

# Meeting of West Berkshire District Council

**Thursday, 15th May, 2014**

***Summons and Agenda***

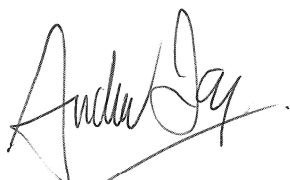
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To: All Members of the Council

*You are requested to attend a meeting of*  
**WEST BERKSHIRE DISTRICT COUNCIL**  
*to be held in the*  
**COUNCIL OFFICES, MARKET STREET,  
NEWBURY**

on  
**Thursday, 15th May, 2014**  
**at 7.00 pm**



Andy Day  
Head of Strategic Support  
West Berkshire District Council

Date of despatch of Agenda: Wednesday, 7 May 2014

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## **AGENDA**

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1. **APOLOGIES FOR ABSENCE**

To receive apologies for inability to attend the meeting (if any).

2. **CHAIRMAN'S REMARKS**

The Chairman to report on functions attended since the last meeting and other matters of interest to Members.

3. **PRESENTATIONS**

The Chairman will make presentations to Members who are in receipt of long service awards.

4. **ELECTION OF CHAIRMAN FOR THE MUNICIPAL YEAR 2014/15 (C2686)**

To elect a Chairman of the Council for the 2014/15 Municipal Year. Following election the Chairman will sign the Declaration of Acceptance of Office. **(Verbal Report)**



**Agenda - Council to be held on Thursday, 15 May 2014 (continued)**

**5. APPOINTMENT OF VICE CHAIRMAN FOR THE MUNICIPAL YEAR 2014/15 (C2687)**

To appoint a Vice Chairman for the 2014/15 Municipal Year. Following appointment the Vice Chairman will sign the Declaration of Acceptance of Office. **(Verbal Report)**

**6. MINUTES**

The Chairman to sign as a correct record the Minutes of the Council meeting held on 4<sup>th</sup> March 2014. **(Pages 1 - 16)**

**7. DECLARATIONS OF INTEREST**

To remind Members of the need to record the existence and nature of any Personal, Disclosable Pecuniary or other interests in items on the agenda, in accordance with the Members' [Code of Conduct](#).

**8. APPOINTMENT OF THE EXECUTIVE BY THE LEADER OF THE COUNCIL FOR THE 2014/15 MUNICIPAL YEAR (C2688)**

The Leader of the Council to announce the composition of the Executive for the 2014/15 Municipal Year. **(Verbal Report)**

**9. MEMBERSHIP OF COMMITTEES**

The Monitoring Officer to advise of any changes to the membership of Committees since the previous Council meeting. **(Verbal report)**

**10. APPOINTMENT OF AND ALLOCATION OF SEATS ON COMMITTEES FOR THE 2014/15 MUNICIPAL YEAR (C2689)**

To consider the appointment of and allocation of seats on Committees and associated bodies for the 2014/15 Municipal Year and to agree the Council's Policy Framework for 2014/15. **(Pages 17 - 28)**

**11. ADJOURNMENT OF MEETING**

At this point, the Council meeting will be adjourned to enable the Committees appointed by the Council to meet to determine their Chairmen and Vice-Chairmen. The order for each meeting is set out below:

- (a) Overview and Scrutiny Management Commission
- (b) Licensing Committee
- (c) District Planning Committee
- (d) Eastern Area Planning Committee
- (e) Western Area Planning Committee
- (f) Governance and Audit Committee
- (g) Personnel Committee
- (h) Standards Committee



**Agenda - Council to be held on Thursday, 15 May 2014 (continued)**

**12. RECOMMENCEMENT OF MEETING**

At the conclusion of the meeting of the Standards Committee the Council will recommence.

**13. STANDARDS COMMITTEE ANNUAL REPORT 2013/14 (C2690)**

To present the Annual Standards Committee report to the Council. **(Pages 29 - 42)**

**14. DRAFT REVISED STATEMENT OF COMMUNITY INVOLVEMENT (C2726)**

To consider the draft revised Statement of Community Involvement. **(Pages 43 - 74)**

**15. REQUEST FOR THE REVISION OF THE CONSTITUTION (C2758)**

For Council to consider an amendment to the Constitution in relation to the petition threshold for triggering a debate at Full Council. **(Pages 75 - 80)**

**16. CHANGES TO THE CONSTITUTION - PART 13 CODES AND PROTOCOLS (C2776)**

To review and amend sections of Part 13 (Codes and Protocols) i.e. Appendices I (Councillor Call for Action Protocol) and J (Protocol for Council Representations on Outside Bodies) in light of legislative changes, policy changes and recent government guidance. **(Pages 81 - 102)**

**17. LICENSING COMMITTEE**

The Council is asked to note that since the last meeting of the Council, the Licensing Committee has not met.

**18. PERSONNEL COMMITTEE**

The Council is asked to note that since the last meeting of the Council, the Personnel Committee has not met.

**19. GOVERNANCE AND AUDIT COMMITTEE**

The Council is asked to note that since the last meeting of Council, the Governance and Audit Committee met on 28<sup>th</sup> April 2014. Copies of the Minutes of this meeting can be obtained from Strategic Support or via the [Council's website](#).

**20. DISTRICT PLANNING COMMITTEE**

The Council is asked to note that since the last meeting of the Council, the District Planning Committee has not met.

**21. OVERVIEW AND SCRUTINY MANAGEMENT COMMISSION**

The Council is asked to note that since the last meeting of the Council, the Overview and Scrutiny Management Commission met on 8<sup>th</sup> April 2014. Copies of the Minutes of this meeting can be obtained from Strategic Support or via the [Council's website](#).



**22. STANDARDS COMMITTEE**

The Council is asked to note that since the last meeting of the Council, the Standards Committee met on 14<sup>th</sup> April 2014. Copies of the Minutes of this meeting can be obtained from Strategic Support or via the [Council's website](#).

If you require this information in a different format or translation, please contact Moira Fraser on telephone (01635) 519045.



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**COUNCIL**

**MINUTES OF THE MEETING HELD ON  
TUESDAY, 4 MARCH 2014**

**Councillors Present:** David Allen, Peter Argyle, Howard Bairstow, Pamela Bale, Jeff Beck (Vice-Chairman), Brian Bedwell, David Betts, Dominic Boeck, Jeff Brooks, Paul Bryant, George Chandler, Keith Chopping (Chairman), Hilary Cole, Roger Croft, Richard Crumly, Billy Drummond, Sheila Ellison, Marcus Franks, Dave Goff, Paul Hewer, John Horton, Roger Hunneman, Carol Jackson-Doerge, Graham Jones, Alan Law, Tony Linden, Mollie Lock, Royce Longton, Gordon Lundie, Gwen Mason, Geoff Mayes, Tim Metcalfe, Joe Mooney, Irene Neill, Graham Pask, David Rendel, Andrew Rowles, Garth Simpson, Anthony Stansfeld, Julian Swift-Hook, Tony Vickers, Virginia von Celsing, Quentin Webb, Emma Webster, Keith Woodhams and Laszlo Zverko

**Also Present:** Honorary Alderman Geoff Findlay, John Ashworth (Corporate Director - Environment), Nick Carter (Chief Executive), Andy Day (Head of Strategic Support), Andy Walker (Head of Finance) and Rachael Wardell (Corporate Director - Communities), Moira Fraser (Democratic and Electoral Services Manager) and Robin Steel (Group Executive (Cons))

**Apologies for inability to attend the meeting:** Councillor Adrian Edwards, Councillor Manohar Gopal, Councillor Mike Johnston, Councillor Alan Macro and Councillor Ieuan Tuck and Honorary Alderman Alan Thorpe

**PART I**

**71. Chairman's Remarks**

The Chairman reported that he and the Vice-Chairman had attended 44 events since the last Council meeting.

The Chairman highlighted a number of events that he had attended including the switching on of the Christmas lights in Thatcham, Newbury and Hungerford, a number of carol concerts including one at St Finian's school, the volunteer recruitment fayre at the Corn Exchange, the opening of the new science block at The Downs School, a march past of the Royal Electrical and Mechanical Engineers in Hungerford, the opening of the new changing block at Northcroft Leisure Centre, the launch of the new flood alleviation scheme in Newbury, Newbury's Mayor's concert at St Nicolas's church, the Beenham wind concert and the opening of the canal information centre at the Wharf which would be a useful asset for those using the canal.

The Chairman was also very pleased to note that he had been presented with a generous cheque for £500 the previous evening from the Ahmadiyya Muslim Association towards his charity Children with Cancer. The Chairman noted that all Members would be receiving some literature from the organization in due course.

The Chairman provided Members with an update on the Motion proposed by Councillor David Goff and seconded by Councillor Jeff Brooks which was debated and adopted by the Council at the September 2013 meeting regarding the potential closure of Newbury Magistrate's Court. He reported that a meeting had taken place on the 22<sup>nd</sup> January 2014 with the Delivery Director for South East Region (HMCTS), Chris Jennings and the Justices' Clerk for Thames Valley (HMCTS), David Richmond.

The meeting was Chaired by the Chairman and attended by elected members from West Berkshire Council and Newbury Town Council. Senior officers from West Berkshire

## COUNCIL - 4 MARCH 2014 - MINUTES

Council were also in attendance and they would be responsible for ensuring that agreed actions from the meeting were carried forward and achieved.

The representatives from HMCTS provided an overview of the context in which decisions on Courts Services were taken and they repeated assurances already given that at this time Newbury Magistrates Court was not at risk of closure.

There was discussion on how cases were listed across Thames Valley, in Berkshire and in particular in West Berkshire. It was agreed that the Justices' Clerk for Thames Valley would provide the criteria which enabled cases to be listed locally and that there would be further discussions on this matter and that of sharing of data.

Further discussions would take place between HMCTS and officers from West Berkshire Council to ensure that as far as possible West Berkshire related cases were listed at Newbury Magistrates Court.

A meeting would take place that week between West Berkshire Council officers and the Justices' Clerk for Thames Valley and it was hoped that this would further develop a positive working relationship. It was agreed at the meeting in January that HMCTS would provide regular updates to the Safer Communities Partnership and that should the situation in respect of Newbury Magistrates Court change West Berkshire Council would be immediately notified.

Councillor Chopping also noted that Members had met with Richard Benyon (MP) recently on the subject of the s106 agreements and the Community Infrastructure Levy (CIL). This meeting had resulted in Mr Benyon being able to secure a Westminster Hall debate which had been held on the 05 February 2014. The Chairman, Councillor Hilary Cole and two Officers were present at the debate. The debate had resulted in the Minister offering a meeting to discuss the matter further and while conversations were still taking place some hope still remained that the Council would not be forced to operate this government imposed process.

The Chairman reported that 140 homes, numerous roads and businesses had been effected by the recent flooding in the District. He thanked Officers from across the Council that had worked in the Emergency Operations Centre (EOC), the Police and members of the armed forces who had performed in a highly competent manner in very difficult circumstances. Work in the EOC was ongoing to deal with ground water and sewage issues.

### **72. Minutes**

The Minutes of the meeting held on 12 December 2013 were approved as a true and correct record and signed by the Chairman.

### **73. Declarations of Interest**

The Deputy Monitoring Officer announced that all Members present, in accordance with the Localism Act 2011, had applied for and had been granted a dispensation to speak and vote on any matter which pertained to "any beneficial interest" in land within the Authority's area (Items 17 and 18 (Capital Strategy and Programme and Revenue Budget 2014/15)).

The Deputy Monitoring Officer also announced that Councillors David Allen, Howard Bairstow, Jeff Beck, Brian Bedwell, Dominic Boeck, Jeff Brooks, Hilary Cole, Roger Croft, Richard Crumly, Billy Drummond, Adrian Edwards, Sheila Ellison, Marcus Franks, David Goff, John Horton, Carol Jackson-Doerge, Alan Law, Mollie Lock, Royce Longton, Alan Macro, Tim Metcalfe, James Podger, Andrew Rowles, Anthony Stansfeld, Julian Swift-Hook, Ieuan Tuck and Tony Vickers, in accordance with the Localism Act had applied for and had been granted a dispensation (by the Standards Committee) to consider and vote on Items 17 and 18 (Capital Strategy and Programme and Revenue Budget 2014/15).



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Councillor Jeff Brooks declared a personal interest in Agenda Item 18, and reported that, if the discussion made specific reference to the Watermill Theatre he would leave the chamber for that part of the discussion.

Councillor Keith Woodhams declared an interest in Agenda Item 20, and reported that, although his interest was personal and not prejudicial or a disclosable pecuniary interest, he would remain in the chamber to listen to the discussion but that he would not be voting on the matter.

Councillor Bill Drummond declared an interest in Agenda Item 18, but reported that, as his interest was personal and not prejudicial or a disclosable pecuniary interest, he determined to remain to take part in the debate and vote on the matter.

Councillor Emma Webster declared an interest in Agenda Item 20, and reported that, as her interest was personal and prejudicial and a disclosable pecuniary interest, she would be leaving the meeting during the course of consideration of the matter.

### **74. Petitions**

Councillor Jeff Beck presented a petition containing 31 signatures relating to Flooding issues in Wellington Close and Cromwell Road as a result of the water building up in Shaw Municipal Cemetery. The petition would be passed to Officers in the Highways Service to prepare a response.

### **75. Public Questions**

(a) A question standing in the name of Mrs Maryanne Thomas on the subject of a reduction in funding available to volunteers working with vulnerable young people was answered by the Executive Member for Children and Young People, Youth Service and Education.

### **76. Membership of Committees**

There had been no changes to the membership of Committees since the previous Council meeting.

### **77. Licensing Committee**

The Council noted that, since the last meeting, the Licensing Committee had not met.

### **78. Personnel Committee**

The Council noted that, since the last meeting, the Personnel Committee had met on 04 February 2014.

### **79. Governance and Audit Committee**

The Council noted that, since the last meeting, the Governance and Audit Committee had met on 10 February 2014.

### **80. District Planning Committee**

The Council noted that, since the last meeting, the District Planning Committee had not met.

### **81. Overview and Scrutiny Management Commission**

The Council noted that, since the last meeting, the Overview and Scrutiny Management Committee had met on 07 January 2014 (Special Meeting), 21 January 2014 and 25 February 2014.

**82. Standards Committee**

The Council noted that, since the last meeting, the Standards Committee had met on 13 January 2014 (and not 13 February as stated in the agenda) and on the 28 February 2014 (Special Meeting).

**83. West Berkshire Council Strategy: Refresh (C2744)**

The Council considered a report (Agenda Item 14) concerning a refresh of the Council's Strategy.

**MOTION:** Proposed by Councillor Roger Croft and seconded by Councillor Gordon Lundie:

That the Council:

“approve the updated Council Strategy”.

Councillor Roger Croft in introducing the item explained that this was the third iteration of the strategy and this year and therefore only minor amendments were being proposed. He also explained that the finance section would be updated once the final budget had been agreed.

Councillor Croft explained that the Council's four priorities namely : caring for and protecting the vulnerable, promoting a vibrant district, improving education, and protecting the environment would continue to provide focus and guidance for decision making by the Council. These priorities would also be linked to the Council's Medium Term Financial Strategy and Capital Strategy and would form the basis of the Council's performance monitoring framework.

Councillor Tony Vickers opined that the strategy was not ambitious enough. He was concerned that references to pockets of deprivation referred to in the previous iteration of the document had been removed. He was concerned that high rentals, even social rentals which were 60% of those on the open market, meant that housing was unaffordable to many of the District's residents. There was funding available to assist these residents from the Discretionary Housing Grant but that a ceiling of £50 per week had been set which still meant that housing would be unaffordable for some. He would therefore like to see this issue addressed.

Councillor Gordon Lundie thanked Councillor Croft and Officers for the work that they had put into preparing the strategy. He had some sympathy with the issue raised by Councillor Vickers and confirmed that he would welcome suggestions to address these issues for future iterations of the strategy. He felt that although the strategy was useful it was in its final year and would be substantially re-written for the following year. The Council was continued to deliver good services within very restricted means and it was therefore important to prioritise services. This was an excellent strategy but Councillor Lundie was open to new ideas on how to move it forward over the next twelve months.

Councillor Croft stated that he had listened to Councillor Vickers's comments with great interest as he shared his real determination to improve housing in the district. He accepted that prosperity brought its own issues. He, however, commended the current strategy which aimed to keep West Berkshire a great place to live, learn, work and do business.

The Motion was put to the meeting and duly **RESOLVED**.

**84. Investment and Borrowing Strategy 2014/15 (2747)**

The Council considered a report (Agenda Item 15) which, in compliance with the Local Government Act 2003, summarised the Council's borrowing limits as set out by CIPFA's

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Prudential Code and recommended the Council's Annual Investment and Borrowing Strategy for 2014/15 for approval.

**MOTION:** Proposed by Councillor Alan Law and seconded by Councillor Laszlo Zverko:

That the Council:

“approve the Investment and Borrowing Strategy 2014/15”.

Councillor Law in introducing the report noted that it was a statutory requirement to produce the report which set out the Council's borrowing limits for the next three financial years as well as an associated debt repayment programme. The borrowing would be used to fund investment in many projects including schools, roads, broadband and IT.

The Motion was put to the meeting and duly **RESOLVED**.

### 85. **Medium Term Financial Strategy (MTFS) 2014-17 (C2748)**

The Council considered a report (Agenda Item 16) concerning the medium term financial plan and strategy for the organisation.

**MOTION:** Proposed by Councillor Gordon Lundie and seconded by Councillor Alan Law:

That the Council:

“adopt the Medium Term Financial Strategy for 2014 to 2017”.

Councillor Gordon Lundie reported that he was delighted to present the report which was one of three critical papers for the Council and which were all interdependent. The other papers being the Capital Strategy and Programme and the Revenue Budget. The strategy was needed in order to understand the implications of any revenue decisions.

Councillor Lundie noted that the Council was facing a challenging fiscal environment. There had been a significant decrease in the Council's Revenue Support Grant (RSG) and as a consequence the Council had been required to adopt a vigorous response. To date there had been 204 redundancies and the Council had been forced to scale back on projects. Having a strategy in place had however meant that no Children's Centres had been closed nor had any libraries been shut.

The strategy articulated a number of challenges that would be facing the Council over the next few years including education spend, an aging population, challenges in terms of caring for the frail and elderly, landfill tax and ever increasing costs. The Council was therefore having to get used to doing less and doing things better. Councillor Lundie was pleased to announce that there would be no increase on Council Tax in 2014/15 or in 2015/16.

*(Councillor Richard Crumly arrived at 7.05pm)*

Councillor Jeff Brooks felt that a three year plan was useful and that no decent business would be without one. He accepted that the strategy would help to formulate the budget for the next financial year. He noted however that it might need to be amended for year two and three in light of emerging pressures, changes to grants and to react to changes to legislation most notable the Care Bill. It therefore needed to be flexible and was one tool among many to be used to drive the Council's spend. While he supported the nature of having a strategy he could not support this one.

*(Councillor Andrew Rowles arrived at 7.08pm)*

Councillor Alan Law agreed that the future could be uncertain but that the strategy could be adapted to take cognisance of unfolding uncertainties. He announced that zero based budgeting would be piloted in the Highways Service in the 2014/15 financial year.

The Motion was put to the meeting and duly **RESOLVED**.

**86. Capital Strategy and Programme 2014/15 to 2018/19 (C2746)**

The Council considered a report (Agenda Item 17) concerning the five year Capital Strategy for 2014 to 2019. The report included the Minimum Revenue Provision (MRP) statement and the Asset Management Plan and also set out the funding framework for the Council's five year Capital programme for 2014/15 to 2018/19.

**MOTION:** Proposed by Councillor Alan Law and seconded by Councillor Gordon Lundie:

That the Council:

“approve and adopt the Capital Strategy and programme 2014/15 to 2018/19”.

Councillor Law reported that this was probably the most significant of the budget papers as it outlined where the Council would be investing money in over the next five years. Major areas for investment included technology (which would help the Council be more productive), the district's roads, broadband and education. The latter three areas would in turn help to make the district more productive.

The Council had spend around £30m of capital in the 2013/14 financial year and around £31m of capital expenditure was planned for 2014/15.

**AMENDMENT:** Proposed by Councillor Jeff Brooks and seconded by Councillor Keith Woodhams:

That the Council:

“borrows a further £200,000 to invest in additional LED streetlights across the district. This will accelerate the conversion of our street lights which is already being implemented providing a cleaner and greener outcome and saving in energy costs over time. The additional cost of borrowing will be more than met by the on-going savings in electricity costs. “

Councillor Brooks noted that this was a relatively small amendment and should be viewed as an ‘invest to save’ proposal. The Council was already undertaking a replacement scheme but this additional funding could be used to accelerate it. The funding would generate ongoing savings as a result of a reduction in electricity and replacement costs. Councillor Keith Woodhams explained that he supported the scheme on the basis that it would benefit the residents of the District.

Councillor Pamela Bale commented that additional investment in the scheme had been considered by her predecessor but it had been rejected on the basis that the Council did not have the resources to replace all the streetlights at the same time. It was preferable to spend the current £100k per annum in a structured and planned way. In concluding her response she requested that, in accordance with paragraph 4.13.12 (d) of the Constitution, the question be put in relation to the amendment. This proposal was seconded by Councillor Gordon Lundie. The Closure Motion was put to the Council and duly resolved.

Councillor Brooks concluded that it was not intended that all the streetlights be replaced at the same time but that the additional funding be used to accelerate the programme.

Prior to the vote being taken the Deputy Monitoring Officer announced that the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 (*SI 2014/165*) (2014 Regulations) came into effect on the 25 February 2014 and as a consequence the Council was required to record the names of Members voting for and against the budget proposals.

