

Report to Council

1 July 2020

By the Monitoring Officer

DECISION REQUIRED



Not Exempt

Changes to the Constitution of Horsham District Council – Finance and Contract Procedure Rules

Executive Summary

The report sets out a number of proposed variations to the Constitution. The reason for the proposed changes are that a number of ambiguities have arisen and exist within the Finance and Contract Procedure Rules as a consequence of the introduction of the new streamlined Constitution and subsequent changes in the law that have occurred. The report fully explains the context of this with reference to the New Constitution and recommends changes to address the ambiguities.

Recommendations

Council is recommended to consider the proposed amendments to the Constitution as set out in paragraph and Appendix 1, as approved at Governance Committee.

Reasons for Recommendations

To comply with Article 13, Review and Revision of the Constitution.

Background Papers

The Constitution of Horsham District Council 7 December 2016 (Amended July 2019).

Wards affected: All.

Contact: Sharon Evans, Monitoring Officer

Background Information

1 Introduction and Background

- 1.1 It is a legal requirement for the Council to have a Constitution under Section 9P of the Local Government Act 2000 (as amended by the Localism Act 2011).
- 1.2 The Council undertook a major review of the Constitution in 2016 resulting in the adoption of a revised Constitution by Full Council on 7 December 2016. At the same time as the adoption of a revised Constitution, Full Council created a Governance Committee.
- 1.3 One of the functions of the Governance Committee is to ensure that the Council's Constitution is kept up to date and fit for purpose. This includes receiving reports from the Monitoring Officer to amend the Constitution and to make recommendations to Full Council on any changes that are not covered by the Monitoring Officer's delegated powers.

2 Relevant Council policy

- 2.1 Horsham District Council Local Code of Corporate Governance.

3 Details

- 3.1 The reason for the proposed changes are that a number of ambiguities have arisen and exist within the Finance and Contract Procedure Rules as a consequence of the introduction of the new streamlined Constitution and subsequent changes in the law that have occurred. Appendix 1 details the ambiguities with reference to the New Constitution and the changes in law and recommends changes to address this. The Committee are to decide whether to recommend the amendments to Full Council for approval.

4 Next Steps

- 4.1 These changes are not considered to fall within the delegations of the Monitoring Officer to make minor changes to the Constitution, if approved the Governance Committee will make a Recommendation to Full Council to make the changes to the Constitution. Following approval by Full Council the Monitoring Officer will publish the amendments on the Council's website.

5 Outcome of Consultations

- 5.1 Consultation has taken place with the S151 Officer, Director of Corporate Resources and the Chief internal Auditor.

6 Other Courses of Action Considered but Rejected

- 6.1 The Constitution requires to be updated for effective governance it needs to be treated as a 'living' document with the need for frequent amendments to ensure it remains up to date and reflects the operation of the Council.

7 Resource Consequences

- 7.1 There are no cost implications arising from these changes.

8 Legal Consequences

- 8.1 Under Section 9P of the Local Government Act 2000 (as amended by the Localism Act 2011), it is a legal requirement for the Council to have a Constitution. It is the responsibility of the Monitoring Officer to monitor and review the operation of the Council's Constitution to ensure that the aims and principles of it are given full effect and to make recommendations for ways in which the Constitution could be amended in order to enable decision to be taken efficiently and effectively.

9 Risk Assessment

- 9.1 The recommendations within this report are part of mitigating corporate risk by ensuring that the Constitution is up to date, consistent, fit for purpose and user friendly.

10 Other Considerations

- 10.1 The Constitution and its Procedures, Rules and Codes act as an enabling tool in helping the Council meet its obligations under the Human Rights Act 1998 and the Equality Act 2010.
- 10.2 Consideration of how projects and proposals can secure environmental, social and economic benefits and reduce negative consequences should be an integral part of decision-making and the Constitution will facilitate such considerations.

