps in the medium term financial strategy as high as £3m a year are predicted unless urgent action is taken.
- 1.4 Central government grant to mitigate income appears has been promised but the amount is not yet known and the promises do not cover all losses. If insufficient money is received from the Government to cover the costs of the lockdown and recession the Council will need to use its general fund reserve to fund its losses. At the moment the Council has enough to cover the predicted losses but its finances could fall below the required £6m in this reserve and its financial position going forward will be considerably more precarious than it was at 12 February 2020 when the s151 officer gave her view the Council's reserves were adequate for its needs.
- 1.5 To rebalance its position, the Council will need to reconsider carefully its service offer and capital programme in both 2020/21 and the longer period. Reliance on reserves is unsustainable in the medium term.

2 Relevant Council policy

- 2.1 The Council continues to provide the quality, value for money services that people need throughout the 2020s is a key objective of the Council's Corporate Plan. To achieve this the Council needs to take action now to ensure money is available for our key services.

3 Details

- 3.1 The 2020/21 budget was set in February 2020 and a reminder of this budget and medium term financial strategy is set out in Appendix A. A net expenditure of £11.2m was set in 2020/21 to produce a surplus after other funding in 2020/21 and near balanced budgets over the period to 2023/24, providing further income was generated and efficiencies were delivered through transformation.
- 3.2 To achieve a £11.2m net expenditure in 2020/21, the Council budgeted generating £24.3m income. In stable economic times, the Council has historically been successful at generating high level of incomes. However, in a recession, it is a significant risk. Furthermore, income from parking, property and investment returns, and leisure services has been decimated in the first quarter under lockdown, and other income from planning and building control also affected. Income is expected

to slowly recover as the lockdown from Covid-19 lifts, but due to the induced recession and changing customer habits, it may never recover to former levels.

- 3.3 In addition to costs, fees and charges, the Council generates income through Council tax and receives income from central government. Council tax collection rates have fallen as customers adjust to their economic situation in the pandemic and lower recovery rates are anticipated, partly also due to the fact that more people are likely to be supported by the local council tax support scheme.
- 3.4 The Council has received an additional £1.47m from government in response to the pandemic. On 2 July 2020, Government announced a new £500m funding package for local authorities to help cover lost income from car parks, museums and other cultural assets. The new income loss scheme will involve a 5% deductible rate, whereby councils will pay the first 5% of all lost planned sales, fees and charges income, with the government compensating them for 75p in every pound of loss thereafter. Further details on the allocations of the funding will be made in due course, providing more certainty on how much this Council will receive and what period of time this funding covers. The Chancellor's summer statement on 8 July 2020 also announced a variety of measures designed to help a wider economic recovery.
- 3.5 At the same time, expenditure too has increased, with demand for Revenues and Benefits and Housing services likely to cause an overspend, putting extreme pressure on the Council's ability to keep expenditure at the budgeted £35.5m unless cost savings are found elsewhere.
- 3.6 The leisure centres have been closed since March 2020. Places Leisure, the current leisure centres provider, have requested significant financial assistance from the Council of around £1m during the period of closure and a sum in excess of this for the period of re-opening until numbers return towards expected pre-Covid-19 contract levels. This is in line with the market approach from leisure providers to other local authorities throughout the UK. If the Council does not provide financial assistance it is unlikely that the leisure centres will re-open and if the Council makes the decision that leisure centres remain closed, the Council could be in breach of contract and liable for substantial costs.
- 3.7 The current contractual agreement means we usually receive a payment from Places Leisure each month. At the meeting on 22 April 2020, Council agreed to delegate decision making to the Director of Community Services in consultation with the Deputy Leader and Cabinet Member for Leisure and Culture any decision in relation to a payment holiday. This report recommends that this delegation is amended to provide for the waiving of the management fee for a required period of financial support until usage recovers towards pre-Covid-19 levels, or ending 31 March 2021.
- 3.8 The Council has employed a specialist leisure consultant to help the Council negotiate with Places Leisure. This report recommends authority is delegated to the Director of Community Services in consultation with the Leader, Deputy Leader and Cabinet Member for Local Economy and Parking, to agree any financial support payments to Places leisure for the period of closure and the period of re-opening until usage recovers towards pre-Covid-19 levels, or ending 31 March 2021 and to enter into any necessary contract variations.
- 3.9 Depending on the length and depth of the recession and assumptions around continued social distancing, the forecast overspend is a minimum of £5m and could be as high as £9m.

- 3.10 The updated budget including the forecast overspend and revised interim medium term financial strategy is set out in table 1. This assumes an overspend of £5m in 2020/21 and assumes an ongoing reduction in income and increase in expenditure of approximately £3m in 2021/22 onwards if no action is taken. It also assumes anticipated transformation which largely generated income will not now be easily achieved and will need to be revisited.

Table 1: interim MTFS July 2020	2020/21	2021/22	2022/23	2023/24
	£000	£000	£000	£000
Current net expenditure	11,201	15,050	15,300	15,600
<i>Overspend / transformation savings</i>	5,000	<i>To be developed by November 2020</i>		
Net expenditure after savings	16,201	15,050	15,300	15,600
Funding: Council Tax	(9,922)	(10,100)	(10,300)	(10,500)
Baseline Business Rates	(2,052)	(2,050)	(1,500)	(1,000)
Collection Fund (surplus)/deficit	(53)	-	-	-
Total Funding	(12,027)	(12,150)	(11,800)	(11,500)
One-off Covid-19 funding to date	(1,471)			
Net (Surplus) / Deficit	2,703	2,900	3,500	4,100

- 3.11 Table 2 sets out the assumptions used in February 2020 and how these have now changed. Changes to assumptions are explained in subsequent paragraphs.

Table 2: key budget assumptions used

Assumption	From February 2020	Updated July 2020
Inflation cost non-salaries	2% increase per annum	0.5% increase per annum
Increase in salaries budget	2% per annum	Offer of 2.75% in 2020/21 but not yet nationally agreed. 2% p.a. thereafter.
Contribution to pension fund	0.5% reduction in 2020/21 and further 1% reduction in 2021/22 and 2022/23. Currently in surplus.	No change from February 2020. [31 March 2020 confirmed surplus]
Increase in Council Tax	Inflationary 2% (£2.99) in 2020/21 and 2% thereafter	Inflationary 0.5% thereafter.
Local Business Rates	75% localisation of business rates triggering a significant re-baselining in 2021/22.	75% localisation and significant re-baselining but delayed until 2022/23
Increase in dwellings	Around 1,000 per year	Still 1,000 per year although risk that number falls in recession
New Homes Bonus (NHB) – revenue	New Homes Bonus ends in 2020/21. Previous legacy payments end in 2022/23.	No change from February 2020. Note: NHB does not feed into revenue as tapered down to zero in 2018/19.
Minimum level of reserves	£6m	£6m

- 3.12 CPI annual inflation was 0.5% in May 2020, a level not seen since June 2016. It has averaged 2.1% over that period and the February MTFS had assumed a level of 2%. The impact of the recession is likely to lower the inflation rate. Whilst a lower inflationary rate usually means costs increase at a slower rate, it also means that fees and charges also increase at a slower rate and the return on investments will also reduce. Over recent years, Council tax increases have also set largely be set in line with the prevalent rate of inflation and Council tax increases at an inflationary level of 0.5% would reduce the revenue raised from Council tax.
- 3.13 The national pay award for 2020/21 has not yet been finalised as Unions push for salary increases well above 2%. It seems more likely than not that a one-off agreement in 2020/21 will be negotiated, with 2.75% currently on offer although not yet agreed. Every additional 0.5% rise equates to approximately £80k. However, in the economic circumstances, and especially lower levels of inflation, continued salary increases at this level are unaffordable and so the medium term assumption of salary increases at around 2% remains unchanged.
- 3.14 The future of the Fair Funding review and the future of the localisation of business rates remains uncertain. The central review has been postponed due the pandemic resulting in an assumption that funding for 2021/22 will be on the same level as 2020/21, thereby delaying the reduction of government funding to a later period. This will help offset some of the reduction in fee income in that year. A slightly softer taper to the reduction of government grant is also envisaged if the economic backdrop in a national recession is harsher than before. On 2 July 2020, Government announced that in the next Spending Review, it will agree an apportionment of irrecoverable council tax and business rates losses between central and local government for 2020 to 2021.
- 3.15 At this stage, a similar assumption of a further year at the same level cannot be made of another year of payment for New Homes Bonus. Government did not commit to replacing the scheme and have already signalled the end of legacy payments in 2022/23. We currently anticipate that 2020/21 will be the last year of new payments.
- 3.16 The 2020/21 capital programme has been reviewed. Several lower priority projects have been removed. Removing non-essential capital projects will protect the levels of cash and useable reserves giving the Council more scope for making decisions about its services in 2021/22. The revised programme has reduced to £8.5m, focusing on projects that produce a positive financial revenue return as well as those where there are health and safety requirements or were already in progress and could not be postponed without incurring significant costs. A new capital programme will also be set in 2021/22 under these criteria. The revised capital programme is detailed in Appendix B.

4 Next steps

- 4.1 Detailed actions will be worked up over the summer and an updated medium term financial plan will be brought back in the autumn taking into account any further economic and financial developments.

- 4.2 On 28 January 2021, the 2021/22 Budget will be taken to Cabinet to recommend approval at the 10 February 2021 full Council meeting where the Council Tax for 2021/22 will be set. The MTFs will also be again updated at this time to take account of our settlement, if known at that date.

5 Views of the Policy Development Advisory Group and outcome of consultations

- 5.1 The Finance and Assets Policy Development Advisory Group discussed the immediate and longer term impact of reduced income on the medium term financial strategy on 6 July 2020 and the need for a reduced 2020/21 capital programme to give the Council greater flexibility in making its affordability decisions for 2022/23 onwards.
- 5.2 The Chief Executive, the Chief Financial Officer, the Directors, the Head of Finance and other Heads of Services have been extensively involved in preparing the immediate budget forecast and have already commenced plans, taking action to address the medium term financial gap. They are fully supportive of its contents. The Monitoring Officer has also been consulted during the preparation of the document and is supportive of its contents.

6 Other courses of action considered but rejected

- 6.1 Not taking actions would put at risk the ability of the Council to deliver balanced budgets through to 2023/24. This would quickly erode the level of reserves and is unsustainable in the medium term. Therefore, not taking any action has been rejected.
- 6.2 Cutting services significantly now, is an approach taken by some Councils. However this risks closing valued services unnecessarily if the recession is not as long and deep as we fear.

