EAST SURREY SHADOW AUDIT AND GOVERNANCE COMMITEE

MEETING DATE: 2nd September 2026

REPORT OF: Nikki O'Connor, Interim Chief Finance Officer (s151 Officer)

SUBJECT: East Surrey Constitution: Financial Procedure Rules & Procurement and Contract Procedure Rules

Purpose of the Report:

This report presents early sight of both the Finance and the Procurement and Contract sections of the new Constitution for East Surrey and invites comments on the draft and principles, ahead of finalising and bringing back to this Committee for final consideration.

Section 9P of the Local Government Act 2000 requires every local authority to prepare, maintain, and keep up to date a formal constitution. This document controls how the local council operates, makes decisions, and handles its governance. The sections relating to Finance and to Procurement and Contracts set out:

- How the Council governs the manner in which the financial activity is conducted and ensures its financial interests are safeguarded; and
- How the Council authorises and manages expenditure and resulting commercial contracts with other organisations.

It is therefore essential that East Surrey Council has an agreed Constitution in place in time for vesting day on 1st April 2027, and that the detail of the finance and the procurement and contract elements of that Constitution are agreed in time to establish required process and controls ahead of vesting day.

Recommendations:

It is recommended that the East Surrey Shadow Audit and Governance Committee resolves to:

1. Agree the proposed approach and details provided in respect of the Finance Procedure Rules;
2. Comment on the draft Finance Procedure Rules in **Annex 1: Draft Finance Procedure Rules for East Surrey Council**;
3. Agree the proposed approach and details provided in respect of the Procurement and Contract Procedure Rules;
4. Comment on the proposed heads of terms set out in **ANNEX 2: Proposed Procurement and Contract Procedure Rules Structure and Content Framework;**

5. Comment on the required key governance thresholds and related detail set out in **ANNEX 3: Proposed Thresholds, routes to market, delegation of authority for contract award etc**; and
6. Note that a further report will be brought to the November meeting of the Committee with final versions of all documents for recommendation to the Shadow Authority via the Constitution Committee.

Reason for Recommendations:

It is a legal requirement for East Surrey Council to have an approved Constitution in time for Vesting Day. Officers are requesting steer from Members, at this early stage, to inform the ongoing development of the Finance and Procurement and Contract sections of the Constitution.

Options, including alternatives (if any)

None – comment is required to support the development of the procedure rules.

Summary:

Context

1. Local Government Reorganisation (LGR) and the formation of the new unitary authority of East Surrey requires the development of a new Constitution. That Constitution must contain key governance procedures in respect of finance, and the procurement and management of contracts. This report therefore sets out the approach, principles and some proposed details in respect of the following sections of the Constitution:

   - Finance Procedure Rules
   - Procurement and Contract Procedure Rules

2. **Finance Procedure Rules: Approach**

3. An exercise was undertaken to analyse the similarities and differences between Financial Regulations/Procedure Rules from the existing 12 councils in Surrey, as well as from existing unitary authorities outside of Surrey. A set of Financial Procedure Rules have been drafted based on this analysis, which cover all the activities that will be undertaken by East Surrey Council. These have been written and organised in a clear manner to ensure that all Members and Officers of the Council understand their role and responsibilities in relation to good financial management.

4. The draft proposed Financial Procedure Rules for East Surrey Council are included in **Annex 1:** Draft Financial Procedure Rules for East Surrey Council.

5. This document is currently in a draft form as there are still activities to be completed that will require updates to be made before the final version, including:
    a. Any job titles referenced in the document have currently been left as generic titles, as the final staffing structure of East Surrey Council is yet to be agreed. Titles and roles will be updated as more information becomes available.
    b. The names of policies, procedures and sections of the constitution which are referenced in the Financial Procedure Rules will have their titles and links updated as they become available and are finalised.
    c. Where decisions are yet to be made on contract arrangements or financial thresholds, these have been left blank or marked TBC. They will be updated based on further activity to be undertaken before these procedures are finalised.

6. Decisions yet to be taken:

    FR 5.2 Budget approval levels

    FR 7.2 Virement approval levels

    FR 11.3 Approval levels for increasing reserves

    FR 18.2-4 Approach for hiring consultants and contractors

    FR 23.1 Approval levels for debt write-offs

    FR 23.7 Number and type of provisions for bad debt

    FR 24.1 Level of delegated authority for land and buildings purchases

Procurement and Contract Procedure Rules: Proposed Approach

7. Many current constitutional procurement and contract rules have evolved over a considerable period through incremental amendments in response to legislative changes, organisational requirements and local governance decisions. As a result, they can become lengthy, repetitive and difficult for officers to navigate, with related provisions dispersed across multiple sections.