APPENDIX 1

3.3.3 Functions of the Cabinet Member for Finance and Assets

- a) General supervision and control of the finances of the Council and the auditing of the Council's accounts.
- b) Overall responsibility for the production of the draft budget and jointly with the Cabinet, its proposal to the Council.
- c) Overall responsibility for the Council's insurances.
- d) The determination of requests for transfer of funds within budgets (virements) exceeding £100,000 but not exceeding £250,000.
- e) The writing off of debts in excess of £100,000.
- f) Overall responsibility for the administration of benefits.
- g) Overall responsibility for the development, implementation and review of policies for the procurement of services, supplies and works to the Council.
- h) Overall responsibility for the proper management of the Council's property assets including authorisation, subject to the key decision framework, of the acquisition, disposal and dealing with any property assets and the development, implementation and review of the Council's Asset Management Plan.
- i) Overall responsibility for the provision of facilities management to the Council's offices.
- j) Overall responsibility for risk management throughout the Council.
- k) The determination of applications for discretionary rate relief.
- l) Overall responsibility for the development, implementation and review of the Council's Information and Communication Technology Strategy.

4e Financial procedure rules

- 4e. 1** Section 151 of the Local Government Act 1972 states that "every authority will make arrangements for the proper administration of their financial affairs and will secure that one of their officers has responsibility for the administration of those affairs".

Financial Procedures provide the framework for managing the Council's financial affairs. Financial Procedures are supported by more detailed Financial Management Regulations, Standards and Policies which set out how the procedures will be implemented. These are available from the Chief Finance Officer or their deputy.

These procedures identify the financial responsibilities of the Full Council, the Cabinet and officers.

To avoid the need for regular amendment due to changes in post titles generic terms are included for officers as follows:

- a) The term, "Chief Finance Officer," refers to the Section 151 Officer who is currently the Director of Corporate Resources.
- b) The term, "Chief Officers", refers to the Council's Chief Executive, the Corporate Directors and the Monitoring Officer.
- c) The term, "Monitoring Officer", is currently the Head of Legal and Democratic Services.
- d) The term, "Chief Internal Auditor", refers to the Chief Audit Executive as defined by the Public Sector Internal Audit Standards.

- e) The term, “Service Manager” or “Head of Service” are interchangeable and apply to any manager, who is not a director, but directly reports to one of the directors or the Chief Executive, “deputy chief officer”.

4e. 2 To conduct its business effectively, the Council needs to ensure that sound financial management arrangements are in place and that they are strictly adhered to in practice. Part of this process is the establishment of Financial Procedures which set out the financial responsibilities of the Council. These procedures have been devised as a control to help the Council manage its financial matters properly. Financial Procedures should not be seen in isolation but rather as part of the overall regulatory framework of the Council as set out in this Constitution.

Who do Financial Procedures apply to?

4e. 3 Financial Procedures apply to every Member and officer of the Council and anyone acting on its behalf. Members and officers have a general responsibility for taking reasonable action to provide for the security and use of the resources and assets under their control, and for ensuring the use of such resources and assets is legal, is consistent with Council policies and priorities, is authorised and achieves best value.

4e. 4 These Financial Procedures apply to any partnership for which the Council is the accountable body, unless the Council expressly agrees otherwise.

4e. 5 Failure to observe Financial Procedures may result in action under the Council's disciplinary procedures (officers) or Code of Conduct (councillors).

Who is responsible for ensuring that they are applied?

4e. 6 Chief Officers and Heads of Service and all managers are responsible to the Council for ensuring that Financial Procedures are applied and observed by their staff and contractors providing services on the Council's behalf. They are also responsible for reporting to the Chief Finance Officer any known or suspected breaches of such Financial Procedures.

4e. 7 The Chief Finance Officer is responsible for maintaining a continuous review of the Financial Procedures and submitting any additions or changes necessary to the Council for approval. The Chief Finance Officer is also responsible for reporting, where appropriate, breaches of the Financial Procedures to the Council and/or to the Executive Members.

4e. 8 The Chief Finance Officer is responsible for issuing advice and guidance to underpin the Financial Procedures which Members, Chief Officers and others acting on behalf of the Council are required to follow.

4e. 9 Persons charged with the use or care of the Council's resources and assets should inform themselves of the Council's requirements under these Financial Procedure Rules. If any person is in any doubt about such obligations, they should seek advice.

4e. 10 Where any Chief Officer considers that complying with Financial Procedures in a particular situation might conflict with the achievement of value for money or the principles of Best Value or the best interests of the Council, they will raise the issue

with the Chief Finance Officer who will, if considered necessary and appropriate, seek formal approval from the Cabinet Member for Finance & Assets for a specific waiver of the procedures, or to Council or an amendment to the procedures themselves.