7 Resource consequences

- 7.1 Specific actions to address the financial gaps are not detailed in this report. Over the next few weeks, detailed plans will be worked up and brought back in a later medium term financial strategy that feeds into the Autumn annual budget setting process.
- 7.2 Some work on the digital transformation may be brought forward to release earlier savings, and increase headcount slightly over the next two years to enable the capacity to implement new systems at the same time as running the old ones. The headcount would fall back again once this has ended.
- 7.3 When reducing expenditure through efficiencies and reducing services, staffing numbers generally reduce. The precise figure of any future reductions over the medium term will be firmed up as detailed plans for the individual elements are finalised. In accordance with the Organisational Change Policy the Council will take steps to avoid compulsory redundancies as far as possible through a combination of vacancy control, redeployment and, in appropriate cases, voluntary redundancy.

8 Legal consequences

- 8.1 The Council is required under the Local Government Finance Act 1992 to produce a 'balanced budget'.
- 8.2 This report sets out the Council's current and expected financial position. The Director of Corporate Resources has a statutory duty, under Section 151 of the Local Government Act 1972 and Section 73 of the Local Government Act 1985, to ensure that there are proper arrangements in place to administer the Council's financial affairs.
- 8.3 The Local Government Act 1999 places a duty on the Council as a 'Best Value' authority to secure continuous improvement in the way its functions are exercised so as to secure economy, efficiency and effectiveness.

9 Risk assessment

- 9.1 The Council's reliance on central government funding and balancing the medium term financial plan is captured on the corporate risk register at CRR01. This is regularly reviewed and updated and is monitored at Audit Committee on a quarterly basis. Although the Government has put decisions on changes to business rates on hold until April 2022.
- 9.2 Many figures provided in this report are estimated at this stage. There is a risk that a second COVID-19 wave or longer or deeper recession could mean losses are nearer the upper end of the range of losses suggested or even higher.
- 9.3 There is a moderate risk when paid services such as parking, planning, building control, and the cultural and leisure offer resume customer habits will have changed and income will not return to previous levels, meaning the original financial position will not be recoverable. Services such as the Capitol and leisure centres are staying in touch with customers to try to prevent this.

10 Other considerations

- 10.1 There are no consequences of any action proposed in respect of Crime & Disorder or Human Rights. Some of the new income proposals intended to help fill the gap may have positive or negative equalities or sustainability impacts. Individual impact assessments of these will be completed alongside the business case of each proposal.

2020/21 Budget approved in February 2020/21

	2020/21	2021/22	2022/23	2023/24
	£000	£000	£000	£000
Table 1: original MTFS from Feb 2020				
Current net expenditure	11,201	12,020	11,660	11,770
<i>Income / savings to deliver through transformation</i>	<i>In budget</i>	(565)	(330)	(280)
Net expenditure after transformation	11,201	11,455	11,330	11,490
Funding: Council Tax	(9,922)	(10,265)	(10,620)	(10,980)
Baseline Business Rates	(2,052)	(1,100)	(500)	(250)
Additional Business Rates	0	0	(50)	(50)
Collection Fund (surplus)/deficit	(53)	-	-	-
Total Funding	(12,027)	(11,365)	(11,170)	(11,280)
Net (Surplus) / Deficit	(826)	90	160	210

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Capital Budget 20/21			Actual spend (inc accruals) 19/20	Rolled old (incl slippage) Budget 20/21	New 2020/21 budget	Appendix B
		Description				
Parking	100518	100518 - PARKING CCTV	0	30,000	30,000	
Parking	100519	100519 - PAY & DISPLAY MACHINES	3,960	3,577	3,500	
Parking	100536	100536 - WELCOME ZONES IN MULTI-STOREY CAR PARKS	9,473	60,527	50,000	Scheme slightly reduced in light of budget pressures
Parking	100538	100538 - STORRINGTON MILL LANE - RURAL CAR PARK IMPROVEMENTS	3,069	146,931	0	Removed to reconsider priority need
Parking	100539	100539 - BILLINGSHURST SIX BELLS & LIBRARY - RURAL CP IMPROVEMENTS	1,150	163,850	163,850	Provides more spaces
Parking	100540	100540 - STEYNING NEWMANS GARDENS - RURAL CAR PARK IMPROVEMENTS	2,794	127,206	0	Removed to reconsider priority need
Parking	100549	Swan Walk and Forum Car Park improvements	0	50,000	50,000	
Parking	100526	Rural Car Park Improvements - Henfield Library CP	0	180,000	180,000	Priority need based on risk assessment
Parking	100550	Rural Car Park Improvements - Pulborough Lower Street CP	0	120,000	0	Removed to reconsider priority need
Property	100414	100414 - BBHLC-NEW BUILD	347,236	487,893	200,000	Expected underspend on project
Property	100421	100421 - PIRIES PLACE CARPARK	3,441,643	550,958	50,000	Expected underspend on project
Property	100438	100438 - CORPORATE PROVISION - ASSET ENHANCEMENT	73,456	50,000	100,000	Added feasibility budget
Property	100447	100447 - COMMERCIAL ESTATES - GENERAL	0	100,000	100,000	
Property	100453	100453 - PIRIES PLACE CAR PARK LIFT	0	74,798	74,798	
Property	100473	100473 - COMMERCIAL PROPERTY INVESTMENT FUND	0	3,000,000	0	Decision not to invest further in property at present
Property	100506	100506 - PEARY CLOSE, HORSHAM	0	75,874	75,874	
Property	100507	100507 - LAND AT OAKHURST BUSINESS PARK - PHASE 4	569,703	1,400,000	1,400,000	
Property	100512	100512 - BILLINGSHURST CAR PARK DEVELOPMENT	3,423	146,577	6,577	To achieve planning but remainder removed to consider priority need
Property	100515	100515 - PAVILIONS LEGACY	12,026	48,718	48,718	
Property	100535	100535 - PARK HOUSE, HORSHAM	192,690	107,310	107,310	
Property	100543	100543 - HIGHWOOD COMMUNITY CENTRE	0	1,500,000	500,000	Timing. Re-profiled over later year
Property	100544	100544 - PARKSIDE FLOOR PLATE IMPROVEMENTS	33,216	1,784	1,784	
Property	100554	Project work on allocations for development in HDPP	0	150,000	150,000	
Property	100557	Forum Piazza Desire Lines and Fountain Upgrade	0	150,000	150,000	
Property	100558	Millstream extension	0	350,000	350,000	Subject to agreement with tenant
Ec Dev	100530	100530 - HORSHAM DISTRICT EXPERIENCE APP & WEBSITE	0	25,000	25,000	
Public Realm	100553	Town Centre Vision – Public Realm Projects Design Budget	15,000	135,000	135,000	
Corporate	100559	Loans - Property Dev Co	0	740,000	340,000	
Corporate	100548	Equity funding - Property Dev Co	0	500,000	360,000	
Fleet	100396	100396 - VEHICLES - NEW	6,167	530,000	400,000	Reduction in replacement programme in light of budget pressures
Public Realm	100465	100465 - BISHOPRIC REFURBISHMENT / ENHANCEMENT	22,540	0	0	
Public Realm	100513	100513 - ALBION WAY CONNECTIVITY - WORTHING ROAD	0	200,000	100,000	
Public Realm	100514	100514 - HORSHAM TO SOUTHWATER - CYCLING & WALKING ROUTE	0	0	0	
Public Realm	100541	100541 - LOCAL CYCLING AND WALKING INFRASTRUCTURE	27,307	42,693	30,000	
Public Realm	100552	Horsham Town Centre Digital 'Touchscreen' Signage Kiosks	0	80,000	0	Removed to reconsider priority need

		Description	Actual spend (inc accruals) 19/20	(incl slippage) Budget 20/21	New 2020/21 budget	
Env Health	100318	100318 - 96 ACT-DISABLED FACILITY GRANT	1,451,412	1,250,000	1,250,000	
Env Health	100319	100319 - ACT-HOME REPAIR ASSIST. GRANT	9,290	125,000	60,000	
Housing	100322	100322 - HOUSING ENABLING GRANTS	80,800	1,873,160	1,169,000	
Community	100542	100542 - PUBLIC SPACE CCTV CAMERA REPLACEMENT PROGRAMME	35,621	26,173	26,173	
Parks	100477	100477 - HORSHAM PARK POND IMPROVEMENTS	0	22,834	42,834	
Parks	100478	100478 - BENNETS FIELD IMPROVEMENTS	9,995	40,005	0	Removed to reconsider priority need
Parks	100479	100479 - WARNHAM NATURE RESERVE IMPROVEMENTS	24,484	479,864	479,864	
Parks	100491	100491 - PIXIES HOLLOW FOOTBALL PITCH IMPROVEMENT	0	0	0	Removed to reconsider priority need
Parks	100517	100517 - HORSHAM PARK PLAY AREA IMPROVEMENTS	600	77,828	77,828	
Parks	100522	100522 - ROFFEY RECREATION GROUND REGENERATION PROJECT	240	96,420	0	Removed to reconsider priority need
Parks	100523	100523 - HORSHAM SKATE PARK	1,120	200,000	0	Removed to reconsider priority need
Parks	100531	100531 - BOARDWALK REPLACEMENTS - S'WATER C PARK & L'POOL WOODS	13,838	24,162	24,162	
Parks	100532	100532 - BILLINGSHURST BYPASS REC PATH IMPROVEMENTS - NORTH PHASE1	0	45,000	45,000	Safety issues and joint WSCC project
Parks	100533	100533 - BILLINGSHURST BYPASS REC PATH IMPROVEMENTS - NORTH PHASE 2	0	30,000	0	Removed to reconsider priority need
Parks	100534	100534 - HORSHAM PARK - NEW RUBBISH BINS	17,205	7,795	7,795	
Parks	100545	100545 - PLAY SITE IMPROVEMENTS	72,603	2,397	2,397	
Capitol	100551	<i>Replacement and Futureproofing The Capitol's Cinema offering- Projector</i>	0	95,000	95,000	
Parks	100555	<i>Riverside Walk Boardwalk - Ben's Acre</i>	0	12,500	12,500	
Parks	100556	<i>Bluebell Park Adventure Trail</i>	0	15,000	15,000	
		TOTAL	9,819,502	15,755,260	8,489,964	

Report to Cabinet

23 July 2020

By Ray Dawe (Cabinet Member for Finance and Assets)

DECISION REQUIRED



Horsham
District
Council

Not Exempt

Transformation fund - top up from the 2019/20 budget surplus

Executive Summary

The Council delivered a £246k revenue surplus in 2019/20 after allowing for budgets that carried over to 2020/21 to cover essential expenditure on projects unavoidably delayed.

The Council's income in a Covid-19 inspired recession is unlikely to be as high as previously estimated and costs continue to rise. Inevitably therefore, balancing the budgets over the medium term relies on implementing a range of actions to help deliver efficiency measures, as well as other income generation. This requires further investment in transformational projects.

Setting aside £0.5m in the transformation earmarked reserve for 2020/21 will help transform the Council in the future. £377k remains unspent in the reserve at 31 March 2020; the top up of £123k will effectively funded from the 2019/20 budget surplus.