**FOR the Amendment:**

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Councillors David Allen, Jeff Brooks, Billy Drummond, Roger Hunneman, Mollie Lock, Royce Longton, Gwen Mason, Geoff Mayes, David Rendel, Julian Swift-Hook, Tony Vickers, Keith Woodhams (12)

### **AGAINST the Amendment:**

None

### **ABSTAINED:**

Councillors Peter Argyle, Howard Bairstow, Pamela Bale, Jeff Beck, Brian Bedwell, David Betts, Dominic Boeck, Paul Bryant, Virginia von Celsing, George Chandler, Keith Chopping, Hilary Cole, Roger Croft, Richard Crumly, Sheila Ellison, Marcus Franks, Dave Goff, Paul Hower, John Horton, Carol Jackson-Doerge, Graham Jones, Alan Law, Tony Linden, Gordon Lundie, Tim Metcalfe, Joe Mooney, Irene Neill, Graham Pask, James Podger, Andrew Rowles, Garth Simpson, Anthony Stansfeld, Quentin Webb, Emma Webster, Laszlo Zverko (35)

The Amendment was put to the vote and declared **CARRIED**.

Discussion then returned to the substantive motion. Councillor Tony Vickers queried whether the administration would be willing to use the Council's ability to borrow capital at favourable rates on behalf of Registered Social Landlords. This capital could then be used to increase the number of affordable homes built in the district. He requested that this suggestion be considered when the capital programme for the following year was set.

Councillor Pamela Bale welcomed the proposed expenditure on the District's road network. Councillor Irene Neill noted that a number of projects (including the science block at The Downs School, a new building for the hearing impaired at Kennet School, Denefield School, Caste School and Brookfields) had been undertaken in 2013/14. She thanked the Education Assets Team for all the good work they had done and the staff and pupils at the schools for their forbearance with the disruption while the projects were ongoing. She also welcomed the proposals outlined in the programme for the forthcoming year.

Councillor Brooks reported that since the amendment had been included in the programme he was pleased to support the proposed Capital Strategy and Programme.

Councillor Gordon Lundie noted that £115m would be invested over the following five years. In addition some of the reserves would be spend on addressing some of the problems caused by the recent flooding. Councillor Lundie noted that following negotiations with Central Government the Council would now be putting additional investment into the superfast broadband scheme as a rate of 90% coverage could now be achieved.

Prior to the vote being taken the Monitoring Officer announced that the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 (*SI 2014/165*) (2014 Regulations) came into effect on the 25 February 2014 and as a consequence the Council was required to record the names of Members voting for and against the budget proposals.

The substantive Motion was put to the meeting and duly **RESOLVED**.

### **FOR the Motion**

Councillors Peter Argyle, Howard Bairstow, Pamela Bale, Jeff Beck, Brian Bedwell, David Betts, Dominic Boeck, Paul Bryant, Virginia von Celsing, George Chandler, Keith Chopping, Hilary Cole, Roger Croft, Richard Crumly, Sheila Ellison, Marcus Franks, Dave Goff, Paul Hower, John Horton, Carol Jackson-Doerge, Graham Jones, Alan Law, Tony Linden, Gordon Lundie, Tim Metcalfe, Joe Mooney, Irene Neill, Graham Pask,

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James Podger, Andrew Rowles, Garth Simpson, Anthony Stansfeld, Quentin Webb, Emma Webster, Laszlo David Allen, Jeff Brooks, Billy Drummond, Roger Hunneman, Mollie Lock, Royce Longton, Gwen Mason, Geoff Mayes, David Rendel, Julian Swift-Hook, Tony Vickers, Keith Woodhams (47)

### 87. Revenue Budget: 2014/15 (C2749)

*(Councillor Jeff Brooks declared a personal interest in Agenda item 18 by virtue of the fact that his wife worked at the Watermill Theatre. As his interest was personal and a not disclosable pecuniary interest he determined to take part in the debate and vote on the matter. He noted, however that if a debate on the Watermill Theatre arose he would leave the chamber, not take part in the discussion or vote on the matter).*

(Councillor Bill Drummond declared a personal interest in Agenda item 18 by virtue of the fact that his wife was a clinical lead for older people with mental health issues for West Berkshire Health, NHS Trusts . As his interest was personal and not a disclosable pecuniary interest he determined to take part in the debate and vote on the matter).

The Council considered a report (Agenda Item 18) concerning the Council's 2014/15 revenue budget.

**MOTION:** Proposed by Councillor Alan Law and seconded by Councillor Gordon Lundie:

That the Council:

- (1) in accordance with Council Rules of Procedure 4.9 and 4.16 (Appendix L refers), the Council's decision of 12 December 2013 in relation to not transferring funding to Town and Parish Councils under the Council Tax Reduction Scheme be rescinded.
- (2) notes that the following are the amounts for the year 2014/2015 in accordance with regulations made under Section 31B of the Local Government Finance Act 1992, as amended (by the Localism Act 2011):-
  - (a) 60,599.03 being the amount calculated by the Council, (Item T) in accordance with regulation 31B of the Local Authorities (Calculation of Council Tax Base) Regulations 1992 (as amended by the Localism Act 2011), as its council tax base for the year.
  - (b) Part of the Council's area as per Appendix K being the amounts calculated by the Council, in accordance with regulation 6 of the Regulations, as the amounts of its council tax base for the year for dwellings in those parts of its area to which a parish precept relates.
- (3) Calculates that the Council Tax requirement for the Council's own purposes for 2014/15 (excluding Parish precepts) is £76,563,245
- (4) notes that the following amounts be now calculated by the Council for the year 2014/2015 in accordance with Sections 32 to 36 of the Local Government Finance Act 1992, amended by the Localism Act 2011:-
  - (a) £293,947,118 being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(2)(a) to (f) of the Act taking into account all precepts issued to it by parish councils.
  - (b) (£213,886,715) being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(3)(a) to (d) of the Act.
  - (c) £80,060,403 being the amount by which the aggregate at 4(a) above, exceeds the aggregate at 4(b) above, calculated by the Council, in accordance with Section 31A(4) of the Act, as its council tax requirement for the year (Item R).

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- (d) £1,321.14 being the amount at 4(c) above (Item R), all divided by 2(a) above (Item T), calculated by the Council, in accordance with Section 31B of the Act, as the 'basic amount of its Council Tax for the year (including Parish precepts).
  - (e) £3,497,158.33 being the aggregate amount of all special items (parish precepts) referred to in Section 34(1) of the Act (as per Appendix K).
  - (f) £1,263.44 being the amount at 4(d) above less the result given by dividing the amount at 4(e) above by the amount at 2(a) above, calculated by the Council, in accordance with Section 34(2) of the Act, as the basic amount of its council tax for the year for dwellings in those parts of its area to which no special items relates.
- (5) notes that for the year 2014/2015 Police and Crime Commissioner for Thames Valley & The Royal Berkshire Fire and Rescue Service have issued precepts to the Council in accordance with Section 40 of the Local Government Finance Act 1992 for each category of dwellings in the Councils area as indicated in Appendix K.
- (6) in accordance with Sections 30 and 36 of the Local Government Finance Act 1992, hereby sets the aggregate amounts shown in the tables in Appendix K as the amounts of Council Tax for 2014/15 for each part of its area and for each of the categories of dwellings."

Councillor Law reported that he was proposing a 0% Council Tax rise for 2014/15 despite a £3.67m reduction in the Council's Revenue Support Grant (RSG). This was against a background of a £2.2m pressure arising from an increase in wages, inflation in contracts and an increase in demand led services.

Councillor Law explained that the first recommendation had been included in order to rescind the decision made at the December Council meeting not to transfer any funding to the Town and Parish Councils under the Council Tax Reduction Scheme. At the time the decision had been made it had been explained that if there was a material change in circumstances the decision might need to be rescinded. Following a budget review and clarification as to the level of RSG the Council would receive it was now proposed to transfer 75% of the RSG component of the Council Tax Support Scheme to the Town and Parish Councils. Ongoing funding would be on a diminishing sliding scale. This had been done in light of the suggestion made by Graham Hunt (of Newbury Town Council) speaking on behalf of some of the other Town and Parish Councils. As a consequence some of the parishes had decided to reset their precepts and a new Appendix K had been circulated after the agenda had been produced. In addition it had also been agreed to insert the words 'are the' between the words 'following' and 'amounts' in recommendation 2.

Councillor Law proposed that the new Appendix K and the change of wording (set out above) be treated as an Amendment. The Amendment was seconded by Councillor Lundie.

The Amendment was put to the meeting and duly **RESOLVED**.

**AMENDMENT 2:** Proposed by Councillor Jeff Brooks and seconded by Councillor David Allen:

That the Council:

"agrees the proposals set out in the Liberal Democrat Amendment to the Council budget for 2014/15"

## COUNCIL - 4 MARCH 2014 - MINUTES

Councillor Jeff Brooks opined that the proposals in the Administration's budget included a wide range of cuts to services for the district's most vulnerable residents. The amendment the Opposition were proposing would, in his opinion, reduce some of that impact. Councillor Brooks noted that the amendment would require changes to be made to the car parking ticket machines which would allow variable tariffs to be set. He was also concerned about reductions in funding to the Corn Exchange which he felt was a very significant asset for the district. He felt that the proposed changes to the library opening hours would only achieve small savings and were therefore not something that he would be supporting.

Councillor David Allen asked Members to reconsider some of the savings proposals in light of some of the consultation responses received and petitions that had been submitted to the Council (including the petition relating to Pangbourne Library and On Street Parking in Newbury). He was concerned that some of the proposals to reduce funding for Early Intervention Programmes might achieve a short term gain but that they would result in bigger costs to the Council and individuals in due course.

Councillor Keith Woodhams raised concerns about cuts to the road safety, road maintenance and public transport budgets. Councillor Woodhams noted that every road traffic accident attracted significant costs and it was therefore important to invest in education programmes for young people that could help to decrease the number of accidents. Councillor Woodhams also stressed the need to protect rural transport given the nature of the district.

Councillor Roger Hunneman was concerned about the impact the proposed savings proposals would have on West Berkshire's vulnerable residents. He therefore proposed setting up a £50k transitional support fund to provide support for those suffering hardship following the introduction of the amended 'fairer contributions policy'. Councillor Hunneman noted that up to 800 residents currently on housing benefit might now have to contribute to the cost of being cared for in their own homes. This policy would be means tested which could put some residents off and it was possible that the Council would lose contact with them. He felt that it was important to retain the fund until all affected residents had been assessed.

Councillor Hunneman noted that 411 clients had waited for more than 3 months to have their assessments undertaken and he was therefore proposing additional investment of £50k to fund 1.5 fte employees in the Adult Social Care Team to help reduce the waiting times.

Councillor Gordon Lundie noted that the amendments proposed by the Opposition were not significant, as they only totalled £391k of a £121m budget, especially when compared to the £700k of amendments that had been made as a direct result of the consultation undertaken in respect of the savings proposals. He therefore challenged the Opposition to raise areas where they felt the Administration was failing throughout the year. Councillor Lundie felt that the amendments had failed to address the areas that needed changing and therefore there was no reason to revisit the budget that was being proposed.

*(Councillor Richard Crumly left the meeting at 8.12pm).*

Councillor Alan Law reported that he had written to the Council's external Auditor the previous year in respect of the Council's reserve levels. The Auditor had raised no concerns about the Council's reserve levels and had in fact endorsed them. Furthermore the Auditor felt that the Council had appropriate controls in place. The only issue that Councillor Law was aware of pertained to the Council's self insurance fund and he would ask the Overview and Scrutiny Management Commission to look into this matter with a view to them making a recommendation to the Executive.



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Councillor Brooks maintained that the savings proposals would impact negatively on vulnerable residents and that they would be detrimental to the District.

Prior to the vote being taken the Monitoring Officer announced that the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 (SI 2014/165) (2014 Regulations) came into effect on the 25 February 2014 and as a consequence the Council was required to record the names of Members voting for and against the budget proposals.

The Amendment was put to the vote and declared **LOST**.

### **FOR the Amendment:**

Councillors David Allen, Jeff Brooks, Billy Drummond, Roger Hunneman, Mollie Lock, Royce Longton, Gwen Mason, Geoff Mayes, David Rendel, Julian Swift-Hook, Tony Vickers, Keith Woodhams (12)

### **AGAINST the Amendment:**

Councillors Peter Argyle, Howard Bairstow, Pamela Bale, Jeff Beck, Brian Bedwell, David Betts, Dominic Boeck, Paul Bryant, Virginia von Celsing, George Chandler, Keith Chopping, Hilary Cole, Roger Croft, Sheila Ellison, Marcus Franks, Dave Goff, Paul Hower, John Horton, Carol Jackson-Doerge, Graham Jones, Alan Law, Tony Linden, Gordon Lundie, Tim Metcalfe, Joe Mooney, Irene Neill, Graham Pask, James Podger, Andrew Rowles, Garth Simpson, Anthony Stansfeld, Quentin Webb, Emma Webster, Laszlo Zverko (34)

### **ABSTAINED:**

None

The debate then returned to the substantive motion.

Councillor Pamela Bale thanked Councillor Hilary Cole for listening to the case that had been made in respect of opening hours for Pangbourne Library. Councillor Bale hoped that the residents of Pangbourne would take up Councillor Cole's proposal to make the library into a community hub. If the usage figures were to increase it was possible that the opening hours could be extended in the future.

Councillor Bale noted that there were no proposals in place to cut rural bus services as yet. She noted that the Council had a duty to provide services to people in rural areas and the Council would continue to recognise the work undertaken by voluntary groups. She also explained that the Council had listened to comments pertaining to Sunday car parking charges and as a consequence had decided not to implement weekday charges and would instead only be increasing Sunday charges to £1.50.

Councillor Joe Mooney felt that this was a good and prudent budget. He reminded Members about the significant savings made in the Adult Social Care arena and he thanked Steve Duffin and his team for all their hard work that had made the savings possible. Councillor Mooney encouraged all Members to familiarise themselves with the impact that would be created by the Better Care Fund as well as the emerging Care Bill. He noted that the staff that worked in Adult Social Care were very dedicated and that the Council should be very proud of them.

Councillor Irene Neill stated that the proposed budget represented good value for money. Not all savings proposals equated to a cut in services provided. Some services had been brought together where they overlapped and placement costs had been reduced in some areas and despite costing less they had benefited both young people and their carers.

*(Councillor John Horton left the meeting at 8.30pm)*

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Councillor Graham Jones noted that in order for the Coalition Government to improve the nation's finances it had to reduce the funding available to local authorities. He therefore felt that this was a good budget given the constraints as the money being spent matched the Council's resources.

Councillor Hilary Cole reported that the Council had listened to the feedback it had received from residents in three specific areas in her portfolio. As a result of the feedback the reduction in funding to the Corn Exchange had been reprofiled over a five year period. A business plan was being developed for Shaw House which would result in it offering a wide range of activities in the future. Although it had been necessary to make a slight reduction in the opening hours for libraries their role in the community was changing. It was hoped that in the future they could become community hubs where a range of services including those provided by the Council could be accessed.

Councillor Gordon Lundie was pleased to announce that a 0% increase in Council Tax was being proposed for the both the 2014/15 and 2015/16 financial years. A savings plan totalling £5.6m was proposed which would encompass both front office (1/3) and back office (2/3) functions. The Administration had to make a number of difficult decisions but they were necessary in order to produce a balanced budget. The proposals had been consulted on and as a result of the feedback received £700k of changes had been made to the original plan. The Council were also proposing using around £1m of reserves to redress some of the damage incurred by the recent flooding. Councillor Law then commended the budget to Council for approval.

It was agreed that a separate vote would be undertaken on the first recommendation

Recommendation 1 was put to the vote and declared **CARRIED**

(This item received unanimous support)

The Substantive Motion was put to the meeting and duly **RESOLVED**.

Prior to the vote being taken the Monitoring Officer announced that the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 (*SI 2014/165*) (2014 Regulations) came into effect on the 25 February 2014 and as a consequence the Council was required to record the names of Members voting for and against the budget proposals.

### **FOR the Motion**

Councillors Peter Argyle, Howard Bairstow, Pamela Bale, Jeff Beck, Brian Bedwell, David Betts, Dominic Boeck, Paul Bryant, Virginia von Celsing, George Chandler, Keith Chopping, Hilary Cole, Roger Croft, Sheila Ellison, Marcus Franks, Dave Goff, Paul Hewer, Carol Jackson-Doerge, Graham Jones, Alan Law, Tony Linden, Gordon Lundie, Tim Metcalfe, Joe Mooney, Irene Neill, Graham Pask, James Podger, Andrew Rowles, Garth Simpson, Anthony Stansfeld, Quentin Webb, Emma Webster, Laszlo Zverko (33)

### **AGAINST the Motion**

Councillors David Allen, Jeff Brooks, Billy Drummond, Roger Hunneman, Mollie Lock, Royce Longton, Gwen Mason, Geoff Mayes, David Rendel, Julian Swift-Hook, Tony Vickers, Keith Woodhams (12)

## **88. Statutory Pay Policy Statement (C2646)**

The Council considered a report (Agenda Item 19) concerning the Council's Pay Policy Statement which it was required to publish for approval by the 01<sup>st</sup> April 2014.

**MOTION:** Proposed by Councillor Alan Law and seconded by Councillor Laszlo Zverko:

That the Council:

## COUNCIL - 4 MARCH 2014 - MINUTES

“approves the Pay Policy Statement as set out in Appendix A to the report”.

Councillor Alan Law informed Members that there it was a statutory requirement to produce the report which set out the earnings of the Council’s senior managers and also the ratios between the salaries of the top and bottom earners in the Council.

The Motion was put to the meeting and duly **RESOLVED**.

### 89. **Community Infrastructure Levy - Adoption and Implementation of Charging Schedule (C2587)**

*(Councillor Emma Webster declared an interest in Agenda item 20 by virtue of the fact that she was employed by a company that worked with local developers and although she did not she was a director of the company. As her interest was personal and a disclosable pecuniary interest she left the meeting and took no part in the debate or voting on the matter).*

*(Councillor Keith Woodhams declared a personal interest in Agenda item 20 by virtue of the fact that his daughter was employed by a local developer. As his interest was personal and not a disclosable pecuniary interest he determined to take part in the debate but declared that he would not vote on the matter).*

*(Councillor Emma Webster left the meeting at 8.52pm and returned at 9.02pm)*

The Council considered a report (Agenda Item 20) concerning the Examiner’s report into West Berkshire’s Draft Charging Schedule and sought approval for the adoption and implementation of a Community Infrastructure Levy (CIL) for the Council.

**MOTION:** Proposed by Councillor Hilary Cole and seconded by Councillor Paul Bryant:

That the Council:

1. “accepts the Examiner’s recommendations and adopts the Charging Schedule as set out in Appendix B to the report;
2. Agrees that the Charging Schedule will take effect from the 01<sup>st</sup> April 2015 unless the restriction on the use of s106 agreements come into force before that date, in which case the Charging Schedule will take effect from the date that those restrictions come into force;
3. Approves the Regulations 123 List as set out in Appendix C as supporting documentation to the Charging Schedule.”

Councillor Hilary Cole thanked Members that had attended the Member Development session on CIL on the 12 February despite the inclement weather.

Councillor Cole explained that CIL was a concept that had been introduced by Government in 2010 and had been amended year on year since then. As a result of recent changes the cut off date at which point the s06 scheme would have to cease had been delayed from April 2014 until April 2015. Councillor Cole reported that new Regulations had come into force on the 24 February 2014 (after the agenda had been published) and consequently the second recommendation should be **amended** to read that:

“That the Charging Schedule will take effect from 1st April 2015.”

Councillor Cole reported that there appeared to be cross party support for the retention of the existing s106 scheme. A meeting had therefore been arranged with Richard Benyon (MP) to discuss the issue. The most simple solution being to remove the cut off date for s106 schemes in the Regulations which would allow a decision to be made at a local level and which would have the effect of making the introduction of the CIL scheme voluntary. Mr Benyon was able to get agreement for a Westminster Hall debate where a

## COUNCIL - 4 MARCH 2014 - MINUTES

challenge was articulated to keep the existing policy. This debate had resulted in a further meeting being secured at the Department for Communities and Local Government where the matter would be pursued. Councillor Cole thanked Councillor Keith Chopping for all his support on this issue.

Councillor Cole requested that in the mean time Members approve the recommendations as set out in the report, subject to the inclusion of the amendment, which would have the effect of delaying the implementation of CIL until 01 April 2015.

Councillor Tony Vickers stated that he supported the report so much so that he would have been willing to second it. He also supported the retention of the s106 scheme as he was concerned about the gap in funding for infrastructure in the District that would ensue as a result of the implementation of CIL. The Council had a good scheme in place and he would support any efforts to retain it including accompanying Councillor Cole to any of the meetings referred to if she would like him to. Councillor Cole thanked Councillor Vickers for his support.

The Motion, as amended, was put to the meeting and duly **RESOLVED**.

(Councillor Keith Woodhams abstained from voting on this item).

### 90. **Amendments to the Constitution - Scheme of Delegation (C2770)**

The Council considered a report (Agenda Item 21) concerning amendments to sections of the Scheme of Delegation in light of legislative changes.

**MOTION:** Proposed by Councillor Jeff Beck and seconded by Councillor Quentin Webb:

That the Council:

“agrees the proposed amendments to the Scheme of Delegation”.

Councillor Jeff Beck noted that the Governance and Audit Committee had discussed the proposed changes at a meeting on the 10 February 2014. The Committee had resolved to recommend acceptance of the changes as detailed in the report.

The Motion was put to the meeting and duly **RESOLVED**.

### 91. **Changes to the Constitution - Part 13 Codes and Protocols (C2771)**

The Council considered a report (Agenda Item 22) concerning a review and ensuing amendments to sections of Part 13 (Codes and Protocols) i.e. Appendices A (West Berkshire Code of Conduct for Planning), D (Gifts and Hospitality: A Code of Conduct for Councillors), E (Procedure for Local Determination of Allegation) and G (West Berkshire Code of Conduct for Licensing) in light of legislative changes, policy changes and recent government guidance.