4e. 11 Financial management – role of Council and the Cabinet

a) The Council is responsible for:

- I. the adoption and revision of these Financial Procedure Rules;
- II. the determination of the Policy Framework and Budget within which the Cabinet works;
- III. providing the Chief Finance Officer with sufficient staff, accommodation and other resources to carry out his or her duties; and
- IV. approving and monitoring compliance with the Council's overall framework of accountability and control.

b) The Cabinet is responsible for:

- I. controlling the Council's financial resources;
- II. proposing the Budget and Policy Framework to Full Council; and
- III. discharging Cabinet functions in accordance with the Budget and Policy Framework.

1.1.1 c) The Audit Committee is responsible for:

- 1.1.2 I. monitoring the effectiveness of the Council's financial procedures.

4e. 12 The Role of the Chief Finance Officer

The Chief Finance Officer is accountable to the Chief Executive and the Council and has statutory duties that provide overall responsibility for the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. These statutory duties arise from:

- Section 151 of the Local Government Act 1972
- The Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- The Accounts and Audit Regulations 2011.

The Chief Finance Officer is the Council's professional adviser on financial matters and is responsible for:

- a) The proper administration of the Council's financial affairs.
- b) Maintaining a continuous review of Financial Procedures and submitting any additions or changes as necessary to the Full Council for approval.
- c) Updating and monitoring compliance with financial management standards.
- d) Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.
- e) Providing training for Members and officers on financial procedures and standards.
- f) Determining accounting policies and ensuring they are applied consistently.
- g) Determining accounting procedures and records of the Council.
- h) Reporting, where appropriate, breaches of the financial procedures to the Council and/or Cabinet.

- i) Preparing and monitoring the revenue budget, capital programme and Medium Term Financial Plan.
- j) Ensuring the provision of effective Internal Audit.
- k) Ensuring the provision of effective Treasury Management.
- l) Advising on risk management.
- m) Ensuring the Council complies with the CIPFA Prudential Code for Capital Finance in Local Authorities.
- n) Ensuring the Council complies with the Public Sector Internal Audit Standards.
- o) Ensuring the Council complies with CIPFA's Treasury Management in the Public Service Code of Practice.
- p) Ensuring that Council spending plans and council tax calculations, identified in the medium term financial plan, are based upon robust estimates.
- q) Ensuring that the level of Council reserves is adequate to meet the known financial risks facing the Council over the medium term.
- r) Ensuring that the annual Statement of Accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the UK: A Statement of Recommended Practice (SORP).
- s) Ensuring that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.
- t) Ensuring that proper professional practices, standards and ethics are adhered to.
- u) Acting as head of profession in relation to the standards, performance and development of finance staff including the training and professional development of all staff employed in posts designated as requiring a qualified accountant, accounting technician, or auditor, wherever located.
- v) The appointment of all finance staff and will be consulted on any proposal to create or delete a post requiring such a qualification for appointment.

Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the Full Council and to the External Auditors if the Council or one of its officers:

- I. Has made, or is about to make a decision which involves incurring expenditure which is unlawful.
- II. Has taken or is about to take, unlawful action which has resulted or would result in a loss or deficiency to the Council.
- III. Is about to make an unlawful entry in the Council's accounts.

The Chief Finance Officer must nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally.

The Council must provide the Chief Finance Officer with sufficient staff, accommodation and other resources, including legal advice where necessary, to carry out the duties under section 114, as determined by the Chief Finance Officer.

The Chief Finance Officer:

- IV. Is required to approve all financial procedures, records, systems and accounts throughout the Council which are necessary to ensure that the tasks defined in these procedures are properly carried out. The Council will also ensure the Chief Finance Officer is consulted and given the opportunity to advise upon all financial management arrangements and notes of detailed advice and guidance on financial systems and procedures necessary to ensure a satisfactory standard of accuracy, reliability, probity and regularity.

- V. Will be given access to any information as is necessary to comply with their statutory duties and with the requirements and instructions of the Council.
- VI. Will be entitled to attend and report on financial matters directly to the Council, the Cabinet, and any committees or working groups the Council may establish.
- VII. Will be sent prior notice of all meetings of the Cabinet and all Council bodies together with full agendas and reports and will have authority to attend all meetings and take part in the discussion if so desired

4e. 13 The Role of Chief Officers

Chief Officers are each accountable to the Council for the financial management and administration of those services and activities allocated to them in accordance with Council policy.

