

# Notice of Meeting

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## Governance and Audit Committee

**Monday, 9th February, 2015 at 5.00 pm**  
in Council Chamber Council Offices  
Market Street Newbury

Date of despatch of Agenda: Thursday, 29 January 2015

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Andy Day / Moira Fraser on (01635) 519459 / (01635) 51904

e-mail: [aday@westberks.gov.uk](mailto:aday@westberks.gov.uk) / [mfraser@westberks.gov.uk](mailto:mfraser@westberks.gov.uk)

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**Agenda - Governance and Audit Committee to be held on Monday, 9 February 2015**  
(continued)

**To:** Councillors Peter Argyle, Brian Bedwell, Paul Bryant, Sheila Ellison, Tony Linden, Geoff Mayes, Julian Swift-Hook (Vice-Chairman) and Quentin Webb (Chairman)

**Substitutes:** Councillors Richard Crumly, Gwen Mason, Tim Metcalfe and Tony Vickers

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# Agenda

<b>Part I</b>	<b>Page No.</b>
1. <b>Apologies</b> To receive apologies for inability to attend the meeting (if any).	
2. <b>Minutes</b> To approve as a correct record the Minutes of the meeting of this Committee held on 24 November 2014.	5 - 8
3. <b>Declarations of Interest</b> 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' <a href="#">Code of Conduct</a> .	
4. <b>Internal Audit - Interim Report 2014-15 (GA2950)</b> <i>Purpose: To update the Committee on the outcome of internal audit work</i>	9 - 22
5. <b>Amendment to Constitution - Scheme of Delegation (C2911)</b> <i>Purpose: To consider any changes required to the Scheme of Delegation for the forthcoming year.</i>	23 - 110

Andy Day  
Head of Strategic Support

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

## DRAFT

Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

### **GOVERNANCE AND AUDIT COMMITTEE**

#### **MINUTES OF THE MEETING HELD ON MONDAY, 24 NOVEMBER 2014**

**Councillors Present:** Peter Argyle, Paul Bryant, Richard Crumly (Substitute) (In place of Brian Bedwell), Sheila Ellison, and Julian Swift-Hook (Vice-Chairman)

**Also Present:** Melanie Ellis (Chief Accountant) and David Holling (Head of Legal Services), Moira Fraser (Democratic and Electoral Services Manager)

**Apologies for inability to attend the meeting:** Councillor Brian Bedwell, Councillor Tony Linden and Councillor Geoff Mayes

#### **PART I**

##### **14. Minutes**

The Minutes of the meeting held on 01 September 2014 were approved as a true and correct record and signed by the Chairman.

##### **15. Declarations of Interest**

There were no declarations of interest received.

##### **16. Changes to the Constitution - Parts 9 Budget and Policy Framework, 10 Finance Rules of Procedure and 12 Personnel Rules of Procedure (C2887)**

The Committee considered a report (Agenda Item 4) concerning a review and amendments to Part 9 (Budget and Policy framework), Part 10 (Finance Rules of Procedure) and Part 12 (Personnel Rules of Procedure) in light of legislative changes, policy changes and recent government guidance.

David Holling in introducing the item noted that Finance and Governance Group had been tasked with undertaking an annual review of the Council's Constitution. The final tranche of amendments for the year were set out in the report to be considered by Members at that meeting.

Part 9 Budget and Policy Framework

The following minor changes to the document were proposed by the Finance and Governance Group:

- Inclusion of cross referencing to other Paragraphs and Parts of the Council;
- The former paragraph 9.4.4 on Virements to be transferred to Part 10 of the Constitution in order to be considered more easily in relation to other Financial Procedures.

No additional amendments were proposed at the meeting.

## **GOVERNANCE AND AUDIT COMMITTEE - 24 NOVEMBER 2014 - MINUTES**

### Part 10 Finance Rules of Procedure

The following minor changes to the document were proposed by the Finance and Governance Group:

- Inclusion of cross referencing to other Paragraphs and Parts of the Council;
- Removal of duplication in relation to matters such as Unauthorised Overspend, Powers of the Monitoring Officer and Members' Allowances;
- Correction of references to Legislation e.g. Local Government Finance Act 1972;
- Replacing the term 'person having responsibility for the administration of the financial affairs of the Council' with s151 Officer.

The following more significant changes to the document were proposed by the Finance and Governance Group:

- Paragraph 10.9.3 (Moving Budgets Between Cost Centres) had been transferred from Part 9 of the Constitution in order to be considered more easily in relation to other Financial Procedures;
- Paragraph 10.10.2 (Variations to the Approved Capital Strategy and Programme) had been inserted with a view to clarifying thresholds for amending or viring budgets within the Capital Programme and the Committee was asked to consider whether or not the limits set out in the tables were appropriate.

The formatting of the report would be corrected once all the tracked changes were agreed.

The following additional amendments were tabled at the meeting:

- Section 10.2 (The Legal Framework) was re-ordered and the reference to the relevant Regulations were amended.

Members proposed the following additional changes:

- Paragraph 10.4.4 (Powers of Internal Audit) after 'premises or land' insert 'owned by or in the control of the Council if appropriate';
- Paragraph 10.27.1 (responsibilities of Head of Service) replace word 'terrier' with 'asset register'.

### Part 12 Personnel Rules of Procedure

The following minor changes to the document were proposed by the Finance and Governance Group:

- The Constitution had been updated to reflect the current Recruitment and Selection Policy;
- Amendment of the title of Group Executives.

The following additional amendments were tabled at the meeting:

- Paragraph 12.2.1 Insert note at the end as follows: "[Note: This procedure does not apply to the following employees: The Chief Executive, the Section 151 Officer or the

**GOVERNANCE AND AUDIT COMMITTEE - 24 NOVEMBER 2014 - MINUTES**

Monitoring Officer who are subject to Statutory Regulations. Any disciplinary action against them must only be taken on the basis of a report from the Designated Independent Person and in accordance with the relevant statutory requirements.]”

No additional amendments were proposed at the meeting.

**RESOLVED that:**

- 1. the amendments set out in the report as well as the additional amendments to paragraphs 10.4.4 and 10.27.1, section 10.2 and 12.2.1 be recommended to Full Council for approval.**
- 2. Any changes, agreed by Full Council, to come into effect on the 12 December 2014**

*(The meeting commenced at 5.00 pm and closed at 5.34 pm)*

**CHAIRMAN** .....

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

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# Agenda Item 4.

<b>Title of Report:</b>	<b>Internal Audit - Interim Report 2014-15</b>
<b>Report to be considered by:</b>	Governance and Audit Committee
<b>Date of Meeting:</b>	9 February 2015
<b>Forward Plan Ref:</b>	GA2950

**Purpose of Report:** To update the Committee on the outcome of internal audit work.

**Recommended Action:** To note the report.

**Reason for decision to be taken:** The report forms part of the performance monitoring framework

**Other options considered:** None

**Key background documentation:** None

**Published Works:** None

The proposals will help achieve the following Council Strategy principle:

**CSP6 - Living within our means**

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

Ensuring that the activity is monitored

Portfolio Member Details	
<b>Name &amp; Telephone No.:</b>	Councillor Alan Law - Tel 07973 538008
<b>E-mail Address:</b>	alaw@westberks.gov.uk
<b>Date Portfolio Member agreed report:</b>	15 January 2015

Contact Officer Details	
<b>Name:</b>	Ian Priestley
<b>Job Title:</b>	Chief Internal Auditor
<b>Tel. No.:</b>	01635 519253
<b>E-mail Address:</b>	ipriestley@westberks.gov.uk

## Implications

**Policy:** none  
**Financial:** none  
**Personnel:** none  
**Legal/Procurement:** none  
**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 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://intranet/EqIA">http://intranet/EqIA</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 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 purpose of this report is to provide an interim report to the Governance and Audit Committee as required by the Code of Practice for Internal Audit in Local Government.
- 1.2 The report highlights the results of internal audit work on the Council's systems and procedures and provides assurance on the Council's internal control framework.

### **2. Proposals**

- 2.1 The work carried out by internal audit demonstrates that the Council's main financial systems are very sound.

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

- 3.1 This item is not relevant to equality.

### **4. Conclusion**

- 4.1 The Council's overall internal control framework remains robust.

# Executive Report

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## 1. Introduction

- 1.1 The Public Sector Internal Audit Standards, as adapted by CIPFA's "Local Government Application Note" requires the Chief Internal Auditor to make a formal report annually to the Council.
- 1.2 In addition to the formal annual report the Chief Internal Auditor provides an interim report to the organisation in the course of the year. The interim report aims to address emerging issues in respect of the whole range of areas to be covered in the formal annual report. This report provides an interim view looking at the first 6 months of the year.

## 2. Opinion on the "Internal Control Framework"

- 2.1 No fundamental weaknesses were identified in Council's internal control framework through the work carried out by Internal Audit. Where audit work identified weaknesses then management action has been taken to resolve issues identified. Overall the internal control framework remains robust.
- 2.2 The following table summarises the results of the audit work where an opinion was given, and this demonstrates that the key financial systems are very robust.

Type	Very weak	Weak	Satisfactory	Well Controlled	Very Well Controlled
Key Financial System	0	0	0	2	3
Other systems	0	1	2	3	0

- 2.3 The audit that was given a weak opinion was in relation to Personal Budgets / Direct Payments in Adults Social Care. The main concerns raised by the audit were:
- (1) The Finance Service were required to chase up non receipt of financial statements from clients as well as check the types of expenditure being incurred against the client's support plan, however we found that these processes were not being undertaken. Consequently client care assessments and individual financial reviews were not being carried out at the required frequency, therefore there was limited assurance that each direct payment made was still needed and that it was being used appropriately in accordance with the client's care plan.
  - (2) We found that there was no system / rolling programme in place to ensure that all clients have an annual financial review, and there was no management information produced to monitor the reviews undertaken/those that need to be undertaken.

(3) Also, the records maintained for the financial assessments are in need of improvement to provide a comprehensive record of the process.

2.4 Following the audit the financial review function has been transferred from the Finance Service to Client Financial Services. We were informed by the Head of ASC Efficiency Programme that this change had been made as there had been a lack of effective monitoring and chasing of clients' monthly financial information. It was felt that transferring the function to the same team that carries out the reviews should help to ensure that the financial monitoring function is providing the necessary information to identify and prioritise the higher risk cases for review.

2.5 We were informed by the Head of ASC Efficiency Programme that the ASC Project Accountant and the Reviewing Officer has started looking at what sort of records and information needs to be recorded in order to be able to pull together useful management reports.

2.6 Internal Audit attended a meeting with the Portfolio Member in June 2014, where the Client Financial Services Manager provided an update on the implementation of the recommendations. We were informed that the Personal Budget Financial Review Assistant is now in post and a new spreadsheet has been developed to include the information required.

2.7 The following summarises the results of follow up work. This table demonstrates that the Council has responded effectively where weaknesses have been identified.

Type	Unsatisfactory	Satisfactory
Key Financial System	0	3
Other systems	0	5

### 3. Performance of Internal Audit

3.1 Delivery of the audit plan is within target in the current year. However, the team has one vacancy, with a new member of staff starting in January and also a second auditor is presently on a secondment to the Accountancy Team.

#### Appendices

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Appendix A - Listing of current audits and follow ups

Appendix B - Listing of audits and follow ups completed in the first quarter

#### Consultees

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**Local Stakeholders:** Not consulted

**Officers Consulted:** Corporate Board

**Trade Union:** Not consulted

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**1) CURRENT AUDITS**

Directorate/Service	Audit Title	Current Position of Work	Audit Plan Year
Corporate	Corporate Fraud Review	Draft Issued	2013/14
Corporate	Income Spot Checks	Drafts issued for 2 visits	2014/15
Corporate	National Fraud Initiative 14/15	Ongoing	2014/15
<b>Resources</b>			
Finance	Commercial Rents	Draft Issued	2012/13
Customer Services	Car Loans and Car Leasing	Draft Issued	2012/13
Customer Services	Accounts Payable	Draft Issued	2013/14
Customer Services	Payroll	Draft Issued	2013/14
Strategic Support	Service Planning/ Performance Management	Being drafted	2013/14
Finance	Treasury Management	Draft issued	2013/14
Finance	MTFS	Draft Issued	2013/14
Finance	Budgetary Control	Background	2014/15
Human Resources	Staff Training and Development	Testing	2014/15
Public Health and Wellbeing	Public Health	TOR Issued	2014/15
Legal Services	Contract letting	Testing	2014/15
Strategic Support	Data Protection	Ready for Review	2014/15

<b>Communities</b>			
Directorate	Disclosure and Barring Service	Ready for Review	2014/15
Children's Services	Supervision Checks	Draft issued	2013/14
Children's Services	Turnaround Families Programme – testing of grant claims	Ongoing testing of claims	2014/15
Adult Social Care	Purchase of Care – Residential	Background	2014/15
Care Commissioning, Housing and Safeguarding	Social Fund Reform	Ready for Review	2014/15
Education	Schools Library and Museum Services Joint Arrangements	Testing	2014/15
Education	Building Maintenance	Ready for Review	2014/15
<b>Environment</b>			
Culture and Environmental Protection	Berkshire Archive Service	Being Reviewed	2013/14
Culture and Environmental Protection	Waste Management and Disposal Contract – Contract Management	Ready for Review	2014/15
Culture and Environmental Protection	Libraries Purchasing/Stock Control	TOR Issued	2014/15
Planning and Countryside	Building Control	Testing	2014/15
Highways and Transport	Concessionary Fares	Ready for Review	2014/15

2) CURRENT ADVISORY REVIEWS/OTHER WORK

Directorate/Service	Audit Title	Current position of work
ICT	Audit Manager carrying out the Assurance Role for the Superfast Broadband Project	Ongoing

**3) CURRENT FOLLOW-UPS**

<b>Directorate/Service</b>	<b>Audit title</b>
<b>Resources</b>	
Human Resources	Recruitment
Customer Services	Accounts Payable
Finance	Treasury Management
<b>Communities</b>	
Care Commissioning, Housing and Safeguarding	Homelessness
Adult Social Care	Assessment of Need/Purchase of Care - Respite
Education Service	School Meals Contract
<b>Environment</b>	
Highways and Transport	Structural Maintenance and Engineering
Culture and Environmental Protection	Licensing



1) **COMPLETED AUDITS**

Directorate/Service	Audit Title	Date Audit finalised	Overall Opinion
<b>Corporate</b>			
Corporate	National Fraud Initiative 12/13	Summer	Not Applicable
Corporate	Income Spot Check	10/07/14	Not Applicable
<b>Resources</b>			
Customer Services	Accounts Receivable 13/14	30/09/14	Well Controlled
Customer Services	Council Tax	07/08/14	Very Well Controlled
Customer Services	NNDR	07/08/14	Well Controlled
Customer Services	Housing Benefits	09/09/14	Very Well Controlled
Strategic Support	Equality Impact Assessments	19/05/14	Well Controlled
Finance	General ledger	24/07/14	Very Well Controlled
ICT	Printer Rationalisation Project (Post Implementation Review)	22/09/14	Not Applicable
<b>Communities</b>			
Children's Services	Payment to Carers	10/04/14	Satisfactory
Education Services	School Census	28/04/14	Well Controlled
Adult Social Care	Personal Budgets – Direct Payments	19/06/14	Weak
<b>Environment</b>			
Highways and Transport	Traffic Management	22/08/14	Well Controlled
Culture and Environmental Protection	Trading Standard – Joint Arrangements	29/07/14	Satisfactory

**NOTE**

The overall opinion is derived from the number/significance of recommendations together with using professional judgement. The Auditor's judgement takes into account the depth of coverage of the review (which could result in more issues being identified) together with the size/complexity of the system being reviewed.

2) COMPLETED ADVISORY REVIEWS

Directorate/Service	Review Title	Date Review completed

3) COMPLETED FOLLOW-UPS

<u>Directorate/ Service</u>	<u>Audit Title</u>	<u>Date follow up finalised</u>	<u>Overall Opinion of Report</u>	<u>Opinion – Implementation progress</u>
<b>Resources</b>				
Customer Services	Accounts Receivable	30/09/14	Well Controlled	Satisfactory
Customer Services	Housing Benefits	09/09/14	Very Well Controlled	Satisfactory
Customer Services	NNDR	07/08/14	Well Controlled	Satisfactory
Strategic Support	Complaints Policy and Procedures	01/04/14	Satisfactory	Satisfactory
<b>Communities</b>				
Adult Social Care	Occupational Therapy Pooled Budget	07/04/14	Advisory	Satisfactory
<b>Environment</b>				
Highways and Transport	Car Parking	01/05/14	Weak	Satisfactory
Planning and Countryside	Development Control	16/06/14	Satisfactory	Satisfactory
Culture and Environmental Protection	Libraries Income	09/04/14	Satisfactory	Satisfactory

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# Agenda Item 5.