**MOTION:** Proposed by Councillor Jeff Beck and seconded by Councillor Quentin Webb:

That the Council:

1. “agrees the amendments and any additional changes required;
2. Agrees the changes will come into effect on the 05 March 2014”.

Councillor Jeff Beck noted that the changes had been discussed at the Governance and Audit Committee meeting on the 10 February 2014. The Committee had recommended that Council adopt the proposed changes.

The Motion was put to the meeting and duly **RESOLVED**.

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*(The meeting commenced at 6.30 pm and closed at 9.06 pm)*

**CHAIRMAN** .....

**Date of Signature** .....

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<b>Title of Report:</b>	<b>Appointment of and Allocation of Seats on Committees for the 2014/15 Municipal Year</b>
<b>Report to be considered by:</b>	Council
<b>Date of Meeting:</b>	15 May 2014
<b>Forward Plan Ref:</b>	C2689

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**Purpose of Report:**

1. To consider the appointment and allocation of seats on Committees and associated bodies for the next Municipal Year.
2. To agree the Council's Policy Framework for 2014/15 as set out in Paragraph 6.1.

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**Recommended Action:**

1. That the Council notes that under Paragraph 8 of the Local Government (Committees and Political Groups) Regulations 1990, notice has been received that the Members set out in paragraph 1.1 of this report are to be regarded as Members of the Conservative and Liberal Democrat Groups respectively.
2. That the Council agrees to the appointment of the various Committees and to the number of places on each as set out in paragraph 2.2 (Table A).
3. That the Council agrees to the allocation of seats to the Political Groups in accordance with section 15(5) of the Local Government Act 1989 as set out in paragraph 3.4 (Table B).
4. That the number of substitutes on Committees and Commissions be as set out in paragraph 4.1 (Table C).
5. In respect of the District and Area Planning Committees, the substitute Members are all drawn from Members representing wards within the Committee's area who are not appointed to the Committee. Where substitutes attend the District Planning Meeting they need to be drawn from the same Area Planning meeting as the Member they are substituting for.
6. That the Council approves the appointment of Members to the Committees as set out in Appendix A and in accordance with the wishes of the Political Groups.

7. That the Council, in accordance with Regulation 4, Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, and the Local Authorities (Functions and Responsibilities) (England) (Amendment No.2) Regulations 2008, agrees the Council's Policy Framework for 2014/15 be as set out in paragraph 6.1 and that any appropriate amendments be made to the Council's Constitution should this be necessary.
8. That the Council, in accordance with Regulation 5, Schedule 4 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, approves that all other plans, policies and strategies requiring approval and not included in the approved Policy Framework be delegated to the Council's Executive.
9. That the Council agrees that Paragraph 2.6.5 of Article 6 of the Council's Constitution, setting out the Executive Portfolios, be amended to reflect any changes made at the Annual Council meeting by the Leader of the Council.
10. That the appointment of two non voting co-opted Parish/Town Councillors be made to the Standards Committee.
11. That the appointment of two Parish/Town Councillors and two independent members be made to the Standards Committee's Advisory Panel.
12. To appoint James Rees and John Bingham to be the Council's Independent Persons.
13. To agree to the membership of the Health and Wellbeing Board as set out in paragraph 9.1
14. That authority be delegated to the Monitoring Officer to make any changes required to the Constitution as a result of the appointments to Committees.

**Reason for decision to be taken:**

It is a statutory requirement

**Other options considered:**

As it is a statutory requirement no additional options were considered.

**Key background**

- The Local Government and Housing Act 1989



- documentation:**
- Local Government (Committees and Political Groups) Regulations 1990
  - Local Authorities (Functions and Responsibilities) (England) Regulations 2000
  - The Localism Act 2011

The proposals will help achieve the following Council Strategy principle:	
<input checked="" type="checkbox"/>	<b>CSP8 - Doing what's important well</b>
The proposals contained in this report will help to achieve the above Council Strategy principle by: Ensuring that the Council complies with the legislative framework.	

Portfolio Member Details	
<b>Name &amp; Telephone No.:</b>	Councillor Gordon Lundie
<b>E-mail Address:</b>	<a href="mailto:glundie@westberks.gov.uk">glundie@westberks.gov.uk</a>
<b>Date Portfolio Member agreed report:</b>	Emailed on 01 April 2014

Contact Officer Details	
<b>Name:</b>	Moira Fraser
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## Implications

- Policy:** The appointments and allocations will be made in accordance with the Council's statutory obligations. The Council's Policy making framework is updated annually.
- Financial:** Members Allowances, proposed by the Independent Remuneration Panel, were agreed at Council meeting held on the 03 March 2011.
- Personnel:** None
- Legal/Procurement:** The allocation of seats to Political Groups in accordance with Section 15(5) of the Local Government and Housing Act 1989 and related regulations mentioned in this report.  
  
The provisions of the Localism Act were brought into effect on 1st July 2012 which resulted in an amendment to the Governance Structures in respect of the Standards Committee which were updated at the December 2013 Council meeting .
- Property:** None
- Risk Management:** None

Is this item relevant to equality?	Please tick relevant boxes	Yes	No
Does the policy affect service users, employees or the wider community and:			
• Is it likely to affect people with particular protected characteristics differently?		<input checked="" type="checkbox"/>	
• Is it a major policy, significantly affecting how functions are delivered?		<input checked="" type="checkbox"/>	
• Will the policy have a significant impact on how other organisations operate in terms of equality?		<input checked="" type="checkbox"/>	
• Does the policy relate to functions that engagement has identified as being important to people with particular protected characteristics?		<input checked="" type="checkbox"/>	
• Does the policy relate to an area with known inequalities?		<input checked="" type="checkbox"/>	
<b>Outcome</b> (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)			
Relevant to equality - Complete an EIA available at <a href="http://www.westberks.gov.uk/eia">www.westberks.gov.uk/eia</a>			<input type="checkbox"/>
Not relevant to equality			<input checked="" type="checkbox"/>

Is this item subject to call-in?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval	<input checked="" type="checkbox"/>	
Delays in implementation could have serious financial implications for the Council	<input type="checkbox"/>	
Delays in implementation could compromise the Council's position	<input type="checkbox"/>	
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months	<input type="checkbox"/>	
Item is Urgent Key Decision	<input type="checkbox"/>	
Report is to note only	<input type="checkbox"/>	

## **Executive Summary**

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### **1. Introduction**

- 1.1. In accordance with Paragraph 4.2.2 of the Constitution, the Council is required to appoint Committees and other Member bodies that are not part of the Executive. Membership of the Council's Committees is agreed annually at the May Council meeting.
- 1.2. This report sets out the Membership of the two Political Groups, the size and Membership of the Committees as well as the number of substitutes to be appointed for each of the bodies. It also sets out the 2014/15 Policy Framework.

### **2. Proposals**

- 2.1 In allocating seats on Committees, the Council must give effect, so far as reasonably practical, to the principles contained in Section 15(5) of the Local Government and Housing Act 1989.
- 2.2 This report sets out the number of seats on each group based on the 'basket principle' whereby the Liberal Democrat Group would be entitled to 25% of the seats and the Conservative Group 75% of the seats following the May 2011 elections.

### **3. Equalities Impact Assessment Outcomes**

- 3.1 Officers do not consider that any groups will be affected by this report. Councillors will be asked if they want to be appointed to Committees or Commissions. The Council strives to ensure that all venues used for meetings accord with any relevant legislation.

### **4. Conclusion**

- 4.1 Members are asked to agree the appointment of and allocation of seats on the Committees for the 2014/15 Municipal Year.
- 4.2 Members are asked to agree the Council's Policy Framework for 2014/15 as set out in Paragraph 6.1 of the report.

# Executive Report

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## 1. Introduction

- 1.1 In accordance with Regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990, the under-mentioned Members have given notice of their wish to be regarded as Members of the Political Groups set out below.

<b>Conservative Political Group</b>	<b>Liberal Democrat Political Group</b>
Argyle, Peter	Allen, David
Bairstow, Howard	Brooks, Jeff
Bale, Pamela	Drummond, Billy
Beck, Jeff	Hunneman, Roger
Bedwell, Brian	Lock, Mollie
Betts, David	Longton, Royce
Boeck, Dominic	Macro, Alan
Bryant, Paul	Mason, Gwendoline
Chandler, George	Mayes, Geoff
Chopping, Keith	Rendel, David
Cole, Hilary	Swift-Hook, Julian
Croft, Roger	Vickers, Tony
Crumly, Richard	Woodhams, Keith
Edwards, Adrian	
Ellison, Sheila	
Franks, Marcus	
Goff, Dave	
Gopal, Manohar	
Hewer, Paul	
Horton, John	
Jackson-Doerge, Carol	
Johnston, Mike	
Jones, Graham	
Law, Alan	
Linden, Tony	
Lundie, Gordon	
Metcalfe, Tim	
Mooney, Joe	
Neill, Irene	
Pask, Graham	
Podger, James	
Rowles, Andrew	
Stansfeld, Anthony	
Simpson, Garth	
Tuck, Ieuan	
Von Celsing, Virginia	
Webb, Quentin	
Webster, Emma	
Zverko, Laszlo	

### Recommendation 1:

- That the Council notes that under Paragraph 8 of the Local Government (Committees and Political Groups) Regulations 1990, notice has been received that the Members set out in paragraph 1.1 of this report are to be regarded as Members of the Conservative and Liberal Democrat Groups respectively.

## 2. Appointment of Committees

- 2.1 In accordance with Paragraph 4.2.2 of the Constitution, the Council is required to appoint Committees and other Member bodies that are not part of the Executive.
- 2.2 It is proposed that Council appoint the Committees (as set out in Table A) and their relevant Sub-Committees with the number of places shown for each.

**Table A**

<b>Body</b>	<b>Number of Seats</b>
Overview and Scrutiny Management Commission	16
Licensing Committee	12
District Planning Committee	12 <i>(six members of the Eastern Area Planning Committee and six Members of the Western Area Planning Committee)</i>
Eastern Area Planning Committee	12
Western Area Planning Committee	12
Governance and Audit Committee	8
Personnel Committee	6
Standards Committee	6 <i>(two non-voting co-opted Parish Councillors will also be appointed to this Committee)</i>
<b>Total</b>	<b>84</b>

### Recommendation 2:

- That the Council agrees to the appointment of the various Committees and to the number of places on each as set out in paragraph 2.2 (Table A).

### 3. Allocation of Seats

3.1 The political balance of the Council currently stands as follows:

	<b>Number of Members</b> No.	<b>Political Composition</b> %
Conservative Group	39	75%
Liberal Democrat Group	13	25%
	<b>52</b>	<b>100.00%</b>

3.2 In allocating seats on Committees, the Council must give effect, so far as reasonably practical, to the principles contained in Section 15(5) of the Local Government and Housing Act 1989 which may be summarised as follows:

- (1) Not all seats on any Committee are to be allocated to the same political group
- (2) The majority of seats on any Committee must be allocated to the majority Group;
- (3) Subject to (1) and (2) above, the number of seats on ordinary Committees must be allocated to each political group in the same proportion as their representation on the Council;
- (4) Subject to (1) and (3) above, the number of seats on any Committee must be the same proportion as the political group's representation on full Council.
- (5) To qualify two or more Members must form a group.

3.3 Based on 84 seats (Table A), the "basket" principle and the normal rules of rounding the following number of seats would therefore be allocated to each Group.

Conservatives	$84 \times 75\% = 63$
Liberal Democrats	$84 \times 25\% = 21$
<b>Total</b>	<b>84</b>

3.4 The seats on Committees will therefore be allocated as follows:

<b>Table B</b>			
<b>Committee</b>	<b>Total Number of Seats</b>	<b>Liberal Democrats</b>	<b>Conservatives</b>
Overview and Scrutiny Management Commission	16	4	12
Licensing Committee	12	3	9
District Planning Committee	12	3	9
Eastern Area Planning Committee	12	3	9
Western Area Planning Committee	12	3	9
Governance and Audit Committee	8	2	6
Personnel Committee	6	1	5
Standards Committee	6	2	4
<b>Total</b>	<b>84</b>	<b>21</b>	<b>63</b>

**Recommendation 3:**

- That the Council agrees to the allocation of seats to the Political Groups in accordance with section 15(5) of the Local Government Act 1989 as set out in paragraph 3.4 (Table B).

**4. Substitutes**

4.1 In accordance with the Council's Constitution, the Council is required to determine the number of substitute Members that may be appointed in respect of each Committee. The current numbers of substitutes for each is as follows:

<b>Table C</b>	
Overview and Scrutiny Management Commission	4 per Political Group
Area Planning Committees	4 per Political Group
District Planning Committee	4 per Political Group – 2 from the Eastern Area of the District and 2 from the Western Area of the District
Licensing Committee	No substitutes permitted

Governance and Audit Committee	2 per Political Group
Personnel Committee	2 per Political Group
Standards Committee	No substitutes permitted

4.2 In respect of the District and Area Planning Committees, the substitute Members are all drawn from Members representing wards within the Committee's area who are not appointed to the Committee.

**Recommendations 4 and 5:**

- **That the number of substitutes on Committees and Commissions be as set out in paragraph 4.1 (Table C).**
- **In respect of the District and Area Planning Committees, the substitute Members are all drawn from Members representing wards within the Committee's area who are not appointed to the Committee. Where substitutes attend the District Planning Meeting they need to be drawn from the same Area Planning meeting as the Member they are substituting for.**

**5. Appointment to Committees**

5.1 Appendix A is a list of Committees and the nominations from each Political Group.

**Recommendation 6:**

- **That the Council approves the appointment of Members to the Committees as set out in Appendix A and in accordance with the wishes of the Political Groups.**

**6. Planning and Policy Framework**

6.1 In accordance with Regulation 4, Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and the Local Authorities (Functions and Responsibilities) (England) (Amendment No.2) Regulations 2008 the Council is requested to confirm the Policy Framework for 2014/15 as set out below:

- Council Strategy;
- Local Transport Plan;
- Licensing Policy;
- Gambling Policy ;
- Plans and strategies which together comprise the Development Plan
- Health and Wellbeing Strategy.

**Recommendations 7 and 8:**

- **That the Council, in accordance with Regulation 4, Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000,**



and the Local Authorities (Functions and Responsibilities) (England) (Amendment No.2) Regulations 2008, the Council's Policy Framework for 2014/15 be as set out above and that any appropriate amendments be made to the Council's Constitution should this be necessary.

- That the Council, in accordance with Regulation 5, Schedule 4 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, all other plans, approves that policies and strategies requiring approval and not included in the approved Policy Framework be delegated to the Council's Executive.

## 7. Executive – Article 6 and Part 5 Rules of Procedure

- 7.1 Paragraph 2.6.5 of Article 6 sets out the current Executive Portfolio and this may need to be amended in the light of any proposed changes made by the Leader of the Council to these Portfolios.

As of the end of April 2013 the 2013/14 Portfolios were:

Leader of the Council
Highways, Transport (Operations), Emergency Planning, Newbury Vision
Children and Young People, Youth Service, Education
Community Care, Insurance
Finance, Economic Development, Health & Safety, HR, Pensions, Property
Planning, Transport (Policy), Culture, Customer Services, Countryside
Strategy & Performance, Housing, ICT & Corporate Support, Legal and Strategic Support
Partnerships, Equality, Communities, Hungerford and Eastern Area Visions, Community Safety
Cleaner & Greener, Waste, Environmental Health, Trading Standards, Thatcham Vision
Health and Well Being

### Recommendation 9:

- That the Council agrees that Paragraph 2.6.5 of Article 6, setting out the Executive Portfolios, be amended to reflect any changes made by the Leader of the Council at the Annual Council meeting.

## 8. Standards Committee

- 8.1 The Council agreed to appoint the Standards Committee as a Committee of Council to deal with the "standards arrangements" as required by the Localism Act 2011. The Standards Committee will comprise six Members and must accord with the proportionality rules. It has also been agreed that two non voting Parish/ Town

Council representatives will be appointed to the Standards Committee to build confidence when dealing with complaints.

- 8.2 In addition an Advisory Committee of the Standards Committee comprising eight members (being two from the Administration, two from the Opposition group, two Parish and two Independent members) will be appointed. The Advisory Committee is to be chaired by one of the independent members. The Advisory Panel makes recommendations to the Standards Committee particularly as regards complaints and investigations.

#### **Recommendations 10, 11 and 12:**

- **That the appointment of two non voting co-opted Parish/Town Councillors be made to the Standards Committee.**
- **Two Parish/Town Councillors and two independent members be appointed to the Standards Committee's Advisory Panel.**
- **To re-affirm the appointment of James Rees and John Bingham to be Independent Person(s).**

### **9. Health and Wellbeing Board**

- 9.1 The Health and Wellbeing Board is a Sub-Committee of the Executive in accordance with the Health and Social Care Act 2012. A number of regulations linked to Committee have been disapplied in relation to this Committee such as the proportionality rules and rules pertaining to voting. It has been agreed that the membership of the Board will be as follows:

- Leader of the Council or other appropriate elected Member
- Portfolio Holder for Health and Wellbeing
- North and West Reading Clinical Commissioning Group
- Newbury and District Clinical Commissioning Group
- Strategic Director of Public Health or Assistant Director of Public Health
- Director of Community Services (role covers Children Services and Adult Social Services)
- Local Healthwatch Representative
- Representative from the Umbrella Organisation (Empowering West Berkshire) representing the Voluntary and Community Sector

## **Appendices**

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Appendix A – Membership of Committees *(to be tabled at the Council meeting)*

### **Consultees**

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**Local Stakeholders:** None

**Officers Consulted:** Andy Day, David Holling, Robin Steel, Gillian Durrant and Corporate Board

**Trade Union:** Not consulted

<b>Title of Report:</b>	<b>Standards Committee Annual Report 2013/14</b>
<b>Report to be considered by:</b>	Council
<b>Date of Meeting:</b>	15 May 2014
<b>Forward Plan Ref:</b>	C2690

**Purpose of Report:** To present the Annual Standards Committee report to the Council.

**Recommended Action:**

1. Members are requested to note the content of the report.
2. Report to be circulated to all Parish/Town Councils in the District for information.

**Reason for decision to be taken:** There is no decision. The Council is encouraged to produce an annual report.

**Other options considered:** None

**Key background documentation:**

- Localism Act 2011
- Reports to Council 10 May 2012 and Special Council on the 16 July 2012
- New Terms of Reference for the Standards Committee and Advisory Panel;
- A new Code of Conduct for West Berkshire District Councillors (Full Council December 2013).
- Quarter 1, 2 and Quarter 3 Monitoring Officer's Reports to the Standards Committee

The proposals will help achieve the following Council Strategy principle:  
 **CSP7 - Empowering people and communities**  
 The proposals contained in this report will help to achieve the above Council Strategy principle by:  
 Ensuring that the activity of the Standards Committee be reported back to all District/Town and Parish Councillors

Member Details	
<b>Name &amp; Telephone No.:</b>	Councillor Peter Argyle – Tel (0118) 9376853
<b>E-mail Address:</b>	pargyle@westberks.gov.uk
<b>Date Member agreed report:</b>	21 March 2014

Contact Officer Details	
<b>Name:</b>	David Holling
<b>Job Title:</b>	Head of Legal Services (Monitoring Officer)
<b>Tel. No.:</b>	01635 519422
<b>E-mail Address:</b>	dholling@westberks.gov.uk

## Implications

- Policy:** Revised policy and changes to processes adopted at Council in May 2012 and reviewed in December 2013.
- Financial:** There are no financial issues arising from this report. All costs associated with the investigation of complaints are met from within existing budgets.
- Personnel:** There are no personnel issues associated with this report
- Legal/Procurement:** There are no legal issues arising from this report, The matters covered by this report are generally requirements of the Local Government Act 2000 in so far as appropriate and the Localism Act 2011 and its supporting regulations.
- Property:** None
- Risk Management:** The benefits of this process are the maintenance of the Council's credibility and good governance by a high standard of ethical behaviour. The threats are the loss of credibility of the Council if standards fall.
- Equalities Impact Assessment:** The report is to note only. The subject of this report is not a policy, strategy, function or service that is new or being revised. An equality impact assessment is not required.

<b>Is this item subject to call-in?</b>	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval		<input checked="" type="checkbox"/>
Delays in implementation could have serious financial implications for the Council		<input type="checkbox"/>
Delays in implementation could compromise the Council's position		<input type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months		<input type="checkbox"/>
Item is Urgent Key Decision		<input type="checkbox"/>
Report is to note only		<input checked="" type="checkbox"/>

## **Executive Summary**

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### **1. Introduction**

- 1.1 The Localism Act 2011 was enacted on 15th November 2011 and it made fundamental changes to the system of regulation of the standards of conduct for elected and co-opted members of Councils and Parish Councils.
- 1.2 In order to ensure that the process was working effectively it was agreed that the Monitoring Officer would make quarterly reports to Standards Committee which set out the number and nature of complaints received and draw the Committee's attention to areas where training or other action might avoid further complaints in the future. It also provides a means of updating the Committee on the progress of investigations together with any costs incurred.
- 1.3 The Quarter Four report has been incorporated into the Annual Report which will raise awareness of activity undertaken by the Standards Committee over the previous year. The annual report is presented to Council in May each year.

### **2. Proposals**

- 2.1 Members are asked to note the content of the report.

### **3. Equalities Impact Assessment Outcomes**

- 3.1 There is no decision to be made and therefore no Equality Impact Assessment has been undertaken.