Chief Officers are responsible for:

- a) Ensuring that adequate and effective systems of internal control are operated to ensure the accuracy, legitimacy and proper processing of transactions and the management of activities, having regard to advice and guidance from the Chief Finance Officer.
- b) Ensuring that Cabinet Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Finance Officer.
- c) Consulting with the Chief Finance Officer in seeking approval regarding any matters which may affect the Council's finances materially, before any commitments are incurred.
- d) Consulting with each other on any issue with corporate financial implications before submitting policy options or recommendations to Members.
- e) Informing immediately the Chief Finance Officer of failures of financial control resulting in additional expenditure or liability, or loss of income or assets.

Financial Planning

4e. 14 Strategic Planning

- a) The Full Council is responsible for agreeing the Council's Budget and Policy Framework proposed by Cabinet.
- b) The preparation of the medium term financial plan is part of the strategic policy framework of the Council and aims to ensure that the Council's spending plans are prudent, affordable, and sustainable and reflect Council priorities.
- c) The Full Council is responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Under the Constitution, the Monitoring Officer has a duty to advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

- d) Chief Officers are responsible for the preparation and monitoring of service improvement plans within their service areas. Service improvement plans should align with Council values and priorities and be consistent with and based upon the budget allocated by the Council to the service.

4e. 15 Budget Preparation

The Cabinet, in consultation with the Chief Finance Officer is responsible for determining the general budget strategy and issuing guidance to Members and Chief Officers on:

- a) Preparing a detailed revenue budget for the following year
- b) Preparing the medium term financial plan for a period of no less than 3 years.
- c) Preparing the capital programme.
- d) The timetable for preparing and agreeing the Council's revenue and capital budget.

The guidance will take account of:

- e) Council priorities as reflected in the Corporate Plan
- f) Spending pressures
- g) What future funding is available
- h) What level of reserves are available
- i) The affordability, sustainability and prudence of capital investment plans
- j) Legal requirements
- k) Value for money and other relevant government guidelines
- l) Other internal policy documents
- m) Cross-cutting or income growth issues (where relevant).

The Chief Finance Officer is responsible for:

- a) Ensuring budget process considers the Full Council's policy framework.
- b) Ensuring that a detailed revenue budget is prepared on an annual basis and a general revenue plan on a three yearly basis (medium term financial plan) for consideration by Cabinet before submission to Full Council.
- c) Ensuring a capital programme is prepared annually for consideration by Cabinet before submission to the Full Council.
- d) Advising the Full Council on prudent levels of reserves for the Council.

Chief Officers are responsible for ensuring that budget estimates are prepared in accordance with guidance issued by Cabinet and reflect agreed service performance plans.

4e. 16 Budget Approval

- a) The Full Council is responsible for agreeing the Council's Budget (including Prudential Indicators) and Policy Framework. The policy framework comprises of a number of statutory plans and strategies.
- b) The Council's revenue and capital budget will be proposed by the Cabinet, (on the advice of the Chief Finance Officer), and approved by the Full Council.
- c) The Full Council may amend the proposed budget or ask the Cabinet to reconsider it before approving it.

4e. 17 Budget Transfers

- a) During the year the Cabinet and Chief Officers may need to vary budgets to reflect changed service needs or priorities in order to deliver the budget policy framework within the financial limits set by the Council.
- b) The Full Council is responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the Budget or Policy Framework. Decisions should be referred to the Full Council by the Monitoring Officer.
- c) The Full Council is responsible for setting the level at which the Cabinet may reallocate budget funds.
- d) The Full Council is responsible for agreeing procedures for carrying forward surpluses and deficits on budget headings at each financial year end.
- e) The following limits have been approved for the authorisation of budget transfers:

I. Chief Officers

- a) Up to £100,000, between any one budget head to another for which they are responsible during the financial year with written approval of the Chief Finance Officer up to a maximum of five such moves in any budget year.

II. Cabinet Member

Up to the key decision threshold, between any one budget head to another for which they are responsible during the financial year with written approval of the Cabinet Member responsible for Finance up to a maximum of five such moves in any budget year.

III. Cabinet

Individual transfers between budget heads in excess of the key decision threshold following a joint report by the Chief Finance Officer and the responsible Chief Officer. The joint report must explain the implications in the current and coming financial year.