Recommendations

That the Cabinet is recommended to:

- i) Approve the transfer of £0.123m from the General Fund reserve to the earmarked transformation reserve.
- ii) Delegate to the Chief Executive in consultation with the Leader, the authority to use the transformation fund as appropriate.

Reasons for recommendations

- i) To top up of the earmarked transformation reserve for projects that will help transform the Council in the future; being effectively funded from the 2019/20 budget surplus.

Background papers: 2020/21 budget and MTFs papers from 23 January 2020 Cabinet meeting and 12 February 2020 Council meeting.

Wards affected: All

Contact: Jane Eaton, Director of Corporate Resources, 01403 215300

Background Information

1 Introduction and background

- 1.1 The transformation earmarked reserve was set up in 2016/17 to help fund business transformation within the Council. Cabinet transferred £0.5m from the 2015/16 budget surplus and has topped up the fund each year since.
- 1.2 The following amounts have been spent on transformation through the reserve since 2016/17, unlocking opportunities to enable future savings:
 - £387k in 2016/17
 - £518k in 2017/18
 - £239k in 2018/19
 - £123k in 2019/20
- 1.3 £377k remains unspent in the reserve at 31 March 2020 and will be made available in 2020/21.

2 Relevant Council policy

- 2.1 The Council continues to provide the quality, value for money services that people need throughout the 2020s. Continue to manage our finances prudently and identify and deliver business transformation to balance our budgets as funding from central government reduces.

3 Details

- 3.1 The Council holds a number of earmarked reserves and spends them on the purpose for which they were earmarked. Where the Council receives grants and contributions in year, but does not spend them, Cabinet may transfer the unused portion to earmarked reserves for use in future years. The Council can also choose to move funds from the general fund reserve to earmarked reserves to cover future costs.
- 3.2 The Council's income in a Covid-19 inspired recession is unlikely to be as high as previously estimated and costs continue to rise. Inevitably therefore, balancing the budgets over the medium term relies on implementing a range of actions to help deliver efficiency measures, as well as other income generation. This requires further investment in transformational projects.
- 3.3 Projects to facilitate transformation include areas such as ICT to help unlock further digital change to deliver a restructuring of products and services, changing the way we operate to better serve our customers and preventing re-keying of data. The Council is also growing our own staff through development, learning and coaching to encourage cultural change within the organisation.
- 3.4 This report proposes Cabinet move £0.123m from the General Fund reserve balance to top up the earmarked transformation reserve to £0.5m for this purpose in 2020/21. This will help transform the Council in the future. The schemes upon which this earmarked transformation reserve will be spent will be authorised by the Chief Executive in consultation with the Leader and then follow normal financial authorisation and budget process procedures. The Appendix contains a snapshot of the transformation fund at 31 March 2020 with anticipated estimated future expenditure.

4 Next steps

- 4.1 Once approved, the Chief Executive in consultation with the Leader will consider the appropriate schemes and authorise expenditure from the transformation fund against these schemes as appropriate.

5 Views of the Policy Development Advisory Group and outcome of consultations

- 5.1 The Finance and Assets Policy Development Advisory Group discussed this proposal on 6 July 2020. Their comments are incorporated in the report. The Group was supportive of the proposal.

6 Other courses of action considered but rejected

- 6.1 Not spending £0.5m would save the Council £0.5m in one year's expenditure. But it would not unlock savings for future years.
- 6.2 The £0.123m of surplus from 2019/20 would otherwise go into the general reserve and used to fund the deficit that would occur if transformation does not take place at the required rate. This would not be sustainable.

7 Resource consequences

- 7.1 The transformation fund will help deliver the efficiencies and income generation required to balance the budget over the medium term.

8 Legal consequences

- 8.1 There are no legal consequences of this scheme.

9 Risk assessment

- 9.1 Corporate Risk CRR01: Failure to achieve the required level of savings and income in the Medium Term Financial Strategy.

10 Other considerations

- 10.1 There are no consequences of the actions proposed in respect of Crime & Disorder; Human Rights; Equality & Diversity and Sustainability.

Appendix – The Transformation Fund Reserve

Actual spend in 2019/20 and indicative areas of spend in 2020/21:

Appendix E - transformation fund at 31 March 2020					
2018/19		2019/20		2020/21*	
94,865	balance brought forward	355,905	balance brought forward	377,345	balance brought forward
500,000	In year addition	144,095	In year additon	122,655	In year additon
594,865		500,000		500,000	
-30,190	Website framework look and feel changes	-49,000	Digitalisation of Microfiche Planning documents	-25,000	<i>Review of district community facilities</i>
-27,000	Implementation of new legal case management system	-2,900	Agile training - Sept 2019	-300,000	<i>Backfill for the digitalisation project</i>
-8,400	Changes to waste collection service completion in April 2018	-3,800	Lottery start up	-80,000	<i>Tech costs for the digitalisation project</i>
-55,180	Implementation of new HR system	-17,790	HR system continued	-35,000	<i>External review of Southwater Country Park visitor centre</i>
-11,140	Coaching courses			-8,000	<i>Customer services visitor counter implementation</i>
-12,800	External review of Capitol options	-4,900	Implementation of new Community link database	-7,300	<i>Completion of new Community link data base</i>
-15,100	Affordable Housing Company - full business case	-24,150	Affordable Housing continued start up	-10,750	<i>Affordable Housing final start up items (if needed)</i>
-17,300	Growing our own staff - training and learning within strategic planning and development (hard to recruit and retain).	-10,890	Growing our own staff continued	-31,810	<i>Growing our own staff continued</i>
-3,950	Museum index system	-9,225	Museum index system	-9,000	<i>Carbon reduction project consultant</i>
-17,000	Housing allocations and rent accounting system				
-36,000	Income transformation officer				
-4,900	Staff survey - temperature snapshot update				
-238,960	Total expenditure in year	-122,655	Total expenditure in year	-506,860	<i>indicative spend in year</i>
355,905	Balance to be carried forward	377,345	balance to be carried forward	-6,860	balance

* 2019/20 costs are indicative estimates only.

Appropriate additional items may be added as required via SLT approval

Report to Cabinet

23 July 2020

By the Cabinet Member for Community & Wellbeing

DECISION REQUIRED



**Horsham
District
Council**

Not Exempt

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

Executive Summary

This report details the powers and duties introduced by The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020. These relate to the Government's response to tackling rogue landlords and improving the private rental sector.

They require Landlords to ensure that the fixed electrical installations in their properties are inspected and tested at least every 5 years by a competent electrician. The initial inspections need to be carried out before any new tenancy is granted from 1 July 2020, and by 1 April 2021 for existing tenancies.

The Regulations introduce measures that are intended to be implemented by landlords from 1 July 2020:

- Landlords are required to provide their tenants with electrical safety reports: in the case of new tenants, before they move in; to existing tenants within 28 days of receiving it; and to any prospective tenant within 28 days of their request to view the report;
- The Council has the power to demand sight of the report and the landlord must provide this within 7 days of the request. Failure to do so could result in a penalty charge;
- If the Council has reasonable grounds to believe that the landlord is in breach of the Regulations, it also has the power to serve a remedial notice on the landlord to compel them to comply with the Regulations;
- Landlords have 28 days to remedy the breach, and if the work is not carried out in time then the Council has the power to carry out the required works themselves (on providing prior written notice to the landlord) and recover their costs from the landlord;
- Landlords failing to provide tenants with an electrical safety report at the start of their tenancies will be in breach of the regulations and may face a civil penalty of up to a maximum of £30,000, with the potential for multiple penalties to be imposed for a continuing failure.

This report is to advise Cabinet of the proposed changes to Horsham DC Private Sector Housing Enforcement Policy.

Recommendations

That the Cabinet is recommended:

- i) to note and agree to the changes to Horsham DC Private Sector Housing Enforcement Policy under the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020,
- ii) to add these regulations under the list of regulations enforced in this Enforcement Policy,
- iii) to add details of the penalty charges, procedures and appeals in line with other regulations to Horsham DC Private Sector Housing Enforcement Policy under the Housing and Planning Act 2016.

Reasons for Recommendations

- i) to ensure that the powers used to tackle the problem of rogue landlords are effective, appropriate and current.

Background Papers:

Wards affected: All

Contact: Marc Rankin, Head of Environmental Health and Licensing, Ext 5178

Background Information

1 Introduction and Background

- 1.1 The private rented sector is an important part of the housing market and in the Horsham District the private rented sector serves the housing needs of approximately 8% of our residents. The Council's Environmental Health and Licensing Department is responsible for ensuring good standards in this sector, protecting the health, safety and rights of tenants.
- 1.2 This report details the new regulations under the Housing and Planning Act 2016.

2 Relevant Council policy

- 2.1 The Private Sector Housing Enforcement Policy contributes towards the District Priority: Support our Communities, making a fundamental contribution to the maintenance and improvement of public health, quality of life and wellbeing.

3 Details

- 3.1 The Housing and Planning Act 2016 introduced a range of measures to crack down on rogue landlords. The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 further enhance these measures:

- Landlords are required to provide their tenants with electrical safety reports: in the case of new tenants, before they move in; to existing tenants within 28 days of receiving it; and to any prospective tenant within 28 days of their request to view the report;
- The Council has the power to demand sight of the report and the landlord must provide this within 7 days of the request. Failure to do so could result in a penalty charge;
- If the Council has reasonable grounds to believe that the landlord is in breach of the Regulations, it also has the power to serve a remedial notice on the landlord to compel them to comply with the Regulations;
- Landlords have 28 days to remedy the breach, and if the work is not carried out in time then the Council has the power to carry out the required works themselves (on providing prior written notice to the landlord) and recover their costs from the landlord;
- Landlords failing to provide tenants with an electrical safety report at the start of their tenancies will be in breach of the regulations and may face a civil penalty of up to a maximum of £30,000, with the potential for multiple penalties to be imposed for a continuing failure.

3.2 Civil Penalties

- 3.2.1 Non-compliance with Housing Act notices, regulations and licensing requirements can result in the local housing authority prosecuting the offender. Section 126 and Schedule 9 of the Housing and Planning Act 2016 allows a civil penalty to be

imposed by the local housing authority for offences under the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.