# Executive Report

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## 1. Introduction

- 1.1 The Localism Act 2011 was enacted on 15th November 2011 and it made fundamental changes to the system of regulation of the standards of conduct for elected and co-opted members of Councils and Parish Councils.
- 1.2 In order to ensure that the process was working effectively it was agreed that the Monitoring Officer would make quarterly reports to Standards Committee which set out the number and nature of complaints received and draw the Committee's attention to areas where training or other action might avoid further complaints in the future. It would also provide a means of updating the Committee on the progress of investigations together with any costs incurred.
- 1.3 The Quarter Four report has been incorporated into the Annual Report which will raise awareness of activity undertaken by the Standards Committee over the previous year. The annual report is presented to full Council in May each year.

## 2. Governance

- 2.1 The Council adopted a new Standards Regime to implement the requirements of the Localism Act 2011 and the Regulations made under that Act. This included the following documents which were approved at Full Council on the 10 May 2012:
  - New Terms of Reference for the Standards Committee and Advisory Panel;
  - A new Code of Conduct for West Berkshire District Councillors;
  - New outline complaints procedures for breaches of that code;
  - A new dispensations procedure.
- 2.2 The Council agreed to appoint a Standards Committee subject to the proportionality arrangements comprising six District Councillors together with two co-opted Parish Representatives.
- 2.3 The Council also agreed to appoint an Advisory Panel to deal with complaints and processes and report to the Standards Committee. The Advisory Panel would comprise two independent members, four District Councillors (not subject to proportionality arrangements) and two Parish Councillors. The Advisory Panel would also appoint two substitute Parish Councillors to ensure continuity and to build experience amongst the Parish Councillors.
- 2.4 At the time the new Code was adopted it was agreed that the Code of Conduct would be reviewed a year after its inception. A small task group was set up in the summer of 2013 to consider the Council's existing Code and to suggest amendments in line with good practice. The Task Group comprised Councillors David Allen and Peter Argyle, James Rees (Independent Person) and Tony Renouf (Parish Councillor). The Task Group concluded that overall the revised Code and underpinning processes had worked well. Therefore only a number of minor amendments to the existing Code of Conduct and existing procedures were suggested. The revisions were discussed and agreed at the December 2013 Council meeting and copies of the documents were sent to all Town and Parish Councils.

### **3. Independent Persons**

- 3.1 Under Section 28 of the Localism Act 2011 the Council also has to ensure it has appointed at least one Independent Person who is consulted before any decision is made to investigate an allegation against any Member of the Council or any Parish Councillor. It was agreed at the Full Council meeting on the 27 September 2012 that the Independent Person may be consulted directly either by the person who has made the complaint or the person the complaint has been made about. Two Independent Persons have therefore been appointed in order to ensure that a conflict situation does not arise.
- 3.2 James Rees and John Bingham were appointed as the Councils Independent Persons for the 2013/14 Municipal Year and it is not proposed to make any changes to this appointment during the forthcoming Municipal Year.

### **4. Standards Committee**

#### **4.1 *Role and Function***

The Standards Committee has the following roles and functions:

- (a) promoting and maintaining high standards of conduct by Councillors and co-opted Members;
- (b) assisting Councillors and co-opted Members, to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption and subsequent revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to Councillors and co-opted Members on requirements relating to interests set out in the Members' Code of Conduct;
- (g) ensuring arrangements are in place under which allegations of misconduct in respect of the members' Code of Conduct can be investigated and to review such arrangements appropriately;
- (h) the exercise of (a) to (g) above in relation to the Parish / Town Councils wholly or mainly in its area and the Members of those Parish / Town Councils;

- 4.2 The District Councillors on the Standards Committee are representatives of both political groups within the Council but are subject to the proportionality rules. The Standards Committee is however politically neutral. The Standards Committee is expected to operate above party politics and its Members have the respect of the whole authority, regardless of their political party.

- 4.3 During 2013/14 the Standards Committee comprised the following Members:

- Peter Argyle; (Chairman) (Conservative);
- Adrian Edwards (Conservative);
- Virginia von Celsing (Conservative);
- Garth Simpson (Conservative);

- Mollie Lock (Liberal Democrat);
- Gwen Mason (Vice Chairman) (Liberal Democrat).

4.4 The Standards Committee has a special responsibility to the 56 Town and Parish Councils within the District. It is responsible for ensuring that high standards of conduct are met within the parishes and that all Parish and Town Councillors are aware of their responsibilities under their Codes of Conduct.

4.5 The District Councillors are therefore supported on the Standards Committee by two co-opted Parish Councillors who are appointed in a non-voting capacity. During 2013/14 the Standards Committee comprised the following Parish Councillors:

- Mauline Akins (Resigned from the Committee during the year)
- Barry Dickens (replaced Mauline Akins);
- Chris Bridges

## **5. Advisory Panel**

5.1 The Advisory Panel is responsible for dealing with complaints where evidence of a breach of the Code has been identified and reports its findings to the Standards Committee for formal decision.

5.2 The District Councillors on the Advisory Panel are representatives of both political groups within the Council and are not appointed in accordance with the proportionality rules. During 2013/14 the Advisory Panel comprised the following District Councillors:

- Quentin Webb;
- Andrew Rowles;
- Geoff Mayes;
- David Allen;

5.3 During the 2013/14 Municipal Year the following Parish Councillors were appointed to the Advisory Panel:

- Tony Renouf
- Peter Iveson
- Darren Peace (Parish Council Representative – Substitute)
- Lee Dillon (Parish Council Representative – Substitute)

5.4 During the 2013/14 Municipal year the following Independent Member was appointed to the Advisory Panel:

- Mike Wall
- There is also a vacancy for a second Independent Person.

## **6. The Monitoring Officer**

6.1 In West Berkshire Council the role of the Monitoring Officer is a statutory post and rests with the Head of Legal Services. The Monitoring Officer has a key role in promoting and maintaining standards of conduct.



6.2 As well as acting as legal adviser to the Standards Committee and Advisory Panel, the Monitoring Officer carries out the following functions:

- reporting on contraventions or likely contraventions of any enactment or rule of law and reporting on any maladministration or injustice where the Ombudsman has carried out an investigation;
- establishing and maintaining registers of Members' interests and gifts and hospitality;
- maintaining, reviewing and monitoring the Constitution;
- advising Members and Parish Councillors on interpretation of the Code of Conduct;
- supporting the Standards Committee and Advisory Panel;
- conducting or appointing an external investigator to look into allegations of misconduct;
- performing ethical framework functions in relation to Parish Councils;
- acting as the proper officer for access to information;
- undertaking an initial assessment, in consultation with the Independent Person, when complaints relating to alleged breach of the Code of Conduct are received;
- making arrangements for relevant matters to be considered by the Standards Committee and Advisory Panel;
- advising whether Executive decisions are within the policy framework; and
- advising on vices issue and maladministration, and in consultation with the Section 151 Officer financial impropriety, probity, and budget and policy issues to all Members.

## **7. The Work of the Committee 2013 – 2014**

7.1 In addition to revising the Council's Code of Conduct and underpinning processes it was also agreed that it would be useful for the Council to produce a Social Media Protocol for Members. A draft protocol was discussed at the 14 October 2013 Standards Committee meeting and was referred to Full Council in December 2013 where it was adopted. The Standards Committee continues to promote and maintain high standards of conduct within the Council.

7.2 One of the functions of the Standards Committee is to oversee the Council's Constitution. The Committee was therefore asked to note that since May 2013 Part 3 (Scheme of Delegation), Part 4 (Council Rules of Procedure), Part 5 (Executive Rules of Procedure), Part 6 (Overview and Scrutiny Management Commission Rules of Procedure), Part 7 (Regulatory and Other Committees Rules of Procedure) and Part 13 Appendix (Codes and Protocols in the Council's Constitution) have been amended.

## **8. District Council**

8.1 All elected Members of West Berkshire Council have completed the new declaration of interests' forms and copies of those forms have been published on the Council's website as required by the legislation.

8.2 All Members are encouraged to check their forms to ensure that all relevant information is included and that any changes made since the form was completed are updated.

## **9. Parish/ Town Councils**

9.1 All Parish/Town Councils are also required to adopt a new Code of Conduct and new procedures for dealing with dispensations. Parish/Town Councillors are also required to declare their interests under their respective codes. All Parishes have submitted their Registers of Interest for their councillors. The information has been posted on the Council's website or where Parishes have their own websites links have been set up on the Council's website.

9.2 The majority of Parishes have adopted the West Berkshire model Code of Conduct and the rest have opted for the National Association of Local Councils (NALC) version. Three have a hybrid version.

## **10. Local Assessment of Complaints**

### ***Quarter 1 (April to June 2013)***

10.1 During Quarter 1 three complaints were received by the Monitoring Officer. All three complaints pertained to Parish Councillors (NPC7/13, NPC8/13, NPC9/13). It was subsequently noted that NPC7/13 did not meet the agreed Assessment Criteria and the complaint was therefore not progressed. The Monitoring Officer, in consultation with the Independent Person, concluded that in respect of NPC8/13 and NPC9/13 no further action should be taken.

10.2 The Advisory Panel met once during this period to consider a report from an independent investigator into complaint NPC5/13. (a complaint made during the previous Financial Year). The Panel concurred with the investigator's finding of no breach and recommended to the Standards Committee that they accept this finding. The Standards Committee (at a meeting on the 01 July 2013) accepted the recommendation of both the Investigator and the Advisory Panel that no breach had occurred.

### ***Quarter Two (July 2012 to September 2013)***

10.3 During Quarter 2 one complaint (pertaining to two councillors) was received by the Monitoring Officer (NPC10/13). The Monitoring Officer, in consultation with the Independent Person, concluded that in respect of NPC10/13 no further action should be taken.

### ***Quarter Three (October to December 2013)***

10.4 During Quarter 3 two complaints were received by the Monitoring Officer: NPC11/13 and NDC4/13. The Monitoring Officer, in consultation with the Independent Person, concluded that in respect of NPC11/13 informal resolution would be the most appropriate course of action. The subject member was asked to write to the complainant and set out the circumstances surrounding the comments that she had made and explain that they were made in her private capacity and that she had not sought to cause any offence.

10.5 In respect of complaint NDC4/13 the complainant had asked for their identity to be kept confidential. Despite several attempts to contact the complainant no response has been received and therefore the complaint was not progressed.

**Quarter Four (January to March 2014)**

10.6 During Quarter 4 one complaint was received (NDC1/14) but it was unclear which District Councillor(s) the complainant wanted to complain about and despite several attempts to contact him to seek clarity no response has been received. The matter has therefore not been progressed.

**11. Year on Year Comparison of Complaints**

11.1 Table 1 Number of District and Parish Councillor Complaints Received 2009/10 to 2013/14

	2009/10	2010/11	2011/12	2012/13	2013/14
<b>District Councillors</b>	4	4	5	8	2
<b>Parish Councillors</b>	7	5	6	10	5
<b>Total</b>	11	9	11	18	7

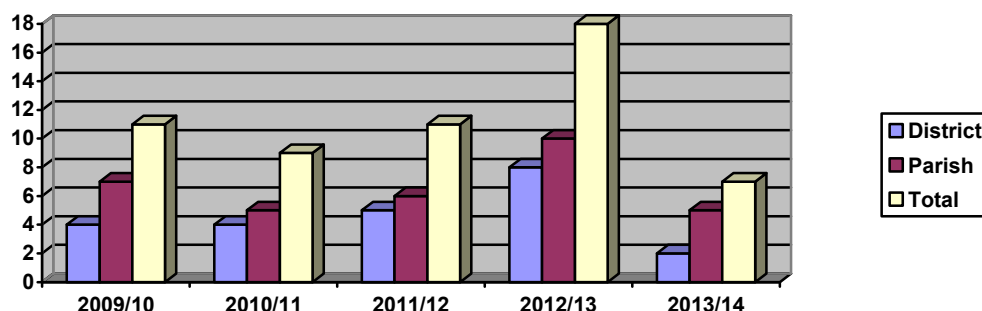


Table 2 Action Taken on Complaints Received 2009/10 to 2013/14

	2009/10	2010/11	2011/12	2012/13	2013/14
<b>No Further Action</b>	1	3	6	11	3
<b>Other Action</b>	5	2	3	2	1
<b>Investigation</b>	5	4	2	2	0
<b>Withdrawn/ not progressed</b>	0	0	0	3	3
<b>Total</b>	11	9	11	18	7

11.2 Table 3 Outcome of Items Investigated 2009/10 to 2013/14

	2009/10	2010/11	2011/12	2012/13	2013/14
<b>Breach</b>	2	1	2	0	0
<b>No Breach</b>	3	3	0	2	0
<b>Total</b>	5	4	2	2	0

## 12. Dispensations

- 12.1 During the course of the year the Monitoring Officer has granted a dispensation to all Councillors to speak and vote on any items pertaining to Council Tax.
- 12.2 The Standards Committee has granted two dispensations to dual and triple hatted District Councillors to allow them to speak and vote on items affecting the budgets of Town and Parish Councils.

## 13. Gifts and Hospitality

- 13.1 Appendix D (Gifts and Hospitality: A Code of Conduct for Councillors) to Part 13 of the Constitution (Codes and Protocols) states that 'Regular updates of declarations will be reported to the Standards Committee as part of the quarterly performance monitoring reports'. A copy of the register for 2013/14 is therefore attached at Appendix A to this report.
- 13.2 Appendix D to Part 13 of the Constitution (Codes and Protocols) has been amended during the 2013/14 Municipal Year. In essence it requires Members to:
- Register *every* individual gift or item of hospitality received, in their capacity as a Councillor, that is over £25 in value;
  - Prior to accepting any hospitality with a value of £25 or more, a Councillor must seek authorisation from the Monitoring Officer;
  - Members should be aware of serial givers or repeat offers of hospitality;
  - registration of the gift or hospitality must be made *within 28 days of the date you received*;
  - Failure to comply with the rules is a breach of the Members' Code of Conduct and could lead to a complaint being reported to the Monitoring Officer or the Standards Committee;
  - The press and public have the right to inspect your gift and hospitality declaration forms;
  - Where the spouse/partner of a Councillor is also a recipient of any gifts or hospitality the Councillor must ensure that the combined value is also recorded by the Monitoring Officer in accordance with the procedures.

## 14. Conclusion

- 14.1 Despite the speed at which the changes to the Standards arrangements were introduced the Standards Committee and Officers worked hard to get the revised processes in place and these appear to be well imbedded now. The Code of Conduct and the underpinning processes were reviewed during the year and only relatively small amendments were required. These processes will continue to be monitored and once the whole process has been tested (no complaints have reached the Standards Committee for final determination since the system was introduced) further adjustments may be required.

- 14.2 In line with other principal Local Authorities a Social Media Protocol has been adopted to ensure that Councillors make use of social media effectively whilst avoiding potential accusations that they may be breaching the Council's Code of Conduct. It is also designed to ensure that the reputation of the Council and Members is not adversely affected and that the Council is not subject to legal challenge as a result of information posted on social networking sites or blogs.
- 14.3 The number of complaints at this stage remains low. In fact there has been a significant decrease in the number of complaints received during 2013/14 (the fewest number of complaints since the Standards Committee was first introduced). The reasons for this are unclear. It could be as a result of improved behaviour amongst District and Parish Councillors or that complainants are less willing to instigate a complaint given the reduction in severity of sanctions that the Standards Committee are able to impose.
- 14.4 What is less uncertain is that the new regime has resulted in a significant reduction in the number of complaints that are investigated (no complaints were referred for investigation this year). This can be directly ascribed to the fact that the Monitoring Officer is able to request information from both the complainant and the subject member prior to deciding on the appropriate course of action to take which enables a more complete assessment of the circumstances to be undertaken at an early stage in the process.
- 14.5 As the number of complaints at this stage remains low no specific training needs have been identified for either District or Parish Councillors.

## **Appendices**

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Appendix A – Register of Members Gifts and Hospitality for 2013/14

## **Consultees**

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**Local Stakeholders:** N/a

**Officers Consulted:** Andy Day, Sarah Clarke, Moira Fraser and Corporate Board

**Trade Union:** N/a

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## Members' Register of offers of Gifts & Hospitality

(Records to be kept for 6 years)

No.	Date	Member	Event	Offer	Value	Accepted?
13.1	7.5.13	Hilary Cole	Black Dyke Band concert at the Corn Exchange (Newbury Spring Festival) on 11th May	2 tickets	£40.00	Yes
13.2	7.5.13	Hilary Cole	Invitation to the Cocktail Party and ceremony of Beating Retreat at Denison Barracks on 13th June		Unknown	Yes
13.3	13.5.13	Mike Johnston	Performance at Corn Exchange - 9 May 2013	2 tickets	£30.00	Yes
13.4	15.10.13	Virginia von Celsing	Meal from Yattendon Estates at West Berkshire Shooting School in May 2013	Meal	£40.00	Yes
13.5	1.11.13	Jeff Beck	Ticket for the West Berkshire Business Awards in the capacity of Vice-Chairman of the Council. Ticket for Mrs Alma Beck as well. Vice-Chairman attending in official capacity as WBC sponsoring an award at the evening.	2 tickets	£75 each	Yes
13.6	1.11.13	Hilary Cole	Drinks reception and performance of Sherlock's Last Case for two - Watermill Theatre y	2 tickets plus reception	£72.00	Yes
13.7	3.12.13	Keith Woodhams	Calendar from former residents of Newbury sent from North Carolina, USA	Calendar	£5.00?	Yes
13.8	6.12.13	Hilary Cole	Xmas Lunch at the Jolly Sailor pub, Bursdon - as a member of the Veolia Community Trust, Southern Panel		£25.00-£30.00	Yes
13.9	13.12.13	Irene Neill	Gift from Andrew & Rebecca Robinson of Woolhampton Hill following planning advice earleir in year	M&S small hamper	approx £30	Yes
13.10	7.1.14	Geoff Mayes	Christmas /New Year Meal from Padworth Parish Council	Meal	<£25	Yes
13.11	6.1.14	Joe Mooney	Sample lunch from Cater Plus Catering Contract - potential providers - declared by Robert Bradfield	Meal	approx £5	Yes
13.12	8.1.14	Mollie Lock	Christmas /New Year Meal from Padworth Parish Council	Meal	£15-£16	Yes
13.13	20.1.14	Jeff Beck	Royal Mail	Presentation pack of Christmas stamps	£9.00	Yes
13.14	13.2.14	Hilary Cole	Newbury Spring Festival Sponsors dinner at the Vineyard, Stockcross	Dinner	£70-75	Yes
13.15	4.3.14	All 52 WBC Members	A copy of 'Life of Muhammad' and 'World Crisis and the Pathway to Peace'. Books given along with cheque for £500 donated to the Chairman's charity 'Children with Cancer UK'	Gifts from Ahmadiyya Muslim Community	£10?	Yes
13.16	5.3.14	Hilary Cole	Launch of the Newbury Spring Festival	Buffet lunch and glass of wine	£15.00	Yes

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<b>Title of Report:</b>	<b>Draft Revised Statement of Community Involvement</b>
<b>Report to be considered by:</b>	Council
<b>Date of Meeting:</b>	15 May 2014
<b>Forward Plan Ref:</b>	C2726

**Purpose of Report:** To consider the draft revised Statement of Community Involvement

**Recommended Action:** That the draft revised Statement of Community Involvement is approved by the Council for formal public consultation

**Reason for decision to be taken:** The production of a Statement of Community Involvement is a statutory requirement

**Other options considered:** None

**Key background documentation:** Planning and Compulsory Purchase Act 2004  
Town and Country Planning (Local Government) (England) Regulations 2012

The proposals contained in this report will help to achieve the following Council Strategy priorities:

- CSP2 – Promoting a vibrant district**
- CSP4 – Protecting the environment**

The proposals will also help achieve the following Council Strategy principles:

- CSP5 - Putting people first**
- CSP7 - Empowering people and communities**
- CSP8 - Doing what's important well**

The proposals contained in this report will help to achieve the above Council Strategy priorities and principles by:

Continuous community involvement in the planning system will ensure the Council does what's important well.

### Portfolio Member Details

<b>Name &amp; Telephone No.:</b>	Councillor Hilary Cole - Tel (01635) 248542
<b>E-mail Address:</b>	hcole@westberks.gov.uk
<b>Date Portfolio Member agreed report:</b>	10/03/14

### Contact Officer Details

<b>Name:</b>	Paula Amorelli
<b>Job Title:</b>	Principal Planning Officer
<b>Tel. No.:</b>	01635 519233
<b>E-mail Address:</b>	pamorelli@westberks.gov.uk

## Implications

<b>Policy:</b>	The SCI sets out how the Council will involve the community in the preparation of planning policy documents and in the consideration of planning applications
<b>Financial:</b>	The implementation of the SCI can be met from existing budgets.
<b>Personnel:</b>	The SCI can be implemented using existing staff and resources
<b>Legal/Procurement:</b>	The SCI will meet the Council's requirements under the Planning & Compulsory Purchase Act 2004
<b>Property:</b>	None
<b>Risk Management:</b>	None

Is this item relevant to equality?	Please tick relevant boxes	
	Yes	No
Does the policy affect service users, employees or the wider community and:		
• Is it likely to affect people with particular protected characteristics differently?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Is it a major policy, significantly affecting how functions are delivered?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Will the policy have a significant impact on how other organisations operate in terms of equality?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Does the policy relate to functions that engagement has identified as being important to people with particular protected characteristics?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Does the policy relate to an area with known inequalities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Outcome</b> (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)		
Relevant to equality - Complete an EIA available at <a href="http://www.westberks.gov.uk/eia">www.westberks.gov.uk/eia</a>		<input checked="" type="checkbox"/>
Not relevant to equality		<input type="checkbox"/>

Is this item subject to call-in?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval		<input checked="" type="checkbox"/>
Delays in implementation could have serious financial implications for the Council		<input type="checkbox"/>
Delays in implementation could compromise the Council's position		<input type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months		<input type="checkbox"/>
Item is Urgent Key Decision		<input type="checkbox"/>
Report is to note only		<input type="checkbox"/>

# Executive Summary

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## 1. Introduction

- 1.1 The requirement to prepare an SCI was introduced in the Planning and Compulsory Purchase Act 2004 and the Council adopted the first SCI in July 2006. As the planning process has gone through some changes, such as the revocation of regional strategies, publication of the National Planning Policy Framework (NPPF), the introduction of neighbourhood planning and the Community Infrastructure Levy, the SCI now needs to be reviewed and updated to reflect the most up to date processes and procedures that we will use.