4e. 18 The Chief Finance Officer will use delegated authority to authorise the release of funds from contingencies. It is the responsibility of the Chief Officers to:

- a) Notify the Chief Finance Officer of any budget transfer agreed under delegated powers as set out above;
- b) Give prior notice to budget holders of any budget transfer affecting their service area and provide an explanation of the reason for the budget transfer.

4e. 19 Council approval is required for any budget transfer, of whatever amount, where the proposed transfer will result in a change of policy, the introduction of a new service or the termination of an existing service.

4e. 20 A capital budget cannot be transferred to a revenue budget head.

4e. 21 Budget Monitoring and the Control of Income and Expenditure

The Chief Finance Officer is responsible for:

- a) Developing an effective framework of budgetary management and control.
- b) Providing appropriate financial information to enable budgets to be monitored effectively.
- c) Reporting to the Cabinet and the Overview and Scrutiny Committee, on the overall Council budget monitoring position on a quarterly basis.
- d) All payments to employees, Members and creditors.
- e) Maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.
- f) Advising Chief Officers on all taxation issues that affect the Council.
- g) Ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- h) Agreeing arrangements for the collection of income due to the Council.
- i) Agreeing banking, borrowing and other credit requirements e.g. leasing.
- j) Agreeing the write-off of bad debts up to £100,000 in accordance with the Council's Sundry Debt Recovery Policy.

4e. 22 It is the responsibility of Chief Officers to:

- a) Control income and expenditure within their service area.
- b) Monitor performance in conjunction with the budget taking account of financial information provided by the Chief Finance Officer.
- c) Report on spending variances within their own areas.
- d) Take any corrective action necessary to avoid exceeding their budget allocation and alert the Chief Finance Officer to any problems.

4e. 23 Reporting Council Spending at Year End

The Chief Finance Officer is responsible for:

- I. Publishing a timetable for the closure of the accounts annually
- II. Ensuring that the Council's annual Statement of Accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom, CIPFA/LASAAC, the Accounts and Audit Regulations 2011 and any other relevant guidelines.

It is the responsibility of Chief Officers to ensure that arrangements are put in place each year to deliver the Council's closure timetable.

4e. 24 Use of Council Reserves

- a) The Chief Finance Officer is responsible for advising Full Council on levels of reserves for the Council. The advice will be based upon an annual risk assessment of the prudent levels of reserves the Council should maintain.
- b) The Chief Finance Officer will manage the Council reserves in accordance with decisions taken by the Cabinet.

4e. 25 Risk management and control of resources

Risk Management

- a) It is essential that robust, integrated systems are developed and maintained for identifying, evaluating and managing all significant strategic, operational and project risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.
- b) The Audit Committee is responsible for approving the Council's risk management policy statement and strategy, for reviewing the effectiveness of risk management and the corporate risk register.
- c) The Chief Finance Officer is responsible for preparing the Council's risk management policy statement and for promoting it throughout the Council.
- d) The Chief Officers are responsible for reviewing corporate risks and reporting progress on the management of corporate risk to the Audit Committee.
- e) It is the responsibility of Chief Officers to ensure there are regular reviews of risk within their areas of responsibility having regard to advice from the S151 Officer and other specialist officers (e.g. crime prevention, fire prevention, Health & Safety).

Internal Control

- f) Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economic, efficient and effective use of resources and that the Council's assets and interests are safeguarded. Effective systems of internal control should ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should also ensure that public funds are properly safeguarded and used economically, efficiently and in accordance with the statutory and other authorities that govern their use.
- g) It is the responsibility of Chief Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, value for money, effective use of resources and achieving their financial performance targets.

- h) The Chief Internal Auditor reviews the effectiveness of the Council's systems of internal control and recommends improvements to them.
- i) The Council is required to provide an Annual Governance Statement in accordance with the Accounts and Audit Regulations 2011. The Chief Executive and the Leader of the Council are required to prepare the statement, commenting on the effectiveness of the entire internal control environment within the Council.

4e. 26 Insurance

Insurance provision is a way of transferring risk. The Chief Finance Officer is responsible for:

- I. Putting adequate insurance in place and dealing with all claims in consultation with other Chief Officers where necessary.
- II. Reviewing, at least annually, all insurances in consultation with Chief Officers where necessary.