- 3.2.2 The amount of the penalty is to be determined by the local housing authority with a maximum amount of £30,000. The Council must have regard to Guidance given by the Secretary of State about the exercise of its functions in relation to the issuing of civil penalties and local housing authorities are expected to develop and document their own policy on determining the appropriate level of civil penalty. Horsham District Council's charging scheme is set out in Appendix A.
- 3.2.3 Income received from a civil penalty can be retained by the local housing authority provided that it is used to further the local housing authority's statutory functions in relation to their enforcement activities covering the private rented sector.
- 3.2.4 A civil penalty should not be seen as a lesser option compared to prosecution and to help ensure that the civil penalty is set at the appropriate level The Statutory Guidance requires a local housing authority to have regard to the following factors when deciding the appropriate level of penalty
- Severity of the offence
 - Culpability and track record of the offender
 - The harm caused to the tenant
 - Punishment of the offender and to deter the offender from repeating the offence
 - Deter others from committing similar offences
 - Remove any financial benefit the offender may have obtained as a result of committing the offence.
 - The Landlord/Letting agents assets and income
- 3.2.5 A civil penalty is an alternative to prosecution so a local housing authority is not permitted to impose a civil penalty and prosecute for the same offence. A civil penalty requires the same burden of proof as a prosecution, the evidence must meet the criminal standard of proof ie "beyond reasonable doubt". In considering the decision to prosecute or not, the Council must also consider is there is sufficient evidence for there to be a realistic prospect of conviction were it to go to court and if the prosecution is in the public interest.
- 3.2.6 Local housing authorities are also expected to develop and document their own policy on when to prosecute and when to issue a civil penalty and decide on which option on a case by case basis. The Private Sector Housing Enforcement Policy has been updated to include these details and is attached as Appendix B.
- 3.2.7 There is a prescribed process for levying civil penalties which must be followed precisely which is laid out in the Statutory Guidance. Recipients of a civil penalty have the right to appeal to the First-tier Tribunal where the soundness of the decision to impose a civil penalty, the decision relating to the amount and any deviations from the prescribed process can be rigorously reviewed. The Tribunal has the power to confirm, vary (increase or reduce) or cancel the civil penalty that the Council has issued

4 Next Steps

- 4.1 The Cabinet are recommended to approve the changes to the Private Sector Housing Enforcement Policy as set out in Appendix B to include the requirement for the inspection of fixed electrical installations.

5 Views of the Policy Development Advisory Group and Outcome of Consultations

- 5.1 The proposed policy changes were considered by the Housing and Public Protection Policy Development and Advisory Group at its meeting on 17th July. The Group was fully supportive of the new proposals.

6 Other Courses of Action Considered but Rejected

- 6.1 The Government have made it very clear that they expect local housing authorities to use the powers provided in the Housing and Planning Act 2016 robustly as a way of clamping down on rogue landlords, therefore the option not to do so was rejected.

7 Resource Consequences

- 7.1 There are no anticipated additional resource consequences

8 Legal Consequences

- 8.1 Section 126 of the Housing and Planning Act 2016 allows civil penalties to be imposed as an alternative to prosecution for certain offences as set out in Schedule 9 of the Act. Schedule 9 in turn amends the Housing Act 2004 including providing a new Section 249A which deals with civil penalties as an alternative to prosecution.
- 8.2 The Council has a statutory duty as a Local Housing Authority to enforce relevant Housing Legislation

9 Risk Assessment

- 9.1 No risks have been identified from the recommendations contained in this report

10 Other Considerations

- 10.1 The new powers introduced by the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 are intended to provide a significant incentive to landlords to comply with their legal obligations. The adoption of the new powers should mean that landlords comply more quickly and/or proactively in order to avoid financial and other penalties, which should result in fewer private tenants being exposed to housing conditions that have an adverse health impact.

**CHARGING POLICY FOR DETERMINING THE LEVEL OF CIVIL PENALTIES IMPOSED
UNDER THE HOUSING AND PLANNING ACT 2016**

1.0 Factors taken into account when deciding the level of civil penalty

- 1.1 Local housing authorities have the power to impose a civil penalty of up to £30,000. The Government would expect the maximum amount to be reserved for the very worst offenders. The actual amount levied in any particular case should reflect the severity of the offence, as well as taking account of the landlord's previous record of offending.
- 1.2 In order to ensure that any civil penalty is set at an appropriate level the Council shall consider the following factors:
- **Severity of the offence.** The more serious the offence, the higher the penalty should be.
 - **Culpability and track record of the offender.** A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and should be expected to be aware of their legal obligations.
 - **The harm caused to the tenant.** This is a very important factor when determining the level of penalty. The greater the harm or the potential for harm (this may be as perceived by the tenant), the higher the amount should be when imposing a civil penalty.
 - **Punishment of the offender.** A civil penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrates the consequences of not complying with their responsibilities.
 - **Deter the offender from repeating the offence.** The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.
 - **Deter others from committing similar offences.** While the fact that someone has received a civil penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a civil penalty. An important part of deterrence is the realisation that the local housing authority is proactive in levying civil penalties where the need to do so exists and that the level of civil penalty will be set at a high enough level to both punish the offender and deter repeat offending.
 - **Remove any financial benefit the offender may have obtained as a result of committing the offence.** The guiding principle here should be to ensure that the offender does not benefit as a result of committing an offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and properly managed.

2.0 Civil Penalties Matrix

2.1 The level of any civil penalty should take into account the Council's cost of investigating, determining and applying a civil penalty as well as including a punitive charge.

2.2 The table below based on culpability and harm will be used as a starting point for determining, on a case by case basis, the level of civil penalty that should be imposed:

		CULPABILITY		
		Low Culpability	Negligent	Deliberate
H A R M	Moderate	£2,000	£4,000	£6,000
	Serious	£4,000	£8,000	£16,000
	Severe	£8,000	£16,000	£30,000

2.3 In determining culpability regard should be had to the following:

- **Deliberate** – An intentional breach by a landlord or property agent or a flagrant disregard for the law.
- **Negligent** – The failure of the landlord or property agent to take reasonable care to put in place proper systems for avoiding the offence.
- **Low culpability** – The offence committed has some fault on the part of the landlord or property agent but there are other circumstances which have led to the offence.

2.4 In determining harm regard should be had to the following:

- **Severe** – A severe and substantial risk, including imminent risk, to the health and safety of the occupiers and/or community, with potential life threatening results.
- **Serious** - A serious risk to the health and safety of the occupiers and/or immediate neighbours, leading to a potential serious injury or disease requiring treatment and/or hospital admission.
- **Moderate** – A moderate risk which is still significant enough to warrant medical attention.

2.5 In order to ensure that a civil penalty is set at an appropriate level, the Council will have regard to the Civil Penalty Matrix and consider each case against the factors identified in the statutory guidance and detailed in paragraph 1.2 above. Aggravating factors in a case will increase the level of penalty and, equally any mitigating factors will reduce the level of penalty.

3.0 Discounts

3.1 The Council will apply the following discounts to any imposed civil penalties in the following circumstances:

- In the event that the offender complied with the identified breach within the representation period at the 'notice of Intent' stage, the Council would normally reduce the level of any imposed civil penalty by 20%
- An early payment discount of 20% of the civil penalty will be applied should the payment be made within 14 days from the date of the 'final notice'. This discount would be in addition to any reduction applied as a result of compliance at the 'notice of intent' stage.

4.0 Procedure and Appeals

- 4.1 The procedure for imposing a civil penalty is set out at Schedule 13A of the Housing Act 2004 and summarised in the DCLG guidance. There is no scope for the Council to deviate from this procedure.
- 4.2 Before imposing a civil penalty the Council must give the person a notice of its proposal (notice of intent) to impose a civil penalty.
- 4.3 A person who is given a notice of intent may make written representations to the Council within 28 days about the proposal to impose the civil penalty. Any representations to the civil penalty charge will be considered by the Head of Environmental Health and Licensing and all representations will be considered on their own merit.
- 4.4 After the end of the period for representations, if the Council decides to impose a civil penalty, it must give the person a notice (a Final notice) imposing the penalty.
- 4.5 A person receiving a final notice of a civil penalty may appeal to the First-tier Tribunal against the decision to impose a penalty or the penalty amount. The appeal has the effect of suspending the notice and requirement to pay until determined.

5.0 Non-payment of civil penalty

- 5.1 Where a person fails to pay a civil penalty, the Council will pursue non-payment of the penalty through a Court Order process.

PRIVATE SECTOR HOUSING ENFORCEMENT POLICY

1.0 Introduction

1.1 The Private Sector Housing Service is responsible for enforcing a wide range of statutory provisions relating to housing and environmental conditions affecting health and safety.

1.2 The objectives of the service are to:

- Improve the standards of homes in the private sector
- To assess local housing conditions
- To reduce the number of properties with serious risks to health and safety
- To improve standards in private rented accommodation
- To improve the standards in HMOs (houses in multiple occupation)
- To work closely with private sector landlords towards improving conditions and the standard of management of private rented housing
- To provide an excellent service that is accessible to anyone living in the private sector who may have poor living conditions

1.3 The Private Sector Housing service works **reactively** and **proactively**.

Reactively the service will respond to:

- Private sector tenants who contact the Council with complaints about disrepair or poor conditions within their home.
- Complaints about properties that may be causing problems for neighbouring properties.
- Enquiries from owner occupiers or private tenants and landlords who would like advice about housing conditions.
- Enquiries for advice about the legal minimum housing standards, particularly HMOs (houses in multiple occupation)

Proactively the service will:

- Operate a programme of inspections of higher risk HMOs

1.4 In exercising their duties and other functions, officers will seek to do so in a firm but fair, open and consistent and helpful way. Any enforcement action will be compliant with relevant legislation and guidelines in line with the principles of good enforcement.

1.5 This policy deals with the practical application of enforcement procedures that will be used to achieve statutory housing and environmental standards. It sets out what owners, landlords, their agents and tenants of private sector properties can expect from officers.

1.6 Enforcement, in the context of this policy is not limited to formal enforcement action such as prosecution, but includes for example, the inspection of premises for the purpose of checking compliance with legislation and the provision of advice.

1.7 This policy seeks to support the Council's corporate aims, objectives and strategies with respect to private sector housing and has to read in conjunction with the Council's General Enforcement Policy for Environmental Health and Licensing and the Council's Private Sector Housing Renewal Policy.

2.0 Principles of Good Enforcement

2.1 The aim of the policy is to ensure that all enforcement actions comply with the following principles:

Consistency
Proportionality
Openness

2.2 **Consistency** means taking a similar approach in similar circumstances to achieve similar ends. It does not mean uniformity, as officers will take into account many factors such as the level of risk, the history of compliance and the attitude and actions of those involved.

2.3 **Proportionality** means relating enforcement action to the risks and severity of the breach of the law involved. This will ensure that the most serious risks are targeted first.

2.4 **Openness** means explaining our actions clearly in plain language and discussing compliance failures or problems with anyone experiencing difficulties. A clear distinction will be made between legal requirements (what must be done) and advice or guidance (what is desirable)

3.0 Legislation

3.1 This section lists the legislation commonly enforced by the private sector housing service and outlines the provisions. It is not an exhaustive list and is not a full statement of the law – it is simply a summary.