## 2. Proposals

- 2.1 Our draft revised SCI is attached in Appendix A. It clearly sets out our policy for involving the community (including local people – those who live in, work or visit West Berkshire, parish and town councils and other organisations which represent key community interests, such as the North Wessex Downs AONB) in:

the plan making process such as Development Plan Documents, Supplementary Planning Documents, the Community Infrastructure Levy and Neighbourhood Plans

the consideration of planning applications within the District.

- 2.2 It has been informed by the key principles in the Council's Consultation Policy.

## 3. Equalities Impact Assessment Outcomes

- 3.1 The measures outlined in the Statement of Community involvement show how the Council will involve the whole community, including difficult to reach groups such as gypsies and travellers, in the preparation of planning policy documents and in the consideration of planning applications

## 4. Conclusion

- 4.1 If Members consider the Draft SCI is suitable for formal consultation then the next steps will be for officers to invite comments on the draft document through a formal six week consultation before seeking full Council approval to adopt the final revised SCI in September of this year.

# Executive Report

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## 1. Introduction

- 1.1 The principle of 'continuous community involvement' underpins the planning system. This means that the people and communities who will be affected by the Council's planning policies should be directly involved in the plan making process and the consideration of planning applications. The Government considers that this approach is essential in order to achieve local ownership and legitimacy for the policies that will shape the future distribution of land uses and development within the District. The aim is to produce consensus at an early stage and therefore minimise the need for a lengthy and controversial examination process.

## 2. The role of the Statement of Community Involvement

- 2.1 Under the Planning and Compulsory Purchase Act 2004 the Council is required to produce a Statement of Community Involvement (SCI) which sets out how it intends to achieve the principle of continuous community involvement. The Council is expected to tailor its SCI to the specific needs and characteristics of the District and involve representatives of all those interested in the planning of the area.
- 2.2 The Council adopted its first SCI in July 2006. As the planning process has gone through some changes, such as the revocation of regional strategies, publication of the National Planning Policy Framework (NPPF), the introduction of neighbourhood planning and the Community Infrastructure Levy, the SCI now needs to be reviewed and updated to reflect the most up to date processes and procedures that we will use.

## 3. Draft Revised Statement of Community Involvement

- 3.1 Our draft revised SCI is attached in Appendix A. It clearly sets out our policy for involving the community (including local people – those who live in, work or visit West Berkshire, parish and town councils and other organisations which represent key community interests, such as the North Wessex Downs AONB) in:

the plan making process such as Development Plan Documents, Supplementary Planning Documents, the Community Infrastructure Levy and Neighbourhood Plans

in the consideration of planning applications within the District.

- 3.2 It has been informed by the key principles in the Council's Consultation Policy and Equality Policy.

## 4. Next steps

- 4.1 If Members consider the Draft SCI is suitable for consultation then the next steps will be for officers to invite comments on the draft document through a formal six week consultation before seeking full Council approval to adopt the final SCI in September this year.

## Appendices

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Appendix A - Draft Revised Statement of Community Involvement  
Appendix B - Equality Impact Assessment

## Consultees

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**Local Stakeholders:** Will be consulted as part of the preparation of planning documents

**Officers Consulted:** Bryan Lyttle, Gary Rayner, Caroline Walsh, Liz Alexander, Matthew Meldrum, Rebecca Williams and Corporate Board

**Trade Union:** N/A

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Draft Revised Statement of Community Involvement May 2014

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## 1 Introduction

**1.1** West Berkshire Council already has strong and valued links with many of its local communities. Greater involvement by the community in shaping the way the planning system operates locally (Changes to the planning system set out in the Localism Act 2011 and the National Planning Policy Framework (NPPF) March 2012 give communities the opportunity to get more involved in the preparation of planning documents for their areas) is essential if the decisions we take are to more closely reflect local needs and wishes.

**1.2** Our Statement of Community Involvement (SCI) for West Berkshire clearly sets out our policy for involving the community in:

- the plan making process such as Development Plan Documents, Supplementary Planning Documents and the Community Infrastructure Levy and
- in the consideration of planning applications within the District.

**1.3** The requirement to prepare an SCI was introduced in the Planning and Compulsory Purchase Act 2004 and we adopted our first SCI in July 2006. As the planning process has gone through some changes, the SCI now needs to be reviewed and updated to reflect the most up to date processes and procedures that we will use.

**1.4** We are publishing our draft revised SCI for formal consultation for 6 weeks from ?? May 2014 to ?? June 2014. The document is available to view online on our website at [www.westberks.gov.uk/planningpolicyblog](http://www.westberks.gov.uk/planningpolicyblog). It is also available to view as a hard copy at the Council Offices in Market Street, Newbury and in all public libraries across the District. We welcome your comments on the approach we intend to take to community involvement as part of the plan making and planning application process. You have six weeks in which to make your views known - we will need your comments to be submitted to us by ?? June 2014. Comments can be sent electronically, via email, to [planningpolicy@westberks.gov.uk](mailto:planningpolicy@westberks.gov.uk) or posted to the Planning Policy Team, West Berkshire Council, Planning and Countryside, Council Offices, Market Street, Newbury. RG14 5LD. The representations we receive will then be considered as part of the preparation of the final revised SCI which we hope to adopt later this year.

### Our approach to community involvement

**1.5** Our SCI has been informed by the key principles contained in the Council's [Consultation Policy](#) which are to ensure that:

- We make it clear the purpose of an exercise and how it feeds into the decision-making process
- Sufficient information is provided and accessible to participants to inform their response
- Everyone has the opportunity to contribute and have their views heard
- Appropriate methods are used
- Sufficient time is provided to respond, and for consideration of key findings
- The results are used to inform the decision-making process
- Key findings are fed back to participants

## 1 Introduction

**1.6** It is important that our SCI is built on the fundamental principles of inclusiveness and equality for all. People suffer from exclusion and can be hard to reach for a variety of reasons. In addition, we recognise that although some types of people or groups may be small in actual numbers, they could be disproportionately affected by planning policies and decisions. The council's [Equality Objectives and Guidance on Equality Impact Assessments](#) explain our approach to community inclusion.

### **Future reviews of this document**

**1.7** This SCI will be kept under regular review (through our [Annual Monitoring Reports](#) and [Minerals and Waste Annual Monitoring Reports](#)) and will be changed when necessary to correct factual changes not material to its content. If the review of this document leads to significant changes then this is likely to trigger a formal review of the document as appropriate.

## Community Involvement in the Plan Making Process 2

### 2 Community Involvement in the Plan Making Process

#### Influencing the plan making process in West Berkshire

**2.1** As a local planning authority West Berkshire Council has a duty to put in place planning policies which can be used to guide development proposals and determine planning applications. These local planning policies are set out in the West Berkshire Local Plan which is the overall Development Plan for the District. Applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

**2.2** As part of the continued preparation of the West Berkshire Local Plan and its supporting documents we acknowledge the importance of involving the public and stakeholders at the earliest possible stage and recognise that their involvement should be a continuous process rather than one discrete exercise.

#### What types of documents can you influence?

**2.3** As part of the plan making process we will be preparing and consulting on the following types of documents that will be subject to the principles contained in this SCI -

#### Development Plan Documents (DPDs)

**2.4** These are the core of our Local Plan and contain the key policies that guide future development in the District. The statutory requirements for their preparation are set out in the [Town and Country Planning \(Local Planning\) \(England\) Regulations 2012](#).

**2.5** We adopted our first DPD, the West Berkshire Core Strategy (2006 – 2026) in July 2012 and our timetable for the preparation of further DPDs is set out in our [Local Development Scheme \(LDS\)](#).

#### Supplementary Planning Documents (SPDs)

**2.6** SPDs provide further information and additional detail to support policies contained in DPDs. As with DPDs the statutory requirements for their preparation are set out in the Town and Country Planning (Local Planning) (England) Regulations 2012.

**2.7** We have adopted the following SPDs to date:

- Delivering Investment from Sustainable Development
- Market Street, Newbury Planning and Design Brief
- Pirbright Institute site, Compton
- Sandleford Park
- Quality Design West Berkshire
- Community Infrastructure Levy (CIL)

**2.8** CIL is a new locally set levy which can be charged on most new development to help fund the infrastructure required as a result of that development. The charging rates set are dependent on a viability study together with evidence of infrastructure requirements. The money can be used to pay

## 2 Community Involvement in the Plan Making Process

for a wide range of infrastructure that is needed as a result of a development taking place. The statutory process for preparing a CIL Charging Schedule is set out in the [Community Infrastructure Regulations 2010 \(as amended\)](#). We adopted our [CIL Charging Schedule](#) on 4<sup>th</sup> March 2014 with implementation to start from 1<sup>st</sup> April 2015.

### **Neighbourhood Plans or Neighbourhood Development Orders**

**2.9** These are community led documents prepared by a town or parish council which, when adopted by us, also form part of the Development Plan. The [Neighbourhood Planning \(General\) Regulations 2012](#) set out the statutory requirements for their preparation. Although as a Council we do not prepare Neighbourhood Plans, we do have a duty to provide advice and technical assistance to parish and town councils during the process and so our involvement at the relevant stages will follow the principles set out in this SCI. We have a duty at the start of their production to advertise an application to designate a neighbourhood area, but then consultation during the preparation stage of these plans is undertaken by the town or parish council. Although there is no statutory requirement for parish and town councils to comply with this SCI it may provide useful guidance for them when undertaking consultation and engagement on their draft plans. Once a draft plan has been submitted to us we have a duty to publish it for comments before an independent examination, referendum and subsequent adoption.

### **Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA)**

**2.10** As part of the plan preparation process, we will assess the social, environmental and economic impacts of each DPD and relevant SPD. The key purpose of Sustainability Appraisal is to identify and enhance the positive effects whilst minimising any potentially adverse impacts of our planning policies. This process will also involve the assessment of any health and equality impacts. Where necessary, we will also carry out a Habitat Regulations Assessment of our emerging planning documents. Consultation is undertaken alongside the related plan, with the exception of the Scoping Report stage which is focussed on three consultation bodies – Environment Agency, Natural England and English Heritage.

### **Who will we involve when we prepare documents?**

**2.11** We want everyone to have the chance to get involved in the decisions we take and are committed to doing everything we reasonably can to make our community involvement inclusive.

**2.12** We have set up a Register of Consultees, a database of individuals, groups and organisations who we regularly contact on plan making matters that are of interest to them. This database is reviewed and updated on a continuous basis. Anyone making comments on DPDs or SPDs will be included on our database and will automatically be kept informed of plan making matters as appropriate.

**2.13** [Government regulations](#) also require us to ensure that particular organisations are involved at key stages in the plan making process. These include the Environment Agency, Natural England, English Heritage and the Highways Agency. Full lists of consultees are contained in Appendices A and B.

## Community Involvement in the Plan Making Process 2

**2.14** If you would like to be added to our Register of Consultees at any time please contact the Planning Policy Team or Minerals and Waste Planning Policy Team by either:

- e-mail: [planningpolicy@westberks.gov.uk](mailto:planningpolicy@westberks.gov.uk)
- registering as a consultee: <http://consult.westberks.gov.uk/portal>
- phoning us: 01635 519111
- or writing to us at: Planning Policy Team, Planning & Countryside, West Berkshire Council. Council Offices, Market Street, Newbury. RG14 5LD

### How will we involve you?

**2.15** The exact nature of our consultation will depend on the nature of the document being produced and the ways in which we involve the community will depend on the stage we are at in the preparation of that document. For example, you may be invited to submit written representations online, by e-mail or letter, or provide comments by feedback forms or questionnaires. We may also publish notices in a suitable local newspaper, organise public consultation events, hold smaller group workshops or have individual meetings with specific stakeholders whenever this is appropriate and helpful to the planning process.

**2.16** As a minimum, we will meet our statutory requirements with regard to consultation for all new DPDs and SPDs.

We will:

- Make all relevant documentation available during formal consultation periods at the Council's offices in Market Street, Newbury
- Place all relevant documentation on the Council's website [www.westberks.gov.uk](http://www.westberks.gov.uk)
- Send copies (either electronic or paper) of all relevant consultation documentation to statutory / specific consultees
- Advertise in a suitable local newspaper at the start of formal consultation periods
- Make formal consultation documents available through all public libraries across the District
- Notify all those registered on our electronic database as and when appropriate

### Duty to Cooperate

**2.17** The Council has a Duty to Cooperate when preparing DPDs. This Duty was introduced in the Localism Act of 2011 and requires us to work with neighbouring authorities and other prescribed bodies (Set out in Part 2 (4(1)) of the Town and Country Planning (Local Planning) (England) Regulations 2012) in preparing DPDs in order to address strategic issues relevant to our area. It

## 2 Community Involvement in the Plan Making Process

requires that we engage constructively, actively and on an ongoing basis to develop strategic policies; and requires us to consider joint approaches to plan making. At the heart of the Duty is effective partnership working to achieve outcomes.

**2.18** The other local planning authorities and public bodies that we will need to cooperate with will depend on the strategic matters we are planning for and the most appropriate functional area to gather evidence and develop planning policies. It is likely that we will need to work in different groupings for different strategic matters.

**2.19** It will be important that cooperation is ongoing throughout the preparation of a particular DPD and that it is not confined to any one point in the process. To ensure that a plan is robust and effective, the Council and other public bodies will need to work together from the outset at the plan scoping and evidence gathering stages. That will help to identify and assess the implications of any strategic cross boundary issues on which we will need to work together. After that we will need to continue working together to develop effective planning policies and delivery strategies. Our co-operation will be proportionate to the issues that need to be addressed and the scale and type of co-operation required will flow from the issues identified. Cooperation will continue until a plan is submitted for examination and beyond into delivery, monitoring and review.

### Arrangements for joint working

**2.20** There may be some instances where we prepare DPDs or SPDs jointly or in partnership with other local planning authorities, or other partners, e.g. parish and town councils. In these circumstances we will set out our approach to community involvement in an independent document.

**2.21** It should be noted that if we use external consultants to help us to produce DPDs or SPDs that principles set out in this SCI will also apply.

### How we will respond to you

**2.22** We will maintain the following consistent approach to service standards:

- **If you write to us** (by letter, fax, e-mail or sending in a response form) we will acknowledge receipt within ten working days;
- **If you attend a public meeting / exhibition** organised by the West Berkshire Planning and Countryside Service we will ensure that officers are available to answer your questions (or let you know where further information is available). Where we use questionnaires or feedback forms at these public events we will publish the results on our website;
- **If you request a planning document** we will let you know where that document is available (e.g. from the council website) and whether there is any charge for a paper copy;
- **If you attend a planning workshop** we will send you a summary of the feedback from the workshop after the event; and
- **We will prepare reports after each stage of formal consultation** on plan making documents. We will make these available at the Council Offices at Market Street, Newbury and through libraries throughout the District, as well as on our website at [www.westberks.gov.uk/planningpolicy](http://www.westberks.gov.uk/planningpolicy) or [www.westberks.gov.uk/mineralsandwaste](http://www.westberks.gov.uk/mineralsandwaste).

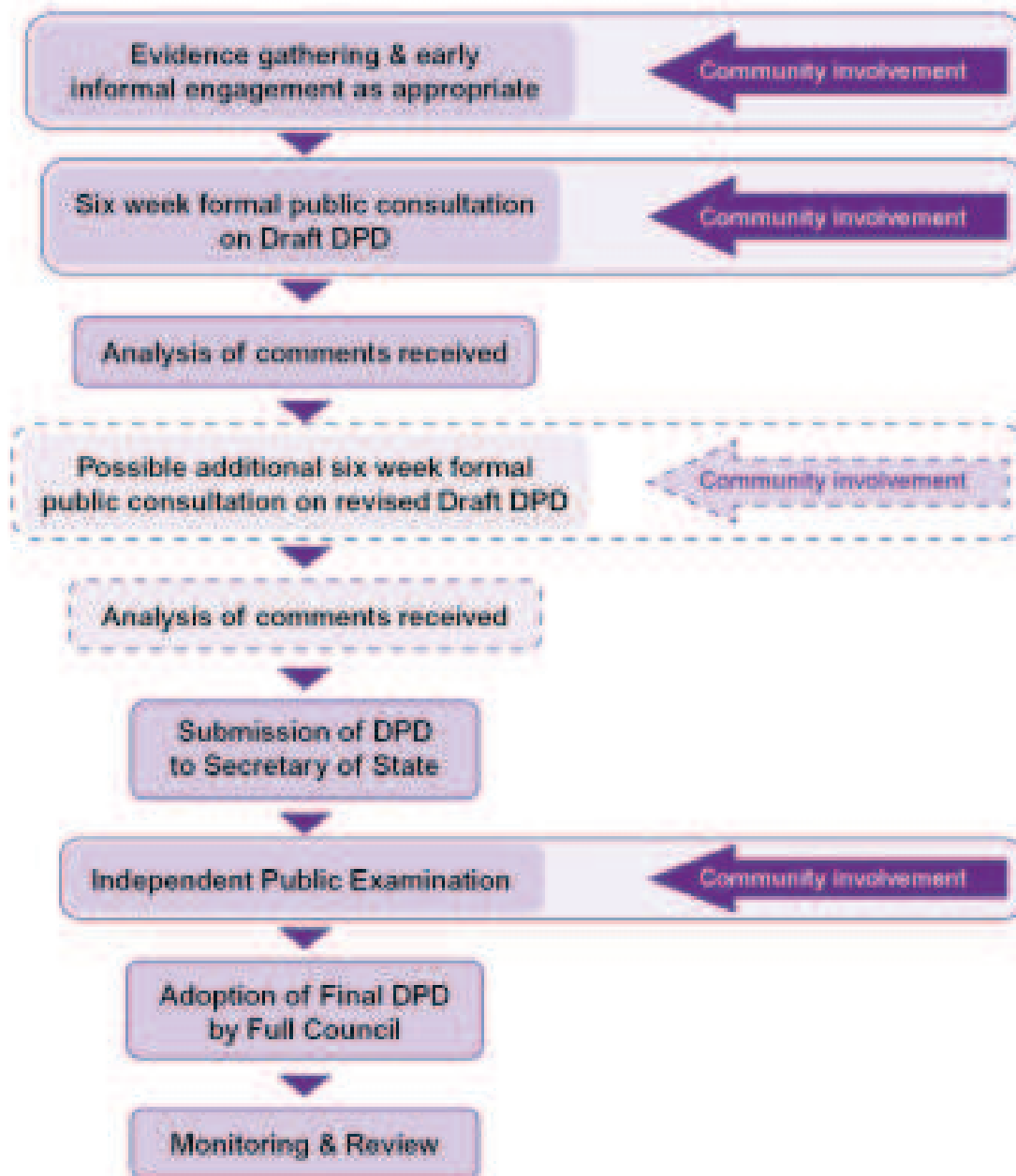
## Community Involvement in the Plan Making Process 2

**When will we involve you in the plan making process?**

**2.23** There are a number of key stages in the preparation of planning documents. These stages are designed to ensure that the process is as open and transparent as possible. The diagrams below illustrate these key stages and show when we will undertake consultation, or make documents available for comment, in accordance with the relevant regulations. We will always meet these requirements, but in addition we may undertake additional engagement at appropriate points through the process. Getting involved at the earliest stages of preparation will ensure your views have the most opportunity for being taken into account.