It is the responsibility of Chief Officers to:

- a) Advise the Chief Finance Officer of all new risks, properties, vehicles or potential liabilities for which insurance may be required; and of any changes affecting existing risks or insurance cover required.
- b) Notify the Chief Finance Officer in writing without delay of any loss, liability or damage or any event likely to lead to a claim, and will provide such information and explanations required by the Chief Finance Officer or the Council's insurers
- c) Consult with the Monitoring Officer on the terms of any indemnity which they are requested to give on behalf of the Council.
- d) Ensure that employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

4e. 27 Audit

According to The Accounts and Audit Regulations 2011 a, "relevant body must undertake an adequate and effective internal audit of its accounting records and of its systems of internal control" and must "at least once in each year conduct a review of the effectiveness of its internal audit."

The Chief Finance Officer ensures the Council has appropriate arrangements in place to maintain an adequate and effective internal audit.

The strategy and terms of reference for Internal Audit are detailed in the Council's Internal Audit Charter which is approved and reviewed annually by the Audit Committee.

The basic duties of the external auditor and the rules covering the appointment of an external auditor are governed by section 15 of the Local Government Finance Act 1982 and the by the Local Audit and Accountability Act 2014. External Auditors are also required to follow the current Audit Code of Practice.

Full Council appoints and removes external auditors for the audit of the annual accounts, decides on how to appoint them, establishes the audit panel to consult and comment on the appointment. The Chief Finance Officer appoints the external auditor for the Housing Benefit Subsidy Claim, or any subsequent claims audits needed, subject to the usual contract award delegation limits. Cabinet appoints the external auditor to the Council's housing companies, and any subsequent companies where their terms of reference reserve the appointment of auditors.

The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

The Chief Finance Officer is responsible for reporting to the Audit Committee and the Cabinet, where appropriate, the findings of these inspections and taking relevant action to implement recommendations and action required.

4e. 28 Preventing Fraud and Corruption

The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council.

The Chief Finance Officer is responsible for the development, maintenance and review of a Counter Fraud Strategy and Framework. The Chief Finance Officer will ensure the full investigation of any suspected frauds and irregularities.

Chief Officers are responsible for promoting the Counter Fraud Strategy and Framework within their Service areas and ensuring all suspected irregularities are reported to the Chief Finance Officer.

Chief Officers are responsible for taking any appropriate action to prevent further loss and to secure records and documentation against removal or alteration during any investigation.

4e. 29 Use of and Disposal of Assets

The Chief Finance Officer is responsible for safeguarding the use and disposal of Council assets.

Chief Officers are responsible for ensuring that adequate and effective arrangements are in place for the care and custody of all assets within their service area and ensuring that assets are disposed of in accordance with procedures approved by the Chief Finance Officer.

4e. 30 Treasury Management and Capital Finance

The Council has adopted the key recommendations of CIPFA's Treasury Management in the Public Service Code of Practice and the CIPFA Prudential Code for Capital Finance in Local Authorities.

The Full Council is responsible for setting treasury management policy statement, the capital strategy, the investment strategy and the treasury management strategy.

The Council delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to the Audit Committee and for the execution and administration of treasury management decisions to the Chief Finance Officer, who will act in accordance with the organisation's policy statement and treasury management practices and CIPFA's standards.

Audit Committee is responsible for ensuring effective scrutiny of the treasury management strategy and policies and receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in its treasury management practices.

The Chief Finance Officer is responsible for establishing suitable treasury, capital and investment management practices and prescribing how the operational management and control of those activities.

4e. 31 Banking

The Chief Finance Officer is responsible for all arrangements concerning banking services, including the opening, closing and operation of the Council's bank accounts.

The Chief Finance Officer is responsible for the reconciliation of the Council's bank accounts with the Council's financial accounts.

Chief Officers are responsible for ensuring that all banking arrangements determined by the Chief Finance Officer are observed and to advise him or her of any changes in their services that may require a change in these arrangements.

4e. 32 Income Collection

The Chief Finance Officer is responsible for approving all methods of income collection, records and systems.

The Council has a statutory responsibility to conform to the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007 (as amended). Accordingly, the Cabinet is responsible for approving the Council's Money Laundering Policy.

Responsibility for the implementation and administration of the Council's Money Laundering Policy has been delegated to the Chief Finance Officer who is the Council's nominated Money Laundering Reporting Officer and responsible for implementing and administering the Council's Money Laundering Policy.