3.2 The Housing Act 2004 introduced the Housing Health & Safety Rating System (HHSRS), a method of assessing and categorising hazards to health. The categories are summarised below:

HHSRS	Band	Severity	Response
Category 1 hazard	A	Serious hazards	The Council has a duty to take enforcement action.
	B		
	C		
Category 2 hazard	D	Less serious hazards	The Council has discretion to take action
	E		
	F		
	G		
	H		
	I		
	J		

The Council has a range of enforcement options to address hazards that exist in residential premises as follows:

Action	Category of hazard where action appropriate	
	Category 1	Category 2
No action	No	Yes
Hazard awareness notice	Yes	Yes
Improvement notice	Yes	Yes
Prohibition order	Yes	Yes
Emergency remedial action	Yes	No
Emergency prohibition order	Yes	No
Demolition order	Yes	No
Clearance area	Yes	No

3.3 Houses in Multiple Occupation (HMOs)

In addition to the previously mentioned enforcement options the Council has further powers to ensure adequate standards in HMOs are met and maintained.

The Housing Act 2004 introduced a mandatory scheme to licence HMOs. Licensing is intended to apply only to larger high risk HMOs of 3 or more stories occupied by 5 or more people, comprising 2 or more households.

The HMO licensing regime provides procedures to assess the fitness of a person to be a licence holder, potential management arrangements of the premises and suitability of the property for the number of occupants, including the provision of relevant and adequate equipment and facilities at the property.

It is a criminal offence if a person controlling or managing a HMO does not have the required licence. Breaking any condition of a licence is also an offence.

All HMOs, regardless of whether they are licensable or not, are subject to legislation about how they are managed and must comply with the requirements of the Management of Houses in Multiple Occupation Regulations 2006.

3.4 Empty Properties

The Housing Act 2004 introduces Empty Dwelling Management Orders (EDMO) in order to unlock the potential of empty houses and to get them back into use as houses as quickly as possible. EDMOs are designed as a backup to voluntary leasing arrangements and an alternative to enforcement action under other legislation.

There are two types of order, Interim EDMO and Final EDMO. EDMO allow the Council to secure the occupation and proper management of privately owned houses and flats that have been unoccupied for a specified period (at least six months).

3.5 Caravan Sites

The Use of land as a caravan site usually requires a caravan site licence under the Caravan Sites and Control of Development Act 1960 and the Council may impose site licence conditions. The Council has adopted conditions based on the current model standards. The Council is able to take enforcement action, by way of Compliance Notices, should a site be operating without a licence or where site licence conditions are not being met.

3.6 Other Legislative Provisions

The Private Sector Housing Service is also responsible for enforcing the provision of other legislation including Public Health Acts 1936 and 1961, Building Act 1984, Environmental Protection Act 1990, The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 and the Letting Agents

3.7 **Power to Charge for Enforcement Action**

Section 49 of the Housing Act 2004 allows the Council to make a reasonable charge as a means of recovering expenses incurred in taking enforcement action. The expenses are in connection with the inspection of the premises, subsequent consideration of any action to be taken, and the service of notices.

The Council will recover costs when formal action is taken i.e. the service of Housing Act Notices, where it is reasonable to expect the owner to pay the charges. The full cost of an officer's time including overheads and any relevant expenses will be charged. There is discretion to waive the charge when it is not reasonable to expect a person to pay the charges for enforcement.

Landlords seeking to comply with the law will not be charged for enforcement action whilst bad landlords will be charged.

Where charges for enforcement action are levied they can be registered as a local land charge against the property.

The Council will also recover costs when formal action is taken i.e. the service of Compliance Notices, under the Caravan Sites and Control of Development Act 1960, where it is reasonable to expect the owner to pay the charges. The full cost of an officer's time including overheads and any relevant expenses will be charged. There is discretion to waive the charge when it is not reasonable to expect a person to pay the charges for enforcement.

4.0 **Enforcement**

4.1 The actions available to the Private Sector Housing Service to improve the standards of private sector housing are broadly divided into two categories:

Informal action - Informal action will include verbal advice given by Officers, and advisory letters. The Private Sector Housing Services is very willing to offer help and advice and will explain the reasons for the Council's involvement and what should be done to improve the particular housing conditions. The preferred approach is to work with people to help to prevent the need for formal enforcement.

Formal action - Formal action normally involves the service of enforcement notices. Most notices served by the Private Sector Housing Service require the recipient of the notice to commence and complete specified works within specified time limits.

All notices are accompanied by notes that explain the effect of the notice and the recipient's right of appeal. Officers will always be willing to discuss the works specified in the notice and the reason for the service of the notice.

4.2 Private Sector Housing Officers are authorised to operate the service according to this policy and prepare enforcement work on behalf of the Council. Authorisation to approve enforcement action is delegated by the Council to the Head of Environmental Health and Licensing.

4.3 **Sanctions**

In all case where an offence is committed the Council has various sanctions it can impose.

4.3.1 **Penalty Charge Notices**

Under some legislation, the Council can serve a Penalty Charge Notice. These are:

The Redress Schemes for lettings Agency work and Property management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014

Under the redress scheme the penalty charge will normally be £5,000 for any contravention but on representation this charge may be reduced or in exceptional cases be quashed. Government guidance has been provided on reasons to reduce the penalty charge which includes taking account of turnover of the business or other extenuating circumstances. This charge amount is in accordance with “Guidance on the Redress Scheme Improving Rented Sector” issued in March 2015 by DCLG.

The landlord can request the local authority to review the penalty charge. A final appeal can be made by the landlord to the First-tier Tribunal.

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Under these regulations, a penalty charge of up to £5,000 can be made. Regulation 13 requires a local Housing Authority to prepare and publish a statement of principles which it proposes to follow in determining the amount of penalty charge. Appendix 1 details the Councils Statement of Principles in this matter.

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

Under these regulations a penalty charge of up to £30,000 can be made, with the potential for multiple penalties to be imposed for a continuing failure. The procedure and appeals concerned with penalty charges are laid out in Schedule 2 to these Regulations.

4.3.2 Civil Penalties

The Council may serve notices imposing Civil Penalties as an alternative to prosecution in respect of the following offences:

- Failure to comply with an Improvement Notice
- Failure to licence or other licensing offences relating to Houses in Multiple Occupation (HMOs)
- Failure to comply with an Overcrowding Notice
- Failure to comply with a regulation in respect of an HMO
- Breaching a Banning Order

The local housing authority should determine the amount of penalty which can be up to a maximum of £30,000. The table and notes in Appendix 2 sets out the charging system and the matters which are to be taken into consideration when setting the level of a civil penalty.

4.3.3 Prosecution

Non-compliance with legislation and regulations enforced by the Private Sector Housing Service is generally a criminal offence. The Council is the prosecuting authority for such offences and as they are criminal in nature, proceedings are normally taken in the Magistrates Court.

4.3.4 Rent Repayment Orders

A rent repayment order is an order made by the First-tier Tribunal requiring a landlord to repay a specified amount of rent. Rent repayment orders can be applied to a wide range of offences and where an offence to which a rent repayment order relates has been committed the local authority will consider applying for a rent repayment order on each case independently. The Council must consider applying for a rent repayment order where a landlord has been convicted of an offence for which a rent repayment order can be applied for.

4.3.5 Works in Default

Work in default is a power given to the Council, to ensure work is carried out to a property. If the recipient of the Notice does not do the work required by the Notice, the Council may employ a contractor to enter the property and carry out the work itself. The Council will charge the appropriate person for the cost of the works together with the costs involved in arranging for the work to be done.

It should be noted that carrying out the work in default does not exclude the Council from taking other formal action. The Council is entitled to ensure that the work is carried out and to consider if it is appropriate to take further action.

4.3.6 Remedial Action

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 give the powers to take urgent remedial action where it appears that the owner of the property will not do so. The procedure to be followed is specified in regulation 10.

4.4 Shared Enforcement Responsibility

In circumstances where enforcement responsibility is shared between enforcement agencies, the Private Sector Housing Service will have regard to procedures agreed with other enforcement agencies, particularly where memoranda of understanding exists.

In some cases, enforcement powers will rest with another agency (for example the Health and Safety Executive has responsibility for enforcement of gas safety in domestic property). In these situations, the Private Sector Housing Section will act to ensure that the case is transferred to the enforcing agency promptly and in accordance with any agreed procedures.

5.0 Taking Action and Imposing Sanctions

The decision to take informal or formal action will be made by the officer in charge of the case.

5.1 When we will take Enforcement Action

Notices are served when there is no alternative and when all other reasonable attempts have been made to achieve the necessary action voluntarily.

In determining whether or not to serve a notice each case is looked at individually and the following factors are taken into account:

- Whether an informal approach such as a letter informing the landlord of the defects and asking them to confirm their intentions within a set timescale is appropriate.
- The significance of the hazards.
- The extent and location of the hazards.
- Whether the Council is under a duty or has a power to take formal action in respect of the hazards identified.
- The level of risk posed to the occupiers, including whether there is an imminent risk of serious harm
- The views and intentions of the occupiers.
- The views and intentions of the owners.
- The compliance record of the person in control of the premises.
- Whether the chosen option is practical, reasonable and proportionate in reducing the hazards to an acceptable level.
- The physical impact on adjoining buildings.
- The longer term viability of the premises.
- The impact on the local community and on the appearance of the local area.
- Whether the tenant will be protected from retaliatory eviction.

5.2 When will sanctions be imposed?

In all cases where an offence is committed, consideration will be given as to whether a sanction should be imposed and if so, which one. In some cases it may be appropriate to impose two sanctions for example, prosecution and an application for a rent repayment order.

In deciding whether to pursue sanction, the initial decision will be made by the officer in charge of the case in consultation with the Head of Environmental Health and Licensing. Having prepared the case and collected the evidence, officers will then consult the Council's Legal Section to discuss the merit of the action proposed.

5.3 **Civil Penalties or Prosecution**

Each case is unique and must be considered on its own facts. However, there are general principles that apply to the way in which Officers decide whether an action should be applied and if so which one.

There are two overarching tests used in determining whether to impose a sanction. These are the evidential test and the public interest test.

The Evidential Test - Private Sector Housing Officers must be satisfied that there is enough evidence to provide a realistic prospect of conviction. This is an objective test and means that a court is more likely than not to convict the offender of the charge alleged.

The Public Interest Test - If the evidential requirements are met, Officers must then consider whether the public interest requires a prosecution. It is not the case that Officers will prosecute simply because an offence has been committed. There should generally be a public interest in bringing such an offence to Court.

- 5.3.1 Whenever the authority believes a Housing Act 2004 offence has been committed and the evidence passes the evidential stage and the public interest stage it will then be necessary to consider on a case by case basis if instigating prosecution proceedings or imposing a civil penalty is the best approach. If the Council believes that it has a reasonable prospect of a conviction in a particular case it will always consider a civil penalty in the first instance.