<b>Title of Report:</b>	<b>Amendments to the Constitution - Scheme of Delegation</b>
<b>Report to be considered by:</b>	Council
<b>Date of Meeting:</b>	03 March 2015
<b>Forward Plan Ref:</b>	C2911

**Purpose of Report:** To review and amend sections of the Scheme of Delegation in light of legislative changes and current practice.

**Recommended Action:** To agree the proposed amendments to the Scheme of Delegation

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

**Other options considered:** None

**Key background documentation:** None.

**Published Works:** None

The proposals will also 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 priorities and principles by:

Ensuring that the Constitution is up to date.

Portfolio Member Details	
<b>Name &amp; Telephone No.:</b>	Councillor Gordon Lundie - Tel (01488) 73350
<b>E-mail Address:</b>	glundie@westberks.gov.uk
<b>Date Portfolio Member agreed report:</b>	

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

## Implications

**Policy:** Will require changes to the Constitution  
**Financial:** None  
**Personnel:** None  
**Legal/Procurement:** Will require the Constitution to be updated  
**Property:** None  
**Risk Management:** None  
**Corporate Board's Recommendation:** To be completed after the Corporate Board meeting.

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://intranet/EqIA">http://intranet/EqIA</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 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 Part 3 of the Constitution, the Scheme of Delegation.
- 1.3 In addition there is a constitutional requirement for the Leader of the Council to present to the Council a written record of delegations they have made for inclusion in Part 3 of the Constitution.
- 1.4 The Scheme of Delegation summarises which part of the decision-making process (e.g. the Council, Executive, the Area Planning Committees, Licensing Committee/Sub-Committee, the Standards Committee and the Personnel Committee) is responsible for which function. This Scheme also sets out the extent to which the powers and duties of the Council are delegated to Officers.
- 1.5 All Directors and Heads of Service have been asked to advise of any changes they require to the Scheme of Delegation to ensure that the Council's Constitution is as up to date as possible. The report proposes a small number of changes for the Council to consider. These are set out below.
- 1.6 The following key changes have been made to the document by Officers:
  - (1) *The Head of Human Resources*
    - (a) Change reference from Timelord to homeworking in paragraph 3.3.3 (Human Resources);
    - (b) Changes to the procedures in relation to organisational changes in paragraph 3.3.3 (Human Resources).
  - (2) *The Head of Adult Social Care*
    - (a) Amend paragraph 3.7.2 (Disability) to use the term community care legislation instead of specific legislation previously included.
    - (b) Amend paragraph 3.7.3 (Home Care Services: Financial Matters) to use the term community care legislation instead of specific legislation previously included.
    - (c) Remove the previously numbered paragraph 3.7.4 (Carers) and replace it by including reference to carers in 3.7.3 (Home Care Services: Financial Matters).
  - (3) *The Head of Care Commissioning, Housing and Safeguarding*

- (a) In paragraph 3.8.1 (Housing Act 2004) include reference to Compulsory Purchase Orders;
  - (b) Insert an additional heading 3.8.11 (safeguarding) and include authorisations in relation to the deprivation of liberty in relation to the mental Capacity Act 2005.
- (4) *The Head of Strategic Support*
- (a) Inclusion of paragraph 3.9.7 (Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended)) which delegate authority to the Head of Strategic Support in consultation with the Leader of the Council and the Leader of Opposition, to appoint members to the Independent Remuneration Panel.
- (5) *The Head of Highways and Transport*
- (a) Inclusion of paragraph 3.12.15 (The Traffic Management (West Berkshire Council) Permit Scheme Order 2014) which delegates authority to grant permits to utility companies to work on the public highway.
- (6) *Head of Planning and Countryside*
- (a) Correction of the Job Title of the Head of Culture and Environmental Protection in 3.14.1.
- (7) *The Head of Culture and Environmental Protection*
- (a) The order of some of the delegations has been re-ordered.
  - (b) Redirected paragraph 3.15.2 (General) which deals with the delegation in respect of the day-to-day management of the Council portfolio of land and buildings, including lease renewals, assignments and rent reviews, subject to the concurrence of the appropriate Heads of Service and/or Corporate Director.
  - (c) Amended paragraph 3.15.3 (Waste Management) which now delegates authority to the Waste Manager to enforce and administer a range of primary legislation secondary legislation as set out in the document.
  - (d) Included additional legislation into paragraph 3.15.4 (Exercise of Powers under Legislation)
  - (e) Moved the bullet point relating to the granting of a licence and associated consents for the annual Michaelmas Fair. From General to Culture General 3.15.6.
- (8) *The Head of Education Services*
- (a) Included additional legislation into paragraph 3.16.1 (General)
  - (b) In paragraph 3.16.2 (Admissions) reference to Standard Numbers has been replaced with the term Admission Numbers which is now used.



- (c) Additional amendments to paragraph 3.16.2 (Admissions) to correct two omissions.
- (d) Amendments to the first two bullet points of paragraph 3.16.3 (Attendance at School) to align the Constitution to the relevant policies.
- (e) To update paragraph 3.16.4 (Special Education Needs) in line with legislative changes and current practice.
- (f) To update paragraph 3.16.5 (School Term Date) to reflect the revised name of the Education Board and the Local Authority.
- (g) To update paragraph 3.16.7 (Curriculum) by removing the first two bullet points.
- (h) To update paragraph 3.16.8 (Staffing – In respect of Nursery Schools) by removing the second, fourth and fifth bullet points
- (i) To include a comment on redundancy situations in the third bullet point of 3.16.9 (Staffing – In Respect of Primary, Secondary and Special Schools)
- (j) To update paragraph 3.16.10 (All Education Establishments) by removing the first bullet point.

## **2. Proposals**

2.1 It is proposed that the revised Scheme of Delegation be approved.

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

3.1 This item is not relevant to equality.

## **4. Conclusion**

4.1 The report is a required update to take cognisance of legislative changes.

## **Appendices**

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Appendix A – Part 3 of the Constitution (Scheme of Delegation)

## **Consultees**

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**Local Stakeholders:** N/a

**Officers Consulted:** All Heads of Service, Moira Fraser, Corporate Board

**Trade Union:** N/a

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## Part 3

### Scheme of Delegation

#### Document Control

<b>Document Ref:</b>	WB/P&C/MF/2008-11	<b>Date Created:</b>	May 2007
<b>Version:</b>	15	<b>Date Modified:</b>	September 2014
<b>Revision due</b>			
<b>Author:</b>	Moir Fraser – Democratic and Electoral Services Manager		
<b>Owning Service</b>	Strategic Support		

#### Change History

Version	Date	Description	Change ID
2	June 2008	Updated to incorporate new legislation and to apply the scheme to officers in two services	
2.1	Dec 2008	Paragraph 3.15.1	
3	Dec 2010	Entire document revised to align functions following Senior Management Review and to make amendments in line with changes to legislation	
4	October 2011	Entire document revised	
5	March 2012	Entire document revised to align functions following Senior Management Review and to make amendments in line with changes to legislation. Approved at Council meeting on 1 March 2012.	
6	May 2012	Changes arising from the introduction of the Localism Act	
7	Sept 2012	Added Paragraph 3.14.23	
8	December 2012	Amended Paragraph 3.13.2	



Version	Date	Description	Change ID
9	July 2013	Added Head of Public Health and Wellbeing (Paragraph 3.17)	
10	September 2013	Typos corrected in 3.8.2 and 3.8.5. Additional paragraph inserted in 3.8.6 and new section 3.8.10 added. Additions made to 3.15.3 and paragraph 3.15.5 amended.	
10.1	November 2013	Local Development Plan renamed Development Plan	
11	March 2014	Amendments to under the Head of Legal Services insert provisions pertaining to the Localism Act 2011, and permit the Monitoring officer to make minor amendments to the Constitution. Insert provisions under the Goods vehicles (Licensing of Operators) Act 1985. Changes to paragraphs 3.3.3. (final bullet point), 3.12.2, 3.12.3, 3.12.7, 3.12.14 and 3.15.3	
12	May 2014	To reflect revision of numbers of Members on the Licensing, Governance and Audit and Personnel Committees	
13	July 2014	Changes to paragraphs 3.15.3 and 3.15.5	
14	September 2014	Amendments to Paragraph 3.13.11	
15	September 2014	<p>A new 3.1.6 – Table of Partner Functions</p> <p>A new 3.9.6 to delegate to the Head of Strategic Support, in consultation with the Head of Legal Services, to make a Public Spaces Protection Order.</p> <p>A new 3.13.14 delegating authority to the Head of Legal Services in consultation with the Head of Care Commissioning, Safeguarding and Housing, to seek civil injunctions in accordance with Part 1 of the ASB, Crime and Policing Act 2014.</p> <p>A new 3.13.14 to delegate authority to the Head of Legal Services or his/her nominee in consultation with the Head of Strategic Support, to issue Closure Notices and apply for a Closure Order. A new 3.15.7 delegating authority to the Head of Culture and Environmental Protection, in consultation with the Head of Legal Services, to serve Community Protection Notices.</p> <p>The delegation to serve Community Protection Notice is also extended to Registered Landlords and Police Community Support Officers who are also authorised to serve Fixed Penalty Notices.</p>	
16	March 2015		

Any Acts, Rules or Regulations mentioned in the text of this document can be accessed on the Office of Public Sector Information website at:  
<http://www.opsi.gov.uk/legislation/uk>

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## 3.1 Delegation of Functions

### 3.1.1 Introduction

This section of the Constitution summarises which part of the decision-making process is responsible for which function. Further detail is set out in paragraph 3.2 (Officer's Scheme of Delegation) of this Constitution.

The aim is to show which functions are the responsibility of the Council, the Area Planning Committees, Licensing Committee/Sub-Committee, the Standards Committee and the Personnel Committee and which are the responsibility of the Executive. This section also clarifies which functions are the responsibilities of the Executive to a specified extent. Delegation to Partners is also included in this section.

The allocation of functions follows the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, and as subsequently amended, referred to in the tables that follow as 'The Function Regulations'.

The information is set out in tabular form as follows:

Table 1 – Responsibility for Local Choice Functions

Table 2 – Council Functions

Table 3 – Licensing Authority Functions

Table 4 – Executive Functions

Table 5 - Partners

### 3.1.2 Table 1- Responsibility for Local Choice Functions

Function	Decision-Making Body	Membership	Delegation of Function
Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of the Regulations 2000	Executive	Executive Leader plus 9 other Members	Some highway-related functions under the Berkshire Act 1986 are delegated to the Head of Highways and Transport or other Heads of Service, depending on the function concerned. See Scheme of Delegation
The determination of an appeal against any decision made by or on behalf of the Authority	Council (Appeals Panel)	Dependent on nature of appeal: Home/ School Transport = 3 Members Housing/Council Tax Benefit = 3 Members	These functions will not be further delegated.
The appointment of Review Boards under regulations under Subsection (4) of Section 34 (Determination of Claims and Reviews) of the Social Security Act 1998	Council	All Members	These functions will not be further delegated.

<b>Function</b>	<b>Decision-Making Body</b>	<b>Membership</b>	<b>Delegation of Function</b>
The making of arrangements pursuant to Sub-section (1) of Section 67 of, and Schedule 18 to, the 1998 Act (Appeals against the Exclusion of Pupils)	Council (School Appeals Panel)	3 or 5 independent Members	These functions will not be further delegated.
The making of arrangements pursuant to Section 94(1) and (4) of, and Schedule 24 to, the 1998 Act (Admissions Appeals)	Council (School Appeals Panel)	3 or 5 independent Members	These functions will not be further delegated.
The making of arrangements pursuant to Section 95(2) of, and Schedule 25 to, the 1998 Act (children to whom Section 87 applies: appeals by Governing Bodies)	Council (Appeals Panel)	3 or 5 independent Members	These functions will not be further delegated.
The making of arrangements under Section 20 (Questions on Police Matters at Council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of a Police Authority	Council	All Members	These functions will not be further delegated.
The making of appointments under paragraphs 2 to 4 (Appointment of Members by Relevant Councils) of Schedule 2 (Police Authorities established under Section 3) to the Police Act 1996	Leader of the Council	All Members	These functions will not be further delegated.
Any function related to contaminated land	Licensing Committee	12 Members	Functions delegated to the Head of Culture and Environmental Protection, in accordance with the Scheme of Delegation
The discharge of any function relating to control of pollution or the management of air quality	Licensing Committee	12 Members	Functions delegated to the Head of Culture and Environmental Protection in accordance with the Scheme of Delegation
The serving of an Abatement Notice in respect of a statutory nuisance	Licensing Committee	12 Members	Functions delegated to the Head of Culture and Environmental Protection in accordance with the Scheme of Delegation

Function	Decision-Making Body	Membership	Delegation of Function
The passing of a resolution to which Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area	Licensing Committee	12 Members	Functions delegated to the Head of Culture and Environmental Protection in accordance with the Scheme of Delegation
The inspection of the Authority's area to detect any statutory nuisance	Licensing Committee	12 Members	Functions delegated to the Head of Culture and Environmental Protection in accordance with the Scheme of Delegation
The investigation of any complaint as to the existence of a statutory nuisance	Licensing Committee	12 Members	Functions delegated to the Head of Culture and Environmental Protection in accordance with the Scheme of Delegation
The obtaining of information under Section 330 of the Town and Country Planning Act 1990	District/Area Planning Committees	12 Members	Functions delegated to the Head of Planning and Countryside in accordance with the Scheme of Delegation
The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	District/Area Planning Committees	12 Members	Functions delegated to Heads of Service in accordance with the Scheme of Delegation
The making of agreements for the execution of highway works	District/Area Planning Committees	12 Members	Functions delegated to Head of Highways and Transport in accordance with the Scheme of Delegation
The appointment of any individual: a) to any office other than an office in which they are employed by the Authority; b) to any other body than: i) the Authority; ii) a Joint Committee or Sub-Committee of two or more Authorities; or c) to any Committee or Sub-Committee of such a body, and the revocation of any such appointment	Executive (for specified appointments) Individual Decision Scheme (for local appointments)	Executive Leader plus 9 other Members  Leader of the Council	These functions will not be delegated further.

Function	Decision-Making Body	Membership	Delegation of Function
The making of agreements with other Local Authorities for the placing of staff at the disposal of those other Authorities	Executive	Executive Leader plus 9 other Members	Function delegated to Chief Executive where an emergency situation exists

### 3.1.3 Table 2 - Responsibility for Council Functions (Schedule 1 of the Functions Regulations)

Functions	Committee	Membership	Delegation of Functions
Functions relating to elections	Council	All Members	Some of these functions are delegated to the Returning Officer as set out in the Scheme of Delegation
Functions relating to the name and status of areas and individuals	Council	All Members	These functions will not be further delegated
Power to make, amend, revoke or re-enact bylaws	Council	All Members	These functions will not be further delegated
Power to promote or approve local or personal Bills	Council	All Members	These functions will not be further delegated
Functions relating to pensions, etc	Council	All Members	These functions will not be delegated further except for requests for the early release of pensions (subject to the financial implications of each request being approved through the Executive decision making process) which are delegated to the Personnel Committee
Miscellaneous functions. Duty to approve Authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be)	Governance and Audit	8 Members	These functions will not be further delegated
Duty to make arrangements for proper administration of financial affairs, etc.	Council	All Members	Function delegated to Section 151 Officer as set out in the Scheme of Delegation

<b>Functions</b>	<b>Committee</b>	<b>Membership</b>	<b>Delegation of Functions</b>
Power to amend the Council's Constitution	Council	All Members	These functions will not be further delegated – although the Head of Legal Services acting as Monitoring Officer may make minor amendments to the Constitution in order to ensure that legislative provisions are current and any typographical or other errors are corrected
Power to appoint Officers for particular purposes (appointment of 'Proper Officers')	Personnel Committee	6 Members	These functions will not be further delegated
Duty to designate an Officer as the Head of the Authority's Paid Service and to provide staff	Personnel Committee	6 Members	These functions will not be further delegated
Duty to designate an Officer as the Monitoring Officer, and to provide staff	Personnel Committee	6 Members	These functions will not be further delegated
Power to make Standing Orders as to contracts	Council	All Members	Function delegated to the Head of Finance and to the Head of Legal Services as set out in the Scheme of Delegation
Power to make payments or provide other benefits in cases of maladministration, etc.	Council	All Members	This function is delegated to the appropriate Head of Service for payments / benefits up to the value of £2,500
Functions relating to Town and Country Planning and Development Control	District/Area Planning Committees	12 Members	Functions are delegated to the appropriate Area Planning Committee (Eastern and Western). Where their proposed resolutions are deemed by the Development Control Manager to have a significant impact on the implementation of the policies and proposals in the Local Development Plan, these will be referred to the District Planning Committee. Functions delegated to the Head of Planning