8. A new Constitution presents an opportunity to create a fresh set of Procurement and Contract Procedure Rules to govern the procurement and management of contracts, rather than simply amending or combining existing documents from across the County and District and Borough Councils.

9. It is recommended that the Procurement and Contract Procedure Rules for East Surrey Council are developed using a clear and logical structure that reflects the procurement and contract management lifecycle. This approach should guide officers through the end-to-end process, from the identification of

a requirement and initial business planning, through procurement and contract award, to contract management, performance monitoring, modification and eventual contract expiry or renewal.

10. The Procurement and Contract Procedure Rules should focus primarily on governance, accountability, decision-making and assurance arrangements, whilst detailed operational processes, procedures and guidance are maintained separately within supporting procurement documentation. This will ensure that the constitution remains concise, accessible and easier to maintain, whilst allowing operational procurement guidance to evolve in response to legislative changes and best practice without the need for frequent constitutional amendments.

11. The proposed drafting approach is therefore to:

- Adopt a procurement and contract lifecycle-based structure rather than replicate the format of any individual authority;
- Retain governance, delegation, approval and assurance requirements within the Procedure Rules;
- Remove detailed procedural content where it is more appropriately contained within supporting procurement guidance;
- Incorporate best practice elements identified through the review and comparison of existing local authority standing orders and benchmarking exercise;
- Align the Procedure Rules with current procurement legislation and associated governance requirements; and
- Create a modern, user-focused document that supports consistent, compliant and proportionate procurement activity within the future authority.

12. This approach will provide a coherent constitutional framework for procurement activity whilst improving usability for officers and ensuring that governance requirements are clearly understood at each stage of the procurement lifecycle.

13. A proposed structure is included in **Annex 2: Proposed Procurement and Contract Procedure Rules Structure and Content Framework**.

Procurement and Contract Procedure Rules: Governance Decisions

14. There are critical governance elements that must be agreed in order to draft the Procurement and Contract Procedure Rules, with the key aspect being value thresholds that will dictate:

- What procurement route options can be used (e.g. 3 quotes, full tender etc);
- Who is authorised to undertake the procurement;

- The type of contract required;
- Who must approve the contract award; and
- Who is authorised to sign the contract.

15. A benchmarking exercise is underway to assess similar governance elements in comparator authorities. The table below sets out some of that data in respect of the value at which Procurement must undertake the work to put a contract in place in these authorities. This work will continue to be developed and be used to facilitate further engagement and discussion relating to of the appropriate value at which to set this requirement within the new Procurement and Contract Procedure Rules.

Table 1: Benchmarking summary data: Contract value above which Procurement must undertake work at comparator authorities

Authority	**Applicable values above which Procurement must undertake work**
East Surrey Unitary Authority	N/A - tbc
Surrey County Council	£25k
Hampshire	Above regulatory threshold (+ high risk / complex procurements)
Kent CC	Goods & Services - Above regulatory threshold Works - £1M
West Sussex CC	£100k - £1M Lower value processes are supported by procurement and are QA'd at each gate, with direct support by on large/complex tenders. Consideration being made to raising to regulatory thresholds
North Northamptonshire	£100k
West Northamptonshire	£100k

STAR Procurement (Greater Manchester and Merseyside partnership)	£25k In process of raising to £50k

Notes: Regulatory threshold currently £207,720 inc VAT for Goods and Services procured under Procurement Act 2023. Other thresholds apply for different items and legislative routes.

16. Based on the estimated volumes of contracts East Surrey would have to procure each year at various value ranges, and using the current Surrey County Council volumes and threshold as a comparator, the volumes of contracts required at various value ranges would be as follows:

Table 2: Volumes of contracts per year at varying value ranges

	SCC Comparator (volume / year)	**East Surrey Estimate (volume / year)**
Goods and Services		
£25k - £49k	243	326
£50k - £99k	205	235
£100k – reg threshold	148	155
Above reg threshold (£207,720)	88	86
Works		
>£1M	5	9

Notes:

- East Surrey estimate calculated as a proportion of SCC comparator + East District and Borough Councils' volumes.
- Volumes based on current levels of activity and contract values; LGR presents opportunities for aggregation of contract values and will therefore, over time, impact the volumes at different value levels.
- Figures may be refined over time as benchmarking and data gathering and analysis develops.

17. **ANNEX 3: Proposed thresholds, routes to market, delegation of authority for contract award etc** sets out the decisions to be made regarding governance points for the value ranges once the ranges are determined.