Factors to consider will include:

- The seriousness of the offence, history of compliance, culpability and the harm caused.
- Whether a civil penalty is likely to be sufficient to change the behaviour of the offender.
- Whether the offender has a large portfolio of properties potentially putting many tenants at risk if they continue to operate with poor practices.
- Information from partner agencies e.g. Police and West Sussex Fire and Rescue Service.
- Is publicity likely to act as a deterrent to others, a prosecution is in the public domain whereas a civil penalty is not.
- Which option will be the best deterrent to prevent further offences,
- Whether the tenant or council is also considering applying for a Rent Repayment Order.

Examples of situations in which a decision to prosecute may be the most appropriate option include; for what are judged to be particularly serious offences and where the offender has committed similar offences in the past. However, that does not mean civil penalties should not be used where serious offences have been committed and each case will be considered on an individual basis.

5.4 **Work in Default**

When determining if work in default is appropriate, officers will consider the following, this is not an exhaustive list and other factors may be taken into account:

- The reason for non-compliance to the original Notice,
- The effects of not carrying out the work on the health and safety of the occupant of the property concerned,
- The reason for the work not being carried out in the first place.

6.0 **Service Complaints**

- 6.1 If you feel the Council has not acted in accordance with this policy please contact:

The Head of Environmental Health and Licensing
Horsham District Council
Parkside
Horsham
West Sussex RH12 1RL
E-mail: publichealth.licensing.gov.uk
Telephone: 01403 215405

If you are dissatisfied with the response you can pursue your complaint through the internal complaints procedure

7.0 Policy Review

- 7.1 The policy will be reviewed regularly by the Head of Environmental Health and Licensing to ensure it continues to meet the principles of good enforcement.

Statement of principles for determining the amount of a penalty charge for breaches of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

INTRODUCTION

1. Regulation 13 of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 ('the Regulations') requires local housing authorities such as Horsham District Council ('the Council') to prepare and publish a statement of principles which it proposes to follow in determining the amount of a penalty charge.
2. This statement of principles sets out the principles that the Council will apply in exercising its powers to require a relevant landlord ('landlord') to pay a financial penalty for a failure to comply with requirement of a remedial notice ('the Notice') served under Regulation 5 of the Regulations.

FINANCIAL PENALTY CHARGES

3. In accordance to Regulation 8, where the Council is satisfied that on the balance of probabilities that the landlord on whom it has served a remedial notice ('the Notice') under Regulation 5 has failed to take the remedial action specified in the Notice within the period specified, the Council may require the landlord to pay a penalty charge of such amount as the authority has determined.
4. In deciding whether it would be appropriate to impose a penalty charge, the Council will take full account of the particular facts and circumstances of the breach under consideration, such as evidence of the breach of the requirement of the Notice.
5. Before imposing a requirement on a landlord to pay a penalty charge, the Council must, within a period of six weeks from the point at which it is satisfied that the landlord has failed to comply with the requirements of the Notice, serve a penalty charge notice in accordance with Regulation 9 setting-out:
 - the reasons for imposing the penalty charge;
 - the premises to which the penalty charge relates;
 - the number and type of prescribed alarms (if any) which an authorised person has installed at the premises;
 - the amount of the penalty charge;
 - that the person responsible for the breach is required, within a period specified in the notice –
 - to pay the penalty charge, or
 - to give written notice to the local housing authority that the offender wishes the authority to review the penalty charge notice;

- how payment of the penalty charge must be made;
 - the person to whom, and the address (including if appropriate any email address) at which, a notice requesting a review may be sent and to which any representations relating to the review may be addressed; and
 - any other information as required by the regulations that have been breached.
6. Under Regulation 8(2) the amount of the penalty charge must not exceed £5,000.
7. For a first offence, the Council will impose a penalty charge of £2,500 and an early payment (within 14 days of the penalty charge notice with the day on which the penalty charge notice is served) will be reduced by 50% making £1,250 payable.
8. For subsequent offences the penalty will be £5,000 to deter continued non-compliance and an early payment will attract a discount of 50% making £2,500 payable

REVIEW OF PENALTY CHARGE NOTICE

9. Should the Council receive a request from the landlord for the review of a penalty charge within 28 days (beginning with the day on which the penalty charge notice is served), a review shall be undertaken by the Head of Environmental Health and Licensing and the Head of Legal and Democratic Services. They will review the penalty charge and take into account all representations made. All representations will be considered on their own merits; in particular, the following may be considered relevant in deciding any reduction in the charge made:
- Internal failed preventative measures – in cases of national agents / landlords / businesses where due to internal processes failing local office has breached regulations.
 - Good attitude and cooperation with the Council – in cases where the landlord has cooperated fully with the Council in investigating the breach of the regulations.
 - Immediate and voluntary remediation – when the offence was brought to the attention of the landlord they immediately rectified any breach of the regulations.
 - No previous history of non-compliance with other housing legislation – if this is a first breach of any housing related legislation.
 - Any relevant personal circumstances.
 - Undue financial hardship – if the fine would cause the offender undue financial hardship such that it might not be able to continue to operate.
10. In conducting the review, the Council will consider any representations made by the landlord, and serve notice of its decision whether it confirms, varies or withdraws the penalty charge notice issued to the landlord.
11. The notice of the review decision will also state the landlord's right of appeal

APPEALS

12. A landlord who, having requested a review of a penalty charge notice is served with a notice confirming or varying the penalty charge may appeal to the First-tier Tribunal against the Council's decision.
13. When any review determines a final amount of penalty and this is not paid the Council will pursue non-payment of the penalty charge on the order of a court, as if payable under a court order.

VALIDITY OF THIS POLICY

14. The Council may revise its statement of principles and, where it does so, it must publish the revised statement.

**CHARGING POLICY FOR DETERMINING THE LEVEL OF CIVIL PENALTIES IMPOSED
UNDER THE HOUSING AND PLANNING ACT 2016**

1.0 Factors taken into account when deciding the level of civil penalty

- 1.1 Local housing authorities have the power to impose a civil penalty of up to £30,000. The Government would expect the maximum amount to be reserved for the very worst offenders. The actual amount levied in any particular case should reflect the severity of the offence, as well as taking account of the landlord's previous record of offending.
- 1.2 In order to ensure that any civil penalty is set at an appropriate level the Council shall consider the following factors:
- **Severity of the offence.** The more serious the offence, the higher the penalty should be.
 - **Culpability and track record of the offender.** A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and should be expected to be aware of their legal obligations.
 - **The harm caused to the tenant.** This is a very important factor when determining the level of penalty. The greater the harm or the potential for harm (this may be as perceived by the tenant), the higher the amount should be when imposing a civil penalty.
 - **Punishment of the offender.** A civil penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrates the consequences of not complying with their responsibilities.
 - **Deter the offender from repeating the offence.** The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.
 - **Deter others from committing similar offences.** While the fact that someone has received a civil penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a civil penalty. An important part of deterrence is the realisation that the local housing authority is proactive in levying civil penalties where the need to do so exists and that the level of civil penalty will be set at a high enough level to both punish the offender and deter repeat offending.
 - **Remove any financial benefit the offender may have obtained as a result of committing the offence.** The guiding principle here should be to ensure that the offender does not benefit as a result of committing an offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and properly managed.

2.0 Civil Penalties Matrix

- 2.1 The level of any civil penalty should take into account the Council's cost of investigating, determining and applying a civil penalty as well as including a punitive charge.
- 2.2 The table below based on culpability and harm will be used as a starting point for determining, on a case by case basis, the level of civil penalty that should be imposed:

		CULPABILITY		
		Low Culpability	Negligent	Deliberate
H A R M	Moderate	£2,000	£4,000	£6,000
	Serious	£4,000	£8,000	£16,000
	Severe	£8,000	£16,000	£30,000

- 2.3 In determining culpability regard should be had to the following:
- **Deliberate** – An intentional breach by a landlord or property agent or a flagrant disregard for the law.
 - **Negligent**– The failure of the landlord or property agent to take reasonable care to put in place proper systems for avoiding the offence.
 - **Low culpability** – The offence committed has some fault on the part of the landlord or property agent but there are other circumstances which have led to the offence.
- 2.4 In determining harm regard should be had to the following:
- **Severe** – A severe and substantial risk, including imminent risk, to the health and safety of the occupiers and/or community, with potential life threatening results.
 - **Serious** - A serious risk to the health and safety of the occupiers and/or immediate neighbours, leading to a potential serious injury or disease requiring treatment and/or hospital admission.
 - **Moderate** – A moderate risk which is still significant enough to warrant medical attention.
- 2.5 In order to ensure that a civil penalty is set at an appropriate level, the Council will have regard to the Civil Penalty Matrix and consider each case against the factors identified in the statutory guidance and detailed in paragraph 1.2 above. Aggravating factors in a case will increase the level of penalty and, equally any mitigating factors will reduce the level of penalty.

3.0 Discounts

- 3.1 The Council will apply the following discounts to any imposed civil penalties in the following circumstances:
- In the event that the offender complied with the identified breach within the representation period at the 'notice of intent' stage, the Council would normally reduce the level of any imposed civil penalty by 20%
 - An early payment discount of 20% of the civil penalty will be applied should the payment be made within 14 days from the date of the 'final notice'. This discount would be in addition to any reduction applied as a result of compliance at the 'notice of intent' stage.

4.0 Procedure and Appeals

- 4.1 The procedure for imposing a civil penalty is set out at Schedule 13A of the Housing Act 2004 and summarised in the DCLG guidance. There is no scope for the Council to deviate from this procedure.
- 4.2 Before imposing a civil penalty the Council must give the person a notice of its proposal (notice of intent) to impose a civil penalty.
- 4.3 A person who is given a notice of intent may make written representations to the Council within 28 days about the proposal to impose the civil penalty. Any representations to the civil penalty charge will be considered by the Head of Environmental Health and Licensing and all representations will be considered on their own merit.
- 4.4 After the end of the period for representations, if the Council decides to impose a civil penalty, it must give the person a notice (a final notice) imposing that penalty.
- 4.5 A person receiving a final notice of a civil penalty may appeal to the First-tier Tribunal against the decision to impose a penalty or the penalty amount. The appeal has the effect of suspending the notice and requirement to pay until determined.

5.0 Non-payment of civil penalty

- 5.1 Where a person fails to pay a civil penalty, the Council will pursue non-payment of the penalty through a Court Order process.

FORWARD PLAN

This notice sets out details of key decisions that the Cabinet or a Cabinet Member intend to make, and gives 28 days' notice of the decision under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. The notice also includes details of other decisions the Council intends to make.

The reports and any background documents that have been used to inform the decisions will be available on the Council's website www.horsham.gov.uk or by contacting Committee Services at the Council Offices.