Functions	Committee	Membership	Delegation of Functions
			and Countryside as set out in the Scheme of Delegation. Some functions are delegated to the Head of Planning and Countryside in consultation with the Head of Legal Services as set out in the Scheme of Delegation.
Powers relating to the Planning and Compulsory Purchase Act 2004	Area Planning Committees	12 Members	Functions delegated to the Head of Planning and Countryside as set out in the Scheme of Delegation
Licensing and registration functions	Licensing Committee	12 Members	Functions delegated to the Head of Culture and Environmental Protection as set out in the Scheme of Delegation
Power to make closing order in respect of take-away shops	Licensing Committee	12 Members	Functions delegated to the Head of Culture and Environmental Protection as set out in the Scheme of Delegation
Functions relating to health and safety (except those relating to the Council as an employer)	Licensing Committee	12 Members	Functions delegated to the Chief Executive and / or the Head of Culture and Environmental Protection as set out in the Scheme of Delegation
Duty to keep and maintain a register of commons	Area Planning Committees	12 Members	Functions delegated to the Head of Legal Services as set out in the Scheme of Delegation
Duty to keep definitive maps and statement under review	Area Planning Committees	12 Members	Functions delegated to the Head of Planning and Countryside as set out in the Scheme of Delegation
Powers relating to the preservation of important hedgerows	Area Planning Committees	12 Members Members for the relevant Wards	Functions delegated to the Head of Planning and Countryside as set out in the Scheme of Delegation



Functions	Committee	Membership	Delegation of Functions
Functions relating to public rights of way	Individual Decision Scheme	Members for the relevant Wards	Functions delegated to the Head of Planning and Countryside in consultation with Head of Legal Services as set out in the Scheme of Delegation
Powers relating to the preservation of trees	Area Planning Committees	12 Members	Functions delegated to Head of Planning and Countryside as set out in the Scheme of Delegation
Power to appoint staff and to determine the terms and conditions on which they hold office (including procedures for their dismissal)	Council	All Members	Powers to appoint staff at Head of Service level and above delegated to the Personnel Committee by means of an Appointments Panel. Appointments below Head of Service level are delegated to the Chief Executive or the relevant Head of Service
As set out in Article 9 of this Constitution	Standards Committee	6 Councillors (only one of whom may be a Member of the Executive) 2 non-voting co-opted Parish Councillors	These functions will not be further delegated

### 3.1.4 Table 3 - Summary of Licensing Authority functions in accordance with the Licensing Act 2003 (except where delegated below)

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Application for a Premises Licence (Section 18(3))		If a representation is made	If no representation is made
Application for a Personal Licence (Section 120(7))		If a representation is made	If no representation is made
Application for a Personal Licence with unspent convictions		All cases	
Application for Premises Licence/Club Premises Certificate (Section 18(3) and 72(3))		If a representation is made	If no representation is made

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Application for provisional statement (Section 31(3))		If a representation is made	If no representation is made
Application to vary Premises Licence/Club Premises Certificate (Sections 35(3) and 85(3))		If a representation is made	If no representation is made
Application to vary designated Personal Licence (Section 39(3))	If Police representation is made	If Police representation is made	All other cases
Request to be removed as a designated Personal Licence holder			All cases
Application for transfer of Premises Licence (Section 44(5))	If Police representation is made	If Police representation is made	All other cases
Application for interim Authorities (Section 48(3))	If Police representation is made	If Police representation is made	All other cases
Application to review Premises Licences/Club Premises Licence (Sections 52(2) or (3) and 88(2) or (3))		All cases	
Decision on whether a complaint is irrelevant, frivolous or vexatious			Officer in consultation with the Chairman and Vice-Chairman of the Licensing Committee or other appropriate appointed Members for this purpose.
Decision to object when Local Authority is a consultee and not the lead Authority			All cases
Determination of a Police representation to a temporary event notice (Section 105(2))		All cases	
Rights of Entry to investigate Licensable activities (Section 179)			Licensing Officers

### 3.1.5 Table 4 - Summary of Executive Functions

Responsibility	Member-ship	Delegation of Functions	Onward limits on delegations
Executive	Executive Leader plus 9 Members	The formulation, review and monitoring of the Budget and Policy Framework, including consultation with relevant Committees, members of	This function will not be delegated

Responsibility	Member-ship	Delegation of Functions	Onward limits on delegations
		the public and interested parties, and the submission of recommendations for amending the Budget and Policy Framework of the Council	
Executive	Executive Leader plus 9 Members	<p>The implementation of the approved Budget and Policy Framework, except in relation to those functions set out in Tables 1 and 2 of Part 3 of this Constitution which are shown as the responsibility of the Council or its Committees. This will include the management, control and supervision of :</p> <p>measures to promote the economic, environmental and social wellbeing of the District</p> <p>the development and review of plans and strategies to support the Council's Budget and Policy Framework and statutory responsibilities</p> <p>the Council's own financial and property resources</p> <p>Revenue Services and Benefits administration</p> <p>Support Services</p> <p>Library and Information Services</p> <p>Education Services and the promotion of Lifelong Learning</p> <p>Social Services and Health</p> <p>Environmental Services including planning, countryside, public protection and highway services</p>	<p>Functions will be delegated to the Chief Executive, Corporate Directors and Heads of Service in accordance with the Scheme of Delegation</p> <p>Functions delegated to the Head of Paid Service (Chief Executive in accordance with Scheme of Delegation and in consultation with Members of the Joint Consultative Panel)</p>
Executive	Executive Leader plus 9 Members	Representing the Council and the District to the public, other organisations and agencies, both within the District and at a regional / national level	This function will, in part, be delegated to the Chief Executive under the Scheme of Delegation

### 3.1.6 Table 5 - Summary of Partner Functions

Responsibility	Member-ship	Delegation of Functions	Onward limits on delegations
Registered Social Landlords		Serving of Community Protection Notices in accordance with Part 4 of the Anti Social Behaviour, Crime and Policing Act 2014.	
Police Community Support Officers		Serving of Community Protection Notices and Fixed Penalty Notices in accordance with Part 4 of the Anti Social Behaviour, Crime and Policing Act 2014.	

## 3.2 Officers' Scheme of Delegation

### 3.2.1 Scope of Scheme

This Scheme sets out the extent to which the powers and duties of the Council shall be delegated to Officers. It encompasses both existing legislation and any future re-enactment or addition to it.

Powers designated to a Head of Service under this Scheme of Delegation shall immediately transfer to a successor Head of Service following a transfer of any functions as a result of a restructuring of Council Services.

The Scheme operates under Sections 101 and 151 of the Local Government Act 1972 and all other powers under which the Council exercises its functions.

The Scheme places an obligation on Officers to keep Members properly informed of action arising within the scope of these delegations.

For the purposes of Section 101 of the Local Government Act 1972 the Council may authorise an Officer of the Authority to commission and monitor work for and on behalf of the Council by people who are not Officers of the Authority. Such people will be bound by this Scheme and the obligations contained in it at all times when they are engaged on Council business.

The term "Officer" means any Employee/Manager/Director employed by West Berkshire Council.

### 3.2.2 Consultation

In exercising delegated powers, Officers shall consult other Officers as appropriate and shall have regard to any advice given. Consultation in areas of financial, legal, personnel and property will be of paramount importance which includes the Council's strategic partners.

Officers shall liaise closely with the Executive on executive functions and the Chairmen of the Area Planning Committees and District Planning Committee or Chairman of the Licensing Committee on regulatory functions and Group Spokesmen before exercising delegated powers in

relation to any matter which is likely to be regarded as politically sensitive or contentious.

Officers shall inform the local Ward Member(s) when they exercise any delegated powers affecting their Ward and when the matter is likely to be regarded as politically sensitive or contentious.

It shall always be open to an Officer to consult the Executive, the Area Planning Committees, the Licensing Committee or the Leader before the exercise of delegated powers; or not to exercise delegated powers but to refer the matter to the Executive, the District Planning Committee the Area Planning Committees or to Council for decision.

### 3.2.3 Conditions of Delegation

By this Scheme, and subject to the limitations and reservations contained in it:

- (a) Council authorises the Officers identified personally to exercise the powers specified herein; and
- (b) powers delegated to Directors and Heads of Service may be exercised by any other duly authorised Officer on their behalf.

If any case where the Officer given general authorisation to act considers that a new departure in policy is likely to be involved or if the implications are such that they consider, after consulting the Chief Executive, that reference should be made to Members, the matter shall be referred to the Executive or the relevant Area Planning Committee for consideration.

Exercise of delegated powers by Sub-Committees or Officers does not, by virtue of Section 101(4) Local Government Act 1972, prevent the Executive the Council or its Committees from exercising those functions or powers.

Powers delegated to Heads of Service may be exercised by the appropriate Corporate Director or the Chief Executive.

(Note: Directors and Heads of Service need to ensure that substantial matters dealt with under delegation are recorded.)

### 3.2.4 Overall Limitations

#### Matters not Delegated

The Scheme does not delegate to Officers any matter:

- reserved to full Council by Standing Orders;
- reserved to the Executive or a Committee by the Scheme;
- withdrawn from delegation by the Scheme; and
- which may not by law be delegated to an Officer.

#### General Requirements

Any exercise of delegated powers shall comply with:

- any statutory restrictions;
- Rules of Procedure as contained in the Constitution;

- Policies and Plans approved by full Council, the Executive or the Council's committees; and
- Codes and Protocols.

#### **Exercising Delegated Powers**

In exercising delegated powers, Officers shall have regard to any report by the Head of the Paid Service or the Monitoring Officer under Sections 4 and 5 of the Local Government and Housing Act 1989 or Section 66 of the Local Government Act 2000 or of the Officer designated under Section 114 of the Local Government Finance Act 1988.

#### **Financial Powers**

Any decision taken under this Scheme must be made within the approved Revenue and Capital Budgets, subject to any discretion allowed by the Financial Rules of Procedure.

Acceptance of quotations and tenders must be in accordance with the Contract Rules of Procedure.

#### **Legal Powers**

Officers are authorised to appear, institute proceedings prosecute and defend on behalf of the Council proceedings before a Magistrates' Court, County Court or similar tribunal in the first instance where the matters fall within the remit of their service unit. Officers are not authorised to exercise any of the powers delegated under this paragraph of any other legal proceedings (such powers being reserved to the Head of Legal Services).

### **3.3 General Delegation to Corporate Directors/Heads of Service**

#### **3.3.1 Equipment**

- Purchase of vehicles, plant and equipment for which expenditure has been approved subject to any policy for standardisation.
- Hire of plant as may be necessary for special works subject to inclusion of costs of hire within the approved estimates of the works.
- Disposal of surplus plant equipment and materials.

#### **3.3.2 Legal Matters**

- Service of requisitions for information as to ownership of any property under statutory powers.
- Signature of licences, notices etc.
- Authority to apply for planning permission in respect of small projects and minor modifications to projects subject to a report on the action taken being submitted to the Executive.
- To grant, renew, refuse or cancel any authorisation that may be required under the Provisions of the Regulation of Investigatory Powers Act 2000 insofar as it affects their service area. This function may be delegated to third tier Officers but may not be delegated further.

### 3.3.3 Human Resources

- To agree temporary posts provided costs are contained within service staffing budgets (in accordance with West Berkshire Council's Conditions of Service).
- Employment of consultants to advise on specialist aspects of work within the relevant Service Area
- Advertisement of staff vacancies within establishment (in accordance with the Council's recruitment procedures).
- To fill a post without advertisement (in consultation with the Service Head, Human Resources and appropriate Trade Unions).
- Appointment of staff to posts below second tier.
- Determination of starting point within grade.
- To sign job offers and/or contract of employment for:
  - Corporate Director appointments (by Chief Executive)
  - Heads of Service appointments (by Chief Executive or responsible Corporate Director)
  - Other employee appointments (Corporate Director, Head of Service or Officer delegated by one of these)
- To agree flexible contracts, including job share, homeworking and term-time working (in consultation with Corporate Director, Head of Human Resources and appropriate Trade Unions).
- Confirmation of appointments on completion of probationary period.
- Exercise of the discretion contained within the National Conditions for sick payment entitlements.
- Approval of car purchases and car leases in accordance with West Berkshire Council's Conditions of Service and the Council's relevant policies (in consultation with the Head of Finance).
- Extension of industrial accident pay (in consultation with the Head of Finance).
- Approval of application of West Berkshire Council Service Related Additional Payments Scheme (in consultation with the Head of Human Resources).
- Approval of variations to Council payment schemes (in consultation with the Head of Human Resources and where appropriate with employees representatives).
- To implement the Council's disciplinary and grievance procedures in accordance with West Berkshire Council's Conditions of Service.
- To sign contracts for external employment services within approved budgets (with agreement of Corporate Director or Officer delegated by one of these).
- Authorising attendance of Officers at professional, administrative and educational meetings, conferences and courses.
- To determine new organisation structures below Head of Service level provided that:
  - ~~there are no resultant redundancies;~~

**Deleted:** the changes do not affect more than 5 posts in any one restructuring.¶

- the change is ~~following consultation with relevant staff,~~ existing staff; and
  - the change can be contained within service budgets.
- To make ex-gratia payments in respect of claims not exceeding £1,000 in respect of damage or injury resulting from the actions of clients looked after by the District Council both in relation to young people and adults. (See under Head of Strategic Support for ex-gratia payments for maladministration.)
  - General organisation of services within policy laid down by Council.
    - . To approve compensation and other payments to all current and former employees of the Council (other than employees in maintained schools who are covered by section 37 of the Education Act 2002) by way of a settlement agreement in consultation with the relevant Head of Service to an amount not exceeding £10,000. For amounts over £10,000 to approve compensation in consultation with the relevant Head of Service, Head of Finance and Head of Legal Services.

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### 3.3.4 Tenders/Contracts

- General supervision and progressing of contracts.
- Execution of work and invitation for and acceptance of tenders for recurring or non-recurring items provided for in the approved annual revenue estimates and estimates for the General Housing Repairs Fund, except items reserved by the Executive for further approval.
- Acceptance of tenders for demolition works approved by the Executive or Full Council.
- Acceptance, renewal and variation of maintenance contracts for installed equipment within the approved estimates.

### 3.3.5 Emergencies

If the Council needs to act urgently in any matter including, without limitation, complying with the Major Incident Plan or taking any action under new legislation of powers, the Chief Executive may authorise any action taken or expenditure occurred as necessary. A Corporate Director may act in the place of the Chief Executive where the Chief Executive is unwell, unobtainable or where there is no Chief Executive in post. The Chief Executive, or Corporate Director as appropriate, may delegate responsibility to a Head of Service or other nominated Officer where it is considered appropriate.

### 3.3.6 Delegation to Specific Directors

#### (a) Communities

- To give consent to the marriage of a young person in care pursuant to Section 3 of the Marriage Act 1949 as amended by the Family Law Reform Act 1969.
- To exercise the powers of the Council under paragraph 20 of Schedule 2 of the Children Act 1989 in relation to the death of children looked after by local authorities.



- To exercise the functions of the Council under Part VII of the Children Act 1989 in relation to the provision of accommodation by voluntary organisations.
- To approve the registration of children's homes under Part VIII of the Children Act 1989 in accordance with the Children's Homes Regulations 1991.
- To agree Service Level Agreements/Joint Arrangements with other agencies in respect of the provision of joint leisure, cultural and information services
- To respond to and determine responses to recommendations made at any stage of the Social Services statutory complaints processes and other complaints procedures operated within Social Care Services, including application of financial redress, as considered appropriate by the Corporate Director or Head of Service, in consultation with the relevant Portfolio Member, within the framework of the Local Government Ombudsman Good Practice Remedies (March 2003) document, Financial Rules of Procedure, and where necessary, in consultation with the Monitoring Officer.
- To respond to and determine responses to recommendations made at any stage of the Social Services statutory complaints processes and other complaints procedures operated within Social Care Services, including application of financial redress, as considered appropriate by the Corporate Director or Head of Service, in consultation with the relevant Portfolio Member, within the framework of the Local Government Ombudsman Good Practice Remedies (March 2003), Revised in 2005 document, any relevant guidance from the Department of Health, Financial Rules of Procedure, and where necessary, in consultation with the Monitoring Officer.
- To appoint Officers to act as Approved Mental Health Professionals under the Mental Health Act 2007.
- Caravan Act 1968
- Local Government and Housing Act 1989, Part VIII
- Housing Act 1985
- Housing Act 1996 - Parts VI and VII
- Housing Grants, Construction & Regeneration Act
- Housing Act 1988 – Part II
- Gypsy Sites
- Housing Act 1985:
  - Determination of rents of new properties in line with rents of other Council properties.
- All matters pertaining to rent collection and the recovery of arrears.