## 2 Community Involvement in the Plan Making Process

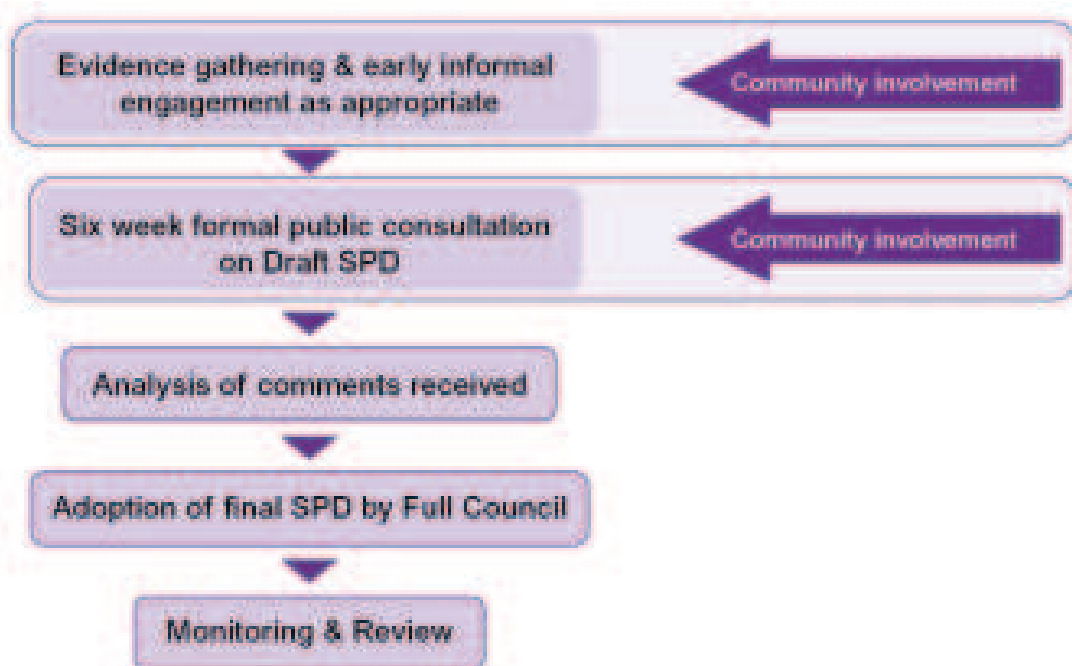
### Community Involvement in Development Plan Documents





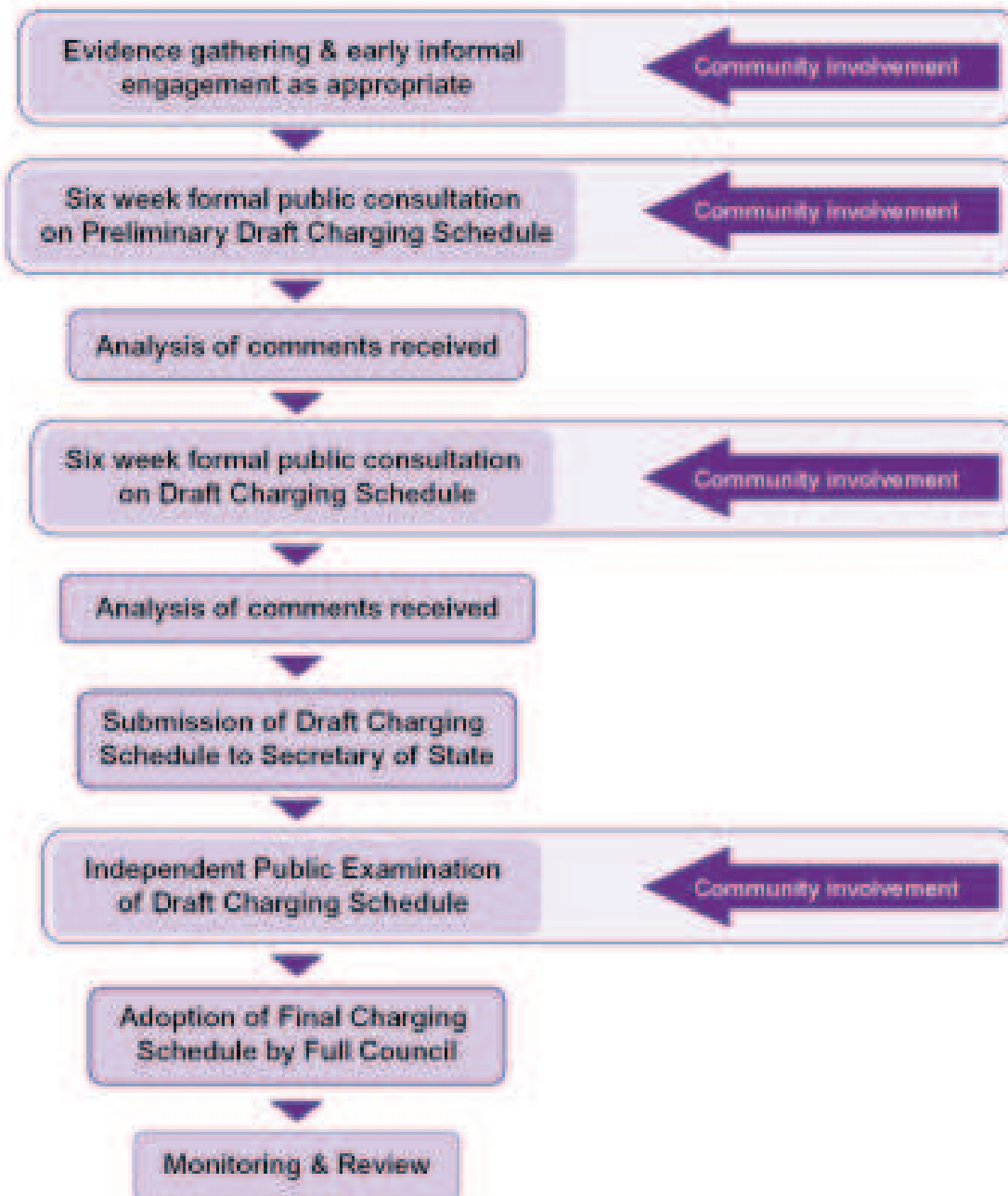
## Community Involvement in the Plan Making Process 2

## Community Involvement in Supplementary Planning Documents



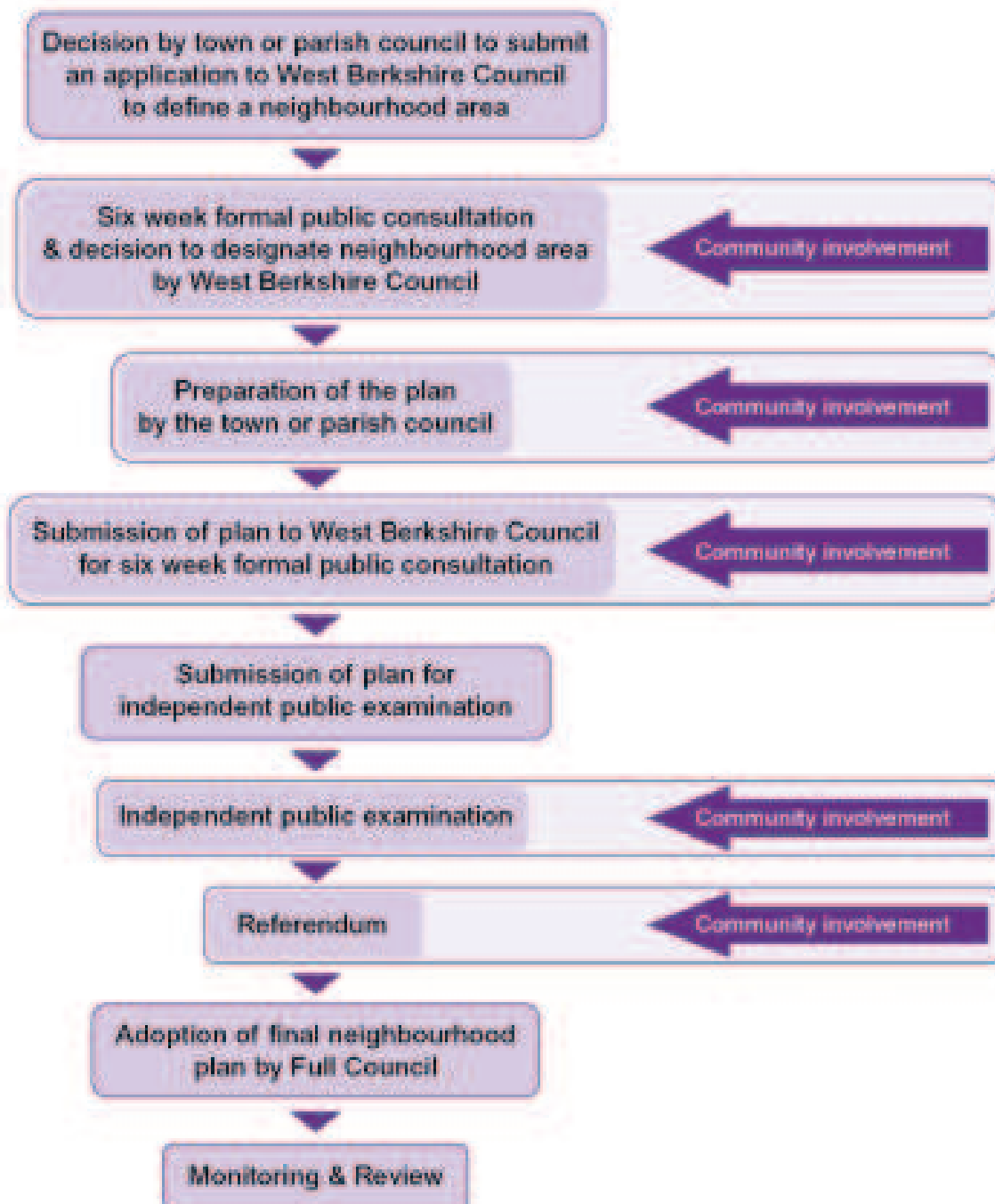
## 2 Community Involvement in the Plan Making Process

### Community Involvement in the Community Infrastructure Levy



Community Involvement in the Plan Making Process 2

**Community Involvement in Neighbourhood Plans**



## 3 Community Involvement in Planning Applications

### 3 Community Involvement in Planning Applications

#### Influencing the planning application process in West Berkshire

**3.1** We recognise that community involvement in the consideration of planning applications is particularly valuable and important.

**3.2** Our aims are:

- to make decisions on applications that are justifiable, robust, consistent and reached in a fair manner, in line with the Council's commitment to open government
- to ensure information is available to everyone through a variety of mediums (verbal, electronic and in writing) and to ensure that both the process and the reasoning behind decision making is understood by all
- to keep interested parties, and those affected by the development management process informed

#### How do we inform you of planning applications?

**3.3** There are certain statutory requirements which we have to meet in order to inform the public and stakeholders about the planning applications we have received. We will always meet these requirements and will extend consultation in accordance with the principles in this SCI whenever it is appropriate and helpful to the planning process.

**3.4** We will display a site notice for all applications. These are particularly effective and useful where there is doubt over who the interested parties are, or where the development is likely to be of interest to more than immediate neighbours. The site notice will be erected during the period in which the application is being considered and will normally allow 21 days from the date of it first being displayed for comments to be submitted.

**3.5** In addition, we also consider that notifying neighbours of an application is good practice. This process necessarily involves some judgement and is dependent on the nature and scale of the development and the character of the area. In countryside locations, for instance, the Council is unlikely to have details of land ownership of a field adjacent and therefore notification of neighbouring land owners by letter would not be possible. We therefore aim to notify the following by letter:

- All neighbouring properties with a common boundary to any application site
- Any property within 100 metre radius of a major development

**3.6** Depending on the nature of the application we may also notify a number of other statutory and non-statutory consultees. These can include other authorities, agencies, specialist groups or government departments. Legislation and government advice, as well as requests from relevant organisations govern how we decide whom to notify on any particular application.

**3.7** The involvement of some consultees is a legal requirement whilst others are asked for their expert view on the proposal to aid the decision making process.

**3.8** We notify parish and town councils of all applications and plans in their area. Adjoining parishes are also notified, depending on the location, scale and nature of the application.

## Community Involvement in Planning Applications 3

**3.9** District Councillors are advised of all developments via a “[weekly list](#)”. This is a compilation of all applications we have registered. It is sent to Councillors every week and advises them of the location of the development, a description of it, who the applicant/agent is and when it was registered. The weekly list is also published on our website and can be obtained from our Customer Contact Centre in the Council’s Market Street offices in Newbury Tel: 01635 519111. It can also be e-mailed on request ([planapps@westberks.gov.uk](mailto:planapps@westberks.gov.uk)).

**3.10** All planning applications received are placed on the official planning register and details of the application proposal and drawings are made available on our website. Copies of plans or applications are available for reference or purchase at our offices in Market Street, Newbury. In addition, some plans and applications relating to development in the locality are placed in public libraries, Community Information Centres (CICs) and some parish council offices across the District.

**3.11** The Customer Contact Centre is able to answer many basic questions on the progress of an application. Other than where the Data Protection Act 1998 prevents us doing so, all information on planning application files will be made available.

### How can you comment on planning applications?

**3.12** Anyone can comment on a planning application. You do not need to be directly notified. Comments should be made in writing, either via e-mail to [planapps@westberks.gov.uk](mailto:planapps@westberks.gov.uk), by post, by letter handed in to the Customer Contact Centre or via the [Public Access](#) pages on our website. They should be made within 21 days of the erection of the site notice or date of neighbour notification. However, if a response is received after this time but before a decision is made it will be taken into account wherever possible. All comments received will be made available for public inspection and Councillors’ consideration unless clearly marked confidential.

**3.13** Everyone’s comments are important to us and we aim to acknowledge them within 2 working days of receipt. Having received an acknowledgement you should receive notification of the planning decision in due course. Please note that due to the volume of correspondence received we are unable to respond to specific issues identified in individual letters or enter into general correspondence.

**3.14** Generally town and parish councils and statutory consultees have 21 days to comment on an application from the date of letter or notification. However, as with neighbour comments, if a response is received after this time but before a decision is made, it will be taken into account wherever possible.

**3.15** We may need to re-notify neighbours and other consultees if amendments are made to an application, but this will be dependent upon the scale of changes and their impact. The timescale allowed for additional comments will be clearly outlined in the letter advising of changes.

### How can you get involved if an application is determined by a Planning Committee?

**3.16** The majority of applications are decided by the Head of Planning and Countryside under powers delegated by the Council. In all those instances all due regard will be given to comments made by interested parties.

### 3 Community Involvement in Planning Applications

**3.17** If an application is to be determined by a planning committee, we will notify the applicant and all those who submitted comments advising of the date, time and location of the committee meeting. We publish meeting dates, agendas and planning officers' reports on our website and committee reports are available 5 working days before the meeting.

**3.18** We embrace public speaking and allow town/parish councils, objectors and supporters to address committees. Normally five minutes in total for each of the above groups is permitted. Councillors can then raise questions with speakers in order to seek clarification upon points raised. (Separate information on Public Speaking at Committees is available on the Council's website).

**3.19** Minutes of all meetings and decisions on all planning applications, whether decided by committee or under delegated powers, are published on our website.

**3.20** Where an application is refused and the applicant appeals, we notify all those who commented upon the application, town or parish council and any consultee previously consulted. Councillors and parish and town councils are positively encouraged to play their part in any appeal, and to liaise with the case officer in order to present a united case based around the stated reasons for refusal.

#### **How will we deal with significant planning applications?**

**3.21** We recognise that although the statutory requirements for consultation and publicity are sufficient for most planning applications, there are a number of applications which may require wider community consultation, particularly at the pre-application stage. These include those that may be controversial, those that are on sensitive sites and those that are significant in scale. It will be a matter of judgement (for the Head of Planning & Countryside) as to what these applications will be – for instance, a site may have a particular history that makes an application on it significant, or its location may be particularly sensitive. It is anticipated however, that such applications will usually include:

- Applications for 30 or more dwellings
- Other development with 2500 square metres or more floorspace
- development involving the winning and working of minerals or the use of land for mineral working deposits involving land of 1 hectare or more (unless variation to restoration conditions)
- Waste development involving land of 1 hectare or more
- Energy schemes (unless on a domestic scale)

#### **Pre-application discussions on significant applications**

**3.22** Pre-application discussions between the developer, the Council and the community are positively encouraged. We have adopted a formalised process for our [pre application advice service](#) through which we will reinforce the guidance contained in the NPPF which encourages developers towards an appropriate level of community involvement.

**3.23** In appropriate cases, developers will be required to provide details of how they have involved the community in preparing and finalising their proposals, and to summarise the results of that consultation and describe the impacts that community input has had on the final proposal.

**3.24** There will be many occasions though where we have no prior knowledge of an application before it is formally submitted, so there will be no opportunity to influence pre-application consultation and discussion.

## Community Involvement in Planning Applications 3

**3.25** Once an application has been submitted, the Council will assess any pre-application consultation that has been undertaken by the applicant and if necessary, we will supplement our usual process and statutory requirements for consultation during the application stage by choosing appropriate consultation techniques. In practice, it is anticipated that in those instances where additional consultation is considered necessary the Council will, in the main, use public meetings and presentations as a means of involving the wider public in a particularly significant application.

### 3 Community Involvement in Planning Applications

#### **How to contact us**

If you have any queries you can contact us in the following ways:

**Planning Policy Team**, Planning and Countryside, West Berkshire Council, Council Offices, Market Street, Newbury. RG14 5LD

Tel: 01625 42400

Email: [planningpolicy@westberks.gov.uk](mailto:planningpolicy@westberks.gov.uk)

**Minerals and Waste Planning Team**, Planning and Countryside, West Berkshire Council, Council Offices, Market Street, Newbury. RG14 5LD

Tel: 01625 42400

Email: [mwdpd@westberks.gov.uk](mailto:mwdpd@westberks.gov.uk)

You can also follow our Planning Policy blog: <http://www.westberks.gov.uk/planningpolicyblog>



## Organisations and other bodies to be consulted when preparing DPDs A

**Appendix A: Organisations and other bodies to be consulted when preparing DPDs**

The Town and Country Planning (Local Planning) (England) Regulations 2012 **require** the Council to consult the following **specific consultation bodies**:

- South Oxfordshire District Council
- Vale of White Horse District Council
- Reading Borough Council
- Wokingham District Council
- Basingstoke and Deane District Council
- Test Valley District Council
- Wiltshire Council
- Oxfordshire County Council
- Hampshire County Council
  
- Parish and Town Councils in West Berkshire
- Parish and Town Councils adjoining West Berkshire
  
- Coal Authority
- Environment Agency
- Highways Agency
- Historic Buildings and Monuments Commission for England (known as English Heritage)
- Homes and Communities Agency
- Marine Management Organisation
- National Health Service Commissioning Board (known as NHS England)
- Natural England
- Network Rail Infrastructure Limited
- Police and Crime Commissioner
- Thames Water (as sewerage and water undertaker)
- any person to whom the electronic communications code applies by virtue of a direction given under section 106(3)(a) of the Communications Act 2003, and who owns or controls electronic communications apparatus situated in any part of West Berkshire
- if it exercises functions in any part of West Berkshire - a person to whom a licence has been granted under section 6(1)(b) or (c) of the Electricity Act 1989;
- if it exercises functions in any part of West Berkshire - a person to whom a licence has been granted under section 7(2) of the Gas Act 1986

and the following **general consultation bodies** when appropriate:

- voluntary bodies some or all of whose activities benefit any part of West Berkshire
- bodies that represent the interests of different racial, ethnic or national groups in West Berkshire
- bodies that represent the interests of different religious groups in West Berkshire
- bodies that represent the interests of disabled persons in West Berkshire
- bodies that represent the interests of businesses in West Berkshire

## A Organisations and other bodies to be consulted when preparing DPDs

The Town and Country Planning (Local Planning) (England) Regulations 2012 also set out the list of prescribed bodies to which the **Duty to Cooperate** applies. Those of relevance to West Berkshire are:

- Civil Aviation Authority
- English Heritage
- Environment Agency
- Highways Agency
- Highway Authorities
- Homes and Communities Agency
- Marine Management Organisation
- Mayor of London
- National Health Service Commissioning Board (NHS England)
- Natural England
- Newbury and District Clinical Commissioning Group
- North and West Reading Clinical Commissioning Group
- Office of Rail Regulation
- Relevant Integrated Transport Authorities
- Transport for London

Although not covered by statute, the Regulations also make clear that when preparing plans we should also have regard to

- Local Enterprise Partnerships (LEP) and
- Local Nature Partnerships (LNP).

In addition, the National Planning Policy Framework (NPPF) states that “local planning authorities should also work collaboratively with private sector bodies, utility and infrastructure providers.”

## Organisations and other bodies to be consulted when preparing the Community Infrastructure Levy B

### **Appendix B: Organisations and other bodies to be consulted when preparing the Community Infrastructure Levy**

The Community Infrastructure Levy Regulations 2010 (Part 15) defines the consultation bodies that a Charging Authority must engage with during the different stages of CIL preparation:

- County Council (note: there is no County Council applicable to West Berkshire)
- each Parish Council whose area is in the charging authority's area
- any other person exercising the functions of a Local Planning Authority (within the meaning of TCPA 1990) for an area within, or which adjoins, the charging authority's area.
- a responsible regional authority

The charging authority must also invite representations on the preliminary draft charging schedule from:

- persons who are resident or carrying on business in its area
- bodies which represent the interests of persons carrying on business in the charging authority's area
- voluntary bodies some or all of whose activities benefit the charging authority's area

## C Glossary

## Appendix C: Glossary

Term	Definition
Adoption	Formal approval by the Council whereupon a document achieves its full weight
Annual Monitoring Report (AMR)	Annual statement produced by the Council analysing the implementation of planning policies.
Council	In this context, the local planning authority; in this case West Berkshire Council. References to full Council are to the meeting of all elected members.
Development Plan Document (DPD)	A statutory document which is the primary consideration in determining planning applications. It is required to undergo public testing (examination before an independent inspector).
Examination	In this context the forum at which an independent inspector considers the soundness of a Development Plan Document (DPD), whether the DPD has complied with legal and procedural requirements and whether the Duty to Cooperate has been met.
Executive	The Council's lead decision making body comprised of elected members
Independent examination	See Examination above
Local Development Scheme (LDS)	The Council's timetable for the production of Development Plan Documents
Local Strategic Partnership (LSP)	A grouping of local stakeholders – local councils, business, voluntary sector – working together in the local community. The local LSP is the West Berkshire Partnership
“made available”	This may be in either electronic or hard copy format
Material consideration	A factor or document which can be taken into account in deciding a planning application.
National Planning Policy Framework (NPPF)	Sets out the government's planning policies for England and how these are expected to be applied
Parish Plan	Non land use five year vision produced by and for local communities which includes an action plan
Planning Inspectorate (PINS)	National agency which supplies independent planning inspectors.
Policies Map	Map showing policy areas on an Ordnance Survey map base
Public examination	See Examination above

## Glossary C

Term	Definition
Saved Plans or Policies	Development Plans or Policies which have been saved by the Secretary of State beyond their life span until they are replaced by a DPD or particular policy
Stakeholder	In this context an organisation or individual with an interest in local planning matters
Submission	Stage at which a prepared Development Plan Document (DPD) is presented to Secretary of State
Supplementary Planning Document (SPD)	A local development document (LDD) which does not have Development Plan Document (DPD) status but which is taken into account as a material consideration in the determination of planning applications.
Sustainability Appraisal (SA)	Sustainability appraisal is a tool which provides for the identification and evaluation of the economic, social and environmental impacts of a DPD throughout its preparation
Strategic Environmental Assessment (SEA)	Strategic Environmental Assessment (SEA) is usually undertaken in conjunction with a SA. Its purpose is to increase the consideration of environmental issues during the preparation of a plan by identifying significant environmental effects that are likely to result from the implementation of the plan or alternative approaches to the plan.