The Deputy Chief Finance Officer is the deputy Money Laundering Reporting Officer.

Chief Officers are responsible for:

- a) Ensuring all income is held securely
- b) Ensuring for compliance with income and banking arrangements specified by the Chief Finance Officer
- c) In consultation with the Chief Finance Officer reviewing prices, fees and charges, at least annually and reporting any recommended changes to the Chief Finance Officer to include in the annual budget setting report for Council decision.
- d) Reporting any suspected cases of Money Laundering to the Chief Finance Officer.

4e. 33 External Funding

The Chief Finance Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts. Chief Officers are responsible for providing all necessary information to enable this to be achieved.

Chief Officers are responsible for ensuring that any bids for external funding are made in consultation with the Chief Finance Officer.

Chief Officers must ensure that any project to be funded by external funding does not begin until the source of external funding is confirmed by the awarding body and approval has been obtained to include the money in the Council's budgets.,

4e. 34 Debt Collection

The Chief Finance Officer is responsible for maintaining records of debts and the preparation and implementation of the Council's debt recovery policies.

Chief Officers are responsible for:

- i. Ensuring effective systems are in place to allow sums due to the Council to be easily identified
- ii. Ensuring debtor accounts are raised accurately and promptly and that adequate records are maintained to support the raising of the debt and any recovery action taken.
- iii. Assisting in the collection of debt by providing any further information necessary to pursue the debt or monitoring debts on the Council's behalf as requested by the Chief Finance Officer.
- iv. Ensuring that the appropriate approval is obtained to write off debts

4e. 35 Partnerships

The Cabinet may form partnerships with other local, public, private, voluntary and community sector organisations. The Cabinet is responsible for approving any delegations of its powers, to address local needs.

The Head of Paid Service, the appropriate Chief Officer or another officer nominated by a Chief Officer may represent the Council on partnership and external bodies, in accordance with the respective decisions of the Council and the Cabinet.

The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct in partnerships that apply throughout the Council.

The Chief Finance Officer is responsible for:

- I. ensuring that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory.
- II. The overall corporate governance arrangements are equivalent to those that apply within the Council.
- III. The risks have been fully appraised before agreements are entered into with external bodies.

Chief Officers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

4f Contract procedure rules

- 4f. 1 These Contract Procedure Rules establish the legal framework applicable to the purchase of all goods & services or construction works by the Council. These Procedure Rules should be seen as setting minimum requirements and standards and apply to all councillors and officers. Where better value for the Council might be achieved by seeking more tenders or quotations this should be done. The Contract Procedure Rules should be used in conjunction with the Horsham Procurement Code.
- 4f. 2 These Contract Procedure Rules are made pursuant to the Local Government Act 1972. Nothing in these Contract Procedure Rules will prejudice the validity of any actions taken under any previous iteration.
- 4f. 3 Subject to paragraph 4f. 5 every contract made by or on behalf of the Council including its Cabinet and Cabinet Members will comply with:-
- a) these Contract Procedure Rules;
 - b) the Horsham Procurement Code;
 - c) the Council's Financial Procedure Rules;
 - d) all relevant statutory provisions
 - e) European Union treaties and European Council directives;
 - f) the rules on State Aid;
 - g) any direction by the Council, the Cabinet, a Cabinet Member or Committee if they have the delegation do to so laid out in part three of this constitution.
- 4f. 4 These Contract Procedure Rules **will not** apply or may be varied where:
- a) statute or subordinate legislation prescribes otherwise.
 - b) in accordance with the Horsham Procurement Code, the reasons for not complying with Contract Procedure Rules have been recorded in a Procurement Exemption Form and approved in accordance with the sub-clauses below:-
 - i. for contracts below £100,000; by the relevant Head of Service, the Monitoring Officer and the Chief Finance Officer.
 - ii. for contracts of £100,000 and above; by the relevant Head of Service, the Monitoring Officer and the Chief Finance Officer in consultation with the relevant Cabinet Member;
- Upon approval, a copy of the electronic Exemption Form should be emailed to the relevant Head of Service and the Procurement Team who will retain a record of the Form.
- 4f. 5 No exemption or variation to Contract Procedure Rules can be made if the EU Procedure applies.
- 4f. 6 The estimated value of a contract for the purposes of these Contract Procedure Rules will be as detailed in the Horsham Procurement Code.