- Service of Notices to secure possession where there are arrears of rent.
- Service of Notice to Quit on tenants of Council dwellings. The Head of Care Commissioning, Housing and Safeguarding can also undertake this function.
- Allocation of pitches on Council owned caravan sites.
- Applications for emergency housing accommodation from persons threatened with eviction.
- Decisions on all matters relating to the Council's conditions of tenancy in relation to the Council's statutory housing function.
- Assessing current and future need for affordable housing and demand for market housing

**(b) Environment**

The Corporate Director (Environment) [or in their absence the Head of Culture and Environmental Protection] in consultation with the Section 151 Officer and Monitoring Officer and the Portfolio Holder for Waste matters may make changes to the Integrated Waste Management contract regarding operational matters in order to achieve improvements to the quality and efficiency of the service provided by the Contractor.

Any such decision shall be recorded in writing on an agreed Decision Form signed by all consultees in order to provide a recognised audit trail of all such decisions and to ensure Member consultation.

The financial limits set out in the constitution will provide the basis of any financial assessment of the benefit or otherwise of any amendment to the operational requirements of the contract and under the above process will require approval by the Section 151 Officer.

The Corporate Director (Environment) retains the option to refer any matter to the Executive having assessed the potential risk to the Council and impact on service provision to the public.

**(c) Chief Executive**

The Power to approve new and revised HR policies and procedures is delegated to the Chief Executive. The Chief Executive may decide to refer particular HR policies and procedures to the Personnel Committee rather than exercise the delegation.

### 3.4 Schedule of Proper Officer Appointments

Sect	Function	Exercised by
<b>The following Officers have been appointed Proper Officer for the purposes of the under-mentioned provisions of the Local Government Act 1972:</b>		
83	Witness and receipt of declarations of acceptance of office	The Chief Executive or Head of Legal Services

<b>Sect</b>	<b>Function</b>	<b>Exercised by</b>
84	Receipt of declarations of resignation of office	The Chief Executive or Head of Legal Services
86	Declaration of a vacancy	The Chief Executive or Head of Legal Services
88(2)	Convening of meeting of Council to fill a casual vacancy in the office of Chairman	Head of Strategic Support
89(1)(b)	Receipt of notice of casual vacancy from two local government electors	The Chief Executive or Head of Legal Services
151	Officers having responsibility for the administration of the Council's financial matters	Head of Finance or deputy appointed in writing
210(6) & (7)	Charity functions of holders of offices with existing authorities transferred to holders of equivalent office with new authorities or, if there is no such office, to Proper Officers	Head of Legal Services
212(1) & (2)	Proper Officer to act as local registrar for Land Charges Act 1925	Head of Strategic Support
225(1)	Proper Officer for the depositing with the Independent Adjudicator the list of politically restricted posts under Section 2(4) of the Local Government & Housing Act 1989	Chief Executive
225(1)	Deposit of Documents	Head of Legal Services
228(3)	Accounts of 'any Proper Officer' to be open to inspection by any Member of the authority	Head of Finance
229(5)	Certification of photographic copies of documents	Appropriate Director or Head of Service from which the document originates
234	Authentication of all documents on behalf of the Council	Appropriate Director or Head of Service from which the document originates
	Sealing of all documents on behalf of the Council	Head of Legal Services or <u>their deputy</u> authorised in writing.

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<b>Sect</b>	<b>Function</b>	<b>Exercised by</b>
236(9)	To send copies of byelaws for Parish records	Head of Legal Services
	To receive copies of byelaws and deposit them with public documents of Parish or community	Head of Legal Services
238	Certification of Byelaws	Head of Legal Services
248	Keeping a Roll of Freeman	Head of Strategic Support
Sch. 12 Para 4(2)(b) & 4(3)	Signature of summonses to Council meetings	Head of Strategic Support
	Schedule 12 Receipt of notices regarding Para 4(3) address to which summons to meetings is to be sent	Head of Strategic Support
Sch. 14 Para 25(7)	Certification of resolutions under Para 25 of Schedule 14	Head of Planning and Countryside
Sch. 16 Para 28	Receipt on deposit of lists of protected buildings (Sections 146(6) and (7) of the Town & Country Planning Act 1990	Head of Planning and Countryside
Section 41 - Local Government (Miscellaneous Provisions) Act 1976: Certification of minutes and resolutions		Head of Strategic Support
Representation of the People Act 1983 as follows:		
Section 8 - Registration Officer and the Deputy Registration Officer under Section 8 of the Act		Chief Executive
Section 35 - Returning Officer for elections		Chief Executive
Local Government Act 1972:		
Section 115(2) - Receipt of money due from Officers		Head of Finance
Section 146 (1)	Declarations and certificates with and regards to securities	Head of Finance
To ensure that the Council's policies on Data Protection and Freedom of Information are complied with.		Head of Strategic Support
Any reference to any enactment passed		Chief Executive

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<b>Sect</b>	<b>Function</b>	<b>Exercised by</b>
	before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any Instrument made before 26th October 1972, which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council.	Corporate Directors
	The provisions of Section 191 of the Local Government Act 1972 - Functions with respect of Ordnance Survey	Head of Planning and Countryside
	Any reference in any enactment passed before or during the 1971/72 session of Parliament, other than the Local Government Act 1972, or in any Instrument made before 26th October 1972, to the Public Health Inspector of a District or Borough Council which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council.	Head of Culture and Environmental Protection
	For the purpose of: - Marriage Act 1949 - Registration Services Act 1953 - Local Registration Scheme - Provisions relating to new governance of the Registration Services	Head of Legal Services with Superintendent Registrar as deputy
Local Government Act 1972 as amended:		
Section 100B(2)	Circulation of Reports and Agendas	Head of Strategic Support
Section 100B(7)	Supply of Papers to the Press	
Section 100C(2)	Summaries of Minutes	
Section 100F	Members' Right to Papers	
Section 100d(1)(a) & Section 100D(5)(a)	Compilation of Lists Background Papers and Identification of Background papers.	
	Designated Officer as 'Head of Paid Service' under the provisions of the Local Government and Housing Act 1989	Chief Executive
	Designated Officer as 'Monitoring Officer' under the provisions of the Local Government and Housing Act 1989	Head of Legal Services or deputy appointed in writing by the Monitoring Officer.
	Signing and authorising all property	Head of Finance

<b>Sect</b>	<b>Function</b>	<b>Exercised by</b>
	valuations on behalf of the Council	
	Carrying out the various statutory duties required under the Weights and Measures Acts 1963 and 1985 and/or any regulations or amendments made there-under on behalf of the Council.	The most senior qualified Trading Standards Officer as approved and appointed by the Head of Culture and Environmental Protection
	Nominating representatives for the purpose of the Local Government Pension Scheme (Internal Dispute Resolution Procedure) Regulations 1997.	Head of Finance (Section 151 Officer)
<b>In the event of any Officers appointed as Proper Officer being absent or otherwise unable to act, the following Officers have been authorised to act as Proper Officers in their place:</b>		
	For the Chief Executive	Appropriate Corporate Director
	For the Head of Legal Services	Team Leaders within Legal Services with relevant knowledge
	For the Head of Finance	Appropriate Corporate Director
	Others	Appropriate Corporate Director

### 3.4.1 Delegations to Heads of Service

The following delegations are granted to the Heads of Service set out in section 3.5 to 3.17 below.

## 3.5 Head of Finance

### 3.5.1 Designation

The Head of Finance will be the Council's designated Section 151 Officer under the Local Government Act 1972.

### 3.5.2 Responsibility

The Head of Finance provides strategic support on commissioning to the Council.

The Head of Finance provides strategic financial advice to the Council.

### 3.5.3 Finance General

- Local Government Finance Act 1992 S17 and Local Government Finance Act 1988 Schedule 4A.
- The power to opt to tax certain properties for VAT purposes (in consultation with Head of Legal Services).

- Determination of the appropriate rate of interest which may be charged, under Section 24 of the Health and Social Services and Social Security Adjudications Act 1983, on any sum charged on or secured over an interest in land under Section 22 of the Act (in consultation with the Corporate Director (Communities))
- Decisions to write off arrears in the case of bankruptcies and liquidations once the Council has proved the debt.
- Declaration of the Local Rate of Interest on Mortgage Advances on the basis that all mortgages are treated as if they are advances under the Housing Act 1985 and subject to decisions being reported to the Executive (in consultation with Head of Care Commissioning, Housing and Safeguarding).
- Agreement as to reduction in rateable value.
- Investment of surplus funds.
- Writing off debts as irrecoverable up to an amount not exceeding £5,000 and exceeding £5,000 in cases where the debtor has been declared bankrupt.
- Rating (Disabled Persons) Act 1978: Section 2 - Granting of rebates to institutions.
- To make any necessary changes to the Constitution consequent upon amendments to the European thresholds on Procurement (see Contract Rules of Procedure).
- To accept terms and conditions attached to any Government grants (e.g. s31 grant for Major Schemes)

#### **3.5.4 Loans and Borrowing**

- Raising of loans in sterling to meet the capital requirements of the Council for such amounts and on such terms as are considered necessary.
- Borrowing in sterling from banks up to a prescribed limit by way of overdraft.
- Raising and repayment of temporary loans in sterling.

#### **3.5.5 Valuation**

- Service on Valuation Officer of Notice of Objection to any proposals for alteration of the Valuation List.
- Making proposals for the alteration of the Valuation List or for the inclusion of particular properties in the Valuation List.

#### **3.5.6 Housing Benefits**

- Housing Benefits General Regulations 1987 - Regulations 79 and 81. Council Tax Benefits (General Regulations 69-70).
- Housing Benefit Regulations 11 (Unsuitable Accommodation) 69(8) (Additional Amount of Benefit in Exceptional Cases), 20 (Benefit by Reference to Another Person's Income). Housing Benefits Regulations 61 (3)(4) (Exceptional Hardship Payments).

#### **3.5.7 Local Government Finance Act 1988**

- Sections 89, 91, 92, 97 and 98 - Establishment and Maintenance of Funds.

- Section 134 - Consultation with representatives of National Non-Domestic Ratepayers. (Exercised by the Chief Executive).
- Schedule 9 - Notifications to Valuation Officer.
- Section 41 Publication of Draft NNDR list.
- Sections 27, 73 and 77 - Supply of Information to Secretary of State.
- Section 42A compilation and maintenance, in accordance with section 42B, of a rural settlement list  
*(Note: this relates solely to the provisions for rate relief for certain types of property in rural settlements having populations of less than 3,000)*
- Sections 5, 95(1)-(3), 95(5)-(9), 97 and 107 - Statutory Calculations.

### **3.5.8 Council Tax (Administration and Enforcement) Regulations 1992**

All Local Authority powers/duties contained within regulations except those within Sections 25 and 26 (discounts).

### **3.5.9 Council Tax (Administration and Enforcement) Regulations 1992 and Schedule 4 Local Government Finance Act 1992**

- Representing the Council at all proceedings in connection with the collection of Council Tax.
- All Local Authority powers/duties contained within the Regulations.

### **3.5.10 Council Tax (Situation and Valuation of Dwellings) Regulations 1992**

All Local Authority powers/duties contained within the Regulations.

### **3.5.11 Council Tax (Reductions for Disabilities) Regulations 1992**

All Local Authority powers/duties contained within the Regulations.

### **3.5.12 Local Authorities (Calculation of Council Tax Base) Regulations 1992**

- Regulations 3 to 5 - calculation of the amount of a billing authority's council tax base for the purposes of the calculation of its council tax.
- Regulation 6 calculation of a billing authority's council tax base for a part of its area for the purposes of the calculation of its council tax similarly to the way in which the council tax base is to be calculated for the whole of a billing authority's area under regulations 3 to 5.
- Regulation 7 the calculation of the council tax base of the area or part of the area of a billing authority for the purposes of the calculation of a major precepting authority's council tax and the amount payable by a billing authority to a major precepting authority, based on the rules set out in regulations 3 to 6.



*(Note: the power to delegate to officers is contained in section 67 of the Local Government Finance Act 1992 as amended by s.84 of the Local Government Act 2003)*

### **3.5.13 Local Government Finance Act 1992 Section 13A**

- Reduction of the amount a person is liable to pay by way of council tax including a power to reduce an amount to nil. The power may be exercised in relation to particular cases or by determining a class of case in which liability is to be reduced to an extent provided by the determination.

### **3.5.14 Matters Relating to Children and Young Persons**

- Where requested by the Head of Legal Services, to take joint action to take out letters of administration with or without the will annexed for:
  - the estate of parents or any other person where there is a beneficial interest for children or young persons for whom the Council has parental rights under provisions of the Children Act 1989, or any other statutory provision affecting children and young persons;
  - the estates of children or young persons who die whilst in the care of the Council;
  - and to administer such estates in the manner directed by the appropriate probate registry.
- Jointly with the Head of Legal Services to accept money or other gifts from third parties for and on behalf of children or young persons in care and to hold or convert such money or gifts on their behalf and to their benefit.
- Local Government Act 1972 Schedule 13 Paragraph 5 - Issue of money bills.

### **3.5.15 Local Government (Miscellaneous Provisions) Act 1976**

- Section 30 – to forgo payment of advances of remuneration paid to deceased employees (in consultation with the Head of Legal Services).
- Section 40 – powers and duties relating to register kept of persons entitled to instruments relating to loans to a Local Authority.

### **3.5.16 Housing Act 1985**

- Applications from tenants to carry out external or internal improvements or alterations to Council dwellings, subject to compliance with Building Regulations and Planning requirements.
- Applications from tenants for the erection of garages, sheds, hardstanding etc., subject to conformity with Building Regulations and Planning requirements. Decisions on all matters relating to Council's conditions of tenancy.
- Applications for consent to transfer existing mortgages into joint names of Mortgagor and other members of the Mortgagor's family.
- Authority to write off amounts of up to £50 in respect of rent arrears.
- Implementation of Court Orders for Possession of Council houses. (Head of Legal Services as instructed by Head of Finance)

- Institution of proceedings for possession of mortgaged houses. (Head of Legal Services as instructed by Head of Finance in consultation with Head of Finance). Decision to 'buy back' Council houses under terms of pre-emption clause.

### **3.5.17 Property Matters**

- Making proposals to the Valuation Office Rating List.
- Agreement to reductions affecting Council-owned property.
- An agreement of compulsory purchase and home loss payment claims up to £15,000.

### **3.5.18 Insurance**

All insurance arrangements and settlement of claims.

### **3.5.19 Human Resources**

Application of market shift to a post within approved establishment in case of difficulties in recruitment.

## **3.6 Head of Children's Services**

### **3.6.1 General**

- Within the provisions of Part III of the Children Act 1989 and the National Health Service and Community Care Act 1990, to arrange for the purchase and provision of appropriate care services to those persons assessed as having needs that fall within the Council's agreed priorities, subject always to appropriate Contract and Financial regulations, the approved policies and estimates of the Council and the proper identification of appropriate suppliers.
- To grant applications for and impose conditions of registration of child minding and day-care for young people under the Children Act 1989.
- To revise and cancel registration.
- To vary the conditions of registrations.
- To set up arrangements for the hearing of representations and complaints in accordance with Section 26 of the Children Act 1989 and the National Health and Community Care Act 1996.
- To make provision for the accommodation of children in secure accommodation in accordance with Section 25 of the Children Act 1989.
- To approve and sign applications for passports for children and young persons in the care of the Council.
- To arrange for a child in care to live abroad subject to the approval of a Court in accordance with paragraph 19 of Schedule 2 of the Children Act 1989.
- To approve the applications of children and young persons in the care of the Council who wish to join HM Forces.
- To exercise the functions of the Council under Part VI of the Children Act 1989 in relation to the provision of accommodation for children in community homes.
- To arrange interest free loans to foster parents to provide accommodation for children and young people in care by extending their present homes or to

purchase larger homes, the amount of the outstanding loan to be reduced by the way of a special allowance for as long as they care for foster children.

- To approve the institution of adoption proceedings by foster parents.
- To set up an adoption panel in accordance with Regulation 56 of the Adoption Agencies Regulations 1983 and to make such decisions and notifications as to the adoption of children as are specified in those regulations.
- To exercise the functions of the Council under Sections 85 and 86 of the Children Act 1989 in relation to the children accommodated by health and education authorities or in residential care homes or mental nursing homes.
- To assess the contributions to be paid towards board and lodging by working children in accordance with the currently agreed formulae, provided that the amount remaining for weekly personal pocket money and clothing allowance should not be less than the amount currently approved under the payment of foster care allowances.
- To waive charges or make additional allowances where the child has exceptional circumstances, such as apprenticeship and heavy travelling expenses.
- To increase the contribution of children in lodgings in appropriate circumstances in order to help to assimilate the heavier cost of lodging after leaving care.
- To approve request for young people in care to reside outside the UK for the purpose of training, work experience or work opportunities.