18. Ongoing discussions will be required to determine the contract value above which Procurement must undertake the work to secure a contract and these additional governance points. The following considerations apply:

- Further work needs to be undertaken to estimate current levels of non-compliant spend (e.g. spend without a contract, or where a contract has not followed existing governance and/or regulatory requirements);

- The benchmarking exercise will continue to provide more complete information relating to comparator authorities;
- The Local Government Association (LGA) Model Template for Standing Orders is out of date and still referenced EU procurement regulations so has not been used as a source of information.
- Chief Officer and Member engagement will continue as the details of the Procurement and Contract Procedure Rules are developed.
- **Consultation:**

19. The proposed approach to developing these Procedure Rules has been developed in collaboration with Officers from the Procurement and Finance LGR workstreams, Shadow Authority Interim Statutory Officers and related stakeholders.

Risk Management and Implications:

21. The principal risk is that the Council does not have a comprehensive set of Finance Procedure Rules and Procurement and Contract Procedure Rules in time for Vesting Day, which would put it in contravention of Section 151 of the Local Government Act 1972.

22. In addition, there is various legislation relating to procurement activity, in particular the and the Procurement Act 2023 and the Public Services (Social Value) Act 2012, that govern how local authorities procure goods, services and works. Failure to have robust Procurement and Contract Procedure Rules in place in time for vesting day would put the authority’s ability to comply with this legislation at risk.

23. These risks can be best mitigated by continuing to develop the procedures according to the approaches set out above.

Financial and Value for Money Implications:

24. There are no direct financial implications arising from the proposed action. However, the proposed documents are important for maintaining compliance with financial and procurement regulations, and ensuring the new unitary authority has sufficient controls and governance to minimize the risk of financial loss. This will ensure that value for money is embedded as a core value of the new authority.

Section 151 Officer Commentary:

25. East Surrey Council will operate in a very challenging financial environment, with significant budgetary pressures from increasing demand and costs of service delivery, coupled with limited financial resources and reducing government funding. East Surrey Council will be increasingly reliant on Council Tax as the primary source of income.

26. Decisions made by the sovereign councils in East Surrey and the East Surrey Shadow Authority will need to consider the ongoing financial impact and ensure that expenditure does not exceed the resources available. It is vital that significant importance is placed on effective financial management and medium-term financial sustainability to achieve a balanced budget position and protect service delivery

27. Having robust Financial, and Procurement and Contract Procedure Rules will contribute to a culture of strong financial management and budget accountability, encouraging good financial decision-making and value for money.

Legal Implications (Monitoring Officer Commentary):

28. The statutory and regulatory requirements are set out within the body and financial sections of this report. The governance route for approval of the final Financial Procedure Rules and Procurement and Contract Procedure rules is set out below, with a further report to be brought to the November meeting of the Committee with further developed final drafts of both documents. This process complies with the Shadow Authority Constitution and the Surrey (Structural Changes) Order 2026.

Workforce Implications (People/Human Resources Commentary)

29. There are no direct workforce implications arising from this report at this stage. The report seeks the Committee's views on the proposed approach to developing the Financial Procedure Rules and Procurement and Contract Procedure Rules for East Surrey Council, rather than approval of final operational arrangements.

30. As the procedure rules are developed, there will be workforce implications to consider in relation to officer roles, responsibilities, delegations, decision-making routes and the capacity required to operate the new arrangements effectively from Vesting Day. This will include ensuring that relevant officers understand the new requirements and have access to appropriate guidance, training and support.

31. The proposed approach should help provide clarity for officers by setting out clear governance arrangements and by separating constitutional requirements from more detailed operational guidance. Further workforce implications,

including any impact on roles, responsibilities or capacity, will be considered as the detailed rules and supporting guidance are developed and brought forward for approval.

Equality and Diversity:

32. There are no equality impacts arising directly from this report. However, the council's equality duty and equality impacts are considered in relation to each individual procurement or applicable financial transaction undertaken.

Climate Change and Sustainability:

33. There are no climate change and sustainability impacts arising directly from this report. However, sustainability and related considerations will be taken at the time any applicable individual procurement or financial transaction undertaken.

What Happens Next:

34. Based on the recommendations of the committee, officers will proceed with drafting final versions of both documents to be brought to Audit and Governance Committee in November, Constitution Committee in December and then the Shadow Authority in January.

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Annex:

ANNEX 1: Draft Finance Procedure Rules for East Surrey Council

ANNEX 2: Proposed Procurement and Contract Procedure Rules Structure and Content Framework

ANNEX 3: Proposed Thresholds, routes to market, delegation of authority for contract award etc

Sources/background papers:

none