Whilst the majority of the Council's business will be open to the public, there will be occasions when the business to be considered contains confidential, commercially sensitive or personal information. This is formal notice under the 2012 Regulations that part or all of the reports on the decisions referred to in the schedule may be private because they contain exempt information under Part 1 of Schedule 12A to the Local Government Act 1972 (as amended) and the public interest in withholding the information outweighs the public interest in disclosing it.

If you wish to make representations about why part or all of the papers should be open to the public, please contact Committee Services at least 10 working days before the date on which the decision is to be taken.

If you wish to make representations to the Cabinet or Cabinet Member about the proposed decisions, please contact Committee Services to make your request.

Please note that the decision date given in this notice may be subject to change.

To contact Committee Services:

E-mail: : committeeservices@horsham.gov.uk

Tel: 01403 215123

Published on 01 August 2020

	Subject/Decision	Decision Taker	Date(s) of decision	Is all or part of this item likely to be dealt with in private	Contact Officer Cabinet Member (NB include name, title and email address)
	Subject/Decision	Decision Taker	Date(s) of decision	Is all or part of this item likely to be dealt with in private	Contact Officer Cabinet Member (NB include name, title and email address)
1.	Review of Southwater Country Park car parking	Cabinet	24 Sep 2020	Open	Vicky Wise, Head of Leisure and Culture Vicky.Wise@horsham.gov.uk Deputy Leader and Cabinet Member for Leisure and Culture (Councillor Jonathan Chowen)
2.	Medium Term Financial Strategy - Update	Cabinet	24 Sep 2020	Open	Jane Eaton, Director of Corporate Resources jane.eaton@horsham.gov.uk Leader and Cabinet Member for Finance and Assets (Councillor Ray Dawe)
3.	Conservation Area Appraisal - Warnham and Slinfold	Cabinet	24 Sep 2020	Open	Barbara Childs, Director of Place barbara.childs@horsham.gov.uk Cabinet Member for Planning and Development (Councillor Claire Vickers)
4.	The Councils Carbon Reduction Target and Action Plan	Cabinet	24 Sep 2020	Open	Adam Chalmers, Director of Community Services. adam.chalmers@horsham.gov.uk Cabinet Member for Environment, Recycling and Waste (Councillor Philip Circus)

	Subject/Decision	Decision Taker	Date(s) of decision	Is all or part of this item likely to be dealt with in private	Contact Officer Cabinet Member (NB include name, title and email address)
5.	Procurement of building contract	Cabinet	24 Sep 2020	Fully exempt	Brian Elliott, Head of Property & Facilities brian.elliott@horsham.gov.uk Leader and Cabinet Member for Finance and Assets (Councillor Ray Dawe)
6.	Community Lottery	Cabinet	24 Sep 2020	Open	Rob Jarvis, Head of Housing & Community Services. robert.jarvis@horsham.gov.uk Cabinet Member for Community Matters and Wellbeing (Councillor Tricia Youtan)
7.	Housing Strategy 2019 - 2024	Cabinet	26 Nov 2020	Open	Rob Jarvis, Head of Housing & Community Services. robert.jarvis@horsham.gov.uk Cabinet Member for Community Matters and Wellbeing (Councillor Tricia Youtan)
8.	Horsham District Local Plan regulation 19	Cabinet	26 Nov 2020	Open	Catherine Howe, Principal Planning Officer catherine.howe@horsham.gov.uk Cabinet Member for Planning and Development (Councillor Claire Vickers)
9.	Medium Term Financial Strategy	Cabinet	26 Nov 2020	Open	Jane Eaton, Director of Corporate Resources jane.eaton@horsham.gov.uk Leader and Cabinet Member for Finance and Assets (Councillor Ray Dawe)

	Subject/Decision	Decision Taker	Date(s) of decision	Is all or part of this item likely to be dealt with in private	Contact Officer Cabinet Member (NB include name, title and email address)
10.	Council Tax Reduction Scheme	Cabinet Council	28 Jan 2021 10 Feb 2021	Open	Jane Eaton, Director of Corporate Resources jane.eaton@horsham.gov.uk Leader and Cabinet Member for Finance and Assets (Councillor Ray Dawe)
11.	Budget 2021/2022	Cabinet Council	28 Jan 2021 10 Feb 2021	Open	Jane Eaton, Director of Corporate Resources jane.eaton@horsham.gov.uk Leader and Cabinet Member for Finance and Assets (Councillor Ray Dawe)

Report to Cabinet

Cabinet Meeting 23rd July 2020

By the Cabinet Member for Community Matters and Wellbeing

DECISION REQUIRED



Not Exempt

Approval of Business Cases for Horsham District Homes for affordable homes in Spring Lane, Slinfold

Executive Summary

On 21st March 2019, Cabinet approved the creation of two companies for the purpose of providing affordable rental housing in the District. Horsham District Homes Limited (HDH), which will undertake development and Horsham District Homes (Holdings) Limited (HDHH) which manages and owns the completed properties.

Horsham District Council is the sole shareholder of HDH. The shareholder agreement for HDH reserves certain matters for Cabinet approval, including the approval of business cases for projects and approval of any loans to be made by the Council to the companies.

The Directors of HDH have prepared a business case setting out an opportunity they wish to pursue, which requires the approval of Cabinet. The opportunity consist of the purchase of four flats being developed by a third party developer in Spring Lane, Slinfold. The details of the transaction are set out in the body of this report and in appendix 1. A summary of the financials is set out below:

Purchase consideration for four flats*	£560,000
Acquisition fees	£ 20,000
Gross purchase price	£580,000
Net rental income	c£26,925
Yield	4.6%
Market value of the homes	£865,000
Ratio of transfer value to market value	65%

*to be financed with s106 commuted sums

The properties being purchased are the affordable housing allocation for the Spring Lane development. The properties were widely marketed but are not of interest to the registered provider sector because this is a small lot size. If HDHH does not buy the property the developer will most likely apply for shared ownership use, meaning that the property is lost to the affordable rental market.

Cabinet is recommended to approve the business cases in accordance with the shareholder agreement and for the purchase to be financed with s106 commuted funds which are provided by developers of other sites for the delivery of affordable housing.

Recommendations

That the Cabinet is recommended:

- i) To approve the business case for the purchase of the affordable rental homes in Slinfold by Horsham District Homes (Holdings).
- ii) To recommend to Council the transfer of s106 funds to Horsham District Homes (Holdings) for the purchase of the homes.

Reasons for Recommendations

Approval of the recommendations will deliver four affordable rental homes for the benefit of households on the housing list.

Appendix 1

Business case for the acquisition of four affordable homes at Spring Lane, Slinfold

Background Papers

Business case

Wards affected: All

Contact: Brian Elliott: Head of Property and Facilities 01403 215328

NB Brian Elliott has been appointed by the Council as a Director of HDH and HDHH

Background Information

1 Introduction and Background

- 1.1 Horsham District Homes Limited (HDH) is a company owned and controlled by Horsham District Council which has been established for the purpose of delivering affordable rented accommodation in Horsham District. The objectives of the company, as detailed in the business case, are to (a) increase delivery of affordable housing (b) make the best use of s106 Commuted Sums and (c) provide a financial return to the Council to reinvest in the District. The proposed purchase meets these criteria.
- 1.2 The Shareholders Agreement for HDH set out a number of shareholder consents, which are used to control the activities of HDH. These consents include the approval of business cases for projects to be delivered by HDH and the approval of s106 grant funding.
- 1.3 The directors of HDH are seeking Cabinet approval to undertake the purchase as detailed in the business case set out in Appendix 1 and the purpose of this report is to recommend consent to this proposal.

2 Relevant Council policy

- 2.1 The 2019 to 2023 Corporate Plan sets out the Council's strategic objectives and includes creating great places for people to live and work and creating a strong safe and healthy community. Paragraph 3.2.2 of the corporate plan states the objective of using the Council's affordable housing company to build affordable homes in areas of high demand.

3 Details

- 3.1 The details of the proposal are set out in Appendix 1.
- 3.2 The business case for the establishment of HDH focused on direct development as the primary delivery mechanism for affordable housing on low cost/no cost land owned by the Council. The business case also referenced that opportunities may arise for HDH to purchase affordable rental housing from developers, where these homes are not of interest to registered providers, which is the case at Spring Lane Slinfold. The original business case for HDH included financial illustrations that suggested a yield of 5% on net rental income and a transfer value of c55% of open market value. These were optimum targets and returns will vary between projects and over time. It is therefore to be expected that transactions may deliver higher or lower returns depending on the circumstances and it may be that 4.5% is a more realistic target in today's low interest rate environment. The level of return for this purchase is 4.6% net of management costs, which is considered reasonable and appropriate.
- 3.3 The opportunity at Spring Lane is a purchase of a property to be developed by a developer as part of their on site s106 obligations. The financial details of the acquisition are set out below

- 3.4 **Spring Lane, Slinfold.** The opportunity at Spring Lane is for HDHH to acquire from a developer four 1 bedroom flats. The original business case for creating the companies anticipated this type of opportunity. The driver for the proposal is that this is a small block of flats that form part of the affordable housing allocation for the Spring Lane scheme. Three of the homes are allocated as affordable rental and one as shared ownership. HDHH will only use the properties for affordable rental. The opportunity was offered to the Registered Provider market but is not of interest to that sector because it is a small development. If HDHH does not purchase the property, it is likely that the developer will seek a change of use of all of the properties to shared ownership, which would deliver a higher return to the developer and would mean that the property is lost to the affordable rental sector and unavailable to households on the Council's housing list.
- 3.5 As the property is being developed by a third party developer there is no development risk. It is therefore intended to transfer the asset directly into HDHH limited as a completed property.
- 3.6 The agreed purchase price for the property is £560,000, which gross of acquisition fees will be c£580,000. The Local Housing Allowance rate for a one-bedroom unit is £172.59 per week, or £8,975 per annum. The total rent for all four units, net of management costs, is £26,925 per annum, which represents a yield of 4.6% on purchase costs and a transfer value of c65% of market value.
- 3.7 The unrestricted market value of the flats is £865,000, equivalent to £215,000 per unit. The purchase price of £560,000 equates to £140,000 per unit.
- 3.8 As at 1st July 2020, there are 722 households on the housing list. Of these, 137 have highlighted Slinfold as an area of choice for permanent accommodation, including 64 households who are seeking one bedroom accommodation. Therefore there is a clear demand for these type of properties.
- 3.9 All properties will be developed to a minimum B Energy Performance Certificate (EPC) rating. At a national level 81% of new homes achieve an EPC B rating (just 1% are A rating) and B rated homes comprise just 2% of the existing housing stock at a national level.

4 Next Steps

- 4.1 To proceed to legal formalities. The properties will be developed over the coming year and are expected to be available for occupation in November 2021.