### **3.6.2 Support to Children and Families in their Own Home**

- To exercise the powers of the Council under Section 7 of the Children Act 1989 to report to the Court on the welfare of children in private proceedings.
- To exercise any functions of the Council relating to Orders with respect to children in family proceedings under Part II of the Children Act 1989.
- To exercise the powers of the Council under Section 16 of the Children Act 1989 to provide advice, assistance and befriending under the terms of a Family Assistance Order.
- To exercise the functions of the Council under Section 17 and Part I of Schedule 2 of the Children Act 1989 to safeguard and promote the welfare of children in need including financial assistance within current budgetary limits.
- To guarantee to housing associations, district councils and private landlords, and to authorise the payment of any rent accruing due from tenants in those cases where the Council has asked the housing associations or private landlord to retain the tenants in their houses whilst efforts are made by Council's Officers to rehabilitate them in cases coming within the provision of Section 17 of the Children Act 1989.
- Approve arrangements for the financial and other support of young people formerly looked after by the Council and by others under Section 24 of the Children Act 1989 within current budgetary limits.
- In accordance with procedures agreed in writing in advance, with the Head of Finance, to vary the assessment scale in respect of financial contribution by a

parent or young person to any service provided by the Council under Part III of the child in question. (Note: The assessment scale is never varied but the amount that is paid is covered by the delegated power to waive charges see above).

### **3.6.3 Child Protection**

- To exercise the functions of the Council in relation to the duty to make investigations as necessary to decide whether action should be taken to safeguard or promote the welfare of children in accordance with Section 47 of the Children Act 1989.
- To take such action as is necessary under Section 31 of the Children Act 1989 to bring a child or young person before a Court where there are grounds for bringing care proceedings.
- To present an application to a Court for the variation or discharge of any care order or supervision order in accordance with Section 39 of the Children Act 1989.
- To present an application to a Court for a Child Assessment Order, an Emergency Protection Order or a Recovery Order under Part V of the Children Act 1989.

### **3.6.4 Accommodation, Care, Fostering and Adoption**

- To provide accommodation for children in need in pursuance of the Council's duty under Section 20 to 23 of the Children Act 1989.
- To exercise the functions of the Council to undertake parental responsibility for children who are the subject of Care Orders and to make arrangements for reasonable contact with parents and others in accordance with Sections 33 and 34 of the Children Act 1989.
- To allow children who are the subject of a care order to reside at home in accordance with Section 23 (5) of the Children Act 1989, subject to the Accommodation with Parents Regulations 1991.
- To make contributions towards the maintenance of children placed with a person as a result of a Residence Order in accordance with paragraph 15 of Schedule 1 of the Children Act 1989.
- To approve payment of the legal expenses of applicants for a Residence Order or other Section 8 Orders in respect of children in care to the extent that they are not met by Legal Aid Fund.
- To change the names of children who are the subject of a care order in favour of the Council, subject to the requirements of Section 33 of the Children Act 1989.
- To appoint an independent visitor for a child where appropriate in accordance with paragraph 17 of Schedule 2 of the Children Act 1989.
- To guarantee apprenticeship and similar deeds under paragraph 18 of Schedule 2 of the Children Act 1989.
- To approve the payment of the legal expense of prospective adoptive parents for children who are being placed for adoption by the Council as an Adoption Agency.

- To grant allowances to persons who have adopted children in accordance with Section 57 of the Adoption Act 1976 and regulations which may be issued by the Secretary of State.
- To take in such action as may be necessary to implement the payment of the various foster care allowances for the time being approved by the Council within current budgetary limits, and in consultation with the Head of Finance, to increase the allowances annually in accordance with the scales recommended by the National Foster Care Association.
- To sanction payment of the cost of the initial clothing and equipment required by children looked after by the Council who are placed in boarding schools and other establishments within current budgetary limits.
- To approve applications to go on school expeditions, including expeditions abroad, of children looked after by the Council including expenditure on equipment and pocket money within the current budgetary limits.
- To make payments within limits set by the appropriate Corporate Director from time to time to promote contact between parents and children looked after by the Council in accordance with paragraph 16 of Schedule 2 of the Children Act 1989.
- To exercise the powers of the Council under Part III of Schedule 2 of the Children Act 1989 relating to contributions towards the maintenance of children looked after by local authorities.
- To exercise the powers conferred on the Council under Part IX of the Children Act 1989 in respect of arrangements for the care of privately fostered children.
- To make decisions to exempt persons from the usual fostering limit in accordance with paragraph 4 of Schedule 7 of the Children Act 1989.

### 3.6.5 Home Care Services: Financial Matters

- In accordance with procedures approved in advance by the Head of Finance to waive the assessment charges for any services to clients in circumstances where it is essential for the family for social and/or medical reasons and to record every case requiring such action in a register to be provided for this purpose.
- In accordance with procedures agreed in writing in advance, with the Head of Finance, to vary or waive the charges for any service provided by the Council under Part III of the Children Act 1989 where failure to do so would adversely affect the welfare of the child in question.

## 3.7 Head of Adult Social Care

### 3.7.1 Residential and Nursing Home Accommodation

To authorise and approve the maintenance costs for the admission of any person to any residential or nursing home accommodation.

### 3.7.2 Disability

- To authorise the following facilities for any registered disabled person, within the approved budget and within approved policies:

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- attendance at a centre providing appropriate development opportunities;
  - the provision of special facilities;
  - minor alterations and adaptations to premises including the installation of appropriate equipment, the works to be supervised by the appropriate professional staff;
  - contribute, where assessed as appropriate, to the cost of adaptations to premises where the client is not eligible for a grant.
- Within the approved policies and estimates of the Council to discharge the duties towards people with disabilities imposed upon the Council by community care legislation
  - To act as Deputy in all matters in which it is appropriate for the Council to act and in accordance with any Court Orders made by the Court of Protection.
  - To accept a guardianship application and to exercise the powers of Guardianship under ss.7-10 of the Mental Health Act 1983.
  - To exercise the functions of the nearest relative under the powers contained in the Mental Health Act 2007 in all matters in which it is appropriate for an Officer of the Council so to act.
  - To exercise the functions as laid out in the Deprivation of Liberty Safeguards guidance April 2009

**Deleted:** the National Assistance Act 1948, and the Chronically Sick and Disabled persons (Services Consultation and Representation) Act 1986.

### 3.7.3 Home Care Services: Financial Matters

- In accordance with procedures approved in advance by the Head of Finance to waive the assessment charges for any services to clients in circumstances where it is essential for the family for social and/or medical reasons and to record every case requiring such action in a register to be provided for this purpose.
- In accordance with procedures agreed in writing in advance, with the Head of Finance, to vary or waive the charges for any service provided by the Council under Part III of the Children Act 1989 and Community Care legislation where failure to do so would adversely affect the welfare of the child/ or adult in question.
- Within the provisions of community care legislation, to arrange for the purchase and provision of appropriate care services to those persons assessed as having needs that fall within the Council's agreed priorities, subject always to appropriate Contract and Financial regulations, the approved policies and estimates of the Council and the proper identification of appropriate suppliers including carers.

**Deleted:** the National Health Service and Community Care Act 1990

## 3.8 Head of Care Commissioning, Housing and Safeguarding

### 3.8.1 Housing Act 2004

- To develop and implement strategies to bring empty homes back into use, including the use of empty Dwelling Management Orders and Compulsory Purchase Orders.

**Deleted:** <#>Carers¶  
Within the approved policies and estimates of the Council to discharge the powers and duties towards carers imposed upon the Council by the Carers (Recognition and Services) Act 1995.¶

- To make use of planning and housing powers to address poor housing

### **3.8.2 Housing Grants, Construction & Regeneration Act 1996**

- To give grants and loans for the repair / improvement of housing in accordance with national guidance and locally published policies.
- To award mandatory, and where appropriate discretionary, Disabled Facilities Grants for the purpose of aids and adaptations for eligible people, in accordance with national guidance and local published policies.
- To act as a Director of the Flexible Homes Improvement Limited, on behalf of West Berkshire Council, for the purpose of administering loans for the repair / improvement of housing within the Flexible Home Improvement Loans sub-region

### **3.8.3 Local Government and Housing Act 1989, Part VIII**

- To offer grants for the improvement and/or repair of housing.
- To determine applications for Housing Association Grant with regard to the purchase of properties in the second-hand market for occupation by homeless families in accordance with the special homelessness initiative subject to the contribution on any one unit not exceeding £50,000.
- Determination of application for individual DIYSO Housing Association Grant.
- Implementing rent reviews in accordance with valuers' instructions.

### **3.8.4 Housing Act 1988 – Part I**

- Carry out repairs to units of temporary accommodation in accordance with Housing Sub-Committee Minute 39 (03.02.98).
- Action under Section 157 of the Housing Act 1985 re: Repurchase of ex-Council House Stock on Rural Areas.

### **3.8.5 Gypsy Sites**

- To commission professional services in relation to gypsy sites under the Caravan Sites Act 1988.
- To undertake an assessment of the accommodation needs of Gypsies and Travellers residing in or resorting to the district and to prepare a strategy in respect of meeting those needs, in accordance with the Housing Act 2004
- To apply annual increases to charges on gypsy sites in line with the rent increases applied by West Berkshire Council managing the site to its own tenants.

### **3.8.6 Housing Act 1996 (as amended by the Homelessness Act 2002**

To publish an allocations scheme and develop policies to offer choice to applicants in the allocation of housing

To exercise the duties conferred on the Council under Part VII of the Housing Act 1996 in relation to homelessness.

### **3.8.7 Home Energy and Conservation Act 1995**

To promote energy efficient homes including administering grants for energy efficiency

### 3.8.8 Future Development Sites

The Head of Care Commissioning, Housing and Safeguarding, in consultation with the Head of Planning and Countryside, be given delegated authority to determine the mix of types of affordable housing (that is to say the ratio of shared ownership to rented or a financial contribution instead that is to be varied, based on individual site/community needs) to be provided on future development sites, in line with adopted planning policies, and that this process form part of any pre-application or general application negotiations undertaken as part of the development control function.

The Head of Care Commissioning, Housing and Safeguarding be given delegated authority to determine the level of affordable housing financial contribution in line with current policy.

### 3.8.9 Sites with Existing Planning Permission

The Head of Care Commissioning, Housing and Safeguarding be authorised to negotiate with developers variations in the mix of types of affordable housing specified in Section 106 Agreements to be provided on specified sites, following consultation with the Head of Legal Services, the Head of Planning and Countryside, and in line with adopted planning policies

### 3.8.10 Energy Act 2011

To act as a Shareholder Signatory for the Green Deal Community Interest Company on behalf of West Berkshire Council, for the purpose of recruiting and managing approved local contractors, undertaking targeted marketing and carrying out Green Deal Plans and EPC's, receiving government funding to deliver ECO in the District and for hard to treat homes ie solid walls and providing an advice and guidance service for local residents on energy efficiency and Green Deal issues.

### 3.8.11 Safeguarding

- To authorise deprivations of liberty in accordance with Schedule A1 of the Mental Capacity Act 2005.
- To authorise applications to the Court of Protection in conjunction with the Head of Service for legal Services for those being deprived of their liberty falling outside Schedule A1 of the Mental Capacity Act 2005.
- To authorise applications (with ability to delegate to the Client Financial Services Manager) to the Court of Protection for the Council to act as Financial and Property Affairs Deputy (Authorisation for Health and Welfare applications to remain with the Head of Legal Services).

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## 3.9 Head of Strategic Support

### 3.9.1 General

Power under Section 92 of the Local Government Act 2000 to direct the appropriate Corporate Director or Head of Service in consultation with the relevant Portfolio Member, to make ex-gratia payments up to £2,500 or to



provide other benefits to remedy complaints, within the framework of the Local Government Ombudsman Good Practice Remedies (March 2003) document, and Financial Rules of Procedure, and where necessary in consultation with the Monitoring Officer.

### **3.9.2 Local Government Act 1972**

- Section 225(1) – to receive and retain documents deposited.
- Schedule 12 Paragraph 4(2)(a) – to publish the time and place, within five clear working days, of the Council meeting.
- Schedule 12 Paragraph 4(2)(b) – to sign the summons to attend the Council meeting
- Schedule 12 Paragraph 4(3) – to receive notices regarding addresses to which summons to meetings are to be sent.
- Schedule 14 Paragraph 25(7) – to certify copies of resolutions for the purposes of legal proceedings.
- Section 248 – to retain a roll of Freeman

### **3.9.3 Civil Contingencies Act 2004**

The Civil Contingencies Act, 2004 provides a single framework for civil protection in the United Kingdom. Part 1 of the Act and supporting regulations and guidance (Emergency Preparedness) establishes a clear set of roles and responsibilities for those involved in emergency preparation and response at the local level. The Act divides local responders into two categories, imposing a different set of duties on each.

Those in Category 1, are those organisations at the core of the response to most emergencies (e.g. emergency services, local authorities, NHS bodies). Category 1 responders are subject to the full set of civil protection duties. They will be required to:

- Assess the risk of emergencies occurring and use this to inform contingency planning;
- Put in place emergency plans;
- Put in place Business Continuity Management arrangements;
- Put in place arrangements to make information available to the public about civil protection matters and maintain arrangements to warn, inform and advise the public in the event of an emergency;
- Share information with other local responders to enhance co-ordination;
- Co-operate with other local responders to enhance co-ordination and efficiency; and
- Provide advice and assistance to businesses and voluntary organisations about business continuity management (Local Authorities only).

Category 1 and 2 organisations will come together to form Local Resilience Forums (based on Police areas) which will help co-ordination and co-operation between responders at the local level.

### 3.9.4 Electoral Matters

Designation of Polling Places (in consultation with Ward Members).

### 3.9.5 Localism Act 2011 - Part 5 Chapter 3 - Assets of Community Value

To delegate to the Head of Strategic Support the management of the Assets of Community Value provisions (Community Right to Bid) in accordance with Part 5, Chapter 3 of the Localism Act 2011.

### 3.9.6 Anti Social Behaviour, Crime and Policing Act 2014

To delegate to the Head of Strategic Support the authority to make a Public Space Protection Order in accordance with Chapter 2 of the Anti Social Behaviour, Crime and Policing Act 2014.

### 3.9.7 Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended)

To delegate authority to the Head of Strategic Support in consultation with the Leader of the Council and the Leader of Opposition, to appoint members to the Independent Remuneration Panel.

## 3.10 Head of Customer Services

### 3.10.1 Registration of Births, Deaths and Marriages

- To grant or refuse applications for the approval of premises under the Marriage Act 1949 (as amended) and the Marriage (Approved Premises) Regulations 1995 and to revoke any approval which has been granted.
- To determine, in consultation with the Head of Finance, and from time to time vary, the fees payable for the granting or refusal of applications for the approval of said premises.

### 3.11 Head of ICT and Corporate Support

Local Government (Miscellaneous Provisions) Act 1982 - Section 38 – Use of spare capacity of computers of Local Authorities.

## 3.12 Head of Highways and Transport

### 3.12.1 Agreements

- To enter into agreements with other public authorities for the provision of services and the recoupment of charges.
- To enter into agreements relating to placing etc of certain apparatus in or under a highway pursuant to the New Roads and Street Works Act 1991.
- To enter into agreements providing for contributions by developers towards the cost of highway improvements, transportation schemes, or other development to be carried out by the Council.

### 3.12.2 Transport

- West Berkshire Council is a designated body for the issuing of Section 19 Bus Permits in accordance with the Transport Act 1985 and changes introduced by the Local Transport Act 2008

- To make payments towards the provision of cross boundary public transport services which are the subject of service subsidy agreements entered into by adjoining authorities and which serve the District.
- In consultation with the Head of Legal Services to exercise the powers of the Council under Public Passenger Vehicle Act 1981 including the submission of objections to applications for the grant of the operator's licences under Section 14A.
- To exercise the power of the Council under Section 7 of the Transport Act 1985 to request the Traffic Commissioners to make, vary or revoke traffic regulations conditions affecting local services or to hold an inquiry prior to determination of such conditions.
- To enter into public transport service subsidy agreements under the provisions of the Transport Act 1985 where they are exempt from the tendering requirements in that Act, including de-minimus arrangements.
- To lodge holding objections regarding proposals by operators for withdrawals of or alterations to rail services, or the fares and charges therefore, where it is anticipated that extra Council expenditure would result.
- To serve a 42 day Notice of Deregulation provided that such response is made within existing policy.
- To make objections to applications for Vehicle Operators Licences under Sections 12 to 14 of the Goods Vehicles (Licensing of Operators) Act 1995

### **3.12.3 Miscellaneous**

- To agree contributions to regional water authorities' surface water drainage schemes calculated on the proportion of highway "run-off" to that from other areas, including related matters such as contributions towards the cost of cleansing village ponds, and to make payments to any minor drainage scheme of any type where they are satisfied that highways will benefit.
- To extinguish public rights of way (stop up) and dispose of land not exceeding 500sq m no longer required for highway purposes.
- In consultation with the Head of Legal Services to accept dedications of land donated to the Council for highway purposes.
- To approve and protect development and improvement lines.
- To exercise the Council's powers in relation to cycle tracks under the Cycle Track Act 1984.
- To construct and/or light cycle tracks.
- To alter or remove any cycle tracks.
- To settle compensation claims in respect of drainage or sewerage schemes on behalf of the Council (in consultation with Head of Legal Services).
- To take all necessary action to safeguard the interests of the Council in relation to applications by water undertakings for orders or schemes under the legislation operated by such undertakings.
- In the exercise of the functions of the Council as Highway Authority, to advise on the highway aspects of development control.