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# Appendix B

## EIA

<b>Name of item being assessed:</b>	Statement of Community Involvement
<b>Version and release date of item (if applicable):</b>	N/A
<b>Owner of item being assessed:</b>	Paula Amorelli
<b>Name of assessor:</b>	Bryan Lyttle
<b>Date of assessment:</b>	1 April 2014

**1. What are the main aims of the item? (What does the item try to achieve?)**

To demonstrate how the Council will involve the whole community in the preparation of planning policy documents and in the consideration of planning applications.

**2. What are the results of your research?**

Note which groups may be affected by the item. Consider how they may be affected and what sources of information have been used to determine this. (Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.)

<b>Group Affected</b>	<b>What might be the effect?</b>	<b>Information to support this</b>
Gypsy and Travellers	<p>The SCI sets out the policy for involving the community including difficult to reach groups such as gypsy and travellers.</p> <p>These groups can be disenfranchised from the planning process. Each development plan needs to be accompanied by a statement of community involvement which will then be subject to independent examination.</p>	Appendix A to the report (Statement of Community Involvement)
Elderly, young mothers and parents with children.	<p>These groups can be particularly concerned with the health aspects to new waste facilities.</p> <p>Through the measures outlined in the SCI, engagement with these groups can help to provide some reassurance.</p>	Appendix A to the report (Statement of Community Involvement)

**Further comments relating to the item:**

No negative effects.

<b>3. What actions will be taken to address any negative effects?</b>			
<b>Action</b>	<b>Owner</b>	<b>By When</b>	<b>Outcome</b>

**4. What was the final outcome and why was this agreed?**  
 (Was the item adjusted, rewritten or unchanged? Refer to page 15 of *Meeting the Equality Duty in Policy and Decision Making* for more information.)  
 N/A

**5. What arrangements have you put in place to monitor the impact of this decision?**  
 N/A

**6. What date is the Equality Impact Assessment due for Review?**  
 N/A

**Name:** Bryan Lyttle

**Date:** 1<sup>st</sup> April 2014.



<b>Title of Report:</b>	<b>Request for the Revision of the Constitution</b>
<b>Report to be considered by:</b>	Council
<b>Date of Meeting:</b>	15 May 2014
<b>Forward Plan Ref:</b>	C2758

**Purpose of Report:** For Council to consider an amendment to the Constitution in relation to the petition threshold for triggering a debate at Full Council.

**Recommended Action:**

1. That Council be requested to amend the Petition Protocol so that a petition of 1,500 or more signatures will trigger a debate at Full Council subject to this not applying to the Annual or Budget meeting and Extraordinary meetings except in circumstances where the special meeting has been called to consider an issue which is the subject of the petition.
2. That authority be delegated to the Head of Legal to amend the Constitution to reflect the amendment.

**Reason for decision to be taken:** The matter was discussed at a previous Council meeting where it was suggested that a formal request be brought back to Council for a decision.

**Other options considered:** None

**Key background documentation:** None

The proposals will help achieve the following Council Strategy principle:

**CSP8 - Doing what's important well**

Member Details	
<b>Name &amp; Telephone No.:</b>	Councillor Jeff Brooks – Tel (01635) 47391
<b>E-mail Address:</b>	jbrooks@westberks.gov.uk
<b>Date Member agreed report:</b>	31 March 2014

Contact Officer Details	
<b>Name:</b>	Gillian Durrant
<b>Job Title:</b>	Lib Dem Group Executive
<b>Tel. No.:</b>	01635 519097
<b>E-mail Address:</b>	gdurrant@westberks.gov.uk

## Implications

<b>Policy:</b>	The constitution would need to be amended
<b>Financial:</b>	None
<b>Personnel:</b>	None
<b>Legal/Procurement:</b>	None
<b>Property:</b>	None
<b>Risk Management:</b>	None

Is this item relevant to equality?	Please tick relevant boxes		Yes	No
Does the policy affect service users, employees or the wider community and:				x
• Is it likely to affect people with particular protected characteristics differently?		<input type="checkbox"/>		x
• Is it a major policy, significantly affecting how functions are delivered?		<input type="checkbox"/>		x
• Will the policy have a significant impact on how other organisations operate in terms of equality?		<input type="checkbox"/>		x
• Does the policy relate to functions that engagement has identified as being important to people with particular protected characteristics?		<input type="checkbox"/>		x
• Does the policy relate to an area with known inequalities?		<input type="checkbox"/>		x
<b>Outcome</b> (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)				
Relevant to equality - Complete an EIA available at <a href="http://www.westberks.gov.uk/eia">www.westberks.gov.uk/eia</a>				<input type="checkbox"/>
Not relevant to equality				<input checked="" type="checkbox"/>

Is this item subject to call-in?	Yes:	No: <input checked="" type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval		<input checked="" type="checkbox"/>
Delays in implementation could have serious financial implications for the Council		<input type="checkbox"/>
Delays in implementation could compromise the Council's position		<input type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months		<input type="checkbox"/>
Item is Urgent Key Decision		<input type="checkbox"/>
Report is to note only		<input type="checkbox"/>

## Executive Summary

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### 1. Introduction

- 1.1 The Constitution currently allows a debate at full council following receipt of a petition of 5,000 or more signatures (see 2.2 below). This report recommends that this be reduced to 1,500 signatures, in line with many other local authorities.

### 2. Proposals

- 2.1 This report proposes that the Council's constitution be amended so that when a petition of 1,500 or more signatures is presented at Full Council, a debate will be held on the subject of the petition.

The constitution currently states in Appendix C (Procedure Rules for Dealing with Representations) to Part 13 (Codes and Protocols), paragraph 1.4

- (e) **Petitions for Debate.** For a petition to be reported to a Full Council meeting for debate by the elected Members of West Berkshire Council, it must contain a minimum of **5,000** petitioners. Where a petition relates to a local issue, affecting no more than two electoral wards in West Berkshire, this requirement may be reduced to **500 per ward at the discretion of the Monitoring Officer.**
- (f) Where a Full Council meeting debate is triggered by a petition, the Petition Organiser or their nominated spokesperson will have up to five minutes to present their petition and the petition will then be discussed by Councillors for a maximum of 15 minutes. The Council may decide to take the action the petition suggests, not to take the action requested for reasons put forward in the debate or to commission a further investigation into the matter.
- 2.2 The number of signatures required on a petition to trigger a debate at Full Council in the 6 unitary authorities in Berkshire are:

Authority	signatures required	Electoral Roll (Dec 2012)	Percentage of Electorate	Population (2011 census)
Windsor & Maidenhead	1,000	106,474	0.93%	144,600
Bracknell Forest	1,500	85,724	1.75%	113,205
Reading	1,500	118,219	1.26%	155,700
Slough	1,500	94,330	1.59%	140,200
Wokingham	1,500	113,379	1.32%	154,400
West Berkshire	5,000	120,970	4.13%	153,800

- 2.3 Following the consultation on the proposed 2014-2016 budget cuts, the residents of Pangbourne and the surrounding area raised a petition requesting that the opening hours of Pangbourne library be maintained. They were advised by the Council's

Monitoring Officer, that because the library users came from more than two wards (some lived across the border in Oxfordshire), the petition would need to have over 5,000 signatures in order to trigger a debate at Full Council. The petition organisers felt that this was unachievable because the numbers on the electoral roll in the wards concerned were relatively small, and only a proportion of them use the library. Their problem was compounded by the fact that the Council's e-petition software did not permit people living outside of West Berkshire to sign this petition.

2.4 The numbers on the electoral roll in Pangbourne ward and neighbouring West Berkshire wards:

<b>Ward</b>	<b>Electoral Roll</b>	<b>percentage of electorate</b>	<b>Population (2011 census)</b>	<b>Percentage of population</b>
Pangbourne	2,262		2,984	
Basildon	2,470		3,107	
Sulhamstead	2,212		2,963	
Purley-on-Thames	5,275		6,552	
<b>Total</b>	<b>12,219</b>	<b>41%</b>	<b>15,606</b>	<b>32%</b>

2.5 As you can see from the above figures, 41% of the electorate of these four wards would have had to sign the petition (or 32% of the entire population, including babies and children) for a debate to be triggered at Full Council. A large number of people living in these wards may also be members of their nearest library, which could be in Goring, Theale or Tilehurst, and therefore not be inclined to sign a petition for Pangbourne library.

Had the petition limit for a debate at Full Council been set at a reasonable figure of 1,500 instead of 5,000 this amount of signatures may have been achievable, and the users of Pangbourne library would have had a greater impact on local democracy.

### **3. Recommendation from Governance and Audit Committee**

3.1 The Committee supported this proposal but considered that debates triggered by petitions should not apply to the annual Budget meeting. It was acknowledged that the time of this meeting had already been moved forward by 30 minutes to ensure that the business was conducted effectively and adding a potential further 30 minutes debating time to this meeting would be unhelpful. It was noted that petitions could also not be discussed at the Annual Council meeting or at Special meetings unless the petition related to the subject matter on the extraordinary meeting agenda.

### **4. Equalities Impact Assessment Outcomes**

4.1 This item is not relevant to equality.

## **5. Conclusion**

- 5.1 This amendment would enable the people in West Berkshire to bring to Full Council matters that are important to them, and to hear the councillors debate these issues in a public meeting. The lower number of signatures required to trigger a debate would encourage the engagement of the local population with politics.

## **Appendices**

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There are no Appendices to this report.

## **Consultees**

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**Local Stakeholders:** N/a

**Officers Consulted:** Corporate Board

**Trade Union:** N/a

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<b>Title of Report:</b>	<b>Changes to the Constitution – Part 13 Codes and Protocols</b>
<b>Report to be considered by:</b>	Council
<b>Date of Meeting:</b>	15 May 2014
<b>Forward Plan Ref:</b>	C2776

**Purpose of Report:** To review and amend sections of Part 13 (Codes and Protocols) i.e. Appendices I (Councillor Call for Action Protocol) and J (Protocol for Council Representation on Outside Bodies) in light of legislative changes, policy changes and recent government guidance.

**Recommended Action:**

1. To consider the amendments and any additional changes required and recommend them to Full Council for approval.
2. To agree that the changes will come into effect on the 16 May 2014.

**Reason for decision to be taken:** To ensure that the Council has adjusted the scheme in light of legislative and policy changes.

**Other options considered:** Not to agree the changes

**Key background documentation:** None

The proposals will help achieve the following Council Strategy principles:

- CSP7 - Empowering people and communities**
- CSP8 - Doing what's important well**

The proposals contained in this report will help to achieve the above Council Strategy principles by:  
Ensuring that the Constitution is up to date

Member Details	
<b>Name &amp; Telephone No.:</b>	Councillor Jeff Beck – Tel (01635) 44770
<b>E-mail Address:</b>	<a href="mailto:jbeck@westberks.gov.uk">jbeck@westberks.gov.uk</a>
<b>Date Member agreed report:</b>	At Governance and Audit Committee on 28 April 2014
Contact Officer Details	
<b>Name:</b>	David Holling
<b>Job Title:</b>	Monitoring Officer
<b>Tel. No.:</b>	01635 519422
<b>E-mail Address:</b>	<a href="mailto:dholling@westberks.gov.uk">dholling@westberks.gov.uk</a>

## Implications

<b>Policy:</b>	Will require changes to the Constitution
<b>Financial:</b>	None – will be undertaken within existing resources.
<b>Personnel:</b>	None
<b>Legal/Procurement:</b>	Will require the Constitution to be updated
<b>Property:</b>	None
<b>Risk Management:</b>	None

Is this item relevant to equality?	Please tick relevant boxes		Yes	No
Does the policy affect service users, employees or the wider community and:				
• Is it likely to affect people with particular protected characteristics differently?			<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Is it a major policy, significantly affecting how functions are delivered?			<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Will the policy have a significant impact on how other organisations operate in terms of equality?			<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Does the policy relate to functions that engagement has identified as being important to people with particular protected characteristics?			<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Does the policy relate to an area with known inequalities?			<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Outcome</b> (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)				
Relevant to equality - Complete an EIA available at <a href="http://www.westberks.gov.uk/eia">www.westberks.gov.uk/eia</a>			<input type="checkbox"/>	<input checked="" type="checkbox"/>
Not relevant to equality			<input checked="" type="checkbox"/>	<input type="checkbox"/>

<b>Is this item subject to call-in?</b>	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval		<input checked="" type="checkbox"/>



# Executive Summary and Report

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## 1. Introduction

- 1.1 Following an internal audit of the management of the Constitution in 2010 it was noted that one of the responsibilities of the Finance and Governance Group is to have ownership of the Council's Constitution. The content of the Local Code of Corporate Governance says that there will be an annual review of the operation of the Constitution.
- 1.2 A timetable has been established for the Finance and Governance Group to review individual sections of the Constitution and a number of Officers have been involved in revising specific parts of the Constitution. This report proposes amendments to sections of Part 13 (Codes and Protocols) i.e. Appendices I (Councillor Call for Action Protocol) and J (Protocol for Council Representation on Outside Bodies) of the Council's Constitution in light of legislative changes, policy changes and recent government guidance.

## 2. Part 13 Codes and Protocol – Appendix I (Councillor Call for Action)

- 2.1 The following minor changes have been made to the document by Officers:
- (a) The correction of the job title of the Scrutiny and Partnerships Manager and the Overview and Scrutiny Management Committee,
  - (b) The correction of some typographical errors and an amendment to reflect the procedure in terms of making recommendations to other committees or boards.

## 3. Part 13 Codes and Protocol – Appendix J (Protocol for Council Representation on Outside Bodies)

- 3.1 The following minor changes have been made to the document by Officers:
- (a) The document has been aligned to the recently agreed Gifts and Hospitality Protocol for Members.
  - (b) The sections pertaining to Members Interests have been updated to take cognisance of the new local Code of Conduct for Members.

## 4. Proposals

- 4.1 It is proposed that the amendments to Part 13 Appendices I and J of the Council's Constitution be approved.

## 5. Equalities Impact Assessment Outcomes

- 5.1 This item is not relevant to equality.

## 6. Conclusion

- 6.1 The report is a required update to take cognisance of legislative and policy changes. For the avoidance of doubt the changes will come into effect on the 16 May 2014 if approved.

## **Appendices**

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Appendix A – P13 Appendix I – Councillor Call for Action

Appendix B – P13 Appendix J – Protocol for Council Representation on Outside Bodies

## **Consultees**

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**Local Stakeholders:** N/a

**Officers Consulted:** Andy Day, Sarah Clarke, Moira Fraser, Finance and Governance Group, Ian Priestley, David Lowe, Corporate Board

**Trade Union:** Not consulted

## Appendix I

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### ***Councillor Call for Action Protocol***

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#### **Introduction**

This protocol provides a description of a 'Councillor Call for Action'; guidance on who may initiate one, when and how; specific exclusions from the process; investigation and resolution; and monitoring.

#### **Description**

The Councillor Call for Action (CCfA) is a mechanism that provides Members of the Council with the opportunity to ask for discussions at the Overview and Scrutiny Management Commission on issues where local problems have arisen and where other methods of resolution have been exhausted.

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CCfA is not guaranteed to provide a solution to a problem but can provide:

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- A public forum for discussion of the issues
- An opportunity to discuss the issues in a balanced way
- An opportunity to discuss the problem with the explicit and sole aim of providing an appropriate recommendation
- A high profile process owned by the Ward Member.

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All of these factors can make resolution easier to achieve.

The CCfA is a whole Council process and is not solely related to scrutiny. Scrutiny is however the forum for bringing together evidence from multiple sources, including partner organisations.

It is a technique for helping to resolve queries, which may lead to the forming of recommendations for the consideration of the Executive or other bodies.

#### **Eligibility criteria for the initiation of a Councillor Call for Action**

Any Member of the Council may submit a Councillor Call for Action (CCfA) for inclusion in the agenda of the Overview and Scrutiny Management Commission (OSMC).

The issue for consideration must relate to a single locality only rather than the entire district, for which other channels for consideration exist. In this context a 'single locality' could be a town, village, ward or part thereof.

CCfA may only be initiated after all other appropriate methods of problem resolution have been exhausted. These methods might include, but not be limited to:

- Questions at Executive/Council;
- Informal discussions with officers or other Members;
- Formal letters written on behalf of constituents;
- Public meetings;

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- Petitions and deputations;
- Motions on the agenda at full Council;
- Communication with local MPs;
- Communication with Councillors in other authorities;
- The Council's complaints process;
- Web or e-mail based campaigns;
- Communications with relevant Portfolio Holder.

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Members bringing forward a CCfA will be required to define their preferred outcomes and resolutions prior to discussion and, wherever possible, attend the relevant committee meeting(s).

To raise a CCfA a Member should in the first instance contact the Scrutiny and Partnerships Manager outlining the issue, the desired outcome and the processes previously undertaken to resolve it. A submission form is available on the intranet. Submissions must be received by no later than 10.00am, seven clear working days prior to the date of the Overview and Scrutiny Management Commission meeting at which it is to be considered.

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On receipt of the proposal, the OSMC Chairman and Vice Chairman, along with the Scrutiny and Partnerships Manager, will assess its suitability for consideration by the OSMC. If the issue is considered appropriate it will be added to the next OSMC agenda. If it is assessed that the issue is not appropriate then the member making the CCfA will be directed to other courses of action for issue resolution.

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### Exclusions from Councillor Call for Action

Specifically excluded from becoming a CCfA are:

- Any matter relating to a planning decision.
- Any matter relating to a licensing decision.
- Any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment.
- Any matter which is vexatious, discriminatory or not reasonable.
- Any matter that has been considered by the Overview and Scrutiny Management Commission or task group in the previous six months.

### Investigation and resolution

Following initial acceptance by the Scrutiny and Partnerships Manager, Members of the Overview and Scrutiny Management Commission will then consider whether they wish to accept the matter for investigation and the most appropriate forum and course of action to determine resolution. This may include the establishment of a time limited task group or examination of the subject as a full Commission. The matter will then be dealt with as any other item of Scrutiny.

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In conducting its investigation, the Scrutiny body will have regard to the issue and the resolution required by the Member raising the CCfA. Reviewing Members may challenge the expected outcome if they feel that it is unreasonable.

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The Council's scrutiny function only has the power or authority to require the Council or other organisations to have regard to its considerations and cannot of itself impose a resolution. Therefore at the conclusion of its investigation the OSMC will produce a report containing recommendations for the consideration of the Council's Executive, West Berkshire Partnership Board or other organisations as appropriate.

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Deleted: endorsement of the OSMC and if it is not the investigating body itself

As with other scrutiny reports, a response to each of the OSMC's recommendations will normally be given within 56 calendar days (8 weeks) of the report's production. The Council service most closely involved with delivery of the recommendations will have responsibility for the production of the response report.

## Monitoring

The responding service will provide implementation progress reports to the OSMC at intervals not normally more frequent than 6 monthly.

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# Protocol for Council Representation on Outside Bodies

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## 1. Introduction

- 1.1 Elected Members are appointed by West Berkshire Council to serve on a range of Outside Bodies. In the context of this Protocol, an “Outside Body” covers organisations such as Trusts, Voluntary Bodies, Charities, Community Associations and Companies etc.
- 1.2 Service on Outside Bodies has always been an established part of a Councillor’s role. A Member appointed to an external body will be able to use their knowledge and skills both as a Council Member, and as a representative of their communities, to assist the organisation to which they are appointed, as well as the Council which they represent.
- 1.3 This Protocol is designed to provide guidance as to the roles, experience and responsibilities as well as the liabilities that Members may attract in connection with their involvement with these organisations. Councils are increasingly working in partnership with external organisations. This means that it is important that everyone is clear exactly what the role of Councillors appointed to these bodies is. Questions of accountability and governance are likely to arise particularly as more funding may be channelled through the Council to these Outside Bodies
- 1.4 Membership of an Outside Body brings into play different considerations to those which relate to Council membership. As members of Outside Bodies, elected Members will have different duties, obligations and liabilities depending upon the type of organisation involved. Members’ roles on these Outside Bodies may appear to conflict, sometimes with each other, and sometimes with their position as a West Berkshire Councillor. This can be eased by giving clear guidance, which is what this document aims to do. Appendix A1 to this Protocol provides information on registering interest (paragraphs 9 and 10) and dealing with conflicts of interest (paragraph 11).
- 1.5 Depending on the legal nature of the body and the role fulfilled by the Member they may attract personal responsibility for decisions and actions of the body. It is a Members’ responsibility to ensure that they are aware of their liabilities and any insurance arrangements that are in place where they participate in Outside Bodies. Officers will strive to ensure that Members are provided with as much information as possible

prior to their appointment. Paragraphs 4 and 5 of the Protocol set out the general roles and responsibilities for Members on Outside Bodies.

- 1.6 To aid Members further, this Protocol sets out the different types of bodies and responsibilities. Members with any doubts or questions should consult the Head of Legal Services at the earliest opportunity for help and advice. More detailed information, relating to Limited Companies, Charitable Trusts, Partnerships and Unincorporated Organisations, is set out in Appendices A2, A3, A4 and A5 of the Protocol.
- 1.7 The Council will indemnify Members representing the Council on Outside Bodies in many circumstances. There are however specific statutory limitations as to the extent of indemnification the Council is able to provide. These are set out in Appendix A6 of the Protocol.
- 1.8 Members can serve on Outside Bodies in their personal capacity provided that there is no conflict of interest with their duties as a Member of West Berkshire Council. Again, legal advice is available to help Members assess their position.