- 4f. 7 Contract letting and award should be managed using the Council's normal project management principles.

Authority to enter into contracts

- 4f. 8 Chief Officers and Heads of Service have authority to accept tenders and enter into contracts to a total value of under £100,000.
- 4f. 9 Individual Cabinet Members can authorise the acceptance of tenders and the enter into contracts with a value between £100,000 and the key decision threshold.
- 4f.10 The Cabinet can authorise the acceptance of tenders and the conclusion of contracts with a value at and above the key decision threshold.
- 4f. 11 The authority to accept tenders and enter into contracts will be documented as appropriate. Key and non-key decisions must be recorded on the report template.

Contracts below £20,000

- 4f. 12 Where the estimated value or the amount of a proposed contract is below £20,000 and provision has been made in the Council's annual budget for such expenditure, the Head of Service concerned will have the authority to enter into any such contract provided they are satisfied that the Council is receiving value for money.
- 4f. 13 The Council will evaluate such contracts on the basis of the offer which offers the Council value for money.

Contract value of £20,000 and above and below £50,000 for goods and services or below £100,000 for works

- 4f. 14 For such contracts the relevant Head of Service must seek a minimum of three (3) written quotations in accordance with the provisions detailed in the Horsham Procurement Code.
- 4f. 15 The Council will evaluate contracts on the basis of the offer which offers the Council value for money.

Contracts value of £50,000 and above for goods and services or £100,000 and above for works

- 4f. 16 The relevant Head of Service must follow a formal tender and contract award procedure in accordance with the provisions in the Horsham Procurement Code and where applicable the Public Contract Regulations 2015. All tenders of this value must be undertaken electronically using the Councils e-tendering portal.
- 4f. 17 The Council will evaluate contracts on the basis of the offer which offers the Council value for money.

Use of framework agreements

- 4f. 18** A Framework Agreement is a contract that has been officially tendered for by another local authority, public sector organisation, Purchasing Consortium, or central Government. The contract is awarded to one or more suppliers, and has provision for other named public sector bodies to use the contract without having to undertake their own tender process so long as these public bodies have been clearly identified in such publicity (advertising) that may be pertinent to a particular procurement exercise which led to the creation of the Framework Agreement.
- 4f. 19** The use of Framework Agreements is permitted for any value of contract but caution must be taken as the rules governing which bodies can use them, and the process for accessing them will vary from one Framework Agreement to another.

Contract formalities

- 4f. 20** All contracts must be concluded before the supply, service or construction work begins, except in exceptional circumstances only with the prior written consent of the Monitoring Officer and the Chief Finance Officer.
- 4f. 21** Every contract will be in a format as approved by the Monitoring Officer and defined in the Horsham Procurement Code.
- 4f. 22** Subject to paragraphs 4f 17 - 19 every contract of £50,000 and above not required or intended to be made under seal will be signed on behalf of the Council by two officers of the Council. These persons being the Monitoring Officer or their designated Deputy and one of the following: any Chief Officer or their designated deputy.
- 4f. 23** Every contract which is a lease finance or lease purchase agreement will be signed by both the Monitoring Officer and the Chief Finance Officer or their designated deputy.
- 4f. 24** Every contract required or intended to be made under seal will be sealed on behalf of the Council by the Head of Paid Service, any Chief Officer, the Monitoring Officer or their designated deputies.
- 4f. 25** Every contract document will bear its original date and not that ascribed by automatic updating means.

Contract management

- 4f. 26** No contract will commence unless and until the procurement exercise and contract documents have been completed in accordance with these Contract Procedure Rules and the Council's Financial Procedure Rules.
- 4f. 27** All contracts will be managed in accordance with the Council's contract management guidance.

Contracts register

- 4f. 28** Immediately upon completion of every procurement exercise of £5,000 and above, the relevant Head of Service will complete and submit the Contracts Register e-form with the required details of the contract for publication in the Council's Contracts Register.

Community right to challenge

- 4f. 29** Receipt of an expression of interest in accordance with the Community Right to Challenge provisions must be considered by the Chief Finance Officer in accordance with the procedure detailed in the Horsham Procurement Code.
- 4f. 30** Any procurement exercise commencing as a result of a successful expression of interest or contract entered into as a 'Community Right to Challenge' will be undertaken or completed in accordance with the provisions detailed in these Contract Procedure Rules.