- To demolish property acquired for road schemes in advance of requirements subject always to due regard to planning considerations or consent as appropriate.
- To arrange for the temporary use of land for the dumping or storing of highways materials or equipment.
- To erect traffic signs and to arrange wayleaves for their erection on private property.
- To adopt streets constructed to specification.
- To plan and carry out highway improvements not requiring planning permission subject to consultation with the appropriate Executive Member and Ward Members. If the purchase of land is necessary then delegated authority (for land up to the value of £300,000) from the Head of Legal Services will be required.
- To fix contributions to private street works and charges apportioned in flank and rear frontages in accordance with the Council's approved policy.
- To apply for planning permission for the purposes of Regulation 3 of the Town and Country Planning General Regulations 1992.
- To approve and licence (including charging any appropriate fees for doing so):
  - the placing of structures within highway limits;
  - the laying maintenance and inspection of pipes, cables or other lines over or under highways;
  - the erection of stiles, gates or cattle grids and enforcement and maintenance of stiles and gates under Sections 146 and 147 of the Highways Act 1980;
  - arrangements for motor vehicles and cycle trails;
  - the construction of a building over any part of a highway.
  - the placing of tables and chairs on the public highway.
- To exercise the Council's powers including the giving of formal notices:
  - to prohibit horses, cattle or vehicles entering on ornamental gardens within the highway;
  - to pipe or culvert and fill up roadside ditches;
  - to require the execution of works to prevent soil or refuse from land from falling or being washed on to a street;
  - to take action in relation to any obstruction of or damage to or nuisance to the highway or users thereof;
  - to exercise the Council's powers and duties under Part III of the New Roads and Street Works Act 1991 (other than the institution of legal proceedings);
  - to require the removal of obstructions to sight lines at corners and to remove unauthorised signs on any part of the highway;

- to require the removal, lopping and cutting of trees or hedges overhanging or near to a highway;
- to take action in relation to any obstruction of or damage to or nuisance to the highway or users thereof.
- To carry out:
  - minor temporary repairs in private streets required to remove danger to persons or vehicles;
  - emergency works of any kind whether or not provision has been made in the estimates, where justified in their opinion (and that of the Head of Legal Services), by the scale of the potential legal liability.
- To respond to consultations from the Department for Transport, and others pursuant to Sections 247, 248, 251 and 253 of the Town and Country Planning Act 1990.
- Selection of sites for street seats.
- Approval of requests for street closures or for making orders for the prevention of obstructions in the street during public processions etc in accordance with Section 21 of the Town Police Clauses Act 1847.
- Approval of applications for permission to hold events in Council car parks.
- Approval of requests to waive car parking charges in the period leading up to Christmas.
- To implement highway maintenance and improvement works in accordance with approved budgets and to agreed service standards in accordance with the Highways Act 1980 and current guidance.

#### **3.12.4 Road Traffic Regulations Act 1984**

- To exercise powers under Sections 14(1) and 16(a) for works and events (respectively) on the public highway.
- To post temporary notices for traffic management under Section 14(2).
- Where a Committee, the Executive or Council have already approved in principle an experimental traffic order to exercise powers under the Act to advertise that order and subsequently implement it provided no objections are received. Where an order is implemented, the Ward Members will be advised.
- Where a Committee, the Executive or Council have already approved in principle any traffic order (for speed limits, prohibitions of movement, weight limits, etc.) to exercise powers under the Act to advertise that order and subsequently implement it provided no objections are received. Where an order is implemented, the Ward Members will be advised.

#### **3.12.5 Berkshire Act 1986**

- Section 4 - to recover expenses reasonably incurred in fencing or lighting a source of danger or obstruction to persons or vehicles using a highway from the owner or other person responsible for the danger or obstruction.
- Section 5 - to specify modifications to plans sections and particulars submitted by a landowner in support of a private street works scheme.

- Section 8 - to affix to any building or structure in or having a frontage to or construction over any road in the District a traffic sign or any apparatus required for illumination forming part of any sign.

### **3.12.6 Highways Act 1980**

- Section 38 - For the construction and dedication of new streets to standards laid down by the Highway Authority.
- Section 41 – To exercise powers in respect of the duty to maintain highways.
- Sections 64 and 69 - Provision of planting within the highway by the Local Authority (in consultation with Head of Planning and Countryside).
- Sections 64 and 96 - To enter into agreements for the maintenance and planting of land within highway limits and to authorise other authorities.
- Section 65 - To exercise the Council's powers under this Section of the Act.
- Section 100 - To exercise powers relating to highway drainage.
- Section 132 - To exercise powers relating to unauthorised markings on highways.
- Section 134 - To grant extensions to the statutory periods of reinstatement of footpaths and bridleways.
- Sections 141 and 142 - Determination of applications for licences to plant on the public highway and removal of unauthorised planting (in consultation with Head of Planning and Countryside).
- Section 144 - To exercise powers relating to the erection or consent to erection of flagpoles, pylons or structures on highways for the purpose of displaying decorations.
- Section 154 - To exercise powers relating to the service of notices requiring the cutting or felling of trees etc. that overhang or are a danger to roads or footpaths.
- Sections 165 and 166 - Serving of Notices in respect of dangerous forecourts and land adjacent to the public highway.
- Section 169 - To exercise powers relating to the control of scaffolding or other structure on or over the highway.
- Section 170 - To exercise powers relating to the control of mixing mortars, cement or other bound materials on the highway.
- Section 171 - To exercise powers relating to the control of deposits of building materials or excavations within the highway.
- In consultation with the Head of Finance to issue licences and fix and collect fees in relation to the following matters governed by the Highways Act 1980:
  - Mixing of Mortar - Section 170;
  - Construction of bridges - Section 176;
  - Placing of rails, beams etc on highways - Section 178;
  - Construction of cellars under streets -Section 179;

- Control of openings into cellars etc under streets and pavement lights and ventilators - Section 180.
- Section 184 - To exercise powers relating to the service of notices that the Council proposes to construct a vehicle crossing over the footway.
- Section 219 - To exercise powers relating to the service of notices under the Advance Payments Code.
- Section 256 - To enter into agreements to exchange land to straighten or adjust boundaries.

### **3.12.7 Land Drainage Act 1991**

To exercise the Council's powers and duties under the Land Drainage Act 1991 and any secondary legislation made there under and including any amending or updating to this legislation.

### **3.12.8 Reservoirs Act as Amended by the Flood and Water Management Act 2010**

To exercise the Council's powers and duties under the Reservoirs Act 1975 and the Flood and Water Management Act 2010.

### **3.12.9 Environmental Protection Act 1990**

To exercise powers including serving of notices in respect of statutory nuisance relating to drainage.

### **3.12.10 Goods Vehicles (Licensing of Operators) Act 1985**

In consultation with the Head of Legal Services and the Head of Planning and Countryside to submit objections to the Traffic Commissioner on behalf of the Council.

### **3.12.11 Traffic Management Act 2004**

- To act as the Traffic Manager in accordance with the requirements of the Traffic Management Act 2004.
- To exercise powers in relation to road and street works co-ordination and related matters.

### **3.12.12 Clean Neighbourhoods and Environment Act 2005**

To exercise powers in relation to Part 2 (Section 3-8) of Clean Neighbourhoods and Environment Act 2005.

### **3.12.13 Other Powers –Consultation Provisions**

All consultations on Transport issues (with the exception of those deemed significant and requiring referral to the Executive/Select Committee) be delegated to the Head of Highways and Transport in consultation with the Leader, appropriate Portfolio Holder and Opposition Spokesperson.

### **3.12.14 Flood and Water Management Act 2010**

To exercise the Council's powers and duties under the Flood and Water Management Act 2010 and any secondary legislation made there under and including any amending or updating to this legislation.

### **3.12.15 The Traffic Management (West Berkshire Council) Permit Scheme Order 2014**

To grant permits to utility companies to work on the public highway.

## **3.13 Head of Legal Services**

### **3.13.1 General**

- Institution and defence of any legal proceedings in the name of the Council.
- This role also manages corporate procurement activity and provides advice and support to the Council on procurement and the development and delivery of efficiency programmes.
- Sealing of all documents on behalf of the Council

### **3.13.2 Local Government Act 1972**

- Section 85 - Authority be delegated to the Monitoring Officer to allow the Monitoring Officer to approve applications in writing from absent Councillors in exceptional circumstances (such as serious illness, extended work commitments abroad or extended service in the Forces) subject to consultation with Group Leaders. Any applications for extended absence would be limited to two three month periods only and in the event of disagreement between the Group Leaders, the application would be determined by a Special Meeting of the Governance and Audit Committee.
- Section 229(5) - Certification of photographic copies of documents.
- Section 234(1) and (2) - Authorisation of documents.

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### **3.13.3 Local Government (Miscellaneous Provisions) Act 1976:**

Section 29 - Application to High Court for repayment of monies paid into Court under Sub-Sections 76 or 85 Land Clauses Consolidation Act 1945 or Section 9 or Schedules 2 and 3 of the Compulsory Purchase Act 1965.

### **3.13.4 Miscellaneous**

- To take all necessary steps to take out letters of administration with or without the will annexed either alone or jointly with the Head of Finance for:
  - the estates of parents or any other person where there is a beneficial interest for children or young persons for whom the Council has parental rights under provisions of the Children Act 1989, or any other statutory provision affecting children and young persons;
  - the estates of children or young persons who die whilst in the care of the Council;
  - and to administer such estates in the manner directed by the appropriate probate registry.
- To exercise the Council's powers to be a Trust Corporation.
- To act for all Trading Standards Officers authorised as Inspectors.
- To authorise the issue of official certificates of search of the Council's Land Charges Register.



- The Head of Legal Services acting as Monitoring Officer may make minor amendments to the Constitution in order to ensure that legislative provisions are current and any typographical or other errors are corrected.

### **3.13.5 Commons Registration**

To exercise the Council's powers and duties in relation to Commons and Towns and Village Greens.

### **3.13.6 Licences**

- Following approval of applications by the Head of Planning and Countryside, to issue waste disposal site licences or management licences (including notices of modification) incorporating suitable conditions.
- To make objections to applications for Vehicle Operator's Licence under Sections 12 to 14 of the Goods Vehicles (Licensing of Operators) Act 1995.

### **3.13.7 Highways Act 1980**

*(All powers under this Act to be exercised in consultation with the Head of Highways and Transport and to be exercised also in consultation with the Head of Planning and Countryside where relating to a Public Rights of Way.)*

- To enter into Wayleave and Drainage easements
- To enter into public path creation agreements under Section 25 of the Highways Act 1980 except where a capital payment by the Council is involved.
- To enter into agreement under Section 38 of the Highways Act 1980 for the construction and dedication of new streets.
- Under the provisions of Section 135 of the Highways Act 1980 to make Orders to allow for excavation or other engineering operations reasonably necessary for the purpose of agriculture.
- To enter into highway maintenance agreements with adjacent Authorities in the interests of operational efficiency under Section 8 of the Highways Act 1980.

### **3.13.8 Notices and Orders in relation to Highways and Public Rights of Way**

*(All powers to be exercised in consultation with the Head of Highways and Transport or the Head of Planning and Countryside in respect of Public Rights of Way.)*

- Head of Planning and Countryside to be able to serve Notices, in consultation with the Head of Legal Services
- To exercise the Council's powers including the giving of formal notices:
  - to require the removal of obstructions to sight lines at corners and to remove unauthorised signs on any part of the highway;
  - to require the removal, lopping and cutting of trees or hedges overhanging or near to a highway;
  - to take action in relation to any obstruction of or damage to or nuisance to the highway or users thereof.

- to serve notices in respect of obstructions and other nuisances and to take enforcement action as required.
- To make and confirm orders for the diversion or extinguishment of footpaths or bridleways proposed by the Head of Planning and Countryside.
- To make and confirm orders for the modification of the Definitive Map and Statement under Sections 53, 53B, 55, 57 and 57A Wildlife and Countryside Act 1981 as proposed by the Head of Planning and Countryside.
- To accept in respect of property blighted by approved schemes blight and purchase notices, and to serve counter notices of objections under the town and country planning and land compensation legislation, and to authorise payment on the execution of works to any person who appears to be entitled to the same under the legislation in force from time to time (in consultation with the appropriate Corporate Director or Head of Service)
- To sign, on behalf of the Council, application requests for any direction and for any restriction to access to public open access land or related matters, in accordance with the Countryside and Rights of Way Act 2000.

### **3.13.9 Berkshire Act 1986**

*(All powers under this Act to be exercised in consultation with the Head of Highways and Transport).*

- Pursuant to Section 7 of the Berkshire Act 1986, to make application to the County Court for an order vesting former highway land in the highway authority.
- Pursuant to Section 9 of the Berkshire Act 1986, to recover from the person responsible the cost of making good damage caused to a grass verge or footway of a highway by any person carrying on building operations or delivering goods to premises in the course of trade.

### **3.13.10 Road Traffic Regulation Act 1984**

- To exercise the Council's powers under the Road Traffic Regulation Act 1984 to restrict or prohibit vehicular and pedestrian movements as necessary to facilitate the holding of a "relevant event" when it is considered that an order under the Town Police Clauses Act 1847 is inappropriate (in consultation with the Head of Highways and Transport).
- To advertise proposals to make orders for traffic management other than temporary orders under Section 14(1) of the Road Traffic Regulation Act 1984 as substituted by the Road Traffic (Temporary Restrictions) Act 1991 and to subsequently make the orders where no objections to those proposals are received.
- To make temporary orders for traffic management under Section 14(1) of the Road Traffic Regulation Act 1984 as substituted by the Road Traffic (Temporary Restrictions) Act 1991

### **3.13.11 Town and Country Planning (General Permitted Development) Order 1995 (as amended)**

- To exercise the Council's powers under the Town and Country Planning (General Permitted Development) Order 1995 (as amended), on the

instructions of the Head of Planning and Countryside, subject to the conditions below:

- Article 4: the making, service and confirmation of directions restricting permitted development;
- Schedule 2, Part 6: Determination whether planning permission is required following notification of agricultural development
- The delegations relating to Article 4 Directions above shall be exercised subject to the following:
  - The action shall be taken after consultation with the Chairman or in their absence the Vice-Chairman of the District Planning Committee and appropriate Ward Members, if available.
  - The action taken shall be reported to the next meeting of the appropriate Area Planning Committee.
  - In exercising these powers the Officers shall have regard to the urgency of the action which is required.
- Subject to circumstances, the Officers may report the matter to the appropriate Area Planning Committee for decision where it is prudent to do so.
- The creation of charges on property, in appropriate circumstances, in accordance with Section 22 of the Health and Social Services and Social Security Adjudications Act 1983 as amended (in consultation with the Corporate Director (Communities)).

#### **3.13.12 Localism Act 2011**

The Head of Legal Services acting as Monitoring Officer (or their nominated representative) in consultation with an Independent Person pursuant to the Localism Act 2011 and its associated Regulations shall ensure that an Initial [Assessment of any complaint in respect of Councilors' \(District, Town or Parish\) behavior in relation to the Code of Conduct is determined in accordance with the complaints procedure adopted by the Council.](#)

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#### **3.13.13 Property Matters**

- Agreements for easements and wayleaves to an unlimited value.
- Agreement for leases and licences up to a value of £100,000 per annum.
- Agreement to purchases and sales of land up to consideration of £300,000.
- Surrenders.
- Lifting of all restrictive covenants up to a value of £300,000.

#### **3.13.14 Anti Social Behaviour, Crime and Policing Act 2014**

The Head of Legal Services, in consultation with the Head of Care Commissioning, Safeguarding and Housing, be authorised to seek a civil injunction in accordance with Part 1 of the Anti Social Behaviour, Crime and Policing Act 2014.

The Head of Legal Services or his/her nominee, in consultation with the Head of Strategic Support, be authorised to issue a Closure Notice and

apply for a Closure Order in accordance with Chapter 3 of the Anti Social Behaviour, Crime and Policing Act 2014.

### 3.14 Head of Planning and Countryside

#### 3.14.1 Countryside including Rights of Way functions

- Management of Recreation Facilities where these are public open spaces.
- Admission and exclusion of public to recreation facilities and premises (also [Head of Culture and Environmental Protection](#)).
- Letting of recreation facilities and premises (also [Head of Culture and Environmental Protection](#)).
- To carry out powers in relation to The Hedgerow Regulations 1997.
- To grant a licence and associated consents for the annual Michaelmas Fair.
- To exercise powers in relation to the Clean Neighbourhoods and Environment Act 2005.
- To exercise the powers and duties of the Council (in consultation with the Head of Legal Services), in relation to public rights of way, including the making and service of Notices and Orders, under the following primary legislation, and any secondary legislation made thereunder, including amendments or updates to the legislation.