## **2. How are Appointments made?**

- 2.1 In accordance with the Council's Constitution authority to appoint Members as representatives on Outside Bodies has been delegated to the Executive. With the exception of appointments to regulatory bodies i.e. Police and Fire Authorities appointments to Outside Bodies have been further delegated to the Leader of the Council or the relevant Portfolio Holder to make as an Individual Decision. The authority to appoint School Governors has been delegated to the Head of Education Services.
- 2.2 The majority of appointments are aligned to the electoral cycle and representatives are appointed for four years. A small number of appointments, most notably those to the regulatory bodies, are made on an annual basis. The majority of the appointments are made as early in the Municipal Year as is practicably possible.
- 2.3 The choice of the most appropriate representative will depend on the nature of the Outside Body, the interests and experience of the prospective representative, and why the Council wishes to be involved with that body.
- 2.4 The Strategic Support team is responsible for maintaining a database setting out details of the appointment and information relating to the Outside Bodies.

## **3. Before Accepting the Appointment**

- 3.1 Before accepting the appointment Members should establish:



- the time commitment required by the role and whether or not they have the time and capacity to take on the responsibility;
- what the nature of the organisation is as this will affect their role and help with identifying the potential risks involved. One of the most important things is to find out if the organisation is a separate legal organisation (i.e. a body which has an identity of its own such as a company) or whether it is simply a group of people coming together with a common purpose (an unincorporated organisation). An unincorporated organisation generally poses a more significant risk to those involved in it because if something goes wrong, personal legal action can be taken against everyone managing it.
- in what capacity they are being asked to serve on the Outside Body:
  - as a member of an Outside Body where they represent the Council's position as a 'member' of the Outside Body but take no part in its management or governance other than to attend and vote at annual or general meetings. Here they will be mainly concerned with representing the Council and will not have responsibilities for governance of the body; or
  - as a member of the management committee, board of directors or committee of trustees of the Outside Body. Whilst the Member may have been appointed to the body by the Council, their primary responsibility will be to the body itself, to advance the interests of the body or of the beneficiaries of the trust, as opposed to acting as a representative of the Council. They will have detailed responsibilities which are outlined further in this guidance
- what the body has been set up to do;
- the governance arrangements of the organisation; and
- the financial position of the organisation.

3.2 The Council representatives are also advised to:

- consider if there is likely to be any significant conflict of interest between their role in the outside organisation and their Council role before accepting the office;
- clarify the insurance arrangements (does it cover the key risks of the organisation as well as the Member and is the liability limited or unlimited) and assess the possibility of any implications on themselves as individuals (specifically consider the nature and function of the body and the amount of money it deals with – always be aware of the added risk where the organisation employs staff);
- if no insurance exists this must be weighed up in the decision to accept the appointment;

- ask about any specific legal responsibilities attached to the membership of the organisation;
- read the constitution of the organisation and be aware of its powers, duties and objectives;
- attend meetings regularly and present apologies in good time when they are unable to attend;
- satisfy themselves that they receive regular reports on the activities of the organisation and its financial position;
- satisfy themselves that the organisation has adequate Health and Safety and Equalities Policies;
- obtain a copy of the annual report and accounts to ensure that funds are spent on agreed objectives where the organisation is funded by or through the Council; and
- seek advice from the appropriate Council Officers in the event of any doubt or concerns about the running of the organisation.

#### **4. The Responsibilities of the Councillor**

- 4.1 In carrying out the role of a representative on the Outside Body, Councillors act both as individuals and as representatives of the Council:
- 4.2 Members should:
- act according to the rules, constitution and framework set by the Outside Body;
  - take an active and informed role in the Outside Body's affairs;
  - make independent and personal judgements in line with their duty of care to the Outside Body;
  - report back to West Berkshire Council annually (by the 1st May ) using the form attached at Appendix J(1);
  - promote equality as an integral part of the role and to treat everyone with fairness and dignity;
  - from time to time it is possible that a conflict of interest may arise between the role of the Councillor and the role they are undertaking on an Outside Body. Members are referred to Appendix A6. Members are advised to seek legal advice before setting off on a course of action.
  - behave ethically and follow as far as applicable the Code of Conduct for Members; and
  - wherever possible approach the lead officer for the Outside Body for a briefing on agenda items before attending meetings of the Outside Body.

4.3 Members should not:

- represent the political party to which the Councillor is aligned;
- consider matters purely from the Council's perspective;
- commit the Council to any expenditure; (In accordance with the Council's Financial Rules of Procedure any additional expenditure requests must be authorised by the appropriate person or body).

4.4 More Specific information pertaining to Limited Companies, Charitable Trusts, Partnerships, and Unincorporated Organisations is set out in Appendices A2, A3, A4 and A5 of this Protocol.

## 5. The Role of the Councillor

5.1 The role of Council representatives on Outside Bodies will vary but essentially the role will be:

- to help to secure any objectives of the Council in participating in the organisation;
- to help the organisation to achieve its aims and objectives legally, properly and effectively;
- to meet any specific legal responsibilities attached to membership of the organisation; and
- to safeguard the Council's interest on those organisations which are funded by or through the Council.

5.2 More Specific information pertaining to Limited Companies, Charitable Trusts, Partnerships, and Unincorporated Organisations is set out in Appendices A2, A3, A4 and A5 of this Protocol.

## 6. Expenses, Remuneration and Benefits

6.1 As a general rule Members should not benefit personally from their appointment to outside organisations.

6.2 Travel and subsistence expenses should be claimed through the organisation if available otherwise through the Council in accordance with the relevant Part of the Constitution (Members' Allowances Scheme).

6.3 Any Councillors offered any gift or hospitality, in their capacity as Members must treat the offer in accordance with Appendix D (Gifts and Hospitality: A Code of Conduct for Councillors) to Part 13 (Codes and Protocols) of the Constitution.

6.4 Free access to a Company's facilities should only be accepted where it is necessary to discharge duties and responsibilities as a Director and should be declared to the Council.

6.5 The Code of Conduct should be followed at all times.

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When accepting gifts and hospitality Members should be mindful of the Council's Constitution in respect of gifts and hospitality which states that 'A Member should treat with extreme caution any offer or gift, favour or hospitality that is made to them personally. The person or organisation making the offer may be doing, or seeking to do, business with the Council, or may be applying to the Council for planning permission or some other kind of decision.'

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**Deleted:** Members are required 'within 28 days of receiving any gift or hospitality over the value of £25, to provide written notification to the Monitoring Officer of the existence and nature of that "gift" or "hospitality"; but that 'all gifts, irrespective of value, should be recorded in the appropriate register of gifts and hospitality which will be open to public inspection.'

## 7. Representatives Reporting Back

- 7.1 Councillors are under a specific obligation as a result of the 1995 Local Authorities (Companies) Order to report back to the Council on their involvement in outside companies to which they have been nominated by the Council. Where the Council provides financial assistance to a charity or voluntary organisation of over £2,000 per annum then the body is under an obligation to state in writing to the Council how the funding has been used (s137A Local Government Act 1972).
- 7.2 While the law now makes this a requirement for involvement in outside companies, it is self evident that the requirement to report back should apply to involvement in all Outside Bodies. It is important that anyone who is appointed to an Outside Body provides appropriate information on what the organisation is doing. Members are not required to disclose information which is commercially confidential to the body.
- 7.3 Accordingly Members are required to submit their annual report to the Head of Strategic Support using the attached form by the 1st May each year. The reports will then be circulated to all Members. Where there is more than one Member appointed to an outside body a joint submission should be made.
- 7.4 There are a number of organisations to which the Council appoints Members where more regular feedback from Members would be appropriate. In these circumstances Members or Officers attending the meeting should provide a brief summary for dissemination to all Members and relevant Officers.

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## 8. Further Advice

- 8.1 Relationships between the Council, Outside Bodies and the Council's representative can be complex. In any case of dispute or difficulty, Members should seek advice from the Secretary or Clerk to the Outside Body, who can then take advice from professional advisors where necessary.
- 8.2 If Members are concerned about the position they find themselves in as a Councillor on an Outside Body, they should contact the Monitoring Officer for further advice.

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## 9. Interests

- 9.1 Members are required to register interests in line with section 4 (Disclosable Pecuniary Interests and Interests other than Disclosable Pecuniary Interests) of Appendix H (Code of Conduct) to Part 13 (Codes and Protocols) of the Council's Constitution.

## 10. Council's Code of Conduct – General Provisions

10.1 The Council Code of Conduct requires that a Member must observe the Code of Conduct whenever the Member is acting as a representative of the authority.

10.2 The Code of Conduct also states:

“2 (5) *Where you are acting as a representative of the authority:*

(a) *on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or*

(b) *on any other body, you must, when acting for that other body, comply with the authority's Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.”*

## 11. Conflicts of Interest

11.1 Appointment to an Outside Body can take various forms, and before taking up active membership it is advisable to establish exactly in what capacity the Member is being appointed.

11.2 If Members are appointed to an Outside Body they will have a personal interest in that body and will need to consider their position when they sit on Council, the Executive, a Council committee or other decision-making body which is considering a matter which relates to that body.

11.3 If Members attend a meeting where there is an item of business which relates to or affects the Outside Body, they will need to disclose the interest at the meeting, regardless of whether or not they were appointed onto the Outside Body by the Council, or by the Outside Body itself. This may not be a report which specifically mentions the body, but will affect it. For example, the budget setting meeting of Full Council can have implications for council funding of voluntary organisations.

11.4 The next issue is to consider whether they also have a Disclosable Pecuniary Interest (DPI) which would require them not only to disclose it but also to withdraw from consideration of that item of business.

11.5 If a Member does decide that they have a DPI, they must disclose this and leave the meeting room and not influence the debate or decision in any way. If the Council body making the decision has a policy of allowing members of the public to speak, Members can use this avenue legitimately to speak to the meeting but they must follow the rules of the public speaking session and then leave the room as soon as they have spoken on the matter.

**Deleted:** 13 (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest .....¶ register details of that new personal interest or change by providing written notification to your authority's monitoring officer. ¶¶  
<#>You must register a personal interest in:¶  
“8 (1) (a) (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority”¶¶  
So if a Member is appointed in that capacity to an Outside Body they must register that interest with the Monitoring Officer.

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**Deleted:** <#>The Code of Conduct provides a three part test, as follows –¶  
<#>Firstly, does the Member have a personal interest in the item of business? Prejudicial interests can only arise if Members first have a personal interest.¶  
<#>Secondly, the interest must be so immediate that “a member of the public with knowledge of the relevant facts would reasonably regard (it) as so significant that it is likely to prejudice your judgement of the public interest”. That means that it must be probable that the Member feels such allegiance or loyalty to the Outside Body on which they serve that they could allow that loyalty to affect the way that they would speak or vote on the matter - i.e. that they will act because a particular decision benefits the Outside Body rather than because it is in the genuine public interest. ¶¶  
<#>Finally, the item of business must either affect the financial position of the Outside Body or relate to the determination of a planning or other application of the Outside Body. ¶

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**11.6** Members should take advice from the Monitoring Officer if any situation arises where they think they might have a problem with an interest arising from their involvement with the Outside Body.

**11.7** Whilst a failure by a Member to disclose a personal interest, or to disclose and withdraw for a DPI, may lead to sanctions against the individual Councillor, it will not of itself invalidate the decision of the authority in which the Councillor participated. However, where there is a real possibility that the decision of the Council might have been affected by bias or predetermination on the part of one or more Councillor, that decision can be held by a Court of Law to be invalid. Members therefore need also to be careful about the possibility of bias and predetermination when they are dealing with matters involving an Outside Body on which they serve.

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**11.8** Any Councillor who is about to take part in a decision, either collectively with other Councillors or via Individual Decision, must not allow themselves to be unduly influenced by their allegiance to any Outside Body or individual, nor should they give the impression that they might be influenced by it. That is bias and apparent bias. It arises because of a connection to an Outside Body or person.

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**11.9** It also follows that, whilst a Councillor may have preferences and predispositions, they must not finish the decision-making process until they have received and considered all the relevant information relating to the matter. To do so would be predetermination. Whilst it is accepted that Councillors live in the real world and will discuss matters with colleagues and constituents, and bring the benefit of those discussions to the Committee Room, they must still listen to the arguments and be prepared to change their mind if the evidence presented requires it.

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**11.10** From this it will be apparent that particular difficulties arise where a Councillor is a member of an Outside Body such as a pressure group, which is seeking to influence the authority's decision on a particular matter, as such membership can readily be taken as evidence of bias and/or predetermination. On occasion, and particularly in respect of local, single-issue pressure groups, a Member may have to choose whether to be a campaigning Councillor, participating in a pressure group, or to remain outside the campaign but be able to vote on the issue when it comes before the Council.

**11.11** In some instances a Member may also find that they are unable to properly carry out their functions as a Member of the Council and a Member of the Outside Body. In these instances the Member may consider resigning from one body or another. Members should seek advice from the Monitoring Officer before taking such action.

## 12. Limited Company

- 12.1 A company has a separate legal personality to its shareholders (also described as company members or subscribers). One of the main advantages of acting through a limited company is that shareholders can claim the benefit of limited liability. In the case of a company limited by shares this means that they will not be liable for the debts of the company if the company makes losses over and above the amount which they have pledged to pay the company for their shares. In a company limited by guarantee this means that the shareholders 'guarantee' to contribute a specified sum if called upon to do so (usually a nominal amount of £1) in the event that the company goes into insolvent liquidation.
- 12.2 An appointment as a director of a company needs to be confirmed by the completion of a form (known as '288') which needs to be signed and submitted to Companies House. The secretary of the Outside Body should assist you with this.
- 12.3 The Directorship should also be recorded in the Council's Register of Members' Interests (within 28 days of the appointment). Directors take responsibility for all the main decisions in relation to the operation of the company, including entering into contracts.
- 12.4 The position of Council Members acting as Company Directors is that although Members have been appointed by the Council they have a duty to act in the best interest of the Company.
- 12.5 Although Members are advised to consider the specific rules pertaining to the Company they have been appointed to, the general legal responsibilities of Company Directors are:
- to ensure that the Company acts within its legal powers;
  - to act honestly and in good faith in the best interests of the Company;
  - not to make a personal profit and to take proper care of the assets;
  - to avoid conflicts of interest and not to allow personal interest to influence action as a Director;
  - to record personal interests in the Company's Register of Director's Interests;
  - to act with reasonable competence and care;
  - to exercise reasonable skill and care (this is a subjective test based upon the individual's own knowledge and experience); and
  - not knowingly allow the Company to trade fraudulently, recklessly or in an insolvent position.
- 12.6 Council appointed Directors are advised to:

- clarify the insurance arrangements and assess the possibilities of any implications on themselves as individuals;
- to be familiar with the Articles and Memorandum of Association of the Company;
- to ensure that their interests are registered with the Company;
- to attend Board meetings regularly, read the agenda in advance and seek a briefing from officers where necessary;
- to ensure that the Company has proper procedures for reporting performance and financial information to board members at each meeting;
- to take an interest in the appointment of the management of the Company to ensure that suitable qualified and experienced managers are in place;
- to ensure that the Company has adequate Health and Safety and Equalities Policies; and
- to seek advice from the appropriate Council Officers if in any doubt about the financial viability of the Company or any aspect of its operation.

12.7 Members need to be particularly careful when acting as a Company Director if there is any prospect of the company becoming insolvent i.e. not having sufficient assets to pay its debts. When a company becomes insolvent, or it is foreseeable that it will be insolvent, directors of the company have a higher duty of competence and attention to company business than when the company is still solvent. If they fail to take every possible step to minimise the company's debts, they may be personally liable for any additional losses suffered by creditors of the company ("wrongful trading"). A director may be found guilty of fraudulent trading (a criminal offence) if ~~they~~ allow the company to trade with an intent to defraud creditors.

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12.8 If you become a Company Director there are some useful guidance documents to assist you on the websites of the Institute of Directors and Companies House as follows: [www.iod.com](http://www.iod.com)  
[www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

12.9 There may be occasions where conflicts of interest arise between the Council and the Company. Some examples are:

- contracts between the two;
- negotiations on agreements, such as terms of leases;
- applications for Council permission, e.g. planning consent.

12.10 This may mean that the primary responsibility to the Company could conflict with the Council's interest.



12.11 In these circumstances, Members are advised to declare a **DPI** at any Council meetings or discussions and should withdraw from the decision making process. (see Appendix A1)

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### **13. Charitable Trustees**

13.1 To be a Charity an organisation must operate for one of the four charitable purposes, namely:

- the relief of poverty and human suffering;
- the advancement of education;
- the advancement of religion; and
- another purpose for the benefit of the community.

13.2 It must operate for the public benefit and have exclusively charitable purposes. An organisation which operates for political purposes will not qualify for charitable status.

13.3 Trustees duties include:

- the need to act in accordance with the constitution of the Charity;
- not making a private profit from their position;
- acting honestly and in good faith in the best interests of the Charity;
- ensuring that information relating to the charity and trustees is registered with the Charity Commissioners and annual accounts, reports and returns are completed and sent;
- Ensuring that the body acts in accordance with the overriding duty to the beneficiaries of the Trust;
- ensuring compliance with all relevant legislation (e.g. in relation to tax and land matters); and
- Council representatives are advised to clarify the insurance arrangements and assess the possibilities of any implications on themselves as individuals.

13.4 There is now a statutory duty of care under the Trustee Act 2000 which applies when a Trustee is:

- exercising a general power of investment or any specific power of investment arising from the Trust;
- making investments in line with the Standard Investment Criteria under section 4 of the Act or taking independent advice on investments under section 5;
- exercising the power to acquire land or deal in land;
- appointing agents, custodians or nominees or in reviewing their obligations;

- compounding liabilities under section 15 of the Trustee Act 1925;
  - Insuring Trust property; and
  - Dealing with reversionary interests, valuations or audits.
- 13.5 The standards of care expected of Trustees is that which is reasonable in the circumstances, taking into account any particular skills or competencies possessed by the individual. Additional information relating to the responsibilities for charitable directors and trustees is available on the Charity commission's website <http://www.charity-commission.gov.uk>.

## **14. Partnerships**

- 14.1 The Council representatives on partnerships have three main roles:
- to promote the Council's objectives in participating in the partnership;
  - to ensure that the Partnership delivers its own objectives;
  - to safeguard the Council's interests within the partnership, particularly where the Council is a funding partner or the accountable body for External Funding
- 14.2 Council representatives on partnerships are advised to:
- be clear on the Council's own objectives in participating in the partnership;
  - read the Constitution of the Partnership and be aware of its objectives and powers;
  - attend Partnership meetings regularly, read the agendas in advance and seek briefing from Officers where necessary;
  - ensure that the Partnership has proper procedures for reporting progress and financial information; and
  - take an interest in the appointment of key staff.

## **15. Unincorporated Organisations**

- 15.1 Groups which are not charitable trusts or limited companies are 'unincorporated associations' and have no separate legal identity from their members. The rules governing the Members' duties and liability will be set out in a constitution, which is simply an agreement between the members as to how the organisation will operate. Usually the constitution will provide for Management Committees to be responsible for the everyday running of the organisation. An unincorporated organisation may be charitable and therefore register as a charity.
- 15.2 Management Committee Members must act within the Constitution of that Outside Body and must take reasonable care when exercising their powers.

- 15.3 If Members become involved in the administration of an unincorporated body, they need to be aware that, as the body has no separate corporate status, any liabilities will fall upon the members personally. This means that if something goes wrong and the organisation is sued, the members/owners personal assets are at risk – they cannot stand behind a company or other body which gives them some protection.
- 15.4 If Members take on personal responsibilities for the organisation, such as buying equipment or renting premises, they are personally liable for the entire cost, and can only recover those costs from the organisation to the extent that it actually has the money to reimburse them, or from the other members of the organisation to the extent that the membership agreement gives them the right to be reimbursed by each of them.
- 15.5 Members need to be very careful about the risk of personal liability and the extent to which this has been covered by insurance arrangements (either arranged by the organisation itself or by the Council or by indemnities).

## **16. Indemnity for Members**

- 16.1 The Council may only indemnify Members in certain circumstances as prescribed by the Local Authorities (Indemnity for Members and Officers) Order 2004.
- 16.2 The Council will provide an indemnity in relation to any action or failure to act by any Member which:
- is authorised by the Council;
  - forms part of, or arises from, any powers conferred, or duties placed, upon that Member at the request, or with the approval of the authority including acting as the Council's representative on an Outside Body;
  - arises in respect of the cost of defending any claim for an allegation of defamation by a Member acting in an official capacity (but not in respect of any punitive or exemplary damages or arising from malicious or injurious falsehood);
  - is in respect of any investigation, hearing or other proceedings for an alleged failure to comply with the Code of Conduct for Members but, if the Member is found to have breached the Code of Conduct, and where an appeal is unsuccessful, then that Member shall reimburse the authority or the insurer for their costs incurred in relation to those proceedings;
- 16.3 The indemnity includes an act or omission subsequently found to be beyond the powers of the Member in question, but only to the extent that the Member reasonably and genuinely believed that the act or omission was within their powers at the time they acted.

16.4 The indemnity does not apply to the defence of any criminal proceedings brought against a Member unless specifically approved by the Council and then only on a similar basis to that relating to proceedings for breaches of the Code of Conduct.

16.5 It is possible in some circumstances for the Council to indemnify (i.e. stand behind the Councillor and pick up any personal legal liabilities/costs/damages which the Councillor incurs as a result of their appointment to an Outside Body). The Council currently has Officials Indemnity insurance cover in place which covers Members on Outside Bodies but it may be necessary to consider issues on a case by case basis. Please speak to the Monitoring Officer if you have any cause for concern that an Outside Body with whom you are involved is getting into difficulty or you have any indication that you might be getting involved in potential personal liability.

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