5 Views of the Policy Development Advisory Group and Outcome of Consultations

- 5.1 The proposal has been considered by the Community and Culture PDAG and member's comments have been incorporated in this report.
- 5.2 The Council's Chief Finance Officer and Monitoring Officer were consulted. These officers do not have roles within either housing company.

6 Other Courses of Action Considered but Rejected

6.1 Not applicable

7 Resource Consequences

7.1 The purchase will be funded through s106 commuted sums. Housing services will manage the units, paid for by HDH through the resourcing contract with the Council.

7.2 The Council may also benefit in the future from dividend payments once the housing companies have grown sufficiently to generate dividend payments. This is likely to be towards the end of the current medium term financial plan.

8 Legal Consequences

8.1 The Council has incorporated an affordable housing company and the reserved matters are included in the shareholder agreement.

8.2 Section 95 of the Local Government Act 2003 authorises the Council to do for a commercial purpose anything which it is authorised to do for carrying on any of its ordinary functions.

8.3 Section 1(1) of the Localism Act 2011 introduced the “general power of competence” for local authorities, defined as “the power to do anything that individuals generally may do” and which expressly includes the power to do something for the benefit of the authority, its area or persons resident or present in its area.

8.4 Section 4(2) of the Localism Act 2011 provides that where, in exercise of the general power, a local authority does things for a commercial purpose the authority must do them through a company.

8.5 Section 111 of the Local Government Act 1972 enables the Council to do anything which is calculated to facilitate, or is conducive to or incidental to, the discharge of any other of its functions, whether involving expenditure, borrowing or lending money, or the acquisition or disposal of any rights or property.

8.6 Section 17 of the Housing Act 1985 empowers the Council to acquire land as a site for erection of houses or to acquire houses, or buildings which may be made suitable as houses, together with any land occupied with the land or buildings.

9 Risk Assessment

9.1 Normal risks associated with property development including budgets being exceeded and programme not being met. These will be mitigated by the employment of suitably qualified external professionals and procurement of contractors through the normal procurement processes.

10 Other Considerations

10.1 None

Business case for Horsham District Homes (Holdings) Limited

Spring Lane, Slinfold

Purchase of four affordable rental flats

Location

The property is the on site affordable housing allocation for a development at Spring Lane Slinfold, being undertaken by Crayfern Homes Limited.

The development comprises an estate of eight detached homes plus the four affordable housing units which are in a single block at the rear of the site. The overall site area is 1.966ha and there is a significant amount of open space on the site, with only 42% of the site being developed. The private houses range from 2 bed bungalows of 1,165 sf to 4 bedroom detached houses of 2,290 sf.

Slinfold is located 4 miles west of Horsham off of the A29 and has a population of 2,055 (2011 census).

Proposal

This is an opportunity to purchase four units being developed by a residential developer as part of their on site affordable housing allocation. The property can therefore be purchased without Horsham District Homes Limited taking any development risk.

The property was extensively marketed by Crayfern Homes Limited with limited interest from Registered Providers because of the small nature of the development. Horsham District Homes (Holdings) Limited is therefore not in competition with the RP market, which is the preferred position, because the company's objective is to provide additionality to the RP market, rather than disrupt the RP market. The property was offered to Horsham District Homes (Holdings) because the company is buying another unit in Slinfold being developed by Crayfern Homes parent company.

It is proposed that Horsham District Homes (Holdings) Limited purchase the property direct, utilising funding provided by Horsham District Council by way of s106 contributions.

The location of the four units is shown on the plan in Appendix 1. The design of the property is shown in Appendix 2 and the internal layout in Appendix 3. The specification of the property is to a normal affordable rental standard similar to the standard adopted by Horsham District Homes in new developments.

It is expected that the house will achieve an EPC rating of B on completion [to be confirmed].

Purchase proposal

Heads of terms have been agreed for the purchase of the property as follows:

- Developer – Crayfern Homes Limited
- Purchaser – Horsham District Homes (Holdings) limited
- Tenure – Freehold (TBA)
- Price - £560,000 plus SDLT
- Market value on unrestricted basis £860,000

- Percentage of affordable value to market value – 65%
- 10 year NHBC guarantee to be provided
- Conditionality – Subject to Contract and Cabinet approval to business case
- Seller and purchaser to meet s106 obligations for affordable housing on this plot

Funding requirement

The funding requirement is for £560,000 plus acquisition fees. The gross purchase price is therefore £580,000

It is recommended that the development is financed by way of a s106 contribution to Horsham District Homes (Holdings) Limited equivalent to £580,000.

Financial returns

The LHA rate for a 1 bedroom flat in this area of Horsham is £8,927 per annum, and for the four combined, £35,709 pa. The rent, net of 25% management and other costs, is £26,781 pa.

The gross purchase price is £580,000, therefore on completion of the purchase the yield to Horsham District Homes (Holdings) Limited will be 4.6%.

Recommendation

There is a strong preference for 1 bedroom units in Slinfold, and it is recommended that Horsham District Homes (Holdings) Limited, purchase the property. The purchase price of £580,000 gross provides a net return of 4.6% which is in excess of the revised target of 4.5%.

Appendix 1

Development site – plot to be purchased is the larger building at the south west corner of the site (north is top of site)



Appendix 2

Elevations



Appendix 3

Floor plans



FIRST FLOOR PLAN



GROUND FLOOR PLAN

Plots 7 and 9 – 50.07 m²

Plots 8 and 10 – 50.45 m²

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Report to Cabinet

Cabinet meeting 23 July 2020

Ray Dawe, Cabinet Member for Finance and Assets

DECISION REQUIRED



**Horsham
District
Council**

Open. Appendix A is exempt under Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972

Contract Award for the Cash Collection Services Tender

Executive Summary

The Council has undertaken a procurement exercise seeking to appoint one contractor to collect, consolidate and bank cash and coins from Council premises and car park machines.

A procurement exercise was undertaken following an open local tender process under the Light Touch Regime in Public Procurement Regulations 2015. This process has now been completed and a number of bids were received as detailed in Appendix A.

Following the procurement exercise, it is recommended to award the contract to Supplier A.

The duration of the contract will be a period of 3 years commencing on 1 November 2020 until 31 October 2023, with an option to extend for a further 24 months.

Recommendations

Cabinet is recommended:

- i) To award the cash collection services contract to Supplier A.

Reasons for recommendations

The recommendation to make the award to Supplier A is the result of a formal evaluation process, leading to the conclusion that their offer is commercially and technically the most economically advantageous tender.

Background papers: None

Wards affected: All

Contact: Dominic Bradley, Head of Finance, 01403 215302

Background Information

1 Introduction and background

- 1.1 The current contract for cash collection with Jade Security Services Ltd expires 31 October 2020. This contract has already been extended as many times as permitted under the contract.
- 1.2 A project group was established to review the Council's requirements and revise the specification. This project group have also been involved in the evaluation of the tender received.

2 Relevant Council policy

- 2.1 The safe collection of income from Council premises and cash machines within our car parks links to a few of our District Plan priorities.
- 2.2 Efficiency and Taxation – getting the best return on all Council assets. Ensuring that all income is safely collected ensures that the expected revenue streams stay on target and reduce any impact from malfunction, crime and vandalism.
- 2.3 Safer and Healthier – reduce crime, fear of crime and anti-social behaviour. Collecting our money from machines and premises regularly and in a safe way, reduces attempted theft and the impacts of crime on the local area.

3 Details

- 3.1 The Council followed an open local tender process under the Light Touch Regime in Public Procurement Regulations 2015.
- 3.2 Three tenders were returned by the due date of 3 June 2020.
- 3.3 There was a three stage evaluation process:
 - i) **Self- certification** – all three companies certified that they could meet the Council's minimum requirements
 - ii) **Technical / Quality submission** – an assessment of the tenderers' ability to deliver the requirements of the contract represented 30% of the evaluation criteria. This included security, operational, contract management and business continuity considerations.
 - iii) **Commercial submission** – an assessment of the financial rates submitted by each tenderer and represented 70% of the evaluation criteria. The lowest overall price over the initial contract duration of three years received the maximum score with the other bids expressed as a percentage of the lowest bid.
- 3.4 The commercial and technical scores were added together to achieve the tenderer's final total score out of 100%. Supplier A were identified as the most economically advantageous tender and confirmed as the preferred bidder.

- 3.5 The project group consisted of procurement, finance and legal professionals as well as representatives from car parking services.
- 3.6 The tender process identified that TUPE (Transfer of Undertaking Protection of Employment Regulations 2006) should not be applied.

Evaluation

- 3.7 The final evaluation scores were agreed by all members of the Project Group at a meeting held on 18 June 2020. The scores are set out in Appendix A.

4 Next steps

- 4.1 The Cabinet is requested to approve the award of this contract to Supplier A from 1st November 2020 for a period of 3 years on the terms and conditions supplied in the tender documentation
- 4.2 Upon Cabinet Member approval, notification of the intention to award a contract to be sent to all tenderers by Procurement Team.
- 4.3 It is anticipated that letters shall be sent to all tenderers 24 July 2020 whereupon a mandatory 10 calendar day standstill period will commence.
- 4.4 Upon conclusion of the standstill period without challenge from any of the other tenderers the formal contract award may commence.

5 Views of the Policy Development Advisory Group and outcome of consultations

- 5.1 The draft report on the cash collection tender process was considered by the Finance and Assets Policy Development Advisory Group on 2 March 2020. The Group were supportive of the proposed process and actions.
- 5.2 Consultation with the relevant stakeholders has taken place, with the majority of the stakeholders forming part of the project group these include Parking Service and Finance. These services were involved in all aspects of the procurement process including the creation of the tender documents and evaluation of tender submissions.
- 5.3 The Director of Corporate Resources and the Monitoring Officer were consulted and their comments are included within the relevant aspects of the report.

6 Other courses of action considered but rejected

- 6.1 None. The Council is required to put the contract out to tender for competition.

7 Resource consequences

- 7.1 There are no adverse financial consequences identified in respect of this contract award.

7.2 A reduction in costs is anticipated during 2020/21, although primarily due to the reduction in volumes and frequency of cash collected. The expected cost is within the current budgeted expenditure in 2020/21.

7.3 There are no staffing consequences.

8 Legal consequences

8.1 None. The Council is required to have a formal contract let in accordance with the Public Contract Regulations 2015 to cover these services. The procurement process followed these Regulations with contract advice being provided by Legal Services.

9 Risk assessment

9.1 The inherent risks in providing a cash collection services are addressed by requiring the service provider to hold membership of relevant professional bodies and adequate insurance

10 Other considerations

10.1 The tender process and contract have been structured to ensure that the service provider is aware of and agrees to comply with the Council's policies on safeguarding and equalities and diversity. The service provider is also required to have a strategy in place to reduce the environmental impact of the service in accordance with the Council's ongoing commitment to climate issues.

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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