Countryside Act 1968

Countryside and Rights of Way Act 2000

Criminal Damage Act 1971

Environmental Protection Act 1990

Highways Act 1980

Land Drainage Act 1991

Local Government (Miscellaneous Provisions Act) 1976

National Parks and Access to the Countryside Act 1949

Natural Environment and Rural Communities Act 2006

New Roads and Street Works Act 1991

Rights of Way Act 1990

Town and Country Planning Act 1990

Wildlife and Countryside Act 1981

- To enter into maintenance agreements in relation to Public Rights of Way, where appropriate, and in consultation with the Head of Legal Services
- To approve and protect development and improvement lines.
- The exercise (in consultation with the Head of Legal Services), of the common law duty to 'seek, prevent and remove obstructions' (Bagshaw vs Buxton Local Board of Health 1875).

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### **3.14.2 Highways Act 1980 and Town and Country Planning Act 1990**

- To enter into agreements and make creation orders, where appropriate, and in consultation with Ward Members, for the creation of new public rights of way
- To extinguish rights of way, where appropriate, and in consultation with Ward Members
- To divert public rights of way, where appropriate, and in agreement with Ward Members.
- To enter into maintenance agreements, where appropriate, and in consultation with Ward Members.

### **3.14.3 Agreements relating to Public Rights of Way**

- To enter into agreements with other public authorities for the provision of services and the recoupment of charges.
- To enter into agreements relating to placing etc of certain apparatus in or under a highway pursuant to the New Roads and Street Works Act 1991.
- To enter into agreements providing for contributions by developers towards the cost of highway improvements, transportation schemes, or other development to be carried out by the Council.

### **3.14.4 Miscellaneous relating to Public Rights of Way**

- To extinguish public rights of way (stop up) and dispose of land not exceeding 500sq m no longer required for highway purposes.
- In consultation with the Heads of Legal Services and Highways and Transport:
  - to accept dedications of land donated to the Council for highway purposes.
  - In the exercise of the functions of the Council as Highway Authority, to advise on the highway aspects of development control.
- To arrange for the temporary use of land for the dumping or storing of highways materials or equipment.
- To keep the definitive maps and statement under review
- To plan and carry out highway improvements not requiring planning permission subject to consultation with the appropriate Executive Member and Ward Members.
- To approve and licence (including charging any appropriate fees for doing so):
  - the placing of structures within highway limits;
  - the erection of stiles, gates or cattle grids and enforcement and maintenance of stiles and gates under Sections 146 and 147 of the Highways Act 1980;
  - arrangements for motor vehicles and cycle trails;
- To exercise the Council's powers including the giving of formal notices:
  - to pipe or culvert and fill up roadside ditches;

- to take action in relation to any obstruction of or damage to or nuisance to the highway or users thereof;
  - to require the removal of obstructions to sight lines at corners and to remove unauthorised signs on any part of the highway;
  - to require the removal, lopping and cutting of trees or hedges overhanging or near to a highway;
  - to take action in relation to any obstruction of or damage to or nuisance to the highway or users thereof.
- To respond to consultations from the Department of Transport, Environment and the Regions and others pursuant to Sections 247, 248, 251 and 253 of the Town and Country Planning Act 1990.
  - To implement highway maintenance and improvement works in accordance with approved budgets and to agreed service standards in accordance with the Highways Act 1980.

### **3.14.5 Berkshire Act 1986**

- Section 32 – To ensure access for the Fire Service in planning applications.
- Section 33 – To ensure the provision of means of escape from fire in certain buildings.
- Section 35 – To ensure adequate fire and safety precautions in public buildings.
- Section 36 – To ensure adequate safety precautions in relation to vehicle parking in buildings.
- Section 37 – To ensure adequate fire precautions in storage buildings over 7,000m<sup>3</sup>.
- Section 38 – To ensure adequate fire precautions in high buildings.

### **3.14.6 Planning**

- Subject to the conditions set out below, the determination, granting or refusal of Notifications and Applications for permission, certification approval or consent relating to developments and works.
- Subject to the conditions set out below, the approval or refusal of items reserved or conditioned by any permission, approval or consent.
- Subject to the conditions set out below, the determination of applications for advertisement consent.
- In respect of applications determined by the District Planning Committee or relevant Area Planning Committees and subject to the conditions set out below and consultation with the Ward Members, the acceptance of minor amendments to schemes already permitted, approved or consented to.
- Subject to the conditions set out below, the giving of observations on consultations and enquiries received from service or government departments, local authorities and other bodies relating to minor development. The issue of approvals or the making of formal observations concurring with other local authorities, Crown bodies or government departments where they accord with Council policy.

- Prior to determination of submitted application, the acceptance of amendments to submitted application for permission approval or consent.

### **Conditions**

The delegations set out above shall be exercised subject to the following:

- The Area Planning Committees shall reserve the authority to determine any type or class of application.
- The Council may modify or revoke the scheme of delegation at any time.
- An application may be referred to the appropriate Area Planning Committee for determination by:
  - the relevant Area Planning Committee Chairman; or
  - a Member for the Ward to which the application relates;
  - a Member for a Ward adjoining the Ward to which the application relates.
  - the Head of Planning and Countryside or the Development Control Manager
- Members who wish to 'call-in' an item to be discussed at an Area Planning Committee will be required to complete the agreed proforma which must be submitted either in hard copy by letter or fax or electronic copy via e-mail. The consent of the Chairman of the appropriate Area Planning Committee, or if unavailable, the Vice-Chairman, is required.

*(Note: If the Chairman or, if unavailable, the Vice-Chairman, does not give consent then the application will not be referred to a Planning Committee.)*

The Officers will refer for determination to the appropriate Area Committee any application, including:

- Where the application is a major one or there are five or more objections and it is submitted by, or on behalf of West Berkshire Council, or where the land in question is owned by the Council if there are five or more objections or if the application is a major one;
- those submitted by or on behalf of a member of staff of Planning,
- those submitted by or on behalf of a West Berkshire Council Member, if there are five or more objections or if the application is a major one;
- those recommended for approval, for which a petition of objection has been received of at least 20 signatories;
- those recommended for approval, for which at least 10 letters of objection have been received;
- those applications not considered prudent by the Development Control Manager to be determined under delegated authority.

Prior to determination of submitted applications, the acceptance of amendments to submitted applications for permission, approval or consent.

### 3.14.7 Town and Country Planning Act 1990

Subject to the conditions at paragraph 3.14.6 (Planning) above, to exercise the powers and duties of the Council under the Town and Country Planning Act 1990 and any secondary legislation made thereunder, and including any amendments or updates to the legislation, including but not limited to the following powers:

- Determination of applications as to whether Planning Permission is required.
- Response to Purchase Notices.
- The serving and enforcement of Planning Contravention Notices.
- The issuing, service and enforcement of Enforcement Notices including action in default when required.
- The service and enforcement of Stop Notices.
- The service and enforcement of Breach of Condition Notices.
- Injunctions restraining breaches of planning controls.
- The issue of Lawful Use or Development Certificates.
- The making and enforcement of Tree Preservation Orders and the determination of applications for consent in respect of such Orders.
- The service of Notices in relation to untidy land and consequent action to secure compliance.
- Enforcement against breaches of Advertisement Regulations.
- To carry out powers in relation to Part VIII and Part X of the Town and Country Planning Act 1990.

### 3.14.8 Planning (Listed Buildings and Conservation Areas) Act 1990

Subject to the conditions at paragraph 3.14.6 above (Planning), to exercise the powers and duties of the Council under the Planning (Listed Buildings and Conservation Areas) Act 1990 and any secondary legislation made thereunder, and including any amendments or updates to the legislation, including but not limited to the following powers:

- The service of Building Preservation Notices.
- Enforcement in respect of unauthorised works to listed buildings.
- The issuing and service of Listed Building Enforcement Notices.
- The issuing and service of Urgent Works Notices and execution of works as contained in the Notice.
- Authority to take Direct Action, under the Planning and Compensation Act 1991, to carry out works under an Enforcement Notice.
- To request further information, evidence or plans under the provisions of Article 4 of the Town and Country Planning (Development Management Procedure) Order 1995 and Article 4 of the Town and Country Planning (Applications) Regulations 1998, and subsequent amendments, where details submitted with an application are considered inadequate or incomplete.

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- The issue of approvals or the making of formal observations concurring with other local authorities, Crown bodies or government departments, where they accord with Council policy.

### **3.14.9 Other Powers – Technical, Legal and Consultation Provisions**

- Authority to sign Decision Notices regarding the granting or refusal of planning permissions, consents or approvals.
- Authority to enter into Legal Agreements to secure planning obligations for the provision of mitigation where unacceptable harm would otherwise result as a consequence of development
- To respond to requests under Regulation 5 of the Town and Country Planning (Environmental Impact Assessment (England and Wales)) Regulations 1999 for a view as to whether an environmental statement is considered necessary in connection with a particular development proposal and to establish the scope of any such assessment.
- To determine whether or not to issue an Article 4 Direction upon notification of a developer's intention to exercise any permission for mineral operations granted by virtue of the Town and Country Planning (General Permitted Development) Order 1995, as amended.
- To express the Council's view on planning applications in respect of former County Matters referred by local authorities outside the District for development which would not prejudice the Council's planning policies.
- All consultations on Planning issues (with the exception of those deemed significant and requiring referral to the Executive/Select Committee) be delegated to the Head of Planning and Countryside in consultation with the Leader, appropriate Portfolio Holder and Opposition Spokesperson.

#### **3.14.10 Minerals**

- Consultations on Mineral Safeguarding Areas.
- Complying with the requirements of the Environmental Impact Assessment Regulations 1999:
  - Screening Opinions (Part II Section 5)
  - Scoping Opinions (Part IV Section 10)
- Provision of information in respect of compilation of Environmental Statements notification of consultees of intention to compile an Environmental Statement and the need to supply information for this purpose. (Part IV Section 12). Also advertising.
- Responding to notifications under the General Permitted Development Order 1995:
  - mineral exploration (Part 22, Class B of Schedule 2);
  - the removal of material from mineral workings (Part 23, Class B and C of Part 19 of Schedule 2)
- Review of mineral planning applications under the Environment Act 1995:

- deciding the dates by which applications for development must be made;
- determining applications for postponement of the review date.
- Serving aftercare non-compliance notices in relation to permissions for mineral workings and waste disposal sites (in accordance with Schedule 5 of the Town and Country Planning Act 1990 and para. 69 of MPG7).
- Responding to adjoining local authorities on consultations on:
  - minerals and waste disposal consultations;
  - their minerals and waste plans.

### **3.14.11 Environmental Protection Act 1990 (as amended by Environment Act 1995)**

To consider and make representations on proposals referred to the Council by the Environment Agency on the issuing of Waste Management Licences.

### **3.14.12 The Building Act 1984**

- Sections 1, 8 and 16 – Determination of applications for Building Regulation Consent; applications for dispensation from, or relaxation of, Building Regulation requirements.
- Section 10 – Advertisement of proposed dispensation.
- Section 15 – To consult the Fire Service concerning dispensations.
- Section 18 – Building over/close to Thames Water sewers.
- Section 19 – Short-lived materials.
- Section 20 – Unsuitable materials.
- Section 21 – Provision of drainage.
- Section 24 – Fire exits.
- Section 25 – Water supply.
- Section 32 – Lapse of Building Regulations approval.
- Section 33 – Tests for conformity.
- Sections 35 and 36 – Prosecution of offences (and removal of offending work) under the Building Regulations.
- Sections 47-54 – Monitoring of building work supervised by approved inspectors.
- Section 57 – Prosecution of offences by approved inspectors.
- Section 71 – Exits and entrances to public buildings.
- Section 72 – Means of escape from certain high buildings.
- Section 73 – Raising of chimneys.
- Section 74 – Rooms below subsoil water level.
- Section 76 – Defective premises

- Sections 77 and 78 – Notices and action in respect of dangerous buildings and structures.
- Section 79 – Ruinous and dilapidated buildings and neglected sites.
- Section 80 – The power to prosecute in respect of failure to give notice of intention to demolish
- Section 81 – Notices in respect of demolition.
- Section 95 – Power to enter premises.
- Section 96 – Provisions as to entry.
- Section 107 – Recovery of expenses.
- Fix charges for Building Regulation Fees.

#### **3.14.13 Local Government Miscellaneous Provisions Act 1976**

- Section 16 – The serving of Requisition of Information Notices.
- Section 23 and 24 – Authorisation of action and service of Notices to make trees safe and recovery of costs from owner or occupier.
- Section 25 and 26 – Serving of Notices and subsequent action to provide protection to the public from dangerous excavations on private land to which the public has access.

#### **3.14.14 Environmental Protection (Controls on Injurious Substances) Regulations 1993**

Sections 5 & 6 – Prohibiting the use of timber containing Pentachlorophenol.

#### **3.14.15 Local Government (Miscellaneous Provisions) Act 1982**

- Section 17 – Power of entry.
- Section 29 – Protection of buildings.

#### **3.14.16 Clean Air Act 1993**

Section 16 – Height of chimneys.

#### **3.14.17 The Building Regulations 2010**

Section 16 – Laying open uninspected work.

#### **3.14.18 The Building (Local Authority Charges) Regulations 1998**

Section 3 – Fix charges for Building Regulation fees.

#### **3.14.19 Wildlife Heritage Sites and Regionally Important Geological and Geomorphological Sites**

To make decisions on recommendations from the Berkshire Nature Conservation Forum in relation to the designation, re-designation or change to boundaries of Wildlife Heritage Sites and Regionally Important Geological and Geomorphological Sites in accordance with the Planning Policy Guidance Note No.9, in consultation with the Portfolio and Shadow Portfolio Holders.

#### **3.14.20 Party Walls Act 1996**

To be the Appointing Officer under the Party Walls Act 1996.

### 3.14.21 Planning and Compulsory Purchase Act 2004

To exercise the Council's powers and duties under the Planning and Compulsory Purchase Act 2004.

### 3.14.22 The Building (Local Authority Charges) Regulations 2010 – Scheme of Charges

### 3.14.23 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000

To exercise responsibility for accepting or rejecting a request for a local listing unless the proposed listing receives 10 letters of objection or the local Ward Member or adjoining Ward Member requests that the listing be determined by the appropriate Area Planning Committee.

## 3.15 Head of Culture and Environmental Protection

### 3.15.1 Authorisation

The Head of Culture and Environmental Protection shall be authorised:

- to authorise Officers for the purpose of enforcement and administration of the legislation listed;
- to institute legal proceedings or authorise other Officers to institute legal proceedings in respect of those matters set out in this part of the Scheme
- to appoint the Council's Chief Weights and Measures Inspector;
- to act as the Council's Proper Officer for the purposes of any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any other instrument made before 26th October 1972, which refers to the post of Public Health Inspector.

The Trading Standards Manager, the Environmental Health and Licensing Manager and Waste Manager shall be authorised to:

- to authorise Officers for the purpose of enforcement and administration of the legislation listed;
- to institute legal proceedings or authorise other Officers to institute legal proceedings in respect of those matters set out in 3.15.3 (Enforcement and Administration of Legislation)

### 3.15.2 General

- The day-to-day management of the Council portfolio of land and buildings, including lease renewals, assignments and rent reviews, subject to the concurrence of the appropriate Heads of Service and/or Corporate Director.

### 3.15.3 Enforcement and Administration of Legislation

(a) The Trading Standards Manager shall be authorised to enforce and administer the following primary legislation and any secondary legislation made thereunder and this includes any amendments to or updating of the legislation set out below. This authorisation shall also apply to matters set out in the agreement between West Berkshire District Council by Wokingham Borough Council dated 2 June 2010:

**Deleted:** <#>To grant a licence and associated consents for the annual Michaelmas Fair. ¶

**Comment [mf1]:** To be re-assigned

**Deleted:** <#>**Waste Management**¶  
The Head of Culture and Environmental Protection shall be authorised to enforce and administer the following primary legislation and any secondary legislation made thereunder and this includes any amendments to or updating of the legislation set out below:¶  
<#>Anti Social Behaviour Act 2003¶  
<#>Clean Neighbourhoods and Environment Act 2005¶  
<#>Control Of Pollution Act 1974¶  
<#>Control of Pollution (Amendment) Act 1989¶  
<#>Environment Act 1995¶  
<#>Environmental Protection Act 1990¶  
<#>European Communities Act 1972¶  
<#>Refuse Disposal (Amenity) Act 1978¶  
**Exercise of Powers under**

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Administration of Justice Act 1970  
Agricultural Act 1970  
Animal Health Act 1981  
Animal Welfare Act 2006  
Anti Social Behaviour Act 2003  
Cancer Act 1939  
Charities Act 1992  
Children and Young Persons Act 1933  
Children and Young Persons (Protection from Tobacco) Act 1991  
Chiropractors Act 1994  
Clean Air Act 1993  
Clean Neighbourhoods and Environment Act 2005  
Companies Act 2006  
Consumer Credit Act 1974  
Consumer Credit Act 2006  
Consumer Protection Act 1987  
Copyright Designs and Patents Act 1988  
Courts and Legal Services Act 1990  
Criminal Justice Act 1988  
Customs & Excise (Management) Act 1979  
Development of Tourism Act 1969  
Education Reform Act 1988  
Enterprise Act 2002  
Environmental Protection Act 1990  
Estate Agents Act 1979  
European Communities Act 1972  
Explosives Act 1875  
Explosives Act 1923  
Farm and Garden Chemicals Act 1967  
[Financial Services and Markets Act 2000](#)  
Fireworks Act 1951  
Fireworks Act 2003  
Food and Environment Protection Act 1985  
Food Safety Act 1990  
Forgery and Counterfeiting Act 1981  
Fraud Act 2006

Hallmarking Act 1973  
Health and Safety at Work etc. Act 1974  
Intoxicating Substances (Supply) Act 1985  
Knives Act 1997  
Licensing Act 2003  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government (Miscellaneous Provisions) Act 1982  
Malicious Communications Act 1988  
Medicines Act 1968  
Motor Cycle Noise Act 1987  
National Lotteries etc Act 1993  
Olympic Symbols etc. (Protection) Act 1995  
Osteopaths Act 1993  
Performing Animals (Regulation) Act 1925  
Petroleum (Consolidation) Act 1928  
Petroleum (Transfer of Licences) Act 1936  
Poisons Act 1972  
Prices Acts 1974  
Proceeds of Crime Act 2002\*  
Protection from Harassment Act 1997  
Public Health Act 1936-1984  
Regulatory Enforcement and Sanctions Act 2008  
Road Traffic Act 1988  
Road Traffic Act 1991  
Road Traffic (Foreign Vehicles) Act 1972  
Road Traffic Regulation Act 1984  
Scotch Whisky Act 1982  
Solicitors Act 1974  
Sunbeds (Regulation) Act 2010  
Tattooing of Minors Act 1969  
Theft Act 1968  
Tobacco Advertising and Promotion Act 2002  
Tobacco Products Duty Act 1979  
Trade Descriptions Act 1968  
Trade Marks Act 1994  
Unsolicited Goods and Services Act 1971 and 1975

Vehicles (Crime) Act 2001  
 Video Recordings Act 1984 and 2010  
 Violent Crime Reduction Act 2006  
 Weights and Measures Act 1985

*\* Note: Financial Investigators are authorised by a body delegated under the Proceeds of Crime Act*

*(b) The Environmental Health and Licensing Manager shall be authorised to enforce and administer the following primary legislation and any secondary legislation made there under and include any amending or updating the legislation set out below. This authorisation shall also apply to matters set out in the agreement between West Berkshire District Council by Wokingham Borough Council dated 10 January 2012.*

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### **Environmental Health and Licensing**

Animal Boarding Establishments Act 1963  
 Berkshire Act 1980  
 Breeding of Dogs Act 1973  
 Breeding of Dogs Act 1991  
 Building Act 1984  
 Caravan Act 1968  
 Caravan Act 1985  
 Caravan Sites and Control of Development Act 1960-1985  
 Chronically Sick and Disabled Persons Act 1970  
 Cinema Act 1968-1985  
 Clean Air Acts 1956-1993  
 Clean Neighbourhoods and Environment Act 2005  
 Control of Pollution Act 1974  
 Crime and Disorder Act 1997  
 Criminal Justice and Public Order Act 1994  
 Dangerous Dogs Act 1991  
 Dangerous Wild Animals Act 1976  
 Disabled Persons Act 1981  
 Dogs (Fouling of Land) Act 1996  
 Environment Act 1995  
 Environmental Protection Act 1990  
 Factories Act 1961  
 Food Safety Act 1990  
 Gambling Act 2005

Guard Dogs Act 1975  
Health and Safety at Work etc. Act 1974  
Health Act 2006  
Home Safety Act 1961  
Housing Acts 1957, 1985, 1996, 2004  
Housing Grants, Construction and Regeneration Act 1996  
Land Compensation Act 1973  
Late Night Refreshment Houses Act 1969  
Licensing Act 2003  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government (Miscellaneous Provisions) Act 1982  
Local Government Acts 1953-1989  
Local Government and Housing Act 1989  
National Assistance (Amendment) Act 1951  
National Assistance Act 1948  
Noise Act 1996  
Noise and Statutory Nuisance Act 1993  
Offices, Shops and Railway Premises Act 1963  
Pesticides Act 1996  
Pet Animals Act 1951  
Pollution, Prevention and Control Act 1999  
Prevention of Damage by Pests Act 1949  
Private Hire Vehicles (Carriage of Guide Dogs etc.) Act 2002  
Public Health (Control of Disease) Act 1984  
Public Health Acts 1936, 1961  
Radioactive Substances Act 1993  
Rag Flock Act 1961  
Regulation of Investigatory Powers Act 2000  
Riding Establishments Act 1964/1970  
Scrap Metal Dealers Act 1964/ 2013  
Safety of Sports Grounds Act 1975  
Slaughter of Poultry Act 1967  
Slaughterhouses Act 1974  
Sunday Trading Act 1994  
Theatres Act 1968  
Town Police Clauses Acts 1847-1889



Transport Act 1980  
 Water Acts 1945-1989  
 Water Industries Act 1991  
 Zoo Licensing Act 1981

- (c) *The Waste Manager shall be authorised to enforce and administer the following primary legislation and any secondary legislation made thereunder and this includes any amendments to or updating of the legislation set out below:*

Anti Social Behaviour Act 2003

Anti-social Behaviour, Crime and Policing Act 2014

Clean Neighbourhoods and Environment Act 2005

Control Of Pollution Act 1974

Control of Pollution (Amendment) Act 1989

Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991

Environment Act 1995

Environmental Protection Act 1990

European Communities Act 1972

Refuse Disposal (Amenity) Act 1978

Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005

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### **3.15.4 Culture General**

- To grant a licence and associated consents for the annual Michaelmas Fair.
- Local Government (Miscellaneous Provisions) Act 1982, Section 41 - Action considered appropriate in relation to property found in buildings or premises administered by Cultural and Environmental Protection Services.
- Letting of recreation facilities and premises (also Head of Planning and Countryside).
- Admission and exclusion of public to recreation facilities and premises (also Head of Planning and Countryside).
- Acquisition of items under Museum acquisition scheme.
- Administer Archive Service on behalf of all six Unitary Authorities in Berkshire.
- To act in conformity with the Public Libraries and Museums Act 1964, as amended, and the Local Government and Housing Act 1989 and the policies of the Council.
- To manage public libraries in conformity with the Public Libraries and Museums Act 1964 (as amended) and the Local Government and Housing Act 1989 and the policies of the Council

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 To exercise powers in relation to the Clean Neighbourhoods and Environment Act 2005.¶

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### **3.15.5 Anti Social Behaviour, Crime and Policy Act 2014**

The Head of Culture and Environmental Protection, in consultation with the Head of Legal Services, be authorised to serve Community Protection Notices in accordance with Part 4 of the Anti Social Behaviour, Crime and Policing Act 2014.

## **3.16 Head of Education Services**

### **3.16.1 General**

The Head of Education Services shall be authorised to exercise the powers and duties of the Council under the following primary legislation and any secondary legislation made there under and including any amending or updating to this legislation:

Education Act 1962

Further Education Act 1985

Education Reform Act 1988

Further and Higher Education Act 1992

Education Act 1996

School Inspections Act 1996

Education Act 1997

School Standards and Framework Act 1998

Special Educational Needs and Disability Act 2001

Education Act 2002

Education Act 2005

Education and Inspections Act 2006

Education and Skills Act 2008

Apprenticeships, Skills, Children and Learning Act 2009

[Education \( Schools \) Act 1992](#)

[Learning and Skills Act 2000](#)

[Further Education and Training Act 2007](#)

[Special Educational Needs \( Information \) Act 2008](#)

[Academies Act 2010](#)

[Equalities Act 2010](#)

[Education Act 2011](#)

[Children and Families Act 2014](#)

### 3.16.2 Admissions

- To consult annually with governing bodies about admission arrangements as required by [the School Admission Code issued under](#) Section 88 of the School Standards and Framework Act 1998.
- To keep [Admission](#) Numbers under review and to implement any necessary changes, where these are agreed by the governing body.
- To respond to any proposals from governing bodies to increase [Admission](#) Numbers.
- To set admission limits which exceed the [Admission](#) Number where this is considered [necessary](#).
- To administer arrangements for admissions to nursery schools and classes in accordance with policies agreed by the Local Education Authority.
- To administer arrangements for the admission of individual pupils to primary and secondary schools including designated [catchment](#) areas and other relevant factors and to present the case on behalf of the Authority to admission appeal panels.

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### 3.16.3 Attendance at School

- To ensure that appropriate transport arrangements are made in accordance with the Authority's [Home to School Transport Policy and Post-16 Statement](#).
- To authorise home to school transport outside existing policy, in exceptional circumstances [through the Stage 1 Appeal process](#).
- To exercise the powers and duties of the Authority in respect of children excluded from school and to make arrangements for the continuing education of pupils who are excluded or otherwise unable to attend school.
- To authorise any proceedings necessary to enforce legal action relating to the non-attendance of pupils at school, or education other than at school.
- To undertake the powers and duties of the Authority under Section 36 of the Children Act 1989 regarding Education Supervision Orders.

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### 3.16.4 Special Educational Needs (SEN)

- To arrange for children to be assessed in accordance with the requirements of the [Children and Families Act 2014](#) to determine the special educational provision which should be made for them and to maintain and review statements of special educational need [and Education and Health and Care Plans](#) in accordance with any regulations concerning these.
- To represent the Authority at statutory appeal tribunals in connection with the assessment of special educational needs.
- To ensure that the requirements of any statutory Codes of Practice, or other regulations are complied with.
- To determine and authorise the payment of fees and expenses at schools where fees are payable, in accordance with the policy of the Council.
- To determine applications for assistance towards [home to school transport costs for Children with SEN](#) within the Council's approved scheme.

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Deleted: major and further education awards, maintenance allowances and tuition fees for correspondence courses and requests for the refund of grants

Deleted: travelling expenses from further education students over the age of 21 who apply on grounds of hardship

**3.16.5 School Term Dates**

In the case of the Local Authority (LA), Voluntary Controlled and Special Schools, including residential schools, to propose school term dates after consultation with the Education Management Advisory Board.

**3.16.6 Name of School**

To approve the name of a school proposed by the governors.

**3.16.7 Curriculum**

- To provide on behalf of the Authority any information which the Secretary of State may by regulation require.

**3.16.8 Staffing – in respect of Nursery Schools**

- To advise the Governing Body and/or the Selection Panel as to the shortlisting of candidates for Headship in accordance with the provisions of the Education Act 1996.
- Subject to the Articles of Government and the disciplinary procedures applicable in each specific case, to authorise disciplinary action as appropriate.

**3.16.9 Staffing – in respect of Maintained Primary, Secondary and Special Schools**

- To appoint persons elected by Governing Bodies to fill vacant posts in schools, unless the person so recommended does not meet the staff qualification requirements applicable to the appointment.
- In the case of Aided and Foundation Schools, to exercise any advisory rights relating to the appointment of Headteachers, Deputy Headteachers or other teaching or ancillary staff conferred by agreement or legislation.
- To nominate persons for consideration to fill vacancies in other teaching posts in schools where Governing Bodies have notified their intention to fill those vacancies unless thus is redeployment issues for redundancies.
- To appoint persons selected by Governing Bodies as their Clerks.
- To implement decisions of Governing Bodies of schools relating to the determination of potential dismissals and any subsequent appeals against such dismissals which are in the Authority's power to determine.

**3.16.10 All Educational Establishments**

- To exercise the powers and duties under the Education (School Teacher Appraisal) (England) Regulations 2000.

**3.16.11 Finance**

- To design and keep under review the Authority's Scheme of Delegation in accordance with the Authority's policies and any statutory requirements.
- To approve loans for any education project within the policy of the Council which provides for loans.
- To determine applications for financial assistance from staff in accordance with any schemes approved by the Council.

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 <#>To determine whether application should be made to the Secretary of State to direct that an LEA-maintained school be authorised to conduct curriculum experiments outside the National Curriculum.¶

**Deleted:** <#>To make arrangements for all other staffing appointments, subject to the provision of the Articles of Government.¶

**Deleted:** <#>To approve appointments for additional teaching staff and to grant special allowances within the scheme approved by the Council.¶  
 <#>To approve applications for leave of absence for teachers to attend courses exceeding three months.¶

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- Acceptance of tenders and authority to sign, or authorise the sealing of contracts, for works and/or services for schools funded other than by the Council (or where the funding is in whole or in part passported through the Council).

### 3.16.12 Provision of Information Concerning Individual Performance of Pupils

- In accordance with Section 537 of the Education Act 1996, to provide performance information as specified.
- In accordance with Section 38 of the Education Act 1997, to provide such information to the Chief Inspector as may be prescribed.

### 3.16.13 Governance

- Appointment of local education authority governors: in accordance with Section 19 of the Education Act 2002 and relevant regulations to appoint and dismiss local education authority governors.
- Training and support of governors: in accordance with Section 22 of the Education Act 2002, to provide information for governors and necessary training.

### 3.16.14 Miscellaneous

- In accordance with School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 and (Establishment and Discontinuance of Schools) Regulations 2013, to make significant changes to maintained schools (e.g. expansion), establishing new provision and school closure.
- In accordance with the academy/free school presumption, to establish new schools.
- To approve instruments of Government for all LEA maintained schools in the District in the future and to review or vary such instruments of Government (including nursery schools) as may be required by the Governors or the LEA.
- To make provision for the day-care of pre-school children and provision for out-of-school and holiday care and activities as appropriate in accordance with the duties and powers of the Council under Section 18 of the Children Act 1989.
- To approve minor amendments to the Council's Code of Conduct regarding the use of Fixed Penalty Notices for school non-attendance.

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**Deleted:** <#>To establish, alter or discontinue any LEA maintained school in accordance with the SSFA 1998.¶

**Deleted:** <#>To consider and determine a complaint (not falling within 3.15.7 above) made against a LEA maintained school following conclusion of the School's complaints procedures. ¶

### 3.16.15 Post 16 Years - Education and Training provision

To exercise the powers and duties of the Council under the Apprenticeships, Skills, Children and Learning Act 2009 acting in conjunction with the Head of Service (Adult Social Care) and/or the Head of Children's Services as and when appropriate

## 3.17 Head of Public Health and Wellbeing

### 3.17.1 General

The Director of Public Health, working through the Head of Public Health and Wellbeing, has delegated authority for those matters which they are

required to be responsible for under the National Health Service Act 2006 (as amended by the Health and Social care Act 2012).

### **3.17.2 Health of the Population**

The duty imposed upon the Council to “take such steps as it considers appropriate for improving the health of the people of its area”.

### **3.17.3 General**

Any public health functions of the Secretary of State which he requires local authorities to discharge on his/her behalf.

### **3.17.4 Dental Health**

Dental health functions for which the Council has responsibility

### **3.17.5 Health of Prisoners**

The duty to co-operate with the prison service to secure and maintain the health of prisoners.

### **3.17.6 Weight Measurement and Children’s Sexual Health Service**

The Council’s duties set out in Schedule 1 of the National Health Act 2006, which include medical inspection of pupils including the weighing and measuring of pupils and the provision of children sexual health services.

### **3.17.7 Violent Offenders**

Arrangements for assessing the risks posed by violent and sexual offenders.

### **3.17.8 Health Protection**

To include the provision of screening and immunisation programmes, sexual health services, infectious disease control and emergency planning.

### **3.17.9 Health Improvement**

To include children’s public health, adult healthy lifestyles (drug and alcohol misuse, campaigns to prevent cancer and long term conditions, dental public health and local initiatives to reduce deaths as a result of seasonal mortality) and the wider determinants of public health such as housing, planning, and education.

### **3.17.10 Health Care Public Health**

The provision of specialist public health advice to Clinical Commissioning Groups (CCGs) in the following areas which will be the subject of the “core offer”:

- (a) production of the Joint Strategic Needs Assessment;
- (b) reviewing service provision and providing advice to CCGs to reduce health inequalities;
- (c) advising Clinical Commissioning Groups on priorities based on appropriate data; and

- (d) procuring services and advising on the cost effectiveness of interventions